



**CAYMAN ISLANDS  
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT  
ELECTRONIC VERSION**

**2014/15 SESSION**

**29 October 2014**

*Second Sitting of the Third*

*Meeting (pages 587-626)*

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

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PRESENT WERE:

**SPEAKER**

Hon Juliana Y O'Connor- Connolly  
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, JP, MLA	Minister of Finance and Economic Development
Hon Osbourne V Bodden, JP, MLA	Minister of Health, Sports, Youth and Culture

**EX OFFICIO MEMBERS OF THE CABINET**

Hon Franz I Manderson, Cert. Hon., 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**

Hon Anthony S Eden, OBE, JP, 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 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**

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

**APOLOGIES**

Hon G Wayne Panton, JP, MLA	Financial Services, Commerce and Environment
Hon Tara A Rivers, JP, MLA	Minister of Education, Employment and Gender Affairs
Mr Roy McTaggart, JP, MLA	Second Elected Member for George Town

**OFFICIAL HANSARD REPORT  
THIRD MEETING 2014/15 SESSION  
WEDNESDAY  
29 OCTOBER 2014  
11:01 AM  
Second Sitting**

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

**The Speaker:** Good morning. I will ask the Leader of the Opposition to grace us with prayers.

### PRAYERS

**Hon. W. McKeeva Bush, Leader of the Opposition:** Let us pray.

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

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

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

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

**The Speaker:** Please be seated.

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

#### APOLOGIES

**The Speaker:** I have received apologies for absence from the following persons: the Minister of Education, Employment and Gender Affairs, the Honourable Tara Rivers; Minister of Financial Services, Commerce and Environment, the Honourable Wayne Panton; the Minister of; and Councillor Roy McTaggart, the Second Elected Member for George Town.

#### APPOINTMENT

**The Speaker:** I have also been given notice of the appointment of the Fifth Elected Member for George Town who is acting as the Temporary Minister of Education, Employment and Gender Affairs.

### STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

#### YOUNG LIFE LOST: SUPPORT FOR THE SCHOOL COMMUNITY

**The Speaker:** I recognise the Honourable Temporary Minister of Education.

**Mr. Winston C. Connolly, Jr.:** Thank you. Madam Speaker.

I rise to give a statement on Young Life Lost: Support for the School Community.

The Ministry of Education and the Department of Education Services offer sincerest condolences to the family of the young life lost this week. As this incident is currently under police investigation, we are unable to comment further.

We can, however, say that the Department of Education Services ("DES") is putting together a plan of support for the affected school in dealing with this tragedy. Critical incident response specialists are already working with the school leadership to assist with developing a plan regarding the school's response to this incident. One of the educational psychologists employed by the DES is certified by the International Critical Incident Stress Foundation, and has valuable personal experience offering specialised support to medical and police teams who dealt with critical incidents in Florida. This person is experienced in offering such special support and will be taking the lead in the

school support plan, working alongside the lead counsellor to do so.

The Department of Education Services will be offering walk-in support for teachers, students and families later this week, and full support to the school community on Monday and through next week as school reconvenes. This support will be extended to the school community as long as is necessary.

A representative from the Health Services Authority has also been contacted and informed that the Department of Education Services would be prepared to help other agencies with their response/debrief activities relating to this incident.

Since schools are currently on mid-term break, we realise that not all teachers and students may be on-island at present. Nevertheless, beginning today, specialists will be at the school to provide counselling services to staff and students who may need it.

The Department of Education Services will shortly be making an announcement to the public about how to access this support offered.

Thank you, Madam Speaker.

## PERSONAL EXPLANATION

### GOVERNMENT ACCOUNTS

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

**Hon. W. McKeeva Bush, Leader of the Opposition:** Thank you, Madam Speaker, for allowing this personal explanation.

Madam Speaker, as everyone knows, government accounts and the development of its various processes is done by management, meaning the civil servants, and, in particular, its accounting staff in the various ministries, government companies and departments. We have to wonder how much the IRIS system is helping, or if it is causing more consternation.

When the Government implemented the Public Management and Finance Law (PMFL) it required a change in accounting systems, which took place in 2003. Due to poor implementation the account balances in the old system were transferred into the new system without being reconciled or audited which led to the financial accounts mess from 2004 onwards. All the larger ministries went through receiving adverse audit opinions and disclaimers over the years.

In 2008/09 the Accounting Task Force was put together with various government workers and KPMG to assist in getting government accounts back in order—without much success. It should be mentioned that the budget for the Accounting Task Force was exhausted prior to assisting the Ministry of Tourism, which, as a result, received no help.

After the 2009 election the Ministry of Financial Services, Tourism and Development was created bringing together some of the largest government departments under one ministry. There were two chief officers, but only one finance team supporting both Tourism and Financial Services. The finance team comprised three to four staff at any given time. In comparison, other large ministries had finance teams comprised up to 12 staff, in the Ministry of Education, for instance.

Clearly, after the election the finance team of the Ministry of Financial Services, Tourism and Development was severely understaffed. There was no capacity to ensure good oversight of both Financial Services and Tourism with the number of staff in place.

The present audited report also speaks to the years 2005 to 2009 where it was said that \$60 million was unaccounted for. Former Public Accounts Committee chairman (the Member for North Side) recommended that the Chief Officer of Tourism hire additional accounts staff to deal with the mega ministry. Posts for accounts personnel were included in the Ministry's initial draft budgets for 2009/10, 2010/11, 2011/12, and 2012/13. All the vacant posts for accounts staff were removed during budget cuts each year in order for the Government to meet its overall budget targets to be approved by the United Kingdom.

It should be noted that only after a full audit is conducted and audit points are issued that senior management would become aware of weaknesses and control issues, therefore timely audit feedback is critical to implementing changes quickly. For the Ministry of Financial Services, Tourism and Development the first full audits for 2010/11, and 2011/12 were conducted simultaneously in June 2013, much too late for the accounting management staff to make improvements on either financial year.

The Auditor General has sensationalised the communication to the media in his press briefing, with no regard for the impact that his statements have on the ministry staff involved, who have worked hard with the little resources they were given. I would like to make it abundantly clear that in the Auditor General's management letter to the Ministry on 30<sup>th</sup> November 2013, he points out that there was no evidence of fraud discovered in the Ministry of Tourism audits for 2010/11 and 2011/12.

The 2010/11 and 2011/12 accounts for both Financial Services and Tourism and Development, were prepared by the same Ministry staff. Financial Services has received a qualified audit opinion qualified on the basis of fixed assets revaluation. Qualified audit opinions are issued to most government ministries. This is the best audit opinion a ministry could receive without the government owned properties being revalued.

Clearly, there are no competency issues with finance staff of the Ministry. It is simply unfair for the

Auditor General to state so. There were capacity issues due to staff shortages. The Auditor General is trying to unfairly damage the professional reputation of the finance team of the Ministry of Tourism. His audit manager and lead auditor of the Ministry of Tourism audits even met with the current Chief Officer to discuss staffing issues.

If he is going to hold a press briefing he must state all the facts. But that is the problem with the Auditor General who, it seems, is hell-bent on making civil servants and politicians look as bad as possible. I am going to urge the chairman of the Public Accounts Committee to quickly hold a meeting to discuss this audit report so that the staff of both ministries can explain the issues faced at the time and to defend themselves (that is, the Ministry of Tourism and the Ministry of DWLA [District Administration, Works, Land and Agriculture]).

I will say that it is wrong for this report to go public and smear people without civil servants and members of this honourable House being able to see the report and [before] the Public Accounts Committee examines the validity or accuracy of the report. His statements leave much to be desired; but, of course, it smears people and helps to denigrate the Cayman Islands.

The truth is that the years of 2010 to 2012 was the only time that government accounts were brought up to date and submitted on time since the new government accounts came into operation (meaning, the accounts of the Cayman Islands Government were brought up to date for 2010/2011 and for 2011/2012 and for 2012/2013).

I understand that there are plans by the Ministry of Tourism to accept a disclaimer and not do a complete audit for July 2012 to June 2013 when we do know that the work was carried out to improve the accounts for that time period. We also know that after December 2012 the finance team of the Ministry went through a reshuffle leaving only two staff members on the accounts team in the Ministry of Tourism. I urge the Chief Officer in the Ministry of Tourism to ensure that a full audit is conducted on the 2013 accounts, that is, July 2012 to June 2013.

Thank you, Madam Speaker, for allowing this personal explanation.

## **GOVERNMENT BUSINESS**

### **BILL**

### **SECOND READING**

#### **DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 2014**

**The Clerk:** The Development and Planning (Amendment) Bill, 2014.

**The Speaker:** I recognise the Honourable Minister of Planning, Lands, Agriculture, Housing and Infrastructure.

**Hon. D. Kurt Tibbetts:** Thank you.

I beg to move the Second Reading of The Development and Planning (Amendment) Bill, 2014.

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

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

The purpose of this Bill is to amend the Development and Planning Law (2011 Revision) to address three key factors: 1) to expedite the processing of applications for Planning permission; 2) to clarify in certain sections the intent of the Law; and 3) to clarify provisions for administering the Law.

While there were some changes to the Development and Planning Law (I think back in 2010), the Government believes that these three elements of the Bill will go further to improve the Central Planning Authority (CPA), the Development Control Board (DCB) for Cayman Brac and Little Cayman, and the Planning Department here in Grand Cayman, with development applications.

I think it is important to note that to do this we propose to move some elements that are currently in the Law into the Regulations. We believe that this will strengthen the relationship between the Law and its Regulations. Naturally, once this Bill is approved, our immediate next step is to have the amending regulations approved by Cabinet. Madam Speaker, before I go any further, let me point out the importance of this relationship that I just mentioned, which is, the reasons for using regulations.

Modern legislation requires far more details in many instances than the parliament itself either has time or the inclination. In many instances there are detailed forms and other such matters which we believe are better addressed in regulations and also changes to the regulations can be made more readily than having to resume parliament specifically for this purpose.

Some details of the overall legislative scheme may need to be tentative sometimes, or even experimental. The use of regulations affords an easy means of adjusting the scheme without the further need of recourse to the Legislative Assembly. Within the field of some regulatory laws, for example, planning, new developments will arise from time to time. By the use of regulations the scheme can be altered to allow for these changes which may occur. If a sudden emergency arises it may be essential to give the Cabinet wide and flexible legislative powers to deal with it, whether or not the Legislative Assembly is sitting. It is not unusual for parliament to pass the outlined legislation and then allow for possible consultation with affected interests before deciding on some of the more

technical details which are best accommodated in regulations.

Madam Speaker, the differences between principle and detail, between policy and the details of technicalities for implementation: It is not uncommon to enact the primary legislation setting out the broad outline and thereafter dealing with the technicalities by way of regulations.

One benefit of this approach is that it saves the parliamentary time that would be necessarily spent if masses of detail were contained in Bills. It is easier, too, for all stakeholders to use a statute, that is, a primary legislation, if its principles and major provisions are prominent and free of complex detail. It is also considered appropriate to use regulations in circumstances where considerable flexibility may be needed to modify legislation to meet local or exceptional circumstances requiring special treatment.

There is also the presumption that the delegated power to make regulations will be exercised in accordance with the contemplation of the enabling law, that is, the delegate (and in this instance the Cabinet) will not exceed the powers provided for under the primary legislation and that it will, or can, only be used for lawful purposes. Another safeguard is that all members of the Cabinet are collectively responsible to the Legislative Assembly for all powers exercised by them, including the making of regulations.

Madam Speaker, parliament can exercise control over the use of content of the regulations by, for example, requiring an affirmative or negative resolution. I have to admit, Madam Speaker, that for a while there was a senior moment on my part. In recent discussions with some of my colleagues the point was made that for all of the existence of the Planning Law and Regulations, which were changed from time to time as the years went by, the regulations themselves always had to revert to this Legislative Assembly for a 21-day period for the possibility of negative resolution. The Government of the day (in 2010 I think it was) changed that so that regulations did not have to come back to this House.

When they brought that (and I checked the Hansard to make sure, as I started to remember the various events exactly, what had transpired) the then Opposition—which makes up a large part of the Government now (and at that time I was still the Leader of the Opposition)—pointed out to the Government that we were not in agreement with this amendment and we were not supporting that amendment. Madam Speaker, for me, personally, I really have absolutely no difficulty whatsoever with us going back to the way it was prior to that change, meaning that the regulations would then come back to this Legislative Assembly for negative resolution.

Madam Speaker, the unfortunate situation that I am faced with right now is that by the time I realised that that was the case, I did not have an opportunity to take it to my caucus to see if I could get the

amendment done immediately here. Unfortunately, when we held caucus between Friday and now, there were four members missing, including the Honourable Premier. Some are still missing. In fact, it was five members missing. So, I have not had the opportunity to seek agreement from my colleagues to do this.

I am fairly confident that they will be in agreement. Certainly, at the earliest possible time we will also make that change because my . . . well, my personal view has not changed since then. It was simply a matter of process why I was not able to get that amendment in this. Madam Speaker, while that may not be in this Bill, I certainly do not have any difficulty with us getting it done as quickly as we possibly can.

Madam Speaker, I will go through the main changes to the Law as quickly as I can.

[Clause 2] corrects section 2(1), the definition of “days,” to specify that it means calendar days. This will reduce the amount of time it takes to forward development applications to the CPA, or to the Development Control Board. So, for the definition of “days,” “working days” will replace “calendar days unless otherwise specified.” I am sure that will gain agreement from everyone who has any interest.

Another change to section 2(1) ensures that the Development Control Board is able to utilise the enforcement and maintenance and land provisions in the Law. For the definition of “Authority,” the following words were added at the end of the definition, “**and, for the purposes of sections 18 to 24 and sections 29A to 29E, ‘Authority’ includes the Board.**”

The Law as it was did not have any specific authority given to the Development Control Board because the definition of “Authority” only applied to the Central Planning Authority. So now the Development Control Board in Cayman Brac and Little Cayman, once this is approved, will have the same ability as the Central Planning Authority.

In section 3(2) and (3), adding a Deputy Chairman to both the CPA and the DCB will also ensure consistency and effectiveness in the operations of the bodies. As of now, there is no method by which a Deputy Chairman can be appointed for either of the two bodies. Tidying up those two subsections will make sure that the CPA and the DCB can have a Deputy Chairman.

Section 4(2) also will allow the Director of Planning, or his designate, to attend the meetings of the CPA. The way it is worded will be that the Director or designate *must* attend meetings of the CPA. In the past, if for some reason the CPA was having a meeting and the Director was on vacation, sick or off Island, there was no provision in the Law to allow the Director to have a designate officially attend the meetings. This is simply clearing that matter up so that someone will officially be representing the department at the CPA meetings.

In section 5(3) and (4), when the CPA delegates any of its functions, the words “Assistant Director” will be replaced with “Deputy Director,” since the previous one I spoke to will now allow for a Deputy Director to be appointed. We also see the need to delete sections 6 and 8. The current framework requiring certain criteria to be considered by the CPA when reviewing major applications is an operational matter and better suited in the regulations, so sections 6 and 8 will be deleted from the Law and put into the regulations.

Section 9(1)(c), [new subsection (c)](ii), where land is being considered to be acquired for public use under the Development Plan, ensures that the decision rests correctly where it should, which is with the Government, and not the CPA as is the way it is worded now. The word “Authority” will be replaced with “Government.”

Sections 11(a) and 13(3)(c) . . . we propose changes that will simply reflect current terminology by changing references to “Governor” and “Chief Engineer” (because we no longer have a “Chief Engineer” that was the terminology used for the Head of the Public Works Department, and with the constitutional change the responsibility will no longer rest with the Governor) with “Minister charged with responsibility for planning” and “Managing Director of the National Roads Authority” respectively.

Section 13(3)(e)—this little section goes back for several decades. I remember distinctly in 1985 when I was a member of the Central Planning Authority (that is nearly 30 years ago), there was always the problem because the Law speaks to the allowable height of a fence or a wall to be three feet, six inches. And from the time chain-link fence came into being the height of the chain-link fence always started at four feet. So, over the years it has just been forgotten about and nobody has really tried to say that anybody was breaking the Law with either a chain-link fence or, for that matter . . . and the Member for East End was quick to point out to me recently, in talking about some of these amendments, that if you use eight-inch or even-six inch cement blocks to get as close as you can to four feet, the space between the rendering will probably put you an inch or two above four feet. So, again, this is one of those things that if we want to change it from 4 feet to 50 inches, I do not have any difficulty. But the importance of it is not to leave it at three feet six inches, if you understand what I am saying. But the original suggested amendment in the Bill speaks to four feet.

Section 13(3)(f) deals with a provision for allowing a 10 per cent addition to a house. The best way for me to describe this one is a no-win situation, and I will quickly explain. In days gone by when the majority of our male-folk were seafarers or, for that matter, even those who were not, and the few that earned their living on the land, the way to a build a home at that time was you started it off, you got one

room and a bathroom finished, you got your small family moved in, and as you worked and as the family grew larger you kept adding to the house. For a long time the statute allowed for a 10 per cent addition to a house not to require planning permission.

When the Law was changed in 2010, and what obtains now, persons are allowed to add up to 10 per cent of their existing ground floor area without planning permission. But, Madam Speaker, the way the Law reads, such additions cannot be a separate structure and can only be single storey, and the Law also says, which must comply with all other restrictions within the Law, such as setbacks and site coverage.

Madam Speaker, furthermore—and this is the important part of it—persons must still get a building permit for the addition. So remember now, you do not have to apply for planning permission, but you must get a building permit—what we know as the “red card.” So the permit, or the red card, is necessary to ensure that the buildings are properly and soundly built in order to avoid life safety issues.

Let me just read what 13(3) says, and I quote, “. . . **except that the following types of developments shall not require planning permission but shall be subject to all other provisions of the Law and any regulations made under the Law, including the Building Code Regulations, namely- . . . (f) the enlargement, improvement or other alteration of a dwelling-house provided that- (i) the square footage . . . does not exceed ten per cent of the square footage of the ground floor . . . ; (ii) [that] is single storey; (iii) the regulations governing the setback . . . and coverage of site are upheld;**”

Madam Speaker, what happens now is, because most people do not realise that that is how the law presently reads when they simply take it on the surface, that they do not have to make a planning application for that 10 per cent addition, they build without planning permission; but they also build without a red card or a building permit. So this fundamental miss actually results in much higher costs for the homeowner than if they had simply applied for the addition.

By most people not knowing that the 10 per cent applies only to the ground floor, the majority of people build a larger area than is actually allowed, that is, especially if it is a two-storey house, because it only applies to the ground floor people take the entire square footage and consider that they can add 10 per cent of the entire square footage. So without the red card they are called upon to make an after-the-fact application which requires a fee 10 times greater than the regular application fee (that’s how it reads). So if you had a 3,000 square foot building and you built 2,000 on the ground floor and 1,000 upstairs, the Law would only allow for 10 per cent of the 2,000 square feet—which is 200 square feet, not 300 square feet.

