



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2015/16 SESSION

20 November 2015
*Third Sitting of the Fourth
Meeting*
(Pages 781-820)

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

PRESENT WERE:

SPEAKER

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

MINISTERS OF THE CABINET

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

EX OFFICIO MEMBERS OF THE CABINET

Hon Franz I Manderson, Cert. Hon. JP	<i>Deputy Governor</i> , ex officio Member responsible for the Civil Service
Hon Samuel Bulgin, QC, JP	Attorney General, ex officio Member responsible for Legal Affairs

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Mr Roy McTaggart, MLA	Second Elected Member for George Town
Mr Winston C Connolly, Jr, MLA	Fifth Elected Member for George Town
Mr Joseph X Hew, MLA	Sixth Elected Member for George Town
Mr Alva H Suckoo, MLA	Fourth Elected Member for Bodden Town

OPPOSITION MEMBERS

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

INDEPENDENT MEMBERS

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

APOLOGIES

Mr Anthony S Eden, OBE, MLA	<i>Deputy Speaker</i> , First Elected Member for Bodden Town
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OFFICIAL HANSARD REPORT
FOURTH MEETING OF THE 2015-16 SESSION
FRIDAY
20 NOVEMBER 2015
10:50 AM
Third Sitting

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

The Speaker: Good morning. I now invite the Honourable Minister responsible for Planning, Lands, Agriculture, Housing and Infrastructure to grace us with prayers today.

PRAYERS

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

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

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

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

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

The Speaker: Please be seated.
 Proceedings are resumed.

ADMINISTRATION OF OATHS OR AFFIRMATIONS

The Speaker: None.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

The Speaker: We have received apologies for the absence of the Deputy Speaker for today—sorry, for the late arrival of the Deputy Speaker. I beg your pardon.

PRESENTATION OF PETITIONS

The Speaker: None.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

QUESTION 27: VIDEO RECORDED BY SENIOR MANAGER AT HER MAJESTY'S NORTHWARD PRISON

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

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

Madam Speaker, I beg to ask the Honourable Deputy Governor, Ex-officio Member responsible for the Portfolio of the Civil Service the following question: Can the Honourable Deputy Governor, Ex-officio Member, say who and what was the subject of the video recorded by a senior manager at Her Majesty's Northward Prison, who was terminated for recording the video?

The Speaker: I recognise the Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Good morning, Madam Speaker.

Madam Speaker, the answer: In response to media queries on the 2nd of November 2015, the Ministry of Home Affairs issued a statement which con-

firmed that, following an internal investigation into allegations of covert video recording equipment having been placed in a prison employee's office, a senior manager's employment was concluded at Her Majesty's Northward Prison.

Persons conducting the investigation advise that the subject matter of the surveillance was a fellow senior manager within the Prison Services. I am further advised, Madam Speaker, that the footage taken during the covert surveillance did not yield anything of a suspicious or improper nature.

Madam Speaker, it is related matters that have given rise to disciplinary processes being undertaken in respect to a total of three prison employees. Madam Speaker, while the disciplinary process has concluded for one officer, the matter is ongoing for two other prison officers. As such, Madam Speaker, it is inappropriate to elaborate further on what remains an ongoing disciplinary issue.

SUPPLEMENTARIES

The Speaker: If there are no supplementaries . . . The Member for East End, followed by the Honourable Leader of the Opposition.

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

Madam Speaker, I have a number of questions, but the first one is: Can the Ex-officio Member tell us who conducted the investigation?

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Madam Speaker, it is my understanding that Members of the Ministry of Home Affairs conducted the investigation.

The Speaker: Member for East End.

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

Madam Speaker, can the Ex-officio Member tell us, on whose instruction or on what statute could the Ministry conduct those investigations?

The Speaker: Honourable Deputy Governor.

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

Madam Speaker, the Director of Prisons and the Chief Officer of the Ministry are responsible. And certainly, the Ministry, as the authority responsible for the Prison Service, has the authority to oversee matters of departments under its remit.

The Speaker: Member for East End.

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

Madam Speaker, can the Ex-officio Member tell us, what is the course of disciplinary action for prison officers as detailed in the Prison Law?

The Speaker: Honourable Deputy Governor.

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

Madam Speaker, the process is set out very clearly in the Prison Law and Regulations. The Director of Prisons has oversight of his staff. I understand what the Member is getting at. The particular person is no longer with the service. The person who employed that person, who signed their contract, is the person who made the decision to dismiss that employee.

The Speaker: Honourable Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker, Madam Speaker, I wonder if I didn't say it right, maybe.

The Speaker: If you repeat it, then you can take the wonderment out of that.

Mr. V. Arden McLean: Yes, yes, if I repeat it.

I want to know what the Law says about disciplinary measures, and who are to conduct disciplinary proceedings in accordance with the Law.

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Madam Speaker, I'm not sure I'm following what the Member is saying. But just to be very clear, there is an investigation, and then there is a decision made on the HR side. There is two separate things completely. And, Madam Speaker, I just want to assure the Member that the Ministry took all legal advice that was necessary, and it's our opinion that we have done things appropriately, by the Law. And if anyone is aggrieved with that decision, then they have a right to appeal. So that's the process set out, and that is the process that is being followed. We will see where the appeal goes, Madam Speaker.

The Speaker: Member for East End.

Mr. V. Arden McLean: Madam Speaker, I didn't ask what happened. I asked: What is the process by statute for prison officers' discipline and investigation into their conduct?

The Speaker: Honourable Deputy Governor. Certainly, you are at liberty . . . One minute, please . . . Certainly—

Mr. V. Arden McLean: Madam Speaker, if I may, maybe I can clarify it by asking the Ex-officio Member, if it is not so that the Prison Law, the Law, statute, requires the Director of Prisons or his designate, his or her designate, to conduct investigations and apply discipline to prison officers.

The Speaker: Honourable Deputy Governor, before I call on you, I just want to give some guidance. Standing Order 22(1)(f)(x), sets out the conditions for questioning. And one of those conditions is that “**the answer to which can be found by reference to available official publications.**” So I would ask Members to bear that in mind.