If someone made that mistake, following the analogy, and they built 300 square feet, the after-the-fact planning application fee would be \$750 instead of the \$75 for the original application. In addition, assuming there were no inspections carried out during construction, they might even be required to hire an engineer to certify that the construction is code compliant. And this can result in even more costs. So it's a dilemma, Madam Speaker.

One of the real difficulties that we face with this specific situation in today's world with no inspections is, I think it is safe comment from the experiences the department has had, that many of these types of additions have many, many safety issues. The difficulty we face with that is that if we go back to the original intent of that 10 per cent, what I am not sure of . . . and I am strongly of the view that perhaps we need to talk about this a little bit more. But when this point was raised in discussions with the Member for East End and the Member for North Side, in all attempts in the few days since then the technical people cannot find an answer that satisfies all aspects of the equation.

What might seem to be an easy answer, which is simply to allow the 10 per cent for someone to build, the department feels that they have a responsibility when it comes to the safety issues. So I think we need to talk the thing through and try to come . . . and I am quite willing to hear any solution if it is forthcoming, but we have to bear in mind all of the factors. We cannot just think about what was traditional, and how it used to be done, Madam Speaker, because we cannot have a section of buildings not having proper inspections and not knowing whether they are safe for people to live in and, in many instances, children are involved (adults too, but children). So it is not something that you can clear on the emotion of it and say, *Let's just leave it like it is*. That all might sound very well on the surface, but it does not really solve the problem. And that's where the predicament is.

So, for now we have taken out the provision of the requirement for the 10 per cent (which is the way the Law reads now). All it does is allow you to build without a planning application, but it still requires all of the other steps. A lot of people do not realise that. And we do not want that to continue because it puts people in almost untenable circumstances in many instances. So, that is what the thought is presently. I am fairly confident that others who speak to this will have their own opinions and give their views. I will listen very carefully, but as of now I do not see the answer that satisfies all of the considerations that need to take place.

What I have said to the technical people, both in the Ministry and to the Director of Planning, is that while that may be the case with what is coming now, there are some other amendments that are being considered which have not been finalised yet. I want

to make sure that we look very carefully and consult and speak to the stakeholders to try to find a more palatable solution than the interim measure that is coming now.

Madam Speaker, let me just repeat once more: To leave this how it is causes, in my own words, too many headaches for people who, either out of ignorance or for other reasons, find themselves in difficult circumstances and the department itself has to go by the Law the way it reads now and that causes people grief. I am going to do everything I can and speak to whoever we can speak to. But it is going to take some time to find a situation that makes life easier for people who have the desire to do such construction and still satisfy what the other requirements are.

Madam Speaker, there is a proposed amendment to section 13(3)(g) and we also proposed to delete section 13(4) to address the issue of signage. As time has evolved, and, really, so much has grown in the Islands, so too has the problem of illegal signage. In the Bill we propose an amendment to the Law to require planning permission for all signs and advertisements except those exempted by the Central Planning Authority. So, the Central Planning Authority will look at what is really considered temporary and what they figure does not need planning permission, and create that list. The reason for this is so that if any adjustments need to be made as a matter of policy they will have the delegated authority to deal with that.

When it comes to signs everybody has a different view, and everybody has a different interest. Just like most other things. You will have somebody who wants to erect a sign saying, *Why do you have to go through all of this red tape?* But then you will have another 10 interests who have every reason in the world why the sign should not be where it is. Hence, to ensure fairness across the board that is the proposed amendment.

There is also the very old section in the Law, which is section 13(5), where it says that subdivisions of six lots or less will be approved. Again, when this was put into the Law many, many years ago, it was to deal with family land, so to speak. Whenever families were dividing up parcels of land these applications were approved without infrastructure being required. Over the years people have taken advantage of the way the Law is written. They have larger tracts of land and they keep subdividing smaller portions of the land on a timely basis and end up with 20 or 30 lots being approved over a period of time by the Central Planning Authority and people either not having anywhere near proper access when they go to build, or no infrastructure is put in. The person who has sold the land (who is commonly called "the developer") has simply used what is, in reality, a loophole to avoid paying all of these fees and simply collecting for the value of the land, paying the survey fees, end of story. Either the government has to step in to allow these people to

build these roads by way of government expenditure, or those people who have bought the land themselves have that expense. So that really is not fair.

In order to allow what is a real situation which might occur, we are proposing that instead of using the words that currently exist in the Law "Approval will be given" it will simply say it "may" be approved. That will allow the Central Planning Authority the flexibility to investigate what is real and what is not real and be able to grant the bona fide applications and be able to prevent the mischief that I just spoke to occurring and causing people grief. Many people who are buying property nowadays are still financing it through a bank and do not have the ability to do all infrastructure work afterwards while they are still paying on it.

We are seeking to delete section 13(6) and (7) to eliminate the redundancy of certain processing requirements that are currently more appropriately located in the Development and Planning Regulations. I will speak to that in detail later on.

In section 14(1) we want to recognise insertion of a new sub-clause for the provision relating to the functions of the DCB by simply cleaning up the numbering of the subsections. These are simply consequential.

We want to replace section 15(4) to clarify that the purpose of serving notification of application for planning permission is to invite persons to inspect the application at the Department of Planning. The relevant section that requires the notification of adjacent landowners for certain forms of development will be retained, but the proposed amendments will eliminate the redundancy of certain processing requirements in the [Law] that are already now more appropriately located in the Development and Planning Regulations.

Section 17 is being [amended] in order to allow the CPA and the Development Control Board to modify planning permission after a project is complete. This was brought to bear by the Director of Planning with several examples shown where people have had difficulties. As it is now, Madam Speaker, the CPA can only modify or revoke planning permission at any time *prior* to the approved development being completed. The time restriction is quite reasonable for revoking planning permission, but the same restriction on modifying permission can make it very difficult to address changing circumstances relevant to the approved development.

For example, an applicant may wish to add additional parking spaces or change the landscape design. But they cannot simply modify permission if the development is already completed. What would have to happen now is they would have to submit an entirely new application together with fees and notices to adjoining landowners, and the time delay in receiving full planning permission is considered totally unnecessary. So, that is looked at as more of an administrative function by the CPA rather than as it is now

where people have to make brand new applications. This amendment will stop the need for an applicant to submit a new application with modification to adjacent landowners significantly reducing the time for them to be able to get their certificates of occupancy.

There are some changes being recommended to sections 18, 19, 20, 21, 23 and 24. These changes simply seek to improve the operational efficiency of dealing with breaches of planning control by enabling the issuance of enforcement and stop notices by the director. This is another amendment which is the result of discussions with the Member for North Side and the Member for East End.

I think the point is, simply, that such notices need to be dealt with by the Director of Planning because what obtains presently is that anyone can appeal a notice that is sent and then they continue the construction. That's what obtains now; they are allowed to continue construction. Many times the construction is all completed by the time any appeal to the stop notice is heard and, therefore, it puts the CPA in a very difficult situation because while it has happened before, in many instances nobody has the nerve to say, *You have to knock this whole building down.*

This amendment will, by statute, when issued by the Director of Planning, tell someone, *Listen, you have to stop!* And if you think you have salient points and a decent argument, and that an injustice has been done to you by telling you to stop, you can appeal to the CPA. There is a finite timeline by which that appeal can be heard, and then if you are not satisfied you can go to the courts to see exactly how it is going to end up. But it is thought that this is the best way to deal with any infringement which occurs, and if someone is not willing to stop, then they have to be stopped.

Madam Speaker, section 24(2) specifies that compensation is not payable due to the issuance of that stop notice if the activity subject to the notice contributes to a breach of planning control or if there is a failure to provide information required by the CPA. The whole purpose of this is simply to take away the issue of liability.

It is proposed to insert a new section 24A, which allows the CPA to seek an injunction through the court for a breach of planning control. As it stands now, this tool is not specifically addressed in the Law but would certainly be valuable in certain circumstances. So [new section] 24A(1) will say, "**Where the Authority considers it necessary or expedient for any actual or apprehended breach of planning control to be restrained by injunction, the Authority may apply to the Grand Court for an injunction, whether or not the Authority has exercised or is proposing to exercise any of its other powers under this Law.**"

Subsection (2) would continue on to say, "**On an application under subsection (1), the Grand**

**Court may grant such an injunction as the Court thinks appropriate for the purpose of restraining the breach.”** That is so that if you write to someone and they disregard your notice, you quickly apply for an injunction and once that is granted then the court has stopped whatever the development is.

In section 26 the term “Storm belts” is replaced with “Mangrove buffer” to simply accurately reflect the terminology that is used in the Development Plan, which is “Mangrove buffer.”

Under section 29B(2)(a) and (b) reference to “commercial zones” is inserted in the [Law]. This amendment will ensure that the Development Control Board can utilise the enforcement and maintenance of land provisions in the Law and also allow the Development Control Board to more effectively deal with illegal development. It will ensure that both the CPA and the Development Control Board can deal with the dilapidated condition of commercial buildings and not just hotels, as is currently the case. After the words “Hotel/Tourism zone we will insert the words “or a Commercial zone.”

Repealing section 30A in its entirety addresses Infrastructure Fund fees. The entire fee payment schedule which is in the Law should form part of the regulations and is simply being taken out of the Law and placed in the regulations. It is not with any intent of not being able to charge these fees, but to have them in the regulations. We are looking to change some of those fees, which Members will see as soon as the regulations are published. There are two sections we are looking to change. One involves agriculture with green houses and structures of that nature. The way the fees are charged now, it is almost the price of a commercial building. And that is not right. I do not think that was the intention, but the way it is worded, because there is no specific area for agriculture, causes them to be captured in that section.

There is also a section for single-family homes where smaller houses in certain areas are charged the same per-square-foot fee as the larger houses, and we believe it is a situation that gives more equity when we have a staged infrastructure fee. For instance, houses over 5,000 square feet will pay more per square foot than a house under 3,000 square feet, simply because if you speak to size of the house and the purpose of an infrastructure fee, those who build bigger should pay more, in our view.

The way it is now, as we are told by many of the architects, I should say at least three architects have told me this, people look at how the fees are now and simply say, *Make sure this is one square foot less than so much.* I do not think they should have that luxury, in my view. So we are proposing those to be staged as soon as the regulations are approved and published.

Section 39(1) refers to the powers to enter land the provision must be clear to prevent someone from obstructing an authorised officer, as well as en-

suring that there is a penalty for failing to comply with lawful instructions to take certain actions on the land. The amendment in the new 39(1) and (1)(a) will simply read, **“Any person duly authorised in writing by the Authority may, at any reasonable time, enter upon any land - (a) for the purpose of examining it to determine if there has been any contravention of Part III;”** and it goes on. I do not think I have to read all of these other sections because I just explained the purpose of the amendment which is to fully give authority to someone to enter land to examine whether there has been any contradiction.

For belt and braces after section 39(1), we will put in (1A) which says, **“A person authorised under this section to enter upon any land has, for the purpose of performing his duties under this Law, all the powers, privileges and immunities of a constable.”**

The truth of the matter is that in many instances there is . . . well, it is a rare occasion for physical abuse, but there is a lot of verbal abuse that goes on when people have disregard for the law and do not wish to pay attention to someone who is trying to advise them what is the right thing to do and the right way to go about it. We believe that those persons need a certain level of authority in statute.

Madam Speaker, we also seek to ensure that only an applicant or an objector can appeal a decision of the CPA or the DCB and an objector must be a person that was notified of the application. We believe this will eliminate frivolous appeals that cause lengthy delays in the process. I am told and reminded that it would also prevent certain busybodies from being busy when they should not be.

Madam Speaker, if we bring this to real life, what obtains presently is that just about anyone can object to an application which comes before either the DCB or the CPA, and they could be acting on anybody else’s instructions, not have any interests in anything that is going on, and someone, for instance, with money, can hold up the process by way of legal wrangling and all of that for ever and ever. And that is not fair. But you do not wish for an applicant or an objector to not have that ability. So you are ensuring that, but you are taking away that other ability where anybody can, for any reason, make that objection.

In section 43(2), we want to replace the word “two” with the word “three” simply to ensure that a development tribunal has five members so that a quorum can be established.

Madam Speaker, generally speaking, I have outlined the vast majority of the amendments that we are proposing. Just before I sit down to listen to the various contributions from Members, I have just been advised by the Honourable Premier that by round robin he has gained consensus from all other Members that they . . . let me start afresh, and let me repeat myself.

I have just been advised by the Premier that the other Members of caucus have all agreed that the 21-day negative resolution amendment which I was not as confident to do on my own is satisfactory to the caucus and we are already in the process of preparing a committee stage amendment to that effect. So we will hear all matters and all concerns. I have tried to outline in general terms the proposed changes. Certainly in the winding up I will address whatever issues are brought forward. Thank you.

**The Speaker:** Does any other Member wish to speak? I recognise the Member for East End. But out of an abundance of caution let me say that until the Speaker receives the anticipated amendment, Members, please do not debate it.

Member for East End.

**Mr. V. Arden McLean:** Madam Speaker, if the Serjeant could bring me the . . .

*[Inaudible interjection]*

**Mr. V. Arden McLean:** No, that ugly one is for the Premier. He's the only one who uses that. That's not ugly; it's clumsy, somewhat.

Madam Speaker, would you like us to take lunch at this stage? I am entirely in your hands, Madam Speaker.

**The Speaker:** If this is a convenient time for lunch, we can take the luncheon break and reconvene at two o'clock pm.

*[Inaudible interjection]*

**The Speaker:** I just asked the Serjeant if lunch was here. He confirmed that it is.

**Proceedings suspended at 12:26 pm**

**Proceedings resumed at 2:53 pm**

**The Speaker:** Please be seated.  
Honourable Leader of the Opposition?

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

I wish to enquire, since the Minister responsible for Planning has spoken several times about the regulations, whether, in fact, you have a copy of the regulations, or whether you have seen them. If so, Madam Speaker, can we get a copy?

**The Speaker:** Honourable Minister for Planning?

**Hon. D. Kurt Tibbetts:** Madam Speaker, the regulations that I keep referring to are the existing regulations. When I speak to things coming out of the Law

and going into the regulations they will be the amending regulations, but the Legal Drafting Department has advised us that we need to get this approved and then get the regulations passed immediately after that. In fact, one of the amendments we have brought has caused a slight dilemma which we have gotten rectified.

When we get to the committee I will explain the committee stage amendments, but the regulations have not been approved because the Legal Drafting has said to us for the regulations to be approved the Law has to be approved in order to be able to make the changes to the regulations. One has to be done before the other.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** Yes, the Legal Drafting does have the draft legislation. But one of the amendments coming at the committee stage is going to call for them to come here to be approved by the House.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** But they are not finished.  
One second, Madam Speaker.

*[pause]*

**Hon. D. Kurt Tibbetts:** I'm sorry. Myrtle [Brandt] is not here. But that was the advice we got, hence the procedure we have taken.

**The Speaker:** Before we took the luncheon break, the Member for East End had risen to his feet. I recognise him to continue his debate.

## BILL

### SECOND READING

#### DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 2014

*[Continuation thereof]*

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Before I commence my debate, I just want to recognise my two nieces in the Gallery. I am so happy to see them here. They are very interested in these kinds of things, and their father, likewise, sees to it that they are brought to these proceedings. Hopefully one day I will be wheeled in here in a wheelchair with one of them standing in my current position.

Madam Speaker, I have taken good note of the time because I believe I am going to be standing here for quite a while. I have said on many occasions that the second most important piece of legislation following the Constitution of this country just happens

to be the Development and Planning Law. There is no more important piece of legislation when it comes to the citizens, the residents, and the people of this country. It is only rivalled by the Constitution because of that fundamental right to own a property and to develop that property in the manner that has been ordained by the representatives of those people, that is, this legislature.

Madam Speaker, I have been in this honourable House for 13 plus years. I have shown respect for all the people of my country. I believe I have. The Development and Planning Law requires all of us to ensure that the voices of the people be heard. In 2010 I stood on this side of the House with the now official Opposition being the Government, and the first Premier, being the now Leader of the Opposition. When that Government tried to manipulate this Law, for whatever reason, I objected to it. Today I register my objection to what this Government is attempting to do.

I represent the people of East End, in particular, and the people of this country in general. And what is being done here is an abomination. And I ain't taking that word back! And, Madam Speaker, I will show why I use such a strong word. But before I go too much further into that, Madam Speaker, please allow me to say that I was a founding member of the PPM [People's Progressive Movement] in early 2002. I left the PPM in 2012. I developed relationships in that organisation, relationships that started from a personal relationship prior thereto. But I developed loyalties; I developed trust in that organisation.

I have never had the question to trust at least two people in that organisation. Today I cannot say that any longer. Madam Speaker, I have wrestled for the last couple of days as to whether or not to say that. That trust can be gained again if there is an explanation specifically about this Law and this amending Bill.

Madam Speaker, the one thing no one in that PPM will ever say is that I was not loyal. I was loyal to a fault. I believed in our ideals, I believed in our objectives and I fought for those until our political ideologies went on different paths. Nevertheless, I still respected the people there. This amending Bill makes me wonder why this Government is bringing it.

Madam Speaker, in this age of purported transparency, FOI enhancements, fiscal responsibility and Government's budgetary constraints, to bring such proposals is a glaring black eye on this country and the jurisdiction of the Cayman Islands. I cannot believe the Minister who so strenuously objected the proposals being brought in 2010 by the then Minister of Planning in the UDP [United Democratic Party], who just happened to be the Premier at the time, would now bring such legislation.

Madam Speaker, I have my conscience to live with. Regardless of what friendships I have, not one friend lays with me at night and tosses and tumbles because my conscience is bothering me. I am not

prepared to lay wide awake at 2:00, 3:00, or 4:00 in the morning and wonder why I did not do what I had to do because of a friendship. Friendships are chosen, I will just have to find another one.

Madam Speaker, the UDP Government brought similar amendments to the Planning Law then. I heard the Minister say that he was looking over those. I wonder if he really did, because so did I. I want to know what has happened to the Minister in the intervening period of four years. Has he forgotten? Even though he read the Hansards, I want to bring some of it to his attention now.

Madam Speaker, on page 251 of the *Official Hansard Report* of Monday, 12 July 2010, I quote the then Leader of the Opposition, the current Minister of Lands: **“Madam Speaker, the next section I wish to deal with is [clause] 12, which simply reads: ‘The principal Law is amended in regulation 42 by repealing subsection (3).’ Section 42 reads: ‘The Governor may make regulations for the better carrying out of this Law and for giving effect thereto and in particular-’. And in subsection (3) it reads: ‘No regulations shall be made pursuant to this Law unless a draft thereof has been laid before the Legislative Assembly and a resolution approving the draft has been passed by the Legislative Assembly.’**

**“Madam Speaker, as I understand it, the purpose of that subsection in the Law which speaks to the way in which regulations are approved by this Assembly is because while there is the executive branch, which is the Cabinet, the Legislative branch, which makes the laws, was intended to be involved in this whole process because, Madam Speaker, regulations not only apply to fees, but regulations can apply to land use. So, we are not in agreement with this subsection being repealed.**

**“Madam Speaker, following on the heels of that, we also see where section 53 of the substantive Law reads: ‘This Law binds the Crown . . . .’ But [clause] 15 of the amending legislation says, ‘Section 53 of the principal Law is repealed . . . .’ So, no longer shall this Law bind the Crown and it is replaced by the following section, which reads: ‘This Law binds the Crown but, where in the opinion of the Governor [that is, the Governor in Cabinet] the public interest so requires, the Governor may waive any of the requirements of this Law.’**

**“Madam Speaker, I believe that both of these have some type of relationship. That is, the executive, the Cabinet, being able to make regulations and not by Law having to bring those regulations down to the Legislative Assembly for the legislative process to be completed, means that whatever the executive decides is well said, well done and that's it. And then this additional section means that the executive arm of government, that is the Governor in Cabinet, can make any decision**

in what it considers to be the public interest to waive any of the requirements of this Law. That is far reaching; it is as wide as is possible. And I do not believe that the democratic process is served well.

“I do not know whether it is the thought of the Government that bureaucracy holds up too many things. I do not wish to proffer a guess because I do not know what the thought process is by having these two sections. But, Madam Speaker, I believe the Government ought to seriously consider whether this is the right direction. Even with the best of intentions, I believe that it can cause a lot of problems down the line. And it is very possible that citizens can be disenfranchised by not having any recourse once this Law is termed in this manner. So, I certainly would wish for the Government to fully explain the rationale behind those two sections as to going in that direction.

“As I said, Madam Speaker, I am certain that my colleagues will argue different points in this amending Bill, and especially those last two matters that I brought to your attention or to the attention of this honourable House. Certainly, if it is the Government’s intention for those two sections to remain as is, in just conscience we could not support this, Madam Speaker.”

Madam Speaker, that was the end of that Member’s speech. Then the Member for North Side said . . . looks like all I need to do is lay this on the Table and then my debate could be finished, Madam Speaker.

The Member for North Side said, “Madam Speaker, there are some things in this Bill that I support. But I have two fundamental concerns or problems with the Bill as presented. If the Government is not minded to make some changes to those two areas, unfortunately, I would not be in a position to support the Bill. And, Madam Speaker, those two areas are clause 12 of the Bill which specifically relates to the removal . . . ‘The principal Law is amended in regulation 42 by repealing subsection (3).’ And in the principal Law that [which] is related to the fact that regulations have to be brought to parliament for approval.

“Madam Speaker, my personal experience and the experience of the people I am privileged to represent, when it comes to zoning land and change in land use, I would like to know that any of those regulations, particularly made to those areas, are subject to a formative resolution in this Parliament. Because, Madam Speaker, we could get into a situation some time in the future where we have a government . . .” and then he [trailed off]. He was side-tracked somewhere.

Madam Speaker, my debate on it was similar. I now read a section of my debate on it [page 258], “We cannot dictate to the people in a democracy,

we cannot change their way of life without getting approval from them. That approval process is through their representatives who they elect once every four years who sit in this real estate in here. That’s what democracy is about. You cannot have a party or individuals become Ministers and go into Cabinet and dictate everything for the people without allowing the minority in Cabinet to have a say. There is a section of this country that we represent. That’s what democracy is about, and particularly about their livelihood, their existence, which happens to be their land.”

That should have been “in the Legislative Assembly”, not “Cabinet.”

“And more so, Madam Speaker, when there is no public consultation because regulations do not require public consultation. It is the operation of the law. But you cannot put anything into regulation that is not first put in law, such as these new fees. There has been no public consultation on them.”

Madam Speaker, the current Premier had much to say on the same matters at that time. I quote some of what the Premier said on page 260.

“I regret, however, that I have to join the refrain of lament about the manner in which this has come to this honourable House and the apparent absence of any real consultation with the broader community.

“Madam Speaker, the issue with the latter is compounded by the fact that Members on this side of the House certainly have had so little time to consider these issues. And many of these issues, including what I and my colleagues who have spoken before me, and some who have not, regard as being improvements, ought really to have been presented to the broader community for their consideration and comment before we proceed at this speed to give them legislative effect.”

A little further on, “Again, unfortunately, Madam Speaker, that is the case with virtually every bill that is brought to this House by the present administration. And, Madam Speaker, it does a disservice, not just to us, but it does a disservice to those we represent when inadequate notice—or no notice at all—is given. So, Madam Speaker, I just wish to join voice with my colleagues who have spoken before me in recording our objection and concern about the way that this has come before the House.

“Madam Speaker, before I get into the matters I wish to deal with in some detail, I want to also endorse the concerns articulated by my colleagues who spoke before me, particularly in relation to the Government’s proposal, or the Bill’s proposal to dispense with the requirement that regulations relating to development and planning matters no longer require the approval of this

**House. I do not intend to rehearse the arguments ably put by those who spoke before me, but it is a matter of grave concern. It does lead to considerable suspicion on our part about the motivation, the intention of the Government in relation to some major developments that have been talked about by the Government, developments which have met with some opposition and a great deal of concern.**

**“It does worry me a lot that without the benefit of this House knowing what is actually being proposed by the Government that we could wind up in a situation where zonings are changed where decisions are effectively taken without public knowledge until they become gazetted.**

**“And, Madam Speaker, the second limb to this, assuming our conspiracy theory is correct, is that if the Government has the ability to waive the application of the law to a certain development, when we add the two together the possibility of something great, something momentous being foisted upon the country without any knowledge at all until it is a done deal is very real and very worrying.**

**“So, Madam Speaker, like my colleagues before me, I urge the Government to really re-think those two rather ominous clauses of the Bill which, if passed, will make fundamental changes to the way the whole system operates, and is going to certainly make the whole process of planning matters, development matters much less transparent. In fact, it could be argued that any element of transparency whatsoever could be removed because these decisions could well be taken in the Cabinet room without any previous knowledge of anyone outside the confines of the tight government team, and the next thing anyone in the country knows is when they see it gazetted.”**

Madam Speaker, I did not read all that to criticise those Members; I read all of that to say that I agreed with them. But this was in July 2010. It is now October . . . July, August, September, October, four years and three months, and we have lost sight of everything with it. At least I am consistent. At the very least I am consistent.

Madam Speaker, there was much more said by us that I could point out. The then Premier responded in his usual flamboyant way and beat us down as well, and justified it. And, Madam Speaker, I expect no less from this Government. They are going to justify exactly what they are doing in here, but I am going to point out that there is some ulterior motive now too—in my view.

Madam Speaker, I know the Minister of Works was wrestling with his introduction of this amending Bill. I know that. I could hear it. I know the man! The Minister said in moving it that it will go further to enhance the CPA Development Board in Cayman Brac

processing applications, these amendments. To do that Government will move certain aspects of the Law into the Regulations. Madam Speaker, I really do not know why we cannot get the regulations. We do not have them. The Minister gave them to me last week Tuesday, and I am going to refer to them too.

Madam Speaker, our greatest concern at the time in 2010, as you heard me read excerpts from all our speeches, our debates, our contributions, our grave concern was that Cabinet could be loose cannon and do what they want with the people's land. The Premier at the time was concerned about it too, about large developments and what it meant. The Minister of Works was concerned about the intent of allowing Cabinet to have free reign, no matter how good their intentions are. We do not have to only legislate for the current Government, we have to ensure that we prevent rogue Governments from ever, ever encroaching, ever serving a disservice to our people, and this Government claims they could not bring amendments to the Planning Law to put back in that the regulations have to come here for affirmative resolution. But we have been in office since May of last year . . . I am going to count again, May, June, July, August, September, October, 12 and 5 is what? Seventeen months!

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Minister, you are going to have two hours, you know. You worry about unna now just putting it on the Table. You concentrate on that one for two hours that unna bringing back now.

Madam Speaker, I understand. The events of the past few months have been such that people have not noticed this, and it has gone virtually under the radar. But it is precisely what we did not want in 2010, that when we know about it is when it is gazetted. Were it not that I said here that the Member for North Side had filed an amendment to put that provision back in the Law to bring the regulations back here, the Government would not have bothered with it!

*[Inaudible interjection]*

**Mr. V. Arden McLean:** All this time . . . besides, Madam Speaker, this Bill has been circulated since September or August or somewhere thereabouts. Madam Speaker, I have something like three or four pages of amendments since Friday! Since Friday, Madam Speaker, and I do not see one in there saying bring the regulations back here. It is now being circulated!

I am not going to row; I am just showing that you all are like Reagan thing. “Trust, but verify” with honour. The same thing we said four years ago, unna doing it now!

Madam Speaker, I keep telling unna this. Yes I know I have my nieces up there, but they need to understand that there are principles too under which

their uncle operates. And friendships cannot override my principles. And they must understand that not even family should override your principles.

Madam Speaker, there are a number of questions to be asked here. I have been prepared for this one. I am getting my two [hours] too.

Madam Speaker, who is driving this Planning amendment initiative? I have to question that. I must! Does this Minister not see the trap that he is setting himself up for? Does he not see the trap that he is setting for his feet? Or, is it that he is aware and this is designed to facilitate ongoing negotiations? I have to question that. I have to ask that!

Madam Speaker, on the one hand . . .

Kurt, you don't have any glass there or what?

I am going to show exactly why I asked that question. Clause 11 of the amending Bill amends section 13 by, in particular, repealing [section] 13(6) and (7). Let me read [section] 13(6) and (7), if not for us, for the listening public.

**“13(6) Subject to any regulations made under this Law with regard to planned area developments, permission to develop land, the primary purpose of which is residential,”** and what have you.

We are repealing that and putting that in the regulations. Why? Because the legal opinion is that it does not have clearly defined in there that hotels cannot go in PAD [planned area development]. So put it in!

I do not have a problem with that. We need to facilitate some of these PADs to put hotels, absolutely. One amendment: include “hotel” in this—one word. But we are taking it out of here and putting it into regulations where we can do anything we want with them.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Madam Speaker, you say I do not speak to the amendment? I ain't visiting the amendment now, you know. This was the *intent* of this Government.

Madam Speaker, the amending Bill also repeals section 6 of the principal Law. Now, that is the one . . . somebody answer to me why we are moving this out of here. Madam Speaker, section 6 of the substantive Law says:

**“(1) Where the Authority or Board receives an application for permission to carry out the developments specified in subsection (2), the Authority or Board, as the case may be, shall -**

- “(a) consider the likely impact of the proposed development on the infrastructure of the Islands as well as on the educational, social, medical and other aspects of life in the Islands;

- “(b) consider whether there are other issues of national importance

which are relevant to the determination of the application for development and require evaluation;

- “(c) consider whether there are technical or scientific aspects of the proposed development which are of so unfamiliar a character as to jeopardise a proper determination of the question unless there is a special inquiry for the purpose;

- “(d) identify and investigate the considerations relevant to, or the technical or scientific aspects of, the proposed development which, in its opinion, are relevant to the question whether the application should be approved; and

- “(e) assess the importance to be attached to those considerations or aspects.

**“(2) The developments referred to in subsection (1) are-**

- “(a) apartments with twenty-one or more units;

- “(b) hotels with twenty-one or more units;

- “(c) commercial developments which exceed twenty thousand square feet;” (I want them all to sink in.)

- “(d) subdivision of land into twenty-one or more lots;

- “(da) planned area developments;

- “(e) industrial developments which exceed ten thousand square feet; and

- “(f) special purpose developments.

**“(3) The Authority or Board, as the case may be, may give an applicant for permission to carry out the developments specified in subsection (2) an opportunity to appear before the Authority or Board and to be heard by five or more members of the Authority or three or more members of the Board.**

**“(4) The question of whether the development proposed in the application should instead be carried out at an alternative site shall also be considered by the Authority or Board, as the case may be.**

**“(5) The Authority or Board, as the case may be, may arrange for the carrying out of research of any kind appearing to it to be relevant to an application, received by it, for permission to carry out the developments specified in subsection (2).**

**“(6) The Authority or Board, as the case may be, may hold an inquiry, if it thinks it neces-**

sary, for the proper discharge of its powers under this section.”

Madam Speaker, that is section 6 of the Law.

We are also repealing section 8, **“The Authority or Board, as the case may be, shall notify the Trade and Business Licensing Board and the Immigration Board of its decision, in respect of an application for permission to carry out the developments specified in section 6(2), within five working days of the date such decision is made.”**

Now, Madam Speaker, there are only a few people in this country that the removal of section 6 will benefit. And it is certainly not my little people in East End. It is certainly not the little people in Bodden Town, or North Side, or George Town, or West Bay, or Cayman Brac and Little Cayman, because the little people cannot afford large developments. And the marginal note is “Application to carry out major developments.”

Now, Madam Speaker, Bob Marley’s thing: I’m throwing the corn and I’m calling no fowl. However, the Premier said recently that the negotiations with Dart were going very strong, and he did not want to jinx them by disclosing anything. Madam Speaker, I cast no aspersions. Now, if we remove that from the Law, what’s the purpose of the Board being appointed? What else do we have, but a few little homes that we can control? But, Madam Speaker, I am going to show you how we are going to waive all the fees, probably, and then put the maintenance of the major developments on the back of our little small people.

Madam Speaker, I turn to clause 11 which amends the principal Law in section 13, and they want to repeal paragraph (f). The Minister went to great lengths to explain this section where it is the 10 per cent that the little man can add on to his house. He explained that it came from the days of the seamen when we went out there and built two little bedrooms, or one bedroom, and then we went back and got a little more money and we came back and built on another little piece so we could accommodate our families at the time.

Madam Speaker, he read what it meant. It says, **“‘development’ means the carrying out of building, engineering or other operations in, on, over or under any land, the making of any material change in the use of any building or other land, or the subdivision of any land, except that the following types of developments shall not require planning permission but shall be subject to all other provisions of the Law and any regulations made under the Law, including the Building Code Regulations, namely - (f) the enlargement, improvement or other alteration of a dwelling-house provided that-**

**“(i) the square footage of the enlargement does not exceed ten per cent of the square footage of the ground floor or the house;**

**“(ii) the enlargement is single storey;**

**“(iii) the regulations governing the setback of buildings and coverage of site are upheld;**

**“(iv) the enlargement is an integral part of the existing dwelling-house; and**

**“(v) a notice of intention to construct under this section is forwarded to the Authority;”**

Why are we taking it up in regulations? Do you know why we are doing it? So that we can put a charge on it; put fees on it. We can require them to have planning fees applied to it.

Now, Madam Speaker, on one hand we are removing the requirements of Planning to look at large developments and we are going to charge our little people on the streets to help pay for the infrastructure that we just waived for the big development. That’s what we are doing!

Now, many of them out there can get up and shoot my argument down. But they have to do it because I told them I was not supporting this. Madam Speaker, you know, honestly . . . Madam Speaker, we think this started today? This did not start today. The country does not derive anything out of these large developments that we are waiving the fees for. The previous Government went into negotiation about ForCayman Alliance. What was that called? FCIA or something?

*[Inaudible interjection]*

**Mr. V. Arden McLean:** *Ultra vires* the law! They cannot waive infrastructure development fees! Cabinet has no authority to waive them. Nevertheless, they waived them and they have lost tens of millions of dollars to this country. And we are today trying to charge the man trying to put a little 10 per cent on his house. That is why we are here. Is that why we came here?

Tony, help me now.

Madam Speaker, that same agreement we made with Dart through FCIA (or whatever it is) is going to be our and our children’s Achilles heel for the rest of their lives. A whole generation! I ain’t talking about the road; I’m talking about the construction fees.

**The Speaker:** Member for East End. It has been drawn to my attention that the—

**Mr. V. Arden McLean:** Let them get up and say so!

**The Speaker:** Member for East End, the matter relating to Dart is still a live issue before the court. So, I am going to ask you to be careful so you do not enter into the ring of *sub judice* as you debate this Planning and Development Bill.

**Mr. V. Arden McLean:** Madam Speaker, I bow to your ruling, but I am not discussing the matter that is before

the court. I never mentioned anything about anything before the court, Madam Speaker. I am talking about those developmental infrastructure fees that were waived, and the tourism 50 per cent room tax waived. It will be our Achilles heel, our children and their children's Achilles heel.

Further, Madam Speaker, they are now going into a major development . . . give me the paper . . . just Friday. You think that was coincidence that it was on the front page the day we were to address this matter? Do you think that is what it was? You think that was coincidence, Madam Speaker? That was deliberate! Madam Speaker, that, too, is subject to the agreement that was *ultra vires* the Planning Law.

Madam Speaker, since all the lawyers over there are muttering, tell them to get up and say it was not *ultra vires*. No one can waive or change the Planning infrastructure fees other than the Legislative Assembly. And I did not see any agreement come here. You mean to tell me that the executive thinks that they have such britches now that they can do that too? Are we kidding? You mean we had a runaway Government with the UDP, now you got another one with the Coalition Government that they do what they want?

Do not they understand that they exist because of the legislature? They should think about the 18<sup>th</sup> of December the year before last. And then they will find out that they are enabled by this legislature. Try to research the Hansard for the 18<sup>th</sup> of December 2012.

Madam Speaker, we are—

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Was it the 13<sup>th</sup>? It was not the 18<sup>th</sup> . . . 2012?

*[Inaudible interjection]*

**Mr. V. Arden McLean:** I'm sorry, Madam Speaker, 2013. It was 2013. All those who thought that they were above—

*[Inaudible interjection]*

**Mr. V. Arden McLean:** I knew it was 2012.

Don't unna make me look like a zombie. It was 2012 because the election was May 2013. You have to go back to December the previous year, you know. The one before that had been the previous year, 2012.

All those who think that they are higher than the legislature should check that.

Madam Speaker, no one, no executive must believe that they are beyond this legislature. No one! Mind you, the constitution needs to be changed so we can have a simple majority to remove the Government, the Premier, I mean, because right now you

have to dip into the Cabinet. That is our mistake, we made that. But hopefully we will correct that.

Nevertheless, Madam Speaker, I question whether or not this Government is going into some new negotiations with Dart to try and stimulate the economy again and create another Achilles heel. So we are going to have two babies held up by the heel. Unna make sure this time to immerse them totally into water of the river of healing.

Madam Speaker, the Government needs to get up here and explain to us what they are doing, because there is no need, absolutely no need to remove these things.

Madam Speaker, the Minister was so good to us after we chased him down a couple of times. He loaned us some draft regulations. Madam Speaker, I am not that well organised, but I am going to find it. . In the substantive regulations . . . Madam Speaker, I got it.

Madam Speaker, one of the things this Government is planning on doing is removing the definition of "approved agent." Why? Why are we doing this? Am I hitting a raw nerve? Is this to facilitate the removal of large developments, the scrutiny of large developments? One hand washes the other?

Madam Speaker, approved again—

**The Premier, Hon. Alden McLaughlin:** Madam Speaker, on a point of order.

**The Speaker:** Premier, can I hear your point of order please?

#### POINT OF ORDER

**The Premier, Hon. Alden McLaughlin:** I have sat here patiently, Madam Speaker, and listened to the Member for East End impute improper motive to the Minister and to the Government, in clear breach of the Standing Orders.