[Inaudible interjection]

The Speaker: Member for East End—I’m not saying that he can’t ask. All I’m saying is that when any Member asks a question, ask it in the context of the laws or publications so you can affirm, deny, or if it was in breach; along that line. Not whether, *Is that what the Law says?* Each Member can apprise their self to the provision of the Law.

Member for East End.

Mr. V. Arden McLean: Madam Speaker, I appreciate your clarification on that. But, Madam Speaker, I am saying then that the Law specifically says that the director has absolute authority over the conduct, the investigation of the conduct of any prison officer, and the discipline of any officer.

The Ex-officio Member is saying that the Ministry did it. And I am asking who are changing the rules? Who has changed the statute in this country and it didn’t come here to be changed? Can he answer that?

The Speaker: Honourable Deputy Governor.

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

The Speaker: You can, you can . . . Just one minute, please.

The Deputy Governor, Hon. Franz I. Manderson: Yes.

The Speaker: I recognise you to respond. And, Member, for the public benefit, it’s obviously a very important question, procedurally. And you may want to refresh it in section 38 as you respond.

[Inaudible interjections]

The Speaker: In the meantime, I’ll recognise the Honourable Premier for the suspension of Standing

Order 23(7) and (8) if it’s the wish of the House to extend question time beyond 11:00 am.

Honourable Premier.

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

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

Madam Speaker, I beg to move the suspension of Standing Order 23(7) and (8) in order that questions may be asked and answers given after the hour of eleven o’clock.

The Speaker: The question is that Standing Order 23(7) and (8) be suspended to allow the extension of question time beyond the hour of 11:00 am this morning.

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

Ayes.

The Speaker: The Ayes have it. Accordingly, Standing Order 23(7) and (8) is hereby suspended.

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

The Speaker: I recognise the Honourable Deputy Governor.

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

Madam Speaker, I am not here to say that any law was changed. What I am here to say is that the Ministry took legal advice, made the appropriate investigation, made the decision that they thought was absolutely necessary. And our view is that no laws were broken. In fact, the laws were enforced and carried out.

If anyone is aggrieved or feels differently, there is an appeals process that’s set out, and that’s the way this matter should be resolved, Madam Speaker.

The Speaker: Member for East End.

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

Madam Speaker, can the Member tell us, then, since he took legal advice, on whose instruction as a result of that legal advice did the Ministry get to conduct this investigation? Someone had to instruct someone else on the basis of that legal advice.

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Madam Speaker, I don’t have all of those details. I’m happy to get it for the Member.

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

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, this is a matter of procedure and maybe you can clarify.

A Member asks a question, who is doing it to get information, and might be aggrieved because of the way so-called good governance was supposed to be carried out, whether a decision is taken correctly or wrongly. And therefore, a Member of this House cannot appeal the matter, but we do have a duty, a responsibility to inquire.

The Speaker: Members would be fully cognisant that Standing Orders 20 and 21, which deal of questions, 20(1) says, “**Questions may be put to a Member of the Government relating to any subject or Department for which he is responsible or with which he is officially connected.**

“(2) Questions may also be put to any other Member relating to a Bill, motion or other public matter in connection with the business of the House for which such Member is responsible.

“(3) The proper object of a question is to obtain information or to ask for action.

“21(1) A question shall not be asked, unless it is of an urgent character or relates to the business of the day and the Member has obtained the leave of the Presiding Officer, unless notice of the question has been handed to the Clerk no later than ten days prior to the commencement of the meeting of the House at which it is sought to ask the question.”

I’m taking the liberty to go through this so that Members can wrap their mind around what is transpiring here today.

“**Content of question, 22(1)The right to ask a question shall be subject to the following general rules, as to the interpretation of which the Presiding Officer shall be sole judge—**

- a) a question shall not include the name of persons, or any statements of fact, unless they are necessary to render the question intelligible;
- b) if a question contains a statement of fact, the Member asking it shall make himself responsible for the accuracy of the statement, and no question shall be based upon a newspaper report or upon an unofficial publication;
- c) a Member shall not address the House upon any question, and no question shall be made a pretext for a debate;
- d) questions shall not be of excessive length;”

That one I’ll read again: “**Questions shall not be of excessive length.**

- e) “**questions shall not contain argument, inference, opinion, imputation or tendentious epithets, or ironical or offensive expressions;**
- f) **a question shall not be asked (i) which raises an issue already decided in the House, which has been answered fully during the current session or to which an answer has been refused; (ii) seeking information about matters which are in their nature secret; (iii) regarding proceedings in a Committee which have not been placed before the House by a report from that Committee; (iv) which deals with matters referred to a commission of enquiry; (v) as to the character or conduct of any person except in his official or public capacity; (vi) reflecting on the decision of a court of law or being likely to prejudice a case under trial; (vii) reflecting on the character or conduct of any person whose conduct can only be challenged on a substantive motion under Standing Order 35 . . . (viii) asking whether statements in the press, or of private individuals, or unofficial bodies are accurate; (ix) referring discourteously to, or seeking information about the internal affairs of, any territory within the Commonwealth or of a friendly foreign country; (x) the answer to which can be found by reference to available official publications; (xi) seeking, for purposes of argument, information on matters of past history; or (xii) raising questions of policy too large to be dealt with within the limits of an answer; and**
- g) **(g) a question shall not solicit expression of opinion or the solution of an abstract legal question or be hypothetical.”**

And finally, [Standing Order 21(2)], “**If the Presiding Officer is of the opinion that any question of which a Member has given notice to the Clerk infringes any Standing Order or in any way is an abuse of the right of questioning, he may direct**

- a) **that the Member concerned be informed that the question is out of order; or**
- b) **that the question be entered in the Order Book with such alterations as he may direct.”**

Obviously, we are dealing with supplementary questions, so you would have to adjust the conditions based on the fact that a supplementary question requires no notice, but the Chair still has the discretion.