The Member is entitled to say whatever he wishes, but he cannot impute, without basis, improper motive to any Member of the Government or the Government itself.

I heard him just now, Madam Speaker, as an example, talk about whether we are entering into some special arrangement with Dart. The Member knows full well, because I have made public utterances about it, that we are doing the very best we can to renegotiate some of the difficult and troublesome aspects of the NRA agreement. He knows that very well. He is not entitled to impute improper motive to any Member of the Government or the Government as a whole, Madam Speaker.

**The Speaker:** Member for East End, the Honourable Premier has brought my attention to Standing Order 35(4), which reads as follows: "**(4) No Members shall impute improper motives to another Member.**"

Unless you have evidence to the contrary, then I would ask you not to find yourself in breach of that section. And further—

**Mr. V. Arden McLean:** Madam Speaker, can I then—

**The Speaker:** One minute, please.

And for an abundance of clarity, the Standing Orders, if breached, must be brought to the Speaker's attention. Then I will make a ruling on it.

Member for East End.

**Mr. V. Arden McLean:** Madam Speaker, can I find out where was it that I imputed such? Tell me, Madam Speaker.

**The Speaker:** If I heard correctly, the Honourable Premier referred, by way of example, to some purported negotiation with Dart.

**Mr. V. Arden McLean:** Madam Speaker, that is correct. The Premier has said, and I say again, I have to repeat what I said, and if it is improper, then you tell me. He said in the Chamber—

*[Inaudible interjection]*

**Mr. V. Arden McLean:** I do not care what you are saying.

The Premier said, Madam Speaker, [at the 2014 State of the Nation Address, Ritz Carlton, on 9<sup>th</sup> October 2014], with members of the Chamber of Commerce [being present] that the negotiations were going well, but that he did not want to jinx them any further.

Now, Madam Speaker, the Government is in negotiations with Dart. I ask, is this part of those negotiations?

**The Speaker:** Member for East End, as you rightly know you can put it as a question, but you cannot state it as a statement of fact unless you have evidence to prove likewise. Please keep in mind the Standing Orders. You are very cognisant of them; resist the temptation to breach them.

**Mr. V. Arden McLean:** Madam Speaker, I bow to your ruling, but I did not, in my view, say anything improper about the Minister. I am questioning, are these amendments part of those negotiations, or designed to assist with those negotiations? And I say it again; I am asking the Government to answer me when they get up. The whole heap of them out there, Madam Speaker, have the knowledge that I do not. So, on behalf of the little people in East End, I want them to tell us, because the Premier has not told this country what those negotiations include. Now it is time for him to answer. Let him tell them.

Everything with the UDP and the first Premier was secret and some skulduggery. All of a sudden the shoe is on the other foot now, eh? Ooh what tangled webs we weave when we practice first . . .

Madam Speaker, the Premier is going to have his say. I know that. If he wants to hear what I have to say, fine. I will sit and hear what he has to say too. But he knows I am going to say what I have to say. I do not know what they are doing, Madam Speaker. All I can do is speculate and ask the questions. That's my job as a Member of this Legislature.

Madam Speaker, Members of the Government stood here in July and spoke about the very thing that they are doing. And, Madam Speaker, I am not going through the amendments one by one as the Minister did in his introduction. I am not going to do that. But I am going to draw reference to some of them. The same regulations that the Minister so graciously gave us a draft copy of also has provision in there that any inclement weather, where you are to clean up the beach, you now have to apply to the department with a \$250 fee to clean up your beach!

Madam Speaker, you tell me it is right that we can waive millions of dollars for some of the richest people in the world and my people in East End, when that seaweed comes in there, have to pay \$250 to clean up their beach? Come on.

Come on. What are you all doing?

Madam Speaker, the Minister says that what I am saying is not right. There is nothing in here that says otherwise. This is what you get for not explaining anything.

Item 14A—type of development, removal of shoreline debris following inclement weather. Now maybe that is not bad weather, that is not what it is—

**The Speaker:** Member for East End—

**Mr. V. Arden McLean:** —\$250.00.

**The Speaker:** Member for East End, please state what you are referring to.

**Mr. V. Arden McLean:** Those regulations that he gave us a copy of.

**The Speaker:** Could you please ensure that the Speaker has a copy?

**Mr. V. Arden McLean:** I am getting a copy now.

**The Speaker:** I actually want to see them to make sure what you are referring to, because I thought it was incomplete, and I wanted to make sure you are not referring to an incomplete document.

**Mr. V. Arden McLean:** Madam Speaker, it was given to me. If it is incomplete, it will be corrected later.

That's the way I view this. If you want a copy, please, Madam Speaker, feel free to do that.

Madam Speaker, they are going to say that I went on and I went on. Yes, I am incensed. I was incensed with the UDP Government too for doing it, and I am more so with these, because I was a part of them. Oh yes. More so with this Government because they have fallen right into the trap that has been set for them—I do not know if it is with their eyes wide open, or if it is with their eyes shut, but it is obvious. Ray Charles could see something wrong with this. But nobody is saying anything. Everybody is mum on this thing.

Madam Speaker, I look . . . you know . . . [sigh] Madam Speaker, the obvious omissions by the Minister in his introduction of the Bill to amend the principal Law, clause [32], **“The principal law is amended by repealing section 53 and substituting the following section.”**

He never said one thing about it, Madam Speaker. Never mentioned it—53(1). **“This Law binds the Crown but where the Cabinet decides that the public interest requires, the Cabinet may, by Order published in the Gazette, waive the requirement to obtain permission pursuant to section 13; but nothing in this subsection shall be construed so as to allow the Cabinet to waive any other requirement of this Law or any regulations made under this Law.”**

**“(2) The Cabinet may, in any particular case, waive or order the refund of any fee prescribed in Schedule 1 to the Development and Planning Regulations (2013 Revision); but nothing in this subsection shall be construed so as to allow the Cabinet to waive or order the refund of any other fee prescribed by this Law or any regulations made under this Law.**

**“(3) The Cabinet may, by written instrument, delegate any of its powers under subsection (2) to a Minister; but a delegation under this subsection is revocable at will and does not prevent the exercise by the Cabinet of any power so delegated.**

**“(4) In subsection (3), ‘Minister’ means a member of the Cabinet who is appointed under the Cayman Islands Constitution Order 2009, S.I. 2009 No. 1379, as the Premier or other Minister.”**

Now, Madam Speaker, what that means is that the Minister has just stepped into a fox hole. I am not as cruel as the Premier would make me out to be. Let us say that this Government has no intention of doing anything untoward. There is always another one in the wings. You think you are going to stay there forever? You do not live . . . you do not sit in perpetuity, my friend. Only the Government the country has; politicians come and they go. Are we setting a trap for the very people you purport to advocate on their behalf? Is that what your plans are?

When some rouge Government gets there and the Cabinet delegates that authority to that one Minister and he goes out there and opens a shop on large developers, *Bring me your fee, and I'll waive it for you. It should be \$20 million, but you give me \$2 [million] and I will waive it for you, and you save \$18 [million].* Do you really think that's not very attractive to any developer?

Are we creating another Achilles heel? Is that what you all are planning on doing? You have opened the door to corruption at the expense of our people. Then you are going to have to tax them to build roads to those developments. Do we all understand what that causes a country as small, and, more so, as fickle a country, as ours? Are we looking to get one of these developers that we continue to waive the very fee that we have to get to help our people? We do not get it, we borrow it, create a debt and they come along and buy our debt—

**An Hon. Member:** With their hedge funds.

**Mr. V. Arden McLean:** With their hedge funds.

And they circle with their bald heads. And as soon as we show weakness they pitch very close to us and the vultures have arrived. And they call our hand and we cannot get up off the ground. That is what we are creating. That is what we are looking at.

Madam Speaker, my plea to this Government is to take these things out of this, you know. Why do we have . . . our fees are minimal as it is. And we are going to waive them? We are going to give the authority to one Minister to waive them? Are we crazy? Have we gone off our rockers? Do we have no respect for the people we represent? Do we have no respect for the hallowed halls of this august body?

What are we doing?

Is this why I came here on the 8<sup>th</sup> of November 2000? No, Madam Speaker, I did not come here for this. Whether it is done in good faith or not, Madam Speaker, I will not support it! I will not put my people's neck in the noose. First of all, I ain't creating a noose - most important thing.

Madam Speaker, why are we eliminating every provision that imposes a restriction on large developers? Why? The whole clause 6 entire sections are unfolding for even industrial activity in residential zones. I do not want to be the prophet of doom, but, Madam Speaker, I pray to God that this Government does not use that provision in East End for that oil terminal. Do you hear what I'm telling you?

Madam Speaker, let me tell you something. I have led my life for my people in East End, and further I shall do. It is wrong, if that is the intent of the Government.

Madam Speaker, you know, to some extent I really believe my good friend has lost some stuff. He is not losing his mind but he is losing grip. He is losing grip, Madam Speaker, on what is friendship and what

others consider using him. I believe that. I am going to give him the benefit of the doubt. He is losing something. And, Madam Speaker, with a lot of things he does not know what is going on.

Madam Speaker, I beg of him to investigate who is pushing this planning initiative. There are no secrets in this country. I want everybody to understand that. There are no secrets in this country, Madam Speaker. And I tell you the only two of them I trust, the other one from Bodden Town and him.

Madam Speaker, I want to say he is my good friend. It is not good. And you know I would never . . . if there was anything I had with the two of you, I was loyal to you. I have never, like the rest of them, thrown any one of you under the bus. I have never done that. Some of those you think are friends are driving a bus with plenty of tyres on it. Hear what I tell you?

Madam Speaker, the reason why we have holding in residential areas is to protect existing landowners who have developed within those zones. Madam Speaker, it is their inalienable right to continue to enjoy their land for residential purposes as per the zones imposed by this heading.

Madam Speaker, I am going out on a limb again. And I can be wrong, but I am going way out on that limb again. I am going to say within six months of this becoming law—because I cannot stop it—they are going to see applications in residential areas. Madam Speaker, I may not have it all. I know I have to take my medication every morning. I know that. And I do. I try to be as consistent with that as possible. I do not know if you know this is dangerous. I know. Okay? I know. How I know . . . do not ask me how.

This is a dangerous piece of legislation. And this is going to cause problems in this country. Madam Speaker, it should never be the case that after someone develops within a residential area that someone can come along and engage in land use that is clearly contrary to the residential use that this Legislative Assembly designated it to be without at least getting the consent of the majority of the people in that area. As a matter of fact, there should be unanimous approval, resolution, of existing owners, not only the majority. Madam Speaker, our people in those areas have a right to be protected from anything which may impinge upon their enjoyment.

And, Madam Speaker, we have a duty not to pull the rug out from under them. We have that responsibility. As a matter of fact, we have a duty. We have an obligation to ensure that it does not happen. Madam Speaker, this piece of legislation is sweeping the legislation which was put in place to protect citizens of this country. And I am not only talking about East End; the entire country. We are doing it in one fell swoop.

Madam Speaker, we need to think of who is going to benefit immensely from this package of legislation. We need to find out who is going to benefit. Madam Speaker, we cannot be waiving tens of mil-

lions of dollars of fees in the interest of stimulating the economy and asking our people to pay planning fees for a 10 per cent add-on to their house. I am not saying that they have to do it without planning approval. No. Absolutely not! I agree. But do not tell me we are going to charge them fees. Do not tell me you are going to put in the regulations that they are going to charge \$250 to clean up your beach after a Nor'wester. Madam Speaker, if the intent is by mechanical means then say so. It does not say that, Madam Speaker.

In the last two months we have had unprecedented gulf weed in my constituency. I do not know who else is getting it. I see South Sound getting it. It stinks! Under these proposed amendments you would not be able to clean it up unless you paid \$250.

Madam Speaker, I know they believe that I am trying to sensationalise this whole thing, and one-upmanship, and what have you. No such thing. It could not be further from the truth, Madam Speaker. I know the intent of some of these entities around here. And maybe the Government views them as good contributors to the legislation when we put it out for public comment/input. Madam Speaker, which entity was this sent to, and which entity responded? That's all we need to find out and then we will know exactly why this is here.

Madam Speaker, I promise this honourable House that applications for quarries will be coming in momentarily. I hope my plea does not fall on deaf ears, but I want to record it in the Hansard so that I can go back and look at it and tell this country I told you so.

You know, my good friend the Premier talked about divine intervention. I do not think they even really understand what divine intervention means. I have had that. The fact that we did not do this Bill between Friday and last night . . . God intervened and opened my mind, my good friend. Do you hear what I tell you? And He showed me things that I would otherwise not have seen, and charged me to come here and deal with all and sundry (according to Roy). All and sundry, Madam Speaker.

Madam Speaker, this is not a good day in the rest of the days of our country. This little piece of legislation is going to have deep-rooted consequences on our country. Madam Speaker, the Government has to explain why we are moving all this stuff out of the Law.

#### **Moment of interruption—4:30 pm**

**The Speaker:** Member for East End, we have reached the hour of interruption. I will recognise the Honourable Premier.

#### **Suspension of Standing Order 10(2)**

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

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

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow the House to continue beyond the hour of interruption.

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

**Ayes and one audible No.**

**The Speaker:** Out of an abundance of caution, I am going to ask the Serjeant to ask for a minimum of two more persons to take their seat and I will put the question again.

[pause]

**The Speaker:** The question is that Standing Order 10(2) be suspended to allow the House to continue beyond the hour of interruption.

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

**Ayes.**

**The Speaker:** The Ayes have it.

**Agreed: Standing Order 10(2) suspended.**

**The Speaker:** The House will now continue. The Member for East End was standing on his feet debating. Please continue, Member for East End.

**Mr. V. Arden McLean:** Madam Speaker, the Premier should be very grateful to us since he does not have enough to keep the House quorate.

But, Madam Speaker, let me try to move on to another section. One of the real aspects of this thing is, the other part with . . . the Minister talked about in section 13(5) where people are abusing that provision of turning six-lot subdivisions. **“Approval will be given to the subdivision of land into six lots or less subject to compliance with zoning, access and other requirements.”** And he wants to change that it “may”.

Madam Speaker, what is the intent of the Planning Board? What instructions will be given to the Planning Board? As a matter of fact, we cannot call this an Authority and then have a department for it, you know. Okay? It starts to get interesting. The Minister has no authority except general direction if it is an Authority. He needs to stop issuing orders to the department. So too must the chief officer, including your good self. If this is going to be called an Authority, it is an Authority. You cannot have a combination

of Authority and department. It must operate on its own.

But I want to know what the board is going to do. What is the intent? Will they decide they are not going to do it? On what basis? Have we thought about that again? Everything to support the Caymanian is being removed or changed to prevent them from doing what they want to do.

Madam Speaker, I just find it quite amazing that when we were in the campaign mode we were talking about what everybody else has done and what we will do. Mind you, Madam Speaker, I am not letting the Leader of the Opposition off the hook. He started this. The genesis of this rubbish that we have to face today started with him and his UDP Government! They are the ones who went out of their way, in the interest of stimulating the economy, with this process, the substance of that process. And today they are short of millions and millions of dollars in our coffers. He started it. The UDP started it, and this Government is continuing it.

Everything that helps Caymanians is being changed in the Law. Everything that controlled large development is being removed. And it is a free for all with large development. So the next thing we know is that you can have brothels next to your house or you can have a gas station, or you can have a whatever, whatever, whatever. It is wrong. Then you can have fuel storage facility. That ain't going to happen.

Madam Speaker, they have plenty space out South Sound. Repair the tanks right where they are, or (I hear the Leader of the Opposition supporting them) carry out to Northwest Point. It is not going where we have the most fertile agricultural land in the country which just happens to be the constituencies of me and the Member of North Side.

I tell you, Government does not know what it's doing, Madam Speaker. One hand does not know what the other one is doing. The right hand does not know what the left hand is doing. That is why they are getting themselves into so much trouble. One week the Minister of Works says that they are going to put an oil terminal in East End, Bodden Town, and dock, and the next week, right on the heels of it, the Minister of Tourism says that East End needs boutique hotels. I do not know how we are going to work them in. Boutique hotel and oil? Crude oil, gasoline and diesel? That's how that works?

Madam Speaker, I do not want anyone to get the impression that I am against large developments. What I have a problem with is that the large developments, whether they are done by Caymanians or whomever, the current manner in which we handle them does not give us anything. It gives us nothing, other than additional strain on our infrastructure where we have to tax our people to fix that infrastructure, to develop that infrastructure, to accommodate these large developments. That is where I have a fundamental problem. They need to pay for the strain and

the enhanced infrastructure that is required for them to operate in this country. But when we waive the fees, there is nothing left for them to pay.

Madam Speaker, as a member of the PPM, for 10 years straight we spoke about this. We had to find money to build roads, build the Premier's schools. And right on the heel of all of that, right in the middle of a recession, we go build a road into West Bay which is okay. There was no necessity for the road, but we justify it by waiving millions and millions and millions of [dollars in] fees to Dart—import fees and developmental fees, and infrastructure fees. You think the road is all there is to it?

Now, Madam Speaker, I do not know what the drafting really means, but the saving provisions in this just do not make sense to me either. At the very least, what should happen is, that all those people who have made application . . . notice, Madam Speaker, you think I do not know? You think I do not know that they have not made those applications yet because they fear those developmental fees? You think we have not seen that too? They submit their plan and withdraw them. You think we have not noticed that? FOI [Freedom of Information], Madam Speaker, we must always remember FOI is available. Okay?

Madam Speaker, I do not know what clause 34(1) and (3) means. Kind of looks like the same thing to me.

**The Speaker:** Member, you have 11 minutes remaining.

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

Clause 34(1), **“Every application for permission to develop land made under the former Law and wholly or partly dealt with by the Authority or the Board when the new Law comes into force, is to be continued and dealt with in all respects as if the new Law had not come into force.”**

**“(3) Every application for permission to develop land made under the former Law and not wholly or partly dealt with by the Authority or the Board when the new Law comes into force, is to be taken to be an application made under the new Law and the provisions of the new Law are to apply accordingly.”**

I do not know what that means. One says it does not apply and the other one says it does. So someone needs to explain that.

At the very least, all those who attempted, or applied, need to fall under the other law. That's the savings provision I want to see. If this Government insists on removing all of these provisions to facilitate the large developer, the very least they can do is pay fees based under the old regime. That's the very least they can do. But, Madam Speaker, I know. They withdraw them now. They hold them back so that this [Bill] can be approved. They think you do not know it is coming? They know.

And then they are going to come to the Government and say, *We cannot do this without you waiving the fees.* And here we go again.

Madam Speaker, I cannot sell my soul to the Devil. That is why all of those devils will ensure that I never raise my head above sea level in this country. They will ensure that my nose will forever be under water. But hear what they do not understand, Madam Speaker. Riches are to me like caffeine is to 7up. Never had it; never will.

But before I leave, give me a little second here now, Madam Speaker. You know, many of us talk about who we are as a people. But my question to my people is, Where has the pride gone? Why have we allowed the Government, all governments, that is, since the 1960s, to ride us to just do as they please?

Madam Speaker, I have fond memories of being out in the middle of George Town with my dad in the early 1970s, when the Legislative Assembly used to be held at the court house, at the museum (now) upstairs. I have fond memories of walking those streets as a young boy with my father in demonstrations. My voice has come from him, and when I lift it to the top of the mountain it is because I got that advocacy from him.

Madam Speaker, those were the days that our people had pride. Those were the days when our people stood up for what they believed in. I do not know where that has gone. That is also like in 1960, which I have no knowledge of, when my brother-in-law was away on a ship and his mother sent him a picture. And you know they were hard to come by in those days. And, Madam Speaker, when you see Caymanians in the street from the Legislative Assembly straight past the United Church, Elmslie Memorial Church, right across the road, sidewalks and everything, that's when we had pride; that's when we stood up for what we wanted and who we are. We need to get back there.

Hear that, Madam Speaker, okay? This is when we had pride in who we are, what we are, what we stood when and anyone who encroached on it this is what happened.

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 recognise the Honourable Premier.

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

Next month, next two weeks I think it is, will be 14 years since I have been down here (as we call this place). But I have to tell you, Madam Speaker, I never cease to be astounded at the ability of the Member for East End to make something of nothing, and to create sensationalism over nothing. He even

invoked the Good Lord and held Him responsible for what he said today.

*[Inaudible interjection]*

**The Premier, Hon. Alden McLaughlin:** Madam Speaker, what the listening public does not hear is when the Member for East End approaches Members on the Government bench seeking our assistance for what he would like [to have] done. I often wonder, Madam Speaker. He was recently in Cabinet, because we invited him to come. And he thanked us, and, in particular, the Minister he just finished beating, the Minister of Planning and District Administration, for all of the efforts that he has made and all of the resources that this administration has devoted to help build up and improve the district of East End and the life of the people there.

That is our responsibility, Madam Speaker. But I wonder, sometimes, where the Member for East End thinks the resources come from. Left to him there would be no development in the district of East End. We would stop doing anything in terms of development once we reached Teema's [PHONETIC]. In case anyone does not know where that is, it's the junction of North Side and East End Road. Because anything that any administration proposes for the eastern districts he opposes. It does not matter who is in Government. If he is not the one who proposed it, he opposes it.

You hear him with all of that rhetoric urging demonstrations. The only thing I did not hear him say this time is that he is going to lie down in front of any bulldozer.

Madam Speaker, the man is absolutely amazing! He knows the people who sit on this side of the floor very well. He knows some of us extremely well. He knows what we will and will not do; what we would and would not do. And for him to stand there and impute improper motive to the Minister of Planning because he proposes this Bill and to impute that somehow we are about to make some deal with some developer, every Government, I believe, that has ever sat, ever since there was an opportunity to do so, has given developers some concession or the other to get them to do the development in Cayman.

I do not know why he seems to be astounded that the Bill proposes to regularise what every Cabinet that I have ever known about has done, which is, whenever it saw fit to give concessions, whether it be a waiver of development and planning fees, infrastructure fees, import duties, or whatever the case may be, to encourage a developer to go ahead with a development. So, I do not know how come all of a sudden this is a major thing.

The Cabinet in which he sat did so! I really do not know what the big issue is.

The one point, Madam Speaker, in all that he said, which I think has some basis, is the point about

having the regulations approved ultimately by this House. And although he stood up there and carried on for half an hour about it, the Minister, when he was presenting the Bill just before he closed, said that the Government was minded to make a committee stage amendment to revert to what was the position pre the change by the previous administration, which is, that once the regulations are approved by Cabinet they come here to be approved by the House by resolution.

In all of his two hours of screaming, shouting and threatening demonstrations and so forth, that was the only point that I discern from all of that.

Madam Speaker, there are some realities. And let me just take a little time to tell you how this administration has approached the situation. Since the fall of 2008, when the global financial crisis started to bite, we have struggled like just about every country in the western world with how we keep the economic engine of our country running. How do we ensure that our people get employment opportunities, get economic opportunities?

Over the course of the last year, year and a half for sure, things have started to slowly improve in Cayman in large part a reflection of what is happening in the United States. But, as I said more recently in another forum employment continues to lag behind development and economic growth, a phenomenon that is called jobless growth, particularly as it relates to Caymanians.

We all know that certainly as far as the local economy is concerned one of the big drivers is development and construction, which is part of development. So the approach that this administration has taken from the very beginning is, *Listen. We do need to grant certain concessions to developers on the basis that we get projects started now*—not in a year's time, or two years' time or three years' time, but now—when it is really needed, when we do need the economic activity, when we do need the jobs. And our approach to the waiver and concessions would be very different a year or two years from now when the economy is motoring along. This Government will be very, very unwilling to make concessions in an environment like that unless it is a very, very special kind of project.

But you see, Madam Speaker, the Member for East End likes to be able to speak out of both sides of his mouth, on the one hand berating the Government because there are not more jobs, there is not more economic activity, and saying to his constituents and anybody else who will listen to him, that if he were in Government he would make sure that more Caymanians had jobs. But unless we grow the economy, unless we have the development, unless we have the projects, I am not sure where these jobs are going to come from.

So, Madam Speaker, this Government has been very careful with what we have done, very thoughtful about the concessions that we have made.

We have conveyed to the developers what I have just said, which is, *Listen, this is on the basis that this project goes now, not two years from now, not three years from now.*

Madam Speaker, the Member for East End says that I, or somebody in the Government, should tell the whole country what it is that we are talking about with Dart. I am sure that is the way he would approach negotiations, were it him. And you would see how far you would get when everything that you discussed with whomever it is you are negotiating with is on the public platform before you even reach an agreement.

Madam Speaker, we have made no secret for years and years that we were dissatisfied with certain parts of the FCIA and the NRA agreement which the previous administration signed with the Dart group. We have made it plain that we are going to seek, and we are still negotiating, proposed amendments to those agreements. I can tell you, Madam Speaker, that what is being discussed in this House today in this Bill, and what is being proposed, has nothing, whatsoever, to do with either of those agreements. These are proposals which have been put forward by the technical team to reflect changes that are necessary which they see necessary to improve the whole development and planning process and to make it more viable in some instances to attract the kind of development projects that the country will really benefit from. That is what this is about, Madam Speaker.

Madam Speaker, politics, really and truly, is an ugly and dirty business. The Member for East End knows very well what the Minister of Planning, what I, what other members of this team stand for in terms of integrity. And he will come in the dining room or outside and say, *Well, you know, it's just politics; I did not really mean that.* But when you seek to impugn the integrity of people that you call friends, you are not my friend, you know. You're not my friend. I do not buy that kind of thing. I really do not. And I do not take it lightly. And I will say this: I do not forgive it either; nor will I forget it.

It is one thing to challenge me, but to stand up over there with absolutely no basis, in fact knowing full well in your heart the opposite to be the truth, you will seek to impugn the integrity of Members of this House and this Government—Members who you once broke bread with, who you worked with in a party, worked with in a Government for a dozen years—just because you try to make a point. Madam Speaker, I do not take that sort of thing lightly.

I am getting too old and too long in the tooth now for that sort of stuff to just roll off my shoulder as it is just put down to politics. That's personal. That goes to who I am. That Member knows full well, knows me better than most people, that there are some things that I will never do. He knows what integrity means to me. He knows how I feel about putting country first in every decision I make, even, and over

and over again, at the expense of my own personal comfort and that of my family. So, Madam Speaker, I do not take that lightly at all.

Madam Speaker, the Minister of Planning will no doubt address in his winding up some of the other issues that were raised. I do not believe, listening as I did, that any of them hold much water. But no doubt the Minister of Planning will seek to address them. The purpose of my standing up to speak to this Bill was to give such assurance as is necessary to the country and to this House that the only motivation for this Bill is to improve the development and planning process, to improve the prospects of us getting good development started so that we can improve the economic conditions so that we can provide jobs for Caymanians—East Enders and North Siders as well. This is not about the big man or the big developer and not the little man or little person that the Member for East End was talking about. This is to ensure that everybody in this country has an opportunity to get a decent job, to get ahead, to try to get the Cayman Islands back to the point, economically speaking, where we were before the bottom fell out of the global financial market and all of us have had to suffer and struggle.

Madam Speaker, I do not believe there is much more I wish to say about this matter, but to say again that I regard much of what was said by the Member for East End as regrettable, even scandalous. And I really do wish that he had tempered his contribution in a manner more befitting a veteran Member of this House and a Member who has been a friend and colleague of many of the Members who sit on this side of the House, an individual who knows full well the character of us all.

Thank you, Madam Speaker.

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

I recognise the Member for the district of North Side.

**Mr. D. Ezzard Miller:** You know that I come out with my position and I get up and state my position. I do not care what they say before or after.

Madam Speaker, I rise to make a contribution to the debate on a Bill for Law to amend the Development and Planning Law (2011 Revision) to make the planning process more expeditious and efficient; to make further provision for the effectiveness of the Central Planning Authority and the Development Control Board; and to make provision for incidental and connected matters.

Madam Speaker, when I received this Bill several weeks ago and I looked at what the Bill was doing to the existing Development and Planning Law, I had some concerns. My two major concerns, which I expressed to the Minister at the time, and I still do not understand why it is necessary, and I fail to appreciate

that taking these large sections out of the law and putting them into regulations can contribute to expeditiousness and efficiency or improved effectiveness of the Central Planning Authority. When I first read the Bill the assumption that I took was, and my concern as expressed to the Minister was, *Why are you removing these things from the Bill?* I assumed at that time they were being removed from all of the legislation related to development and planning. The Minister said he was putting some of the sections, the two that I was particular concerned with (the infrastructure fund and the PADs) in the regulation.

I said, *Well, can you bring the regulations along with the Bill so we can see them?* And he kept his word and he has provided me with a copy of the regulations.

Now, Madam Speaker, the regulations I have seen do not provide the level of comfort that I require in support of this legislation. And I told the Minister that when we met Tuesday a week ago. I agree with the Member for East End that this piece of legislation has been controversial, but has been important to the people of this country because it affects their land use. And owning land has no value unless you can extract either some development or grow some food on it. Simply having a piece of land, unless you can sell it, develop it or grow some food on it, has no value. And we poor North Siders have lost hundreds of acres to the National Trust that we cannot even pick a mango off of and nobody seems to believe that that is a problem.

Madam Speaker, I have experienced over the last two decades the various attempts by special interest groups to change the Development and Planning Law to suit themselves, mostly to massage their egos because they have extracted maximum economic use of their property on the western half of the Island and now they desire to preserve a tax free North Side for some of their children to look at, because they destroyed them all to build their buildings, to develop it to extract the wealth for their families.

Madam Speaker, the difficulty I have with this piece of legislation is the similar difficulty I had when the legislation was brought some years ago to remove those regulations from the scrutiny of Parliament. As I said then, and the Member for East End quoted me, there was a reason why our founding fathers placed this Legislative Assembly in charge of the Development and Planning Law, and all of the subsidiary legislation under it, because we are the only people in this country that are privileged, charged and accountable to the people who elected us to represent and protect their interest.

Madam Speaker, the very institutions in this country that we as legislators pass laws to protect our own people are failing our people. Madam Speaker, in my view, the section of this [Bill] that repeals section 6 . . . and there is no indication that those requirements are going to be placed in the regulations which cover

the matters that the people need to be considered when large planning developments are proposed in this country to protect our very people. We created a Planning Board and we gave them a litany of things to consider.

Now we are repealing those. What protection will the people have? What assurances can I give my people that the Planning Board will still look at all of those things which I believe are very important for the Planning Board to look at? If the Planning Board is not going to consider those things, or is no longer required to consider those matters in granting approval for large development, what are they going to do? The technical review of the plans and stuff is currently done by the department because in truth and in fact when the Planning Board grants you approval it is not approval. It is approval subject to several pages of required thing from the Building Control Unit—conditions that you have to meet.

I have seen these people, Madam Speaker, try to write legislation on site. Now, my position is if the CPA, which I assume would be on the recommendation of the technocrats in the Planning Department, stamps my design as approved, and my design says that I am going to put on an old fashioned Cayman stick roof, and the Planning inspector comes on site and says I have to make my stick roof look like a truss roof because I have to put Ws in it, I am going to ask him, *What do you mean by Ws?* Then he tells me he wants all of these supports.

[My reply will be] *Yes, but this plan is approved by the Planning Board and the technocrats. If it is not there, we are not discussing it. If something is there that I should have done that should be included, then you have an argument.*

Madam Speaker, my most recent experiences with these institutions is not good. Not good. If the purpose of moving these sections of the law to regulations is so that we can change them to facilitate developers, I am very concerned. Madam Speaker, I take a different view of development from most people. I believe that this country should have in place a proper development land use plan, should have in place an economic development plan, and any investor that comes to these shores must meet those requirements. It cannot be right for us to pass legislation and the possibility, or the probability, exists that the elected arm of Cabinet can change them to suit a developer.

We have to assume that what is in the regulations now, what is in the law now . . . and the Premier just confirmed that this law is a result of the technocrats deciding what is best for the country and putting it in legislation. Why then would we want to allow Cabinet to have the opportunity, the possibility, to alter those technical requirements to suit a developer?

I know I am going to be told, *Well, Cabinet would not do that unless we got the agreement of technical people.* I have been a Minister. When you

tell your technical people you want something, very few of them . . . because, you know, that is your policy and the constitution charges them and the Deputy Governor to implement your policy. The only purpose that I can see to move these planning requirements from the law to the regulation is to allow changes to facilitate development. That would not be efficient nor effective because the technocrats would not know what to follow.

Madam Speaker, the first requirement of any developer that comes to the Cayman Islands is that the country invests 25 per cent to 35 per cent of the cost of his development in waiver of fees to make his development profitable. The country does not need it. The country does not need it. Tell him to go on his merry way, come back when he can put together a project that does not need 25 per cent to 35 per cent concessions in government fees in order for it to be profitable to him, because it is going to come back to haunt you.

Part of what is proposed in these regulations is to allow a 10 storey hotel in Beach Bay. Madam Speaker, a couple of weeks ago—

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** A “development” (because I do not know what it is), whether it is a hotel or development.

A couple of weeks ago this Parliament approved a rezoning of a specific parcel of land from residential to hotel/resort, I think it was. My argument then was let’s do the whole bluff; let’s do a larger area, because at least the Caymanian landowners around him would get the capital gains on their land by rezoning it to more expensive land so that if these people wanted to expand on the ground horizontally, because they can build over five storeys, then the Caymanian who will sell him the land will get the increased value. The Government decided, no, they were doing this specific plot.

Now, because the development obviously cannot fit within 5 storeys on the piece of land, we are going to change it to allow him to go 10. Madam Speaker, again, I do not know, but I would hazard a guess because these developers talk to each other and it is usually public knowledge what the Government gives them, that they will be asking for a similar 20 per cent to 35 per cent waiver of fees, whether it is in import duty, infrastructure fees, planning fees, et cetera, and we are probably looking—

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** —anywhere between \$7 million and \$10 million in total value.

Now, Madam Speaker, putting a 10 storey development at the end of Beach Bay Road, without polling, after this is passed today, is going to have

some serious infrastructure development requirements. Certainly Beach Bay Road in its present configuration cannot accommodate extra traffic. They will have to put a roundabout next to Gilbert’s house or a street light, or else we people from North Side will never get to work! The time I come into work is the time Cayman Airways, American Airways are leaving in the morning and tourists are leaving town. They want to get to the airport.

We are going to have to increase the volume of water that we can take to them. We are going to have to increase CUC to have to improve their electrical supply to the area—

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** Of course! They are not going to pay for it; we’re going to pay for it.

Now, you see, Madam Speaker, what I think we should do is require those who are asking for these changes to improve the profitability of their project to calculate and tell us what the infrastructure costs to accommodate them is going to be. And instead of giving them fees we add it on so that I do not have to come here budget session next year and vote to increase taxes on the people of the country to fix those roads. At a very minimum, Beach Bay Road is going to have to be hot-mixed and you are going to have at least three lanes and a turning land in the middle to facilitate because that has several developments off it. And this is my concern.

Madam Speaker, I believe that our role is to legislate for the benefit of not only this generation, but generations to come.

Madam Speaker, the Premier says that we need to attract these developments to create jobs because the problem with our economy now is what he termed “jobless growth.” Madam Speaker, jobs, the availability of jobs . . . well, let me change that. The presence of jobs in the Cayman Islands is not an issue why Caymanians cannot get work. We do not need any more jobs. We have 20,000 jobs that we do not have Caymanians in now. What we need to do is to ensure that we are preparing the Caymanians to get those 20,000 jobs and we are ensuring through legislation and directives, as provided by the legislation to these institutions, to make sure Caymanians get the opportunity that they are not now getting.

Madam Speaker, every time I stand on the floor of this House and I talk about jobs for Caymanians, I talk about the opportunity. Any Caymanian that goes on a job and loses it because he did not work or mess up, or whatever, gets no sympathy from me, Ezzard Miller, But I will defend his right to get that opportunity.

Madam Speaker, part of this is to facilitate local and other development. The Immigration Department in this country has just determined that all the qualifications necessary to be a chief operating

office or a chief executive officer in a resort hotel is a law degree and put up fences. No experience is necessary in hotel or resort management. No academic qualification in hotel or resort management is necessary. A law degree and putting up fences is fine. He's a smart man, they say. He has to be smart if he has a law degree.

I hope that the next time the Ritz, the Westin, the Marriott or any other hotel resort sends an advertisement to the Immigration Department with these abnormal requirements of academic qualifications in hotel management and 10 years, I think is the minimum I have ever seen them ask for, they write them back and say, *No, no, you do not need that. We have 20-odd Caymanian lawyers . . . well, they cannot call them lawyers now, Caymanians who have a law degree, who have their PPC but cannot get a licence to practice law. You have to hire one of them. And you know, Madam Speaker, they might get lucky because they might find one that was actually a waitress or a bartender or went to a hotel in the Cayman Islands.*

Now, I wonder what the position of the Immigration Department would be if the local electrician in East End applied to be the CFO of the resort in East End. A Caymanian; he does not need a work permit. So he is going to need a minimum of a CPA and 10 years of experience in hotel accounting. This is what is happening to Caymanians.

The institutions that we as parliamentarians, or legislators, create, are not performing and standing up for Caymanians. And what is our solution? We are going to bring in more. Madam Speaker, under the present Immigration regime, under the present Government policies, under the present practices in the tourism industry, if we add, as is purported, some three to four hotels, it is going to be another 700 to 1,000 work permits. The government will get the revenue from the work permits.

Remember now, we started a hotel school to insist that if you want to get an entry level position in a hotel you have to graduate from that. Now, what is an entry level position? I do not know. They are not training them to be waiters or waitresses or room cleaners or bartenders or anything else. It is an entry level position. That's another piece of paper Caymanians are going to have to get. But they give a work permit to a man with none.