I recognise the Honourable Leader of the Opposition.

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

The Speaker: One minute, please. I recognise the Honourable Leader of the Opposition, followed by the Member for North Side, after the Honourable Deputy Governor has responded to the Member for East End.

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

The Speaker: One minute, sir.
Honourable Leader of the Opposition.

[Inaudible interjections and laughter]

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson:
Madam Speaker, I've almost forgotten what the question was. Could I ask him to repeat it again, please?

The Speaker: Member for East End, would you indulge the Member and repeat your question?

Mr. V. Arden McLean: Madam Speaker, the question was: Pursuant to the legal advice that was received, who instructed the Ministry to do an investigation in contravention of the Director being the responsible person . . . well, contrary to the Director being the responsible person to do investigation and discipline?

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson:
Madam Speaker, my response is simple. The Ministry, the Director of Prisons, everyone has followed the rules, the Regulations and the Laws. They have followed appropriate legal advice and have now rendered a decision. That decision is subject to challenge. And we should allow that process to do it and not try to hear the appeal down here, Ma'am.

The Speaker: Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Yes, ma'am, yes, ma'am, yes, ma'am.

Madam Speaker, you specifically read out the conditions under which the questions can elicit answers. And, Madam Speaker, one of those is that if it's sub judice, it need not be answered. If he knows that it's sub judice, then he needs to make this House know, or he cannot direct this House as to whether or not we are trying something here. I don't know whether it's under judicial review or not; he needs to prove that. I don't know if it's sub judice or not. And, Madam Speaker, obviously you don't know since you didn't stop me from my line of questioning. And if such is the—he says it can be subject to review, judicial re-

view or appeals or whatever, but nobody knows it's subject to judicial review or appeals, or it's going through that process. The information I want is information that cannot be gleaned from the newspaper. But the newspaper has prompted us to know that, as a result of this investigation, one person has been terminated.

Now, I am questioning on that person. I'm not questioning on further investigations, which may be illegal or otherwise. I'm questioning on the one that was in the papers, which I have the right to do.

Now I am asking, who authorised the Ministry or the staff of the Ministry, pursuant to the legal advice, to conduct an investigation and carry out disciplinary measures?

The Speaker: Honourable Deputy Governor, under—

[Inaudible interjections]

The Speaker: Question time has been extended, so the Chair will take the liberty to speak when the Members of the House are ready to listen.

[Pause]

The Speaker: By virtue of section 55 of the Constitution, there are certain reserve powers that are given to the Governor, one of those being the civil service. However, under the Standing Orders, Standing Order 20 gives—

[Inaudible interjections]

[Gavel]

The Speaker: Standing Order 20 gives that inalienable right to Members of the House to ask Members of the Government any questions relating to responsibility under their portfolio or respective Ministries. Obviously, questions cannot go so far as to deal with matters that are considered sub judice, or before the court. The onus is on the Member put in that position out to prove that it is indeed before the court. If time is needed, the Chair will allow that time. Members cannot ask question or direction who to hire, who not to hire, who to fire, as that is in contravention of the Standing Orders. But certainly, the Chair rules that Members have liberty to ask questions about policy and procedure, or if there is breach of contravention of any Laws.

So, Members, please be guided accordingly.

I now recognise the Honourable Deputy Governor.

[Pause]

The Deputy Governor, Hon. Franz I. Manderson:
Madam Speaker, I am very happy. I did not decline to

answer the question, although I believe I could have. But I understand that Members have a right to ask these questions. I understand very clearly what the Constitution says, as well, in terms of who has responsibility for the civil service. But I am open to providing our elected Leaders with the information that they would like to know.

The issue that I have here, Madam Speaker, is that we are dealing with a disciplinary matter, which certainly falls within the purview of the Ministry and the Director of Prisons. And that matter is ongoing. I have said that there are two other matters that are currently under investigation. And I received the information just this morning that the matter that we are talking about now is under appeal.

So we have ongoing matters that are being dealt with in the prescribed manner. And I'm very hesitant about answering questions that can impact the appeal, Ma'am.

The Speaker: I recognise the Member for East End. And please take into consideration that your colleague for North Side has been waiting some time to ask a question.

Mr. V. Arden McLean: I will, but he'll give way. Don't worry about that.

Madam Speaker, the Ex-officio Member, the Deputy Governor, is saying that there has been an appeal. He received information this morning that it's being appealed or judicial-whatever. Can he produce the evidence that that is recorded in the court? It is already in the court? That's the only way it can be considered sub judice.

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Madam Speaker, I'm not claiming sub judice or anything like that. I merely said that I was informed this morning that an appeal was being filed or had been filed. Madam Speaker, it can't be right for us here to try a disciplinary matter in the Parliament. That cannot be right.

Mr. V. Arden McLean: Madam Speaker, with all due respect—

The Speaker: Member for East End.

Mr. V. Arden McLean: —to the Deputy Governor, with all due respect, nobody is trying to try a case in here. I am merely asking about the process that the Government conducted during that investigation and discipline. There is no evidence before me to say that my questions are going to create sub judice. There is none. I am merely asking, which of the Standing Orders give me the right, and the Constitution, to find out the policy, process and the processes within Govern-

ment that the people are entitled to know and it's my responsibility to ask?

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Madam Speaker, there was an investigation. Evidence was collected. The person who was the suspect of the investigation was provided with the evidence. They were given a chance to respond, both in written form and orally, along with any representative or attorney they may have. After that, a decision was made. There was a process. We've followed it. We have obtained legal advice. It is our belief, in the civil service, that we have done this entire process correctly.

The Speaker: The Honourable Leader of the Opposition.

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

Madam Speaker, I raised the matter of procedure a while ago. I thought that was going to have precedence. But maybe I've understood the Deputy Governor to say that the appeal . . . He's not instructing us or saying that we should appeal, but that there is an appeal in process; that's what he's saying. So I guess that is covered.