Madam Speaker, this is my concern about what we are doing here today. I do not think we are improving the efficiency and effectiveness or expeditious planning by the Planning Board and its staff or the other people. None of this, except if we are going to change the regulation to not require the same things that we do now, and it is my understanding (and a lot of it is in the regulations that I have seen) that when it comes to the infrastructure fund, when it comes to the area of planning, PADs, that most of it seems to be transferred from the law to the regula-

tions. So that is not going to prove anything. The requirements are still the same.

It does not address what I have represented that my constituency is in the planned area development because it does not say that hotels will be allowed. It does not say they are excluded. There has been a legal argument in the Planning Board that because it is not excluded it is allowed. I want it to be allowed. And I want it to be specifically allowed because that was my understanding in the meetings I had with the Planning Department specifically about the project in my constituency. I think the Member for East End has a similar problem with the two PADs in his area because they have hotels, or they hope to include hotels in their development.

**Mr. V. Arden McLean:** Why do you have to transfer it for? Just change it.

**Mr. V. Arden McLean:** Just change the law, right?

Because I do not understand, Madam Speaker, how taking the same requirements out of a law and put them in subsidiary legislation is going to make it any more effective, efficient or expeditious.

The only thing that can improve the expeditious part of it is if we intend to change them to suit our developments. And I do not believe that is their intention. I hope that's not their intention. But if they have to meet the same requirements, the fact that it is in the regulations or the law, in my view, makes absolutely no difference to the bureaucracy, because we are not reducing the bureaucratic requirements to do these things. We are not reducing it. We are taking it in its entirety from the law and putting it in the regulations.

Madam Speaker, I made representation to the Minister about the importance of stop meaning stop. And that is included. I am still not convinced, Mr. Minister, that it does what I would like to see it do. I think it is there, that we have changed that it is issued easier by the Director, the appeal process is easier by going to the CPA and then to the court if we are not satisfied. The problem I have is that it does not say in the regulations that when the Director issues the stop order you must stop then, and that stop remains in place until it is overturned by a higher authority. I believe that when these administrative decisions are made by our technical people they must stay in place until the aggrieved party appeals it, if they so like, or they comply with whatever to correct the problem that caused the stop order and the Director withdraws the stop order.

I am not fully convinced that that is achieved in the regulations that we have there. And I firmly believe that that's what it needs to do. I have had instances in my constituency, Sanford and Son!

*[Inaudible interjection]*

Yes, but that could take a while. And again, if we are legally authorising the Director of Planning to issue a stop notice, why is an injunction necessary? Okay?

If the person does not stop, then the fine should be exponential and grow daily. But certainly, the status quo where you simply say, or you get some lawyer to call the Planning Department and say, *I'm appealing this*, and you continue and finish the building and tie it up in court for three years and then we cannot touch you, we need to remove that too. If it's an illegal structure, the fact that it has been there three years should not make it legal. That does not make any sense to me. It is still illegal, whether [or not] it is 50 years afterwards. If it did not meet the requirements, it did not meet them. And I know there are people who constructively take the appeal system over the three year mark and you cannot do anything about it. But that is not corrected in the regulations.

Madam Speaker, I believe that polling . . . and I know the Minister said that some of the objections are frivolous and some of the objections are generated by other people and they use other people to object. And I would give that that could happen. And there are people who would do that. But, Madam Speaker, I do not think the answer to that is to reduce the people who can object. I think the answer to that is to handle the objection expeditiously and if it is frivolous to dismiss it. But to say that because I now fall two lots away instead of one, and I have built a nice house in a nice little cul-de-sac of five or six people and we have a nice neighbourhood, our children play in the street, but the guy in the back suddenly applies for a large development of 100 condos, and that is the only right-of-way he has to his property, because when we did the six lots we have to provide right-of-way to the man in the back, you know, or else Planning would not do it, right? And then me, because I am up the road, I cannot object because no polling is going to go on.

I think that the distance for those who could object has been narrowed in the past. And if you were in my constituency where a house lot is an acre, you are outside the 500 feet—good possibility.

Madam Speaker, I believe that particularly when we are dealing with land use, and while it mightn't affect me today, we do not want to get caught up in that poem about when they came for the Communists, when they came for the Socialists, when they came for the Jews, now they are at my door and I cannot do anything about it. I would like to see that a wider spectrum of people are allowed to object, particularly when it comes to changing land use from residential to commercial or industrial or anything of that nature.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** I would like to say anybody in the electoral district, but that is just me, right?

Madam Speaker, you see the whole purpose of the Land use and Development Plan is that we select these areas with the knowledge of the community. If we can change those areas in Cabinet and we restrict the people who can object, in my view it is a disservice to the whole community. I believe that if we are going to create changes in land use in the North Side electoral district, every single person in that electoral district should have the right to object or to agree with it. This is what we have done in the past, we have created neighbourhood/tourism, neighbourhood/commercial, we created hotel/tourism, we created residential, we created agricultural/residential.

And you see, Madam Speaker, again, I believe that we have to govern. We have to be brave enough to govern. I do not like the idea that a developer can come here, buy a piece of residential land, and apply to get it rezoned to a much higher density to do a development and we can do it. I believe that the only time we should change land use is when we are reviewing the Development Plan in its entirety.

So, if you want to come to my district and you want to build a hotel, you cannot buy the lot beside my father and apply to Government to change it to hotel to put up a hotel there. We have areas that say hotel/resort. If you want to build a hotel/resort, you buy in one of those areas. You pay the price for it. If you cannot get one of those, then you cannot get the land. But there has to be something fundamentally wrong, in my view, Madam Speaker, if it is necessary to attract an investor, he can come and buy a piece of land knowing it is not zones for what he wants, but he can make representation and get it singly rezoned, I do not think that is fair to the community at large.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** It just happened. We did it two weeks ago.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** But the problem I have with the process is that people in our constituencies are busy living their lives. If you took a poll today of the people just on Beach Bay Road who know of, or saw the adverts in the paper about the rezoning of that, I believe we would be shocked at the small number who actually know it has been done.

I make the point, Madam Speaker, that the purpose of reviewing the Development Plan is so that the Government and the people decide where these things are going to go.

I just think it is fundamentally wrong. And I know, Madam Speaker, that the Minister has tabled an amendment now to bring the regulations back for affirmative motion. But, Madam Speaker, again, I

make the point, and I know that they will follow religiously what the requirements are. They put that in the newspaper two or three times, we will allow people to poll. But you see, Madam Speaker, I believe that in this day and age, even with all the technology that we have and all the various means of mass communications and private communications, whether it be Facebook, text or whatever, we are not reaching the people.

I believe that these are the kinds of things that call for a Government and representatives like us to be brave enough to go to the people in the area and have a public meeting to discuss it. That is an amendment I would like to see put on the change of land use, that you have to have a majority of the people in the area. In fact, I would prefer two-thirds majority, or 75 per cent thereof, agreeing to the change in land use.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** I do not care what's happening anywhere else in the world. We only have to find that amount of it.

I will say to all 18 of us while these changes may not be at our front door or our property, it is only a matter of time before they get to you. It is the same thing I told everybody on the National Trust. They are going to get to unna pieces, and they are going to get it because you cannot develop it, because you cannot cross their land to get to it. And it will have no value to you. And the only person who will buy it is them. But again, that is another institution that we let run away. It is so runaway that they have their annual general meeting in a barroom.

Madam Speaker, this is not insignificant legislation what's being done here today. These are very significant changes to the way we do business. And, Madam Speaker, when the Member for East End talked about the \$250 to clean up the beach, there were some rumblings from the other side to say it did not say that. But, Madam Speaker, these are the Development and Planning Regulations 2013. That \$250 fee is a new [paragraph to 14 [in Schedule 1]. It talks about carrying out of an excavation. If it referred to using excavating equipment, there was no need to have 14A, you only had to add (iii) or (d). But the fact is that we have said it is 14A and it is for the removal of debris after inclement weather. And it's a \$250 application fee. That does not mean you're going to get permission, you know.

So, somebody like Morrirt's, will have to apply three times a day, people like my father will have to apply once a week, because he religiously rakes up his beach for his grandchildren to play on, on a Sunday. And that's a family tradition, but I cannot make him break the law. So I told him—

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** I do.

But when you know my father the way I do, and you love him the way I love him, I know there are certain things I do not trespass thereon.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** Of course not.

So, Madam Speaker, when the Minister responds, if he can point out to me that it has to do with something else, and we can change the designation to where it means what he hopes it is going to mean and it does not mean what I think it means, then we can agree. But it needs some changes to it.

Madam Speaker, our country, in many ways, is in dire financial difficulties. How did we get there? In my view part of the reason we are there is because we waived fees for developers to attract them and take advantage of us. Case in point: In 1972 the court house was built. We built a court house with less than 50 lawyers. Today we have what?—550, 600, who retire with a golden parachute which could build us at least one court house if not two. But this country cannot put together a financially viable proposal to build the country the things that we need, like a court house. Tax the lawyers. They are the ones making the money off it! It's not my fishermen in North Side!

They are the ones that are using it.

**Mr. V. Arden McLean:** I hear you brother.

**Mr. D. Ezzard Miller:** They are the ones that are making the millions and millions of . . . per month, not per year, because if you go up to per year, it's billions, collectively, the 600 of them. And we cannot find a way to make them pay to build us a court house—that they are going to use and make more money off of, not us! Not us!

We cannot even get articulated to get called to the bar. It's the same thing with roads and infrastructure, right?

Madam Speaker, we keep hearing that we need development to drive construction to hire Caymanians. Madam Speaker, in my constituency over the last year we probably had two to three million dollars in house construction. I cannot get a single job for a North Sider. They come with their crew, and when you look they are all on permits. The Government has told me that the answer to that is the Builders Law.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** Well, I am not supporting it in its present form. That is not going to address the issue of Caymanians getting construction work. The only thing that is going to give Caymanians the opportunity to get construction work is a moratorium on work permits, not only new ones, but renewals.

And again, we are doing all of this, we are told, to make the planning process more effective and more efficient to attract development. For who? For who? Not for the people I represent.

In the 70s when we had the Dise [family] developing Cayman Kai, who used almost exclusively, except for Mr. Ted Goring and—

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** No, no, I'm being specific here.

North Siders, with a few from George Town (I think it was three from George Town), basically built Cayman Kai with the Dise [family]. We staffed their hotel, all positions at the hotel, including managers, with North Siders. Sometimes you had a general manager that they brought in, but there were Caymanians acting when they were not around.

The carpenters were being paid \$15 and \$17 per hour in the 70s. People came out of school and they could go and get a job as a helper. They could work their way up. People taught them carpentry on the job. Today, people in my district are being offered \$8 an hour for skilled carpentry. Why? Why? Because the Government allows them to get a work permit. If the Government did not allow them to get a work permit, trust me, they would be knocking down the doors of those North Siders and offering them \$20 an hour for skilled carpentry. The only commodity, Madam Speaker, in a capitalist society free world that is qualified and has no value is Caymanian labour. Why? Because it is too easy to get a permit.

I was told that it is not the big construction company that is the problem. These are the people that we are changing these regulations for to see if we can help. We ga help the big boys. Oh yes. Every developer comes here and sets up his own company now. It is not like it used to be before when we said to them, *Hey, you're not forming any construction company here. We have construction companies. You have to use one of those.* Oh no, no, no. You form your own. And when you go, the poor little Caymanian who has done hundreds, if not thousands, of jobs on budget, high quality, on time, for government, and [when] they go to these people and they give them almost 50 pages of questionnaire to qualify and tell them they have to do it on the Internet.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** Now, Madam Speaker, plenty of good carpenters—

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** Oh yeah, yeah, yeah. I do not pay them any attention any more. It is so comprehensive that my advice to them has often been, *Before you send that back, get a lawyer to review it because*

*you could be setting yourself up for some serious problem.*

Madam Speaker, the major construction companies in this country . . . when McAlpine used to hire children out of school as helpers, put them on the job and give them training, or send them off to train, keep them employed, they had careers. The advent of pensions, health insurance, changed all that. The major contractors decided, *Hey, we do not need to do this.* They went to subcontracting. *Let the subcontractor pay the pension, the health insurance and apply for the permits. We do not need to be bothered with those things.*

They are the ones that hire the subcontractors. They are the ones that negotiate the price of the subcontractor down so low in order to increase their profits that forces the subcontractor to hire the cheap labour. They do not have a requirement that they have to hire Caymanians, you know. And then they go to the Government and tell them, *But it's not us that got the work permit. Oh no; that's not us. That's those subcontractors.* But they created the subcontractors for their own efficiency and to improve their own profit line.

What does the Government do? It accommodates them. They let them get away with it.

I understand that a certain construction company here now, if you want to bid on anything you better be computer literate because you will likely have to submit your application only by computer, not by hard copy, to some company somewhere else in the world, and they decide.

Madam Speaker, if the Government wants to stimulate this economy they have to create better opportunities for Caymanians to get the jobs that already exist. Bringing in more development that is going to require under the present structure that we have more work permits is going to increase all of the social ills that we can no longer pay for.

Madam Speaker, when I was in the Government in the 90s we had a similar downturn in the economy (not quite as bad as we have now). The same people who were advocating these kinds of changes and who were saying that what we needed was more people, the magic number then was 60,000 . . . well, Madam Speaker, here we are about 25 years later, we got the 60,000. What do we have? More crime, more social problems, more traffic, Caymanians are deeper in debt, more Caymanians unemployed. Who has benefitted? Not Caymanians (one or two). Similar to the NUFs of the 60s in Florida, we have had a few CUF "Caymanians up Front." Madam Speaker, my concern about what we are doing here today is that we are, in my view, trying to make it easier to attract foreign investment or local investment to stimulate the economy. It is not going to work under the present regime that we have.

I would hazard a guess, Madam Speaker, that if we change these laws today, we facilitate two more

hotels on Seven Mile Beach and one in Beach Bay, the percentage of Caymanians working on the site is going to be reduced—not increased. The percentage of those jobs that Caymanians will have access to is going to be less. The pay that Caymanians get in the construction industry is going to be further eroded. Every single time we have allowed a development here to bring in their own construction company we have reduced two things, the pay to Caymanians and the skill level of Caymanians, because the kind of people we are bringing in now cannot teach the Caymanians anything because they are not skilled themselves.

Many of them, the Caymanians have to teach them the skill after they get here, because that is section 44(3)(b) that says you have to be qualified in the profession or have a technical qualification for the job has been swept out of the door.

When Mr. McLean and I go to the Business Staffing Plan Board . . . Madam Speaker, would you believe that it is possible, it is probable, it is expected, that two sitting Members of Parliament could write letters to the Chairman of the Business Staffing Plan Board, to every Member of the Business Staffing Plan Board, hand deliver it . . . We went together. We hand delivered them to the office where the board meets. And, to date, we have not gotten a response from the Business Staffing Plan Board.

**Mr. V. Arden McLean:** They have a lawyer calling us.

**Mr. D. Ezzard Miller:** Threatening to sue us.

Let them go sue.

Madam Speaker, it is worse than that! I FOI'd the Minutes . . . and, Madam Speaker, we delivered those letters on 20 August. I FOI'd the Minutes of the board for July, August and September. The fact that they received letters from two sitting Members of the Legislative Assembly is not even acknowledged or recorded in the Minutes! And they are the people that the Government appoints on the board.

If I were a member of Cabinet today and a sitting Member of the legislature told me that story, I would take a paper to [Cabinet] next Tuesday and unappoint every one of them, because they have abrogated their responsibility to act on behalf of Caymanians when we put them there to do it. And then on top of that, you call up to say, *You have a lawyer call him.*

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** You're going to sue Ezzard and Arden? Waste of time. You better be careful.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** You better be careful because they are doing things that they should not do. When I

left the Business Staffing Plan Board I told them. I said, *If you remember nothing else that Ezzard Miller told you here today, remember this: Read and understand the Anti-corruption Law. Read and understand the Standards in Public Life Law. I have reason to believe that there may be transgressions thereof.*

Madam Speaker, again when we as legislators draft legislation, what's most appalling . . . they are telling me and the representative of East End that we do not know what is in the Immigration Law, that what we are telling them is not in the Immigration Law. Luckily I had a copy. Mr. McLean quoted it to them. They did not know the law.

**The Speaker:** Member for North Side, you have one hour remaining. I am going to be taking the afternoon break and I will ask Members to make best efforts to reconvene at 6:35 pm.

**Proceedings suspended at 6:09 pm**

**Proceedings resumed at 6:49 pm**

**The Speaker:** Please be seated. Proceedings are resumed. I recognise the Elected Member for North Side with one hour of debate time remaining.

## BILL

### SECOND READING

#### DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 2014

*[Continuation of debate thereon]*

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

When we took the break I was talking about the stop notice provisions in there. One of the reasons that I think it is very important that stop means stop is the most recent occurrence in the district of East End with the owners of Morritt's resort where, as I understand it, when they built the Londoner and they dug out lots of sand they were told it had to be stored on the property. And they even refused them to trade it with one of the quarries (some of it) for fill. They were told it had to be put back on Morritt's beach.

Quite recently, that being the condition, this same individual—with no experience, no qualifications in hotel or resort who is now in charge of everything—just ordered people to move it to fill another piece of land he had bought, and I believe that when it was reported to the Planning Department they tried to get it stopped, but it did not stop. He did not stop until he had moved all that he wanted to move and it is going to be very difficult now to collect the sand back and return it to the site. This is the kind of advantage that some of these developers giving legal advice will take of the country.

Madam Speaker, I remember well in the 70s we had an Attorney General by the name of Mr. Wellington [PHONETIC], who was very straight up (one of those Ms. Annie used to talk about a "six-footer"). And he told the Government that any lawyer can give you two kinds of advice. One, is the strict, legal advice of whether what you want to do is legal or not; the other is you tell me what you want to do and I will try to find a legal way for you to do it.

And one of the things preventing Caymanians from getting employment opportunities in this country is that some lawyers no longer concern themselves with rightness and what is the exact legal position. And when somebody like this man from Morrith's comes to them and asks them to apply for a permit, instead of telling him, *Sir, I cannot put in this permit because the legal position in the country is that section 44(3)(b) says you must be qualified for this job and you are not qualified for this job.* They tell him, *Do not worry man. Just give me a couple thousand dollars and I can get this done for you.* And they go, and they get it done. And the Caymanians who are brave enough to raise their voice to complain get shafted. And the lawyer takes whatever fee he got and puts it in the bank and moves on to the next one.

Madam Speaker, again my greater fear of taking this out of the law and putting it in the regulations, even though there is a certain amount of comfort that I now have because, having moved an amendment to bring it back, the Government has usurped me by putting their amendment to an earlier clause so that theirs will come before mine and they will tell me I have to withdraw mine; and that is fine. The object has been achieved; the goal has been scored. The regulations, including the regulations we have been referring to all along today, will have to come back to this Parliament for debate.

So, there is a certain amount of comfort in that. And I thank the Government for doing that. And the Minister can tell you that that was my position all along, that that is what I wanted done. I accepted his explanation, but when I get six pages and further amendments I had to fight to get mine in. And the Minister will understand that. And it is here now, so that is fine.

But, Madam Speaker, I want to talk a little bit about another representation that I made to the Minister when he invited me to discuss the Bill. And that was my concern about the removal of the 10 per cent that Caymanians can build onto their houses. Madam Speaker, again, we are talking about a very narrow opportunity. We are talking about Caymanians being allowed to expand their house by 10 per cent of the ground floor, and it has to be a dwelling house, cannot be apartments and all that sort of thing.

I do not believe that the answer to our concerns there, Madam Speaker, is forcing them to apply for planning permission and paying all the planning fees. For some of these people those original planning

fees are going to be onerous in order to do the construction, and it may prohibit the construction of an additional bedroom for an additional child, because they cannot afford to build the building and pay the planning fees too.

I want to invite the Government to return to that and let us see if we cannot find a way to have them apply, but no fees. And even those who may have done it in error that the penalty of 10 times will not apply for Caymanians on a dwelling house, first time. If you have already done it and you want to do it again, I have no sympathy for you. But I believe . . . it is going to be difficult for me to explain . . . I do not think it is necessary to have a sanction. I think it is necessary to encourage them to comply with safety and construction requirements.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** Well, some might not. But those who can do it are going to do it anyway without . . . Those kinds of people are not going to worry about the penalty. They are not going to pay the penalty, even though you try to enforce it and carry them to court and everything else. They are going to simply take the time in Northward, if it comes down to that.

I think we are talking about a very narrow spectrum of our society. Often these are going to be the people who can least afford. And it is going to be very hard for me to explain to my constituents who this may affect that we are giving tens of millions of dollars in concessions to developers on these same fees and these same structures that they must pay.

I believe we have to recognise that there is a certain sector of our community that we need to offer additional help to. Some of the people, even those who buy the Government houses, could be affected by that. If they bought a two-bedroom and they wanted to put on a little one bedroom 10 x 10 or something, they should be encouraged to go through the process, but it is all free. Let's do something for them.

I believe, Madam Speaker, if we put our heads together in the committee stage we can find a way. And the Minister and I, and the Member for East End have gone back and forth on this issue with his technocrats for some time. We had a meeting. I still believe that if we want to do it we can do it.

Madam Speaker, the other area that I would like to see some provision in the Planning law, and I have had some very preliminary discussions with the Minister on, is this. One of the problems I have in my constituency and the Member for East End will have in his, does not exist in West Bay and George Town (and in Bodden Town it would only be the inland section), where you have large tracts of land in estates and it cannot be subdivided because in order to get planning permission you need a 30 foot road.

Many of these people would like to subdivide their land and get some benefit from it, but because

they do not have . . . one, the survey is very expensive. I mean, you are hard-pressed to find a surveyor who will come out and tell you good morning, now and not charge \$5,000. I just had my yard done and the bids were astronomical. One Caymanian did it for me for a very reasonable price—Mr. Kenross Connolly. So, if you need that work, go look for him, he is a very good guy, honest and straight.

Madam Speaker, I had discussions specifically with the Director of Planning on this issue where I wanted to divide a piece of land into four lots, no intention of developing it. He agreed that that should be possible. No 30 foot road to it. I made the application to Planning only for his technocrats to come back and tell me, *Well, you know, you have to meet all these things, you have to notify all these landowners, you have to do all this stuff.* And I do not know, Madam Speaker, whether we can frame it legally in such a way where there is a re-parcelling of the land as opposed to subdivision of the land so we avoid having to meet the subdivision requirements of the [law], which we are now saying they *may* approve (and not *shall* approve, will approve), and without having the infrastructure (because many of these people have no intention at this stage of developing the land).

I should be able to go to Planning or Lands and Survey and say that I have parcel 57E, 125, and I want to subdivide it into four lots, and we should be able to renumber it 57E, 125 REM1, REM2, REM3, REM4, or something, some designation which would allow the re-parcelling of the land and the transfer of title on the land from a single owner to four separate owners without having to get Planning permission for a subdivision. I would invite the Minister to let's see if we can get that done in his next tranche of amendments.

There are many families in my community, in particular (and the Member for East End will have the same problem) where there is huge acreage, and we need to be able to do something about it, give it to their children or whatever they want to do.

So, Madam Speaker, having expressed to the Minister and the Government my concerns on the Bill which are not different from what I expressed to them directly and since the Government is moving an amendment to this [Bill] to require that the regulations be brought back, these regulations that we are talking about now will have to be brought back here. So maybe we can take the time and do what the Minister said he thought may be necessary in the first sentence that we need to talk about it a little more to try to get it right. And maybe we can incorporate some of these changes in the regulations before they are actually brought here at the next meeting, I would assume, for affirmative resolution. If I can get that commitment from the Minister I would feel a lot better when I go home tonight. Thank you, Madam Speaker.

**The Speaker:** Does any other Member wish to speak? Does any other Member wish to speak? Final call—I recognise the Leader of the Opposition.

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

This matter of planning laws is never easy to implement anywhere. It is particularly not easy to do so in Cayman, because when it comes to property, when it comes to land, everything is so very emotive. And every Opposition over the years knew that. Today is no different from what I saw over the years in this House. I have been here 30 years. It is certainly no different than what I heard in 2010 and certainly no different from what I saw take place during the 1970s.

I recall the debate on the Bill back in 1971 (I think) when the late Mr. Warren Conolly piloted this present legislation first in this House, he, and I think the late Mr. Desmond Watler.

Back then, I am sure, Madam Speaker, people with any historical perspective in Cayman will remember what took place, the marches and the threats. I believe even Government House was burnt down during that period, during the cadastral and the Planning Law passage. Madam Speaker, thank God we are not facing any marches and so on today, at least not by this Opposition leader.

Madam Speaker, certainly, over the years people took it out of whack. As I said, dealing with land it is a very easy thing to talk about and try to address the needs of the people. How do we please everybody is the question. I go back in the history of our planning laws and why certain things were not done over the years. People then could speak for length during those days—hours—and spread fear. And we got nothing done. We look back, Madam Speaker, to 1970. If we had gotten the right type of planning . . . but we've had to make changes over and over, so much different than, for instance, Bermuda, which has strict planning legislation, even telling you what colour your house could be in certain areas.

But we cannot overly complain about what we have. We do know that Ivan taught us some lessons. The truth is that if we hadn't had good planning laws we would have been a whole heap worse than what we actually made out. We have done fairly well with what we have. But we could have been much more disciplined if over the last 40 years some of that legislation had been passed. I remember at that time they said they could not allow Government's Executive Council to make regulations because they were going to tell them what colour their house should be painted. But while we have to be more than careful because we are still a developing country, we do not need to go to those lengths today.

I have always taken the view that there is no good reason why, if the Government takes the view that a particular project is necessary in the public's interest, a police station, a fire station, it should be

prevented from undertaking such a development because some persons may object thereto. If there is some national imperative, Madam Speaker, that requires Government to expeditiously undertake a project, then Government ought to have the flexibility to do so, subject to reasonable consultation. The requirements that Government could waive, including not having to advertise, not having to give notice of building heights, for instance, sometimes that imperative might be necessary. There are Government projects of national importance, which the Government cannot afford to have bogged down with objections and appeals, as has happened before.

For example, if we have to develop something out in the field to cope with Ebola, you have that as a national . . . you have to do it quickly. But you want to be tied down by a law saying you cannot move?

There must be flexibility for Government. No two ways about it. There must be. So, the greater good or national interest, Madam Speaker, requires that Government should have the flexibility to carry out developments expeditiously because Government must retain the right to deliver to the people of this country the infrastructural works which the country needs. And a safeguard in all of this, Madam Speaker, is the fact that Government being somehow, let's say, exempted from certain planning processes does not mean that Government would be exempted from building control requirements. That would always be there. So, Madam Speaker, we must pay attention to those sorts of situations.

Madam Speaker, when we talk about people objecting. It has to be taken in balance because a lot of what Members on this side say is true. But we have to look at the other side as well. I remember when Boggy Sand Road was being eroded, Madam Speaker. It was a mess. It was not just the fore-shoulder to the road; it had begun to come into the road itself, close to the late Mr. Prentice Powell's shop, that area there close to where the Deputy Leader of the Opposition's house was. I took the situation all up along there, which is beachfront. Something had to be done about it. So we went to put down a wall which cost a million dollars (and you heard it was a hundred million), but there were serious objections from people close by and they would have some right, but others who did not have any right . . . and when I say no right, I guess it is because for the sake of the politics of it, and it was McKeeva doing it, they had to try and stop it.

Madam Speaker, when I had agreement from landowners to be able to put that wall down, to be able to save the beach and stop the erosion all along there, those political operatives went around and got those landowners to object and go to the Governor and tell the Governor that that wall was going to be mine and I never . . . you know?—cow dead and horse fat. I never heard more accusations in my life. But I was determined, and something was pushing me

to do so. And I said, *Well, we're not going to put it on your land. But government has a road. We will make that road two feet smaller.* And so we put it on government road and made it two feet smaller. That week, when that wall was finished, Hurricane Ivan stuck!

I can tell you this, Madam Speaker, if that wall were not there, central West Bay would have been by the post office, because all out there is sand, you know. That's all it is. Go straight up close to the Presbyterian Church and you will find some rocks, but it is sand by the United Church now. It is sand, all that out there. Where that road is, where that four-way stop is, all underneath there is sand. And that hurricane came, the sea came in, knocked out the corner and I think one window of the museum, the late Mr. Prentis' shop.

But something drove me and said, *Put this thing through.* If I had listened, if the objections had survived at that time and Dinwiddy had listened to the political operative, maybe one of those police investigations would start up on them too, I do not know. But if that had gone through, you can believe there was going to be some damage out there for us.

Remember? They found fish in the United Church.

*[Inaudible interjection]*

**Hon. W. McKeeva Bush, Leader of the Opposition:** So, Madam Speaker, there is some validity. But Government has to have the ability to move. So we have to find that balance so that our people can be protected and Government can have the flexibility to do the necessary things to protect the populace.

Madam Speaker, while I have heard the debate on the various points raised from Members about regulations and other matters, and I do give some ear to some of it, I must say that I have my concerns the other way too. And that is what I have just spoken to. Government must be able to get their work done. So, Madam Speaker, from the debate from the Government Members and the Independent Opposition, it sounds like the Independent Opposition has not changed their position at all from 2010, more or less the same thing on various points. As I said, that is what I heard from them in 2010. But the amendments in 2010 could not have been as bad as was made out by the main Opposition then as it seems today to be saying what I was saying in 2010. When I say that, as I say, the Government . . . it cannot be that it was so bad then.

In fact, Madam Speaker, I had to listen most closely to see whether it was the same people, the same Premier talking today, who was leading the charge against what I was trying to accomplish back then. And I have not changed my mind on some of the areas. Yes, I would change the way things might have been done. But the overall thinking is still my position. Governments, Madam Speaker, over the years have

always given concessions to various entities, local and incoming business. While trying to protect our local people and protect local businesses, we must first of all be able to get people to invest so that money is generated. How else are we going to help our people? That is how local business is going to make it.

I have always believed that Government must have that flexibility to get business done. One of the reasons why things have not moved ahead, as the Premier lamented, and our people have suffered is because Government has been boxed in and cannot move on its own infrastructure projects. And now, what is there to do to help boost investor confidence? We have been boxed in. By listening to people and trying to please everybody we have boxed ourselves in, and why?

*[Inaudible interjection]*

**Hon. W. McKeever Bush, Leader of the Opposition:** No. I am not going to give Arden (as you call him) some licks for you. You deserve every lick you get from him!

So, Madam Speaker, as he says, *Do not involve me in that—*

*[Inaudible interjection]*

**Hon. W. McKeever Bush, Leader of the Opposition:** I am glad, Madam Speaker, because I listened to the Premier a while ago, that Government is today changing their narrative.

*[Inaudible interjection]*

**Hon. W. McKeever Bush, Leader of the Opposition:** Well, the change in narrative first . . . whichever comes first, one is the narratives I listened to.

*[Inaudible interjection]*

**Hon. W. McKeever Bush, Leader of the Opposition:** It's true!

But you see, Madam Speaker, when they say you have to be fish or fowl, we have to learn not because we sit here in Opposition that we must [not] oppose for the sake of opposition. I am not saying that is what was done because, as I said already, some very, very good points have been made. But I think back to 2010. What we have to realise in thinking back, Madam Speaker, to the positions I have taken, particularly after getting to the point I was in Cabinet and international leadership, is that what we have to realise is that the world around us has changed. The United States . . . and I keep saying so. It's all over. Governors are calling up businesses and saying, *Give me this concession so that I can move my business over there, and come to my state.* They are doing so!

The region we are in—

*[Inaudible interjection]*

**Hon. W. McKeever Bush, Leader of the Opposition:** No.

The region we are in has changed.

You think that's what we are trying to do?

The region we are in . . . well, Madam Speaker, I have to listen to the side talk.

*[Inaudible interjection]*

**Hon. W. McKeever Bush, Leader of the Opposition:** We live in this region which has changed over the years. In the 1970s, Madam Speaker, most of the Caribbean islands were still planting sugar [when they] began little and little more tourism.

As the 1990s came in, industry began to have greater change in those islands. And they began to compete with us in tourism and financial services and other sustainable development. They threw out the sugar. They could not depend on it anymore because Europe was changing their tariffs. And they saw the wealth in the financial services. We are no longer the only darling at the ball, Madam Speaker. So we began to feel the effects of the competition. They had the beaches, good beaches. They have real eco-tourism, rain forests and financial services are cheaper.

Now, that's the islands around us. But we are competing also with the larger international countries in India where people can get work a whole lot cheaper and move from here, do the back work in India. Not only India, Ireland, in Canada, Nova Scotia, these are places now that we have to compete with.

Now, when we first began, people from those areas were running here. Well, they got sensible. They developed laws and now they compete with us. Let us not fool ourselves. Government needs to consider how it does business. Rising expectations are increasing. We can protect our people, Madam Speaker. We must protect them against the things that the Member for North Side pointed out. There is no reason for that to happen. There is none! So we must protect our people who cannot help themselves. We must find a way to amend the law, if necessary, to help them. But we are going to have to continue to give good, sustainable investment the feeling it is welcome and the necessary concessions with it. We do not have to give the country away, as they say I was doing. No. That has never been done. But we have to give those things to be able to help our people or we are not going to get the money to do so.

I said a long time ago, Madam Speaker, that we must embrace wealth or reap poverty. Now over the years, because of various changes in the Immigration Law, we have suffered. One manager goes and two Caymanian secretaries are without jobs. And the

whole meltdown brought a different perspective altogether on what we must face as a country.

So, Madam Speaker, I am not going to fight down the Government. I am not going to do what the Premier did to me. I keep saying that. They do not tell me what they are doing. I have to find out other ways. But, Madam Speaker, this country is ours. And if we do not balance what we are trying to do, if we do not do some of the things that were pointed out here in protecting what we have, at the same time being able to entice investment in, then where are we? And what are we going to do? Flounder! That is what is going to happen to us. And the sooner all of us in this legislature make our people understand that we know that a better job has to be done in protecting them, and that we are attempting to do that, and that we have to evaluate the failures in the past from whichever end it was, and make the necessary changes to help them, but, at the same time, my dear friend, we are going to have to allow other people to come and invest. And we are going to have to give them some kind of concession, whether it is moving a road or getting a road.

You know, I laugh sometimes when I see this attempt to stop or to do away with the road. Where in the world are we going to get \$70 million, \$80 million to do any road in West Bay the way we got it? Where? Where are we going to do so to give up that stretch? I said that was an easy answer for me. I support it. Get it done. Give me the two exits at the entrance of West Bay.

I remember Hurricane Ivan, Madam Speaker. It took me two hours to get from the police station to the Governor at headquarters at the fire station by the airport—two hours—because I had to go through the swamp. And do you know what I had to do? We had a truck that ran, but because we did not know if the dyke road was undermined or anything, you would go five feet and stop and check it. And that is how we got out of West Bay back then. That is how we got out.

So, Madam Speaker, we do not have to throw out the baby with the bathwater. No. But we sure have to make our people understand that the world has changed around us and that for me to help you, I have to get help. I do not see any money trees in Cayman generating money. Our little business? You mean those who sell fridges—to go and buy from them who sell fridges? Those who sell clothes can go and buy from them who sell clothes? Is that what is going to generate enough income to pay for education for our children? Uh-uh. At least I do not think that way. And if somebody can show me how it is done, then I might change my narrative. I might change the way I think on things. But as I said, money is out there and we must pick the best and get the best out of it. That is how I feel, Madam Speaker.

Embrace wealth or reap poverty!

Madam Speaker, if there is going to be joined-up government, for instance, I do not know why clause 7 is repealing section 8. Maybe there is a good

reason, but I hope that the Minister can answer in winding up, because this was a requirement for the Authority or the Board to notify the Trade and Business Licensing Board and the Immigration Board of decisions relating to applications for permission to carry out major development. And you would think that you would want those entities to be involved. So I do not know why section 8 of the principal Law is being repealed.

Section 11, the Law is being amended to empower the Minister responsible for Planning, instead of the Cabinet, to refer matters for an inquiry into objections or representations relating to a development plan. As I said, again, there might be some perfectly sensible reasons why this is being done, but I do not think the Minister has said so. Why not the Cabinet instead of the Minister? You would think that perhaps this is something that the entire Cabinet needs to be involved with. And I see some of that happening where the power is taken from the Cabinet and is being devolved to the Minister alone. Like I said, maybe there are good reasons why, and I do not know them. So perhaps the Minister can address it in winding up.

I do not know about anybody else, but from my time in Planning that I had any responsibility for it, I know the calls that can be made on you as a Minister.

Clause 32 is repealing and substituting section 53 of the principal Law to empower the Cabinet to waive planning fees and to delegate this power to a Minister. Again, I do not think the Minister addressed it, but maybe there is a good reason. And he can answer that when he rises.

Madam Speaker, there are a few areas that I am not *au fait* with. There are a few areas that I do not think I can support. But generally, as I have said, the Government has to have the wherewithal to be able to get its work done. And I think the Government is doing itself a disservice if it repeals some of what they said they are going to repeal. They will find that out in due course, Madam Speaker, in the regulations, yes.

I am sure, Madam Speaker, that, as I said, the Government might be under pressure to change. I do not know, because they certainly never did it before they came here. So they must have seen some sense, even though they opposed it before. When you get into Government you certainly get a different perspective. All of us know that by now. And the pressures are not lessened on this Government. It is going to increase, in fact. And for them to get things done they are going to have to have some leeway. At least I want to be as reasonable as I said last year in opening my own speech.

I have to be reasonable because we have to live here. We have to pass on this Cayman Islands to our children. And, Madam Speaker, they have to grow up here. And if we do not have the business in this country, I fear for this Christmas season if there is no work for the casual labour sector. The crime that we

see, the burglaries that are on the rise (and I am speaking from an economic standpoint), it is going to get worse. So, anything that the Government can do to improve this situation, they are going to have my support. When I have to beat them, they will get it.

*[Inaudible interjection]*

**Hon. W. McKeeva Bush, Leader of the Opposition:** But you are not that smart, you know, because you can't read my mind!