The question I do have is, Madam Speaker, was the press given a statement in this matter? And can I inquire whether one person was dismissed? Is that the appeal that he's talking about?

The Speaker: Honourable Deputy Governor.

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

Madam Speaker, the press did contact the Ministry and the Ministry did, as a result of that, answer the press queries. And we saw that being reported. And, yes, Madam Speaker, the person who was terminated, that is the subject of the appeal.

The Speaker: Member for North Side.

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

Through you to the Deputy Governor: Can the Deputy Governor confirm whether the person who was the subject of the video is one of the other two prison employees currently under investigation?

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Madam Speaker, that is correct.

The Speaker: If there are no further supplementaries, we move on to . . . Member for North Side.

Mr. D. Ezzard Miller: Through you, Madam Speaker, can he say how long it is anticipated these investigations will continue before conclusion?

The Speaker: Honourable Deputy Governor.

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

Madam Speaker, I have been assured as of early this morning that within a matter of weeks both investigations will be concluded.

The Speaker: Madam Clerk, there appears to be no further supplementary.

Next question.

QUESTION 28: COMMUNITY WORKER FOR NORTH SIDE

The Speaker: Honourable Member for North Side.

Mr. D. Ezzard Miller: Through you, Madam Speaker, I beg to ask the Honourable Minister responsible for Community Affairs, Youth and Sports the following question: Can the Honourable Minister of Community Affairs say when a community worker for North Side will be employed and commence work?

The Speaker: I recognise the Honourable Minister of Community Affairs, Youth and Sports.

Hon. Osbourne V. Bodden, Minister of Community Affairs, Youth and Sports: Thank you, Madam Speaker. Can you bear with me one moment, please?

The Speaker: Certainly.

[Pause]

Hon. Osbourne V. Bodden: Thanks for that, Madam Speaker, just had a little mix up with my paperwork there.

Madam Speaker, the answer to the question is: A Community Development Officer [CDO] for North Side has been recruited and commenced duties effective 1st October 2015.

The Speaker: Member for North Side.

Mr. D. Ezzard Miller: Through you, Madam Speaker: Can the Minister confirm why this was such a *military secret* and where the person has been working since the 1st of October?

The Speaker: Honourable Minister of Community Affairs.

Hon. Osbourne V. Bodden: I have to smile, Madam Speaker. The Member has a way with words.

The community worker was taken on, and she's been in training with the department. And I think in the very near future, she'll be in place doing what she has to do in the district. But she has been actively involved in a number of . . . I know the seniors' month, Older Persons' Month, she was very involved. She was at all the functions. And where will she be?

[Inaudible interjection]

Hon. Osbourne V. Bodden: Did you ask where she would be stationed? Did you ask that question?

[Inaudible interjections]

Hon. Osbourne V. Bodden: Well, there's no CDO office, as you know. But the person, just as Ms. (what's-her-name) Delmira Bodden does for East End and Bodden Town, she'll be in the district, active. But at this point, I don't think that she has started that part of her duties; I stand to be corrected.

The Speaker: Honourable Member for North Side, did you have a follow-up?

Mr. D. Ezzard Miller: Yes, Ma'am, quite a few.

The Speaker: Okay. After you it will be the Honourable Leader of the Opposition.

Please proceed.

Mr. D. Ezzard Miller: Through you, Madam Speaker: The Minister says that Ms. Delmira Bodden is the person who is introducing her to North Side, because that explains a lot. I understand now, why I don't know anything about it because of the politics involved.

[Laughter]

Mr. D. Ezzard Miller: Can the Minister confirm at what point will a public announcement be made of who the person is, where the person can be contacted and how often the person is likely to be in the district available, particularly to senior citizens? For instance, was she introduced at the senior citizen thing in North Side as the new North Side community worker?

The Speaker: Honourable Minister responsible for Community Affairs.

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

Madam Speaker, the department will be doing that in the very near future. She certainly was at the functions that I was at. She was, you know, informally introduced. And just to clarify, she's not under the directives of Ms. Bodden. She's under the directives of the department. And the Acting Director has assured

me that an announcement will be made in that regard. She's an employee of the department.

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

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

The Speaker: Honourable Leader of the Opposition.

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

Madam Speaker, I wish to ask the Minister what he's doing about the other districts. Can . . . West Bay . . .

The Speaker: Honourable Minister for Community Affairs?

Hon. W. McKeeva Bush, Leader of the Opposition: Just to say, are you saying that one is covering in the eastern district, two districts?

[Inaudible interjection]

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

The Speaker: Honourable Minister for Community Affairs.

[Inaudible interjections and pause]

Hon. Osbourne V. Boddan: Madam Speaker, West Bay doesn't have an assigned person at this point. The resources within the department will be used to assist the district. And in the new budget, we will be looking to have—my goal is to have a CDO in each district. But budget limitations have caused the situation we have now.

The Speaker: Honourable Leader of the Opposition.

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

Madam Speaker, is the Minister giving a commitment that in the new budget, he will have a community officer for the district? And if that's okay, then he doesn't have to answer, if he indicates that, that's fine with me.

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

QUESTON 29—SEAMAN'S EX-GRATIA MONTHLY ALLOWANCE

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

Mr. D. Ezzard Miller: Madam Speaker, I beg to ask Honourable Minister of Community Affairs, Youth and Sports the following question: Can the Honourable Minister give a report of the recent audit of those persons receiving the Seamen's Ex-Gratia monthly allowance and how many, if any, unqualified persons were receiving the allowance?

The Speaker: Honourable Minister

Hon. Osbourne V. Boddan: Madam Speaker, the answer: The most recent audit carried out by the Office of the Auditor General entitled *Government Programmes Supporting Those in Need, May 2015*, included the Ex-gratia Benefits to Seamen. The objective of this audit was to determine whether social assistance programmes are strategically managed to achieve the intended results, and are delivered with due regard for value-for-money. This audit was a performance audit and did not identify the exact number of unqualified persons who were receiving the benefits.

The Ministry has been carefully reviewing the relevant recommendations related to the Seamen's Ex-Gratia Benefit and developing an implementation plan to address the identified concerns. This includes bi-annual Seamen Continuation Confirmation Certificates, which is a mechanism to verify the details of recipients to determine whether they continue to meet the approved criterion. Additionally, as information is brought to the attention of the Ministry, we will investigate and deal with the matter accordingly.

The Speaker: Member for North Side.

Mr. D. Ezzard Miller: Through you, Madam Speaker, I am aware of the Auditor General's recent report. But as I recall, during Finance Committee, the Minister and his staff promised that they were going to conduct a review of the Seamen's Ex-Gratia and determine whether the persons on the list were entitled and met the criteria. That's the audit that I'm asking about, not the Auditor General. That's public information, Madam Speaker.

The Speaker: Honourable Minister.

Hon. Osbourne V. Boddan: Misunderstanding there, Madam Speaker. That is ongoing. And we actually will have a paper before Cabinet next week that we've been working on for some time with the new criteria.

[Inaudible interjection]

Hon. Osbourne V. Boddén: And hopefully, that will resolve a lot of the Member's concerns, and other Members'. Okay? Thanks.

The Speaker: There being no further supplementary, we'll move to the next item of business.

QUESTION 30: FOREIGN STUDENTS ATTENDING THE TRUMAN BODDEN LAW SCHOOL

The Speaker: I recognise the Member for East End.

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

Madam Speaker, Question No. 30 standing in my name is asked of the Honourable Attorney General. Can the Honourable Ex-officio Member-

- a) state how many foreign students attending the Truman Bodden Law School have been granted permission to register articles by Cabinet since 2005? and
- b) provide names and circumstances under which such exemptions were granted?

The Speaker: I recognise the Honourable Member responsible for Legal Affairs, the Attorney General.

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

Madam Speaker, the answer: Our research has shown that 19 foreign students attending the Truman Bodden Law School were granted permission to register articles since 2005 to present. The names and circumstances under which the exemptions were granted, Madam Speaker are written here:

- Eleven were granted as a result of Caymanian connections through marriage;
- Two were granted as a result of impending marriages to Caymanians;
- Two were granted on the basis of Caymanian family connections;
- Two Permanent Residence [status] and ties to community;
- One was granted based on strong connection to the community in the Cayman Islands; and
- One was granted as a result of residency and work in the Islands.

Madam Speaker, the names: Khatidija Shariff was granted permission in 2006 by virtue of connection through what was then impending marriage to a Caymanian; Mrs. Christina Bodden was granted permission in 2006, Caymanian connection through marriage; Mr. Ibrahim Alder, 2007, Caymanian connection through marriage to a Caymanian; Marlene Swanson, nee Bovell, 2007, Caymanian connection through marriage to a Caymanian; Sharon Nelson, applicant's connection to Island since 2001, study and employment; Michelle Bullmore, 2007, Caymanian connection through marriage; Kanika Green, 2007 as well, Caymanian connection through marriage to a Cay-

manian; Tummala Sulekha, 2008, has Caymanian family connection. And there was a specific determination made that no Caymanian would have been displaced from the position if approval is granted.

Prabhavathi Namburi, 2008, Caymanian connection through marriage to a Caymanian; Mr. Roopnarine Tod Deosaran, Caymanian connection through impending marriage to a Caymanian; Mr. Alvan Babb, 2008, strong connection to community in the Cayman Islands; Mr. Sarah McField, 2010, Caymanian connection through marriage to a Caymanian; Richard Barrow, 2011, Caymanian connection through marriage to a Caymanian and work in the community; Mrs. Audrey Rankin, nee Kwan, 2012, Caymanian connection through marriage to a Caymanian; Mr. Vaughn Carter, 2012, Permanent Resident and ties to the community; Dr. Laetitia Bush, 2013, Caymanian connection through marriage to a Caymanian; Mr. Sherine Mullings, 2013, Caymanian connection through marriage to a Caymanian; Brigitte Tomascik, 2015, ties to the community and a Permanent Resident; and Neketa Hue, 2015, close Caymanian family connection and Permanent Resident.

The Speaker: Member for East End.

Mr. V. Arden McLean: Madam Speaker, I don't want to question anything about marriage to Caymanians, permanent residency. Those are . . . I can't do anything about that. I will not do anything about that.

But there are a few on here, Sharon Nelson, applicant's connection to Island since 2001, study and employment. What does that have to do with giving an exemption to study to be a lawyer and then possibly practice in this country? Another one is Tummala Sulekha has Caymanian family connection? What is that? And Alva Babb (whatever), strong connection to community in the Cayman Islands and close family connection. In the scheme of things . . . And, Madam Speaker, I know they're going to come back and say that these were done during 2005–2009, I never supported either one of them.

[Inaudible interjection]

Mr. V. Arden McLean: Collective? Collect what? I'll collect my books and leave, Madam Speaker.

The Speaker: Member.

Mr. V. Arden McLean: Madam Speaker, what I want to know is, what connection, what is the criteria that allows those to be exempted?

The Speaker: Honourable Attorney General.

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

He asked about Sulekha, Nelson and Babb; is that correct, Member? I think.

In respect of—

[Inaudible interjection]

The Attorney General, Hon. Samuel W. Bulgin: Sorry? Oh, Hue, Neketa Hue, okay. Thanks. Thank you, Member.

Ms. Neketa Hue, Madam Speaker, information shows that at the time when she was granted permission, she had resided in the Cayman Islands for 10 years, completed both her secondary and tertiary education in Cayman Islands. She was granted PR in 2011, naturalised in 2014. At the time, her mother had resided here for 20 years and has status. Her late father resided here for over 30 years and has status.

Mr. Alva Babb, at the time in 2008, he had resided in the Cayman Islands for 11 years, employed in the RCIPS [Royal Cayman Islands Police Service]. He and his wife owned a home in the Cayman Islands, had a son here. His wife was employed at the HSA [Health Services Authority], had applied for PR in 2006 and was still awaiting response in 2008. And my understanding, Madam Speaker, is that he has since left the Island and is now a practicing attorney in Barbados.

In respect of Sharon Nelson, she has worked at a local law firm since 2001. She was granted permission in 2007 to do articles and had strong recommendations from her employer at the time. And I'm also told, Madam Speaker, that she has since been granted status.

In respect of Tummala Sulekha, she's Indian Citizen, granted consent in 2006 to do her PPC [Professional Practice Course]. Her connection was through her uncle, a naturalised Caymanian who had lived in Cayman Islands over 25 years, and I'm told, Madam Speaker, for all intents and purposes, was her real guardian. And she lived with him other than when she was studying abroad. She has always been living with him.

The Speaker: Member for East End.

SUPPLEMENTARIES

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

Madam Speaker, that one in particular, I know was only called to the bar recently, this year, as a matter of fact, three months ago maybe. I'm asking if that one, who got in in 2008, was called to the bar recently.

The Speaker: Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, my recollection is that she was

called within the year. I'm not sure of that, I could check the records. But my recollection is that she has been called within the last 12 months.

The Speaker: Member for East End.

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

Madam Speaker, my question is, 2008 to 2015, that has been seven years. Is that the length of time it takes to do articles for certain things?

The Speaker: Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, I don't know the circumstances. All I can say is that articles usually takes 18 months to be completed, unless there is an abridgement.

The Speaker: Member for East End.

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

Madam Speaker, can the Attorney General tell us, what was this individual doing in this country for seven years when it only required 18 months? And how, what status did they have during that period?

The Speaker: Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, the first part of the question clearly is an immigration issue, which I wouldn't vouch to be able to speak to. But my understanding, Madam Speaker, is that she worked as a paralegal with a number of law firms. And the law firms during this period.

The Speaker: Member for East End.

Mr. V. Arden McLean: Madam Speaker, this is a question, a genuine question to the Attorney General. I'm not trying to be facetious—for once, anyway.

[Laughter]

Mr. V. Arden McLean: Madam Speaker, when these exemptions are granted, in particular this case where the person is not resident, not married to Caymanian or impending marriage, who watches over those people to see to it that they attend to that exemption that they were given within—

An Hon. Member: The article-ship?

Mr. V. Arden McLean: —the article-ship of the 18 months as per the requirement of it? Who attends to those people, the ones with close Caymanian connection and that kind of stuff?

The Speaker: Honourable Attorney General.

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

If I understand the Honourable Member correctly, he's wondering whether there's a sort of monitoring process to find out whether these articles are being served.

[Inaudible interjection]

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

Madam Speaker, the role of the Cabinet is to grant consent. Once consent is granted, it becomes an issue of employer/employee between the article clerk and the principal, whoever, whichever firm or attorney that is. The Cabinet's role basically is at an end, and the rest of it becomes an immigration issue. I can't be of any more assistance. But usually, that's how it works.

Mr. V. Arden McLean: Madam Speaker, I'm a little confused.

The Speaker: Member for East End.

Mr. V. Arden McLean: Thank you. I'm a little confused.

The Speaker: So am I.

Mr. V. Arden McLean: Yes, yes. Because—

The Speaker: But for probably two different reasons. I'm just looking at the year of the grant. So based on the prerequisites for asking questions under the Standing Order, I just want to make sure it's not an abuse of the question, the fact that you're asking the questions mean that you were not present in Cabinet at this time.

Mr. V. Arden McLean: Madam Speaker, I just said that to you, that unna were going to say that. But I didn't support them.

The Speaker: I'm just asking because I want to make sure that the Chair is not accused that it's an abusive question.

Mr. V. Arden McLean: Oh, I know about it. Since you asked now, Madam Speaker, let me tell you.

The Speaker: Please do.

Mr. V. Arden McLean: That it was brought to Cabinet. I objected to it. It was withdrawn, and then it was brought back when I went on vacation. You need it? You got it.

[Laughter]

Some Hon. Members: Oh!

The Speaker: Member for East End, please continue. I'm grateful for the elucidation.

Mr. V. Arden McLean: Madam Speaker, I'm confused about . . . now that I've clarified yours, please let me get mine. What I'm confused about, Madam Speaker, is that there are special circumstances under which a foreign student would be given the authority to do article-ship. They're on student visa. Those special circumstances are attached to the school, the Truman Bodden School.

If it's Caymanian, they don't need to be attached to the school, but it is a requirement of the school before the school can sign off on them to be called to the bar. Who watches over the foreign students, because it's a completely different circumstance from the Caymanian being watched over? There's no need, because they're attached to that. But it's a requirement of . . . Is it a requirement, by law, of the school if you want to be a qualified lawyer in Cayman?

The Speaker: Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, I think the Honourable Member is conflating a number of different issues. Student request, student visa to attend the law school—once the student graduates from the law school, they are no longer on the student visa. The period that they're serving articles is an issue for work permit, nothing to do with visa. So the law school doesn't monitor that aspect of it.

Once Government grants the permission to do articles, the Cabinet doesn't say who the person must do those articles with and so on. That's not a role for Cabinet. That's a matter for the employer, employee and Immigration Department, nothing to do with the law school thereafter.

The Speaker: Member for East End.

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

Madam Speaker, can I ask the Attorney General if he has followed up on these cases, as seeing he has the director of the school here and, obviously, the school is involved? And if he knows now whether in the currency of that agreement, which took seven years, because I would assume Cabinet kept renewing it, the currency of it anyway, has there been a further status update on this individual within the legal profession? That is, to stay for impending marriage, marriage, status, 2003, whatever the case may be.

The Speaker: Honourable Attorney General.

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

What the person would have gotten is an initial consent from Cabinet to do articles. It is not unusual, sometimes, I think, as might be the case with this particular case, where there was an issue or it might have been an issue with the article clerk and her initial employer, her principal, and to switch firm to continue the articles. In that case, all of what that person would require is the approval of the Attorney General to switch principal, but nothing to do with work permit or student visa. That's a completely separate issue. So we would look at the new terms and conditions and agree that they fit into the Legal Practitioners Regulations. And approval has been granted for articles.

It has nothing to do with remaining on the Island. That's a matter for Immigration. And the consent from Cabinet doesn't necessarily bind Immigration Department in terms of whether or not the person is allowed to remain here.

The Speaker: Member for East End, I will allow you two more supplementaries.

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

Madam Speaker, I was going there but since he opened the door, you know, now I don't need to push it; he's opened it. I wonder how many . . . And that's where I was going. How many times has the Attorney General's Office in seven years approved change of location of principal?

The Speaker: Honourable Attorney General.

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

May I just go back to the initial answer? I am advised, Madam Speaker, that in this case what was happening was that she might have been serving articles between two small firms. So, one might not have been able to provide all the relevant seats. So that was broken up between two firms. In respect of how many times I've granted approval for persons to switch principals, I don't have the numbers, Madam Speaker, but my recollection of that would be, in the last 10 years, probably three or four times.

Mr. V. Arden McLean: Madam Speaker.

The Speaker: Member for East End.

Mr. V. Arden McLean: Three or four times to get 18 months? Something's wrong with that; either a bad employer or people are dumb. Madam Speaker—

[Inaudible interjection]

Mr. V. Arden McLean: Yes, I'm talking about the same lady. Madam Speaker, that's since 2008.

Madam Speaker, now, since you said this is my last question—the Attorney General must review those who are being called to the bar and their qualifications. Is he satisfied that this lady, having been called recently to the bar, qualifies to be called to the bar in this country, being whether she's Caymanian now or foreigner?

The Speaker: Honourable Attorney General.

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

The honourable Member said the Attorney General's Office have to review qualification of persons who are being called to the bar; I can ensure, Madam Speaker, I don't have any such role. So I'm not aware of that. So in these circumstances, I wouldn't know.

All that happens is that once a person completes her articles, her principal would sign off, whoever the principal is and whichever firm or attorney, would sign off on a letter to say that the person has completed her period of articles satisfactorily. And based on that, the person would be issued with an Attorney-at-Law Certificate, usually from the Chairman of the Legal Advisory Council. And that would then allow the person to then apply to be called to the bar. And that is entirely a matter for the Grand Court and his principal. The Attorney General is not involved in that process at all.

Mr. V. Arden McLean: Madam Speaker—

The Speaker: Member for East End that was your last question.

Mr. V. Arden McLean: I'm most grateful. I'm most thankful.

The Speaker: Do you have a mitigating factor why you should be allowed another one?

Mr. V. Arden McLean: Yes. Madam Speaker, when you hear it, you will.

Can I ask the Attorney General, if he is not the authority, the principal, if you would like that, who approves foreign workers to work in this country to oversee whether or not they had the three years PQE (I think it is) before they can be called? And, can he say if that's the case in this instance?

The Speaker: Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: That's correct, Madam Speaker. If persons are applying for a work permit; a foreign attorney is applying for a work permit, the Attorney General is the prescribed

authority who would receive a copy of the application from the Immigration Department. We would then look at the person's qualification and the person's standing. So, for example, we'd look to see whether the person qualifies under section 3 of the Legal Practitioners Law, whether the person is someone who is called and entitled to practice in a Commonwealth country and whether the person is in good standing for disciplinary proceedings, having been struck off as such, et cetera. We approve those once they are in order, and revert to the Immigration Department.

Similarly, Madam Speaker, in respect of persons who live here and are not Caymanian and would require a work permit, we would do the same thing. But, of course, if the person is a Caymanian, then that doesn't apply.

[Inaudible interjections]

The Speaker: I recognise the Third Elected Member for the District of West Bay.

Mr. Bernie Bush, Third Elected Member for West Bay: Madam Speaker, through you: Having sat on the Immigration Board one time for a period of almost five years, the Deputy Governor kind of led me along the way when I first went there. And, is it only in this legal section? Because I know the law in his section when I was there, because I have a helper, or a lady who took care of my mother and she's going to get married. She has an impending marriage next October to a Caymanian. But her work permit is up in March. So I can get an RERC [Residency and Employment Rights Certificate] because she has an impending marriage.

So, you're telling me that because someone is impending, has an impending situation, we're granting stuff to people and we don't know what's going to happen in the middle? We've got this lady getting through five—seven years. She must have been good at something with someone. But is this in the legal section that we can do things pending, granting stuff for a pending? Is this a regular thing in the legal section, sir?

The Speaker: Honourable Attorney General.

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

Madam Speaker, the way the system works is that when an application is made for consent, a cover letter usually is sent along with the application through the director to the AG. We do a Cabinet Paper, a penned all of that information to the Cabinet paper and take it to Cabinet. It is a Cabinet decision. It is not the Attorney General's decision. Under the law, the Attorney General cannot grant or deny. Whether he agrees with it or not, I still have to take it to Cabinet. Cabinet will have examined all the facts. If they re-

quire further information, they would ask. I would request that from the applicant through the director.

And based on all the circumstances, Cabinet would make a decision whether or not to grant or to refuse. In this case, they would have been satisfied that there was an impending marriage and that it would have been probably a sufficient stable relationship. And based on that, they would have granted it. My understanding is that in the end the person did in fact get married. So Cabinet, obviously, was of the view that this was stable enough and a sufficient connection to justify the grant.

The Speaker: I recognise the Third Elected Member for West Bay.

Mr. Bernie Bush: Madam Speaker, can the Attorney General state if Caymanians are still having problems getting their articles?

The Speaker: Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, I am aware that there are persons who are still seeking to get articles and might have not been able to do so, for any number of reasons. But the numbers I am not aware of. What I can say is that certainly in recent years, significant accommodations have been made and persons have been granted—many numbers—articles. I don't have a number but I do know that there are a couple who are still trying to obtain articles.

The Speaker: Third Elected Member for West Bay.

Mr. Bernie Bush: Thank you, Madam Speaker.

The Speaker: There being no further supplementaries, Madam Clerk, can we move on to the other item of business?

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: None.

PERSONAL EXPLANATIONS

The Speaker: None.

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: None.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: None.

The House will now take a five-minute suspension. Members, please remain in your seats.

Proceedings suspended at 12:04 pm

Proceedings resumed at 12:06 pm

The Speaker: Proceedings are resumed.
Please be seated.
I recognise the Honourable Premier.

Suspension of Standing Order 14(2)

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

Madam Speaker, I beg to move the suspension of Standing Order 14(2) in order that we may arrange the business on the Order Paper to take Private Members' Motions before we complete the Government business, which is the committee stage on the two Bills.

The Speaker: The question is that Standing Order 14(2) be suspended to allow the Private Members' Motions to take precedence over the Government business.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 14(2) suspended.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 11 2015/16— MOTION TO AMEND THE INFORMATION, COMMUNICATION AND TECHNOLOGY AUTHORITY LAW

[Continuation of Debate thereon]

The Speaker: I recognise the Honourable Fourth Elected Member for the District of Bodden Town. You have one hour and 45 minutes remaining.

Mr. D. Ezzard Miller: Better use it all. I'll be counting on you.

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

Madam Speaker, just after we took the break yesterday—

Hon. W. McKeever Bush, Leader of the Opposition: You had made up your mind you were not going to speak any longer.

Mr. Alva H. Suckoo, Jr.: —I had made up my mind I wasn't going to speak for very much longer.

[Laughter]

Mr. Alva H. Suckoo, Jr.: I got an interesting phone call, Madam Speaker, and I had just got through talking about the outsourcing of these tech jobs within these telecom companies overseas. And the net effect of that, which I thought was starting to diminish the quality of service and customer service that are offered. And as I walked out of this Chamber, Madam Speaker, I got a phone call from Jamaica and I looked at my phone and wondered who it could be. I answered. And I don't know if it was a joke or someone trying to make a point or just a coincidence. But the call was from a sales rep representing my telecom provider in Jamaica, asking me if I would be interested in upgrade.

[Laughter]

Mr. Alva H. Suckoo, Jr.: Not wanting to have anyone prejudice my debate and my contribution here, Madam Speaker, I declined the upgrade and told him to call me back when we were finished with this Motion. But I thought it was ironic; I had just got through talking about the outsourcing of tech jobs out of this country and got a call reminding me of how real it is. And all the Members of this Honourable House, Madam Speaker, I think around the same time, were getting text messages and approaches from telecom providers along the same lines.

Madam Speaker, before we took the break yesterday, I was talking about Government becoming aware of a lot of these Caymanian technicians who have now been complaining to us that they've been displaced and being (I would say) moved out by some of these companies because of the outsourcing and because of the availability of cheap labour that the companies are using or employing in order to make their bottom line look better. But at the end of the day, Madam Speaker, it's about quality and it's also about protecting your investment and it's about making a profit. But it's also about giving the country the service it deserves and investing in the people of a country.

It's about making sure that we invest in those who have the talent and the ability within the country. Those companies make their money here. And I think this is where the jobs should be. You know, I'll talk in a short time about some of the other concerns I have. But, you know, I did spend some time, Madam

Speaker, talking to the, I think he's the President of ICCI [International College Cayman Islands], Dr. David Marshall, about what he sees as a growing issue in that tech jobs are not becoming prevalent among Caymanians. Now, we have many Caymanians who are examples of individuals who have the technical ability, who can be taught, who could learn this industry. And this is what we want to encourage.

Tech jobs are growing at a phenomenal rate. And we are allowing these jobs to slip out of the grasp of our people in exchange for bringing in individuals who will do the same work, but for less money. But I don't think they're offering the same quality. And we do have businesses that complain and still complain about the lack of qualified technical Caymanians. I know I went through that when I had my own software design company. And it was difficult for me to find qualified Caymanian software engineers. The few that existed were immediately grabbed up by the bigger companies; I couldn't compete with that. But we're missing the boat as far as giving young Caymanians these opportunities. And I tried as much as I could to assist young Caymanians in starting off on that pathway.

What we need is a more concerted effort. One or two individuals or small companies can't do it. We need to start from high school, which I know the high schools have implemented ICT programmes. And my daughter is one of those students who I've seen come true that system and I've seen that what is being offered there is of good quality foundation for someone who wants to move down the technical path. But we need to create a pipeline of Caymanians who are interested and engaged and trained in technology. Because the world is . . . It's inevitable. It is coming. The jobs that we are preparing our young people for today don't exist yet. Many of those jobs are yet to be created. We have to keep pace with the developing world. We have to keep pace with the rapid expansion of technology. And we have to wholeheartedly ask these telecom providers and other tech companies to include our young people in their growth plan. It has to be a partnership, Madam Speaker.

We can't continue down the road of just outsourcing whenever we need the expertise. That is what we've done for many years, and it is showing now, not just in this industry, but many other industries. We develop the industries, but we don't develop the people. By partnering with tech companies, Madam Speaker, and partnering with our two institutions of higher learning here, we can develop the local talent to support these industries. I have worked in over seven different countries in this world from a technology point of view, and I've yet to find many technical people who could better the Caymanians whom I had working under me at the time. But I took the time to train them and to help them develop. And that is the approach we have to take.

Dr. Marshall is very interested, actually, in pursuing this. And he's recognised quickly that in the same way we do it with financial services and tourism, we should be doing it in the tech sector as well. This quality pipeline of young technical individuals will help the industry develop and help it grow and help us keep pace. But we have to make sure that all the decision-makers involved understand the importance of our own home-grown technical crop of young, enthusiastic and engaged Caymanians.

I do have, and I said I wasn't going to speak for very much longer, but I know that these issues, the issues of quality, the issues with consumers' not getting what they paid for are becoming widespread. And it's inevitably going to hurt other industries if it's not addressed now. This Motion is very timely, Madam Speaker