*[Laughter]*

**Hon. W. McKeeva Bush, Leader of the Opposition:** No, no, no, Madam Speaker, I cannot go to Cabinet. West Bay has a Cabinet member. You forgot the Constitution? I cannot go to Cabinet.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** *Aye, yi, yi!* I knew it was something!

**Hon. W. McKeeva Bush, Leader of the Opposition:** Say that and put it in the Hansard!

*[Inaudible interjection]*

**Hon. W. McKeeva Bush, Leader of the Opposition:** Madam Speaker, I do not think I can add anything else to what has been said. Hopefully the Minister can address some of those points.

*[Inaudible interjection]*

**Hon. W. McKeeva Bush, Leader of the Opposition:** No, Madam Speaker, just to allay the fears of anyone. I have made no pact with anybody, just in case the wrong impression is given. I said last year when we were sworn in that there is too much fussing and fighting. And when we look around if we do not see that in this House, if we do not know who is against us, then we will never learn. And I have to change . . . I did at that point, but I am more determined after what I have been through. We have to, because we are not fighting one another; we are fighting forces that are greater than many of us.

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?

If not I will call on the Honourable Minister to exercise his right of reply.

**Hon. D. Kurt Tibbetts:** Thank you, Madam Speaker. Madam Speaker, before I say anything else, let me start at the end and come back to the beginning.

The Leader of the Opposition has asked (and it was not only him) to get to understand the new provisions being proposed in section 53, which, first of all, legalises the Cabinet's ability to waive some fees. Then there is another amending section below that which speaks to delegating certain powers to a Minister to be able to waive fees. First of all, and perhaps in retrospect, the drafting team may want to look at that and tighten that up. But let me say what it is all about.

Madam Speaker, for years we—and everyone in this Legislative Assembly knows this—we find the odd, individual occasion. It could be some poor person that a volunteer job is being done for by way of a house, or an addition to a house, or a repair to a house, or something of that nature. You may find a house burned down and a whole community comes to assist with it, but the requirements of the law call for an application to be made, a red card to be had, and all of that. And we find ourselves with those individual circumstances and there is no dedicated mechanism now which allows those fees to be waived.

Now, the Minister of Finance is a serious man (not that other Ministers are not serious). He pointed out very early in the game, *Listen, I do not have the authority to waive such a fee.* Legal advice also tells us that what has been the practice for many years—for decades, I am reminded, by my good friend the Attorney General—has not really been legal. Successive Governments, and when I say “successive Governments” I do not mean two Governments ago, I mean 10 Governments ago, 8 Governments ago, have been doing this.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** It was always a practice accepted. But it has been pointed out that in truth and in fact there is no mechanism which provides the legal basis for it to be done. That is the only rationale behind all of this.

Now, some may want to argue and say that that should not be the case, but we have sort of exhausted that this evening and this afternoon by various points being made. And the truth of the matter is that it is physically impossible during any Government's terms not to encounter some occasions when some type of consideration of that nature has to be made. I think everyone who has been in Cabinet fully appreciates that, even though those who may not have had to go that journey might not fully appreciate that. So, there is no intention for there to be any loose use with a Minister being able to waive fees at will. I explained the types of circumstances and why that amendment is put.

There was another specific issue that the—

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** Oh, right. The Leader of the Opposition also pointed to the fact that we were removing the requirement to notify the Trade and Business Licensing Board and Immigration about certain types of development.

When this and others were originally brought in, Madam Speaker, as I understand it from the team, if you wanted to advise them, you had to physically take over a set of Minutes in order for them to have it. The fact is that nowadays, the Minutes of the Central Planning Authority meetings, once ratified, are immediately put up on the website and anybody can log in and see what was approved and what was not approved. So there is no lack of information. The Ministry of Commerce and Investment, and also the Premier's Ministry, see no need for that to remain in law because they have full access to the Minutes. And that was all that was being done about that; it certainly was not to deprive anybody of any information.

A lot of people may not know at this point in time that the Minutes of CPA meetings, once ratified, are immediately put up on the website, but that is the case. So everybody can see everything at this point in time. That is all that was for.

Madam Speaker, as I said, I may be going backwards to get to the beginning.

The Member for North Side . . .

Just one minute, Madam Speaker.

*[Pause]*

**Hon. D. Kurt Tibbetts:** Thank you, Madam Speaker, and Members.

Madam Speaker, as I was going to say, the Member for North Side brought the point about large tracts of land and allowing the CPA to accept an application for such tracts of land to be subdivided without the requirements for . . . I think he said surveying requirements?

**Mr. D. Ezzard Miller:** Subdivision.

**Hon. D. Kurt Tibbetts:** Subdivision requirements, which meant roads and everything.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** I have no problem with the principle of what is being put forward, but there are some specifics which we are going to have to deal with. I think it is very risky not to at least have proper easements created for access, depending on if you re-parcel without . . . I am not talking about building the roads. I am talking about registering—

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** You see, the difficulty is . . . just let me quickly explain, and think of what I am say-

ing because that is something that we will be considering to bring back as quickly as we can. But I want to just quickly point out to you that many of the difficulties that individual landowners face today about no access . . . it is not about building roads; it is about creating the necessary easements.

If the easements are not created, even though you may have a very loving family where it all starts, and you find the land changes hands, easements—

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** That is what I am talking about, easements to allow when there is any subdivision, or re-parcelisation, that each of those lots has an easement. That is what I am talking about—right. So, that is something that the technical team has taken note of and we will have a look at it.

Madam Speaker, the issue was brought up by more than one Member about a \$250 fee for cleaning up debris on the shoreline. I heard the examples that were used. And I have been in Opposition too (let me just say that), so I know how it goes. But that has absolutely nothing to do with cleaning gulf weed off of the beach, or cleaning turtle grass off the beach. Where this comes from is the section that speaks to the \$5,000 fee for mechanical excavation, or it is treated as excavation.

There were a couple of incidents in Cayman Brac where because of the construct of the Law it was determined that individuals either had to . . . well, it was done illegally a couple of times, based on Law, and when they were advised about it they were told that . . . and this stems from, for instance, like certain areas where both of you represent. So, likewise in Cayman Brac on the beach, there are many homeowners and/or landowners who are not there full time. They have people who take care of the property and then every so often when they are coming down they want the place spic and span, they want the place cleaned up. And in some instances when you have had inclement weather, sometimes fairly extreme inclement weather, you get a lot of rocks coming up on the beach and that kind of stuff. So, when there was the impossible situation that to apply to clean that up one had to pay \$5,000, this section was just meant to accommodate that.

Now, where the Members were right is that it does not speak to “mechanical,” or a certain word which tells you what it is. And the team has taken note of that—

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** No, no.

Yes. I am just saying that is the whole intention.

When it comes to simply using (as you term it) the sweepers, or just raking . . . nothing like that is

intended. And that is not going to be the end result, okay? So that is fine.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** Madam Speaker, on the part of some, much ado was raised about “approved agent.” What happens now, because of the way that section reads is the CPA, or the DCB for that matter, actually has to decide and play almost a regulatory role to decide who is an “approved agent” because, along with the Builders Bill, we will be bringing legislation for the registration of architects and engineers. And that is imminent. Once that is done, approved agents will simply be through the window and, because of what is happening now, that is being taken out. So that by the time that law comes we will not have to come back and amend this one.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** Yes, absolutely.

Madam Speaker, the point was just raised questioning whether it was intended, once this law comes into effect, that those entities or individuals who were registered would, by necessity, have certain business licences and all of the other requirements. And that is just like the Builders Law. All of that will be part of the process.

Madam Speaker, the 10 per cent is a very emotive issue: When I introduced the Bill this morning, I spoke to it and said that we have gone back and forth. And the Member for North Side alluded to that also in his contribution. I think his position on this is basically that there should be no fee. But I do not think he went as far as to say that one should not apply. And that is where the whole thought process evolved to what the original proposed amendment was asking for.

I am going to agree to a certain point. And let me explain: I have no difficulty, Madam Speaker, in outlining the entire process and saying that under this category there shall be no fee. I do not have any problems with that, bearing in mind that that is going to have to be a new amendment again, because the last amendment called for the other fees to be in place, which is what is causing all of the problems now. And we wanted to solve that problem because it was not about collecting the fee so much as not causing people who applied to fall into the trap of having to pay 10 times because they were *ultra vires* the law.

So, we can agree, I am sure, that there must be an application in this situation, and they must go through the other processes, but there will be no fee. Where I cannot totally agree with the Member . . . it is strongly felt that if at the end of the road there is no sanction, people are just not going to pay any attention to it. In other words, if the people, or if any applicant . . . and I understand all of the points about the

limitations of who would be utilising this, although in some instances there are some people who have tried to cannibalise it willingly and knowingly, but I am not suggesting they are the majority (but it has happened). All of that needs to be straightened out too.

I do not mind leaving it open and saying there will be no fee, even for those who might be able to afford. Let us not get into a battle of who can or who cannot. So, we are either going to do it, or we do not do it. I do not have a problem with that, but at the end of the day, in my view, there has to be some type of sanction which says to them, *Listen, you don't have to pay a fee, but you must apply and go through the other hoops*. And this is not about bureaucracy, Madam Speaker, this is about safety. This is about the safety of lives, because when people try to cut corners they do not realise there are some unscrupulous tradesmen who will happily oblige and charge less, electricians and otherwise, that cause all kinds of other problems or risk peoples' lives. And that is what we are trying to prevent in the whole scenario.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** Yes.

So, Madam Speaker, I just want to make it very clear now. I do not know how much more we can absorb right to this minute by way of committee stage amendments. But it is in the debate, it is on record, the team is taking note. So, we will make sure that that is dealt with.

Madam Speaker, there was also the question about an applicant or an objector being the only people allowed to object. I do not know if we were getting crossed up in our lines of debate, but before I go to that, let me clear up one issue. When the Member for East End spoke to the 10 per cent, he pointed out that it was being moved to the regulations. That is not the case. There is nothing changing about that going to any regulations. That will remain in the Law.

But getting back to this other point about objections only being made by applicants or objectors, what I said about it being crossed up, the Member for North Side, specifically . . . I thought he used the example when it came to being able to object to rezoning. I am pretty sure. But the rezoning process is totally different. So this section does not apply to the rezoning process. Nothing has been changed about the way the rezoning process takes place.

For clarity, Madam Speaker, what happens is an application is made through the Department of Planning to the Central Planning Authority to have a parcel rezoned. There are certain trigger requirements which call for advertising the application a certain number of times in the newspaper, a certain waiting period to allow for any comments or objections, the CPA to deliberate on the matter. Then it goes through another set of hoops again and the recommendation is made to the Ministry, and if the Ministry so agrees

with the recommendation, the Minister takes a paper to Cabinet. Cabinet deals with the application, and if Cabinet then approves the application it is forwarded down to the Legislative Assembly for the Legislative Assembly to approve it. So that is the rezoning process.

Nothing that we are doing here—

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** I heard what you said. But I just want to bring clarity between the two so they are not confused.

But, Madam Speaker, none of these amendments are proposing to have any change to that process which has existed from the time the Development Plan was done in 1977. So that has not changed.

Now, when it comes to the business of objecting to a planning application, and the amendment being proposed speaks to either the applicant or an objector, the rationale that was used with that is the process that will be called for is the number of advertisements. And I hear the Member's point, but I do not know how else we can get around that, that people do not pay attention to newspaper and that kind of stuff and might not know what is being proposed, but I will talk about that in a minute. But after the advertising is done there is a reasonable timeframe allowed for people to come in to look at the proposed plans and either, if they so desire, to object.

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** I do not know about that one.

So, Madam Speaker, what has happened in the past, and which we are trying to avoid, because we believe that while there has to be a certain level of protection for the community and for the society at large, we certainly cannot leave an applicant hung out to dry because someone decides to object and just leave it hanging for as long as they so desire, and have no involvement or no connection whatsoever and perhaps even have been induced or incentivised to do so by way of a promise of something. So that is what that is all about, Madam Speaker, to try to create a balance.

The Member's point about having . . . but I think when he talked about town hall meetings, I think he was talking about rezoning. So, I do not think that was his point. But he called for some additional way to ensure that people knew, and he spoke to the 500 foot radius around the entire perimeter of the property for the application. Madam Speaker, if we look however a parcel is shaped (let's give it a regular shape) and we go 500 feet from every point on any boundary of that, that is a fairly extensive . . . I mean, I do not know whether we are really appreciating how much area that means.

The Member spoke to some large parcels being owned. If that large parcel begins more than 500 feet away, I liken it to this (and I hope this is not misunderstood, but appreciated in the [right] way). You have to draw the line somewhere. If you speak to those and make those the exception rather than the rule, then you are almost back to square one. When we thought about the whole issue we thought this was the fairest proposal that could be made that would give landowners the protection they needed by law to have the ability to object and air their objections and then the usual process takes place, and, at the same time, not cause an applicant to have to wait out long, extended periods of time for either frivolous or spurious objections, and the time—

*[Inaudible interjection]*

**Hon. D. Kurt Tibbetts:** We took that on board also, Madam Speaker.

So, I only wanted to explain that section.

Madam Speaker, I think, of the relevant issues, most of those issues I have addressed.

Madam Speaker, there are just a couple of points that I want to raise. I listened extremely carefully to the Member for East End when he was anxiously ready to jump from his seat today about this Law. I kept hearing him say how he knows me. I dare say I know him too. So I know even when he speaks about it, I know how the soapbox syndrome is. And I know that from where he sits that is an important part of his job, as he calls it, in the southeast corner. And that is fine.

Madam Speaker, I sat here this morning and into the afternoon and I listened to him speak to all kinds of questions asked, but with an obvious intention of raising questions about not only the credibility of the Government, but also, in my view, there were times the way he spoke, although he tried to be as careful as he could, anyone listening would begin to wonder about the personal integrity of yours truly.

Madam Speaker, I heard him at an earlier meeting with his very passionate statements (because he likes punch-lines) telling me that I have betrayed my people. I said nothing. Not today, but before now. I heard him trying to manage the situation today when he was speaking, in one breath doing whatever he could, and in another breath trying to make it sound like that really was not what he intended. But I listened, and I listened very carefully.

At 60, Madam Speaker (and that's what I am), I do not have the desire or inclination any more to get into all kinds of long and heated debate. But I just wanted to make a few points abundantly clear. Madam Speaker, the only way I can say it, if I speak about myself, is how I am going to say it now. And I said 60 for a reason, not because I am proud of that age, but that is just it, and what is, is.

Madam Speaker, I began to work for myself when I was 23 years old. I had \$211 in the bank. My family signed a loan for me at Royal Bank and a retired banker named Harry Chisholm loaned me \$30,000 to open my business, which I was very grateful for. Listen, I am not here to boast or anything; I am just going to simply make a point and end it there.

Madam Speaker, I ran that business for 25 years until I got to the point where I had to decide whether I was going to continue to be a representative of the people or stay with the business, because I was not able to do justice to both and the business was killing my wife. She just got to the point where she just could not handle it. So, I made my decision, and I stayed in politics because, Madam Speaker, at that time I believed, and I still do believe, that I had a role to play in the arena called politics and that I could still be a good representative, for not only the people of George Town, but for the people of these Islands.

Madam Speaker, throughout the 25 years of running my own business, and throughout the time since November of 1992 that I have been an elected representative of the people, no one—no one—has ever looked me in the eye and justifiably questioned my personal integrity. I hear the Member for East End all the time. I have heard him over and over, passionately talking about, *You're barking up the wrong side of the tree when you're questioning my integrity*. That is what he says. And I want him to go back to the Hansards (whenever they are typed) and look at what he said, and then start to tell me about friendships and loyalties and this and that, and about wrestling in the bed at night trying to sleep.

Madam Speaker, me? They could row until the good Lord comes. When I go home and I go to my bed, I sleep, because I do not have any worries about what I said, or what I did at any point in time. It may not be liked, as often happens, Madam Speaker . . . and you know, Madam Speaker, the thing that really gets to me . . . I just wish he was a fly on the wall on many occasions when the same people that he is talking about, I have to deal with, and I have to argue with because of the many requests that they make and because of my duty and, by extension, the Government's duty, to defend the cause of the people and to create the balance that is right.

Madam Speaker, I am not even defending my Premier today. Neither am I defending what the Leader of the Opposition said. I happen to know, just like all of us know . . . and I know the arguments of debate with Opposition. Nobody has to tell me that. And I know you can pick up an argument, Madam Speaker, and you can argue that even if you do not believe in your heart of hearts that that is the right argument, but if you had all leeway, which side of the fence you would take. But in this arena, in these hallowed halls, Opposition's duty is not only . . . or should I say, not just to try to raise doubts about the actions of the Government, but more so to be the check and bal-

ance to ensure that the Government, whatever they are saying or doing, has thought it through, that their intentions are honourable, and on many occasions make sensible contributions to see if any adjustments . . . for instance, like today with the proposed amending Bill, several things have been taken on board. So, I understand all of that.

Madam Speaker, I think that the Member for East End ought to rethink his style, if he were to look at it. You see, Madam Speaker, I also hear him talking sometimes about this business of currency. The difference about currency is that sometimes when you grab at it, and you grab at it too hard, you are least successful. Most times, to be successful you do not even know when it happens, because that is the best way for it to happen.

So, Madam Speaker, the final thing that I want to say is that I do not know, although I tried to understand from the debate today, what thoughts may be going through the minds of some about which large developer, or which big business these amendments are coming to satisfy. I want the Member for East End, the Member for North Side, the Serjeant-at-Arms, your good self, and the Clerk and all of my colleagues to understand that I have not made, and will not ever make any decision or be part of any decision which is not in the best interests of the people of this country. And I do not even have to blink an eye or think of the temptation because I have long gone beyond that!

**The Speaker:** The question is that a Bill shortly entitled the Development and Planning (Amendment) Bill, 2014, be given a second reading.

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

**Ayes.**

**Mr. D. Ezzard Miller:** No!

**The Speaker:** I believe the Ayes have it. Therefore the Development and Planning (Amendment)—

*[Inaudible interjection]*

**The Speaker:** It was 10 when I last checked, sir.

The Development and Planning (Amendment) Bill, 2014, has been given a second reading.

**Agreed: The Development and Planning (Amendment) Bill, 2014, given a second reading.**

**The Speaker:** Honourable Premier, are we taking the adjournment at this stage? Or is it the intention to go to committee?

**The Premier, Hon. Alden McLaughlin:** Madam Speaker, it seems the will of the House that we adjourn now, in which case we will have to come back at

10:00 am tomorrow to go into Committee and then the Third Reading of the Bills.

**The Speaker:** Can I then have the movement of the adjournment until 10:00 am tomorrow?

## **ADJOURNMENT**

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

I move the adjournment of this honourable House until 10:00 am tomorrow, Thursday, 30 October.

**The Speaker:** The question is that this honourable House do adjourn until 10:00 am tomorrow.

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

**Ayes.**

**The Speaker:** The Ayes have it.

**At 8:25 pm the House adjourned until 10:00 am, Thursday, 30<sup>th</sup> October 2014.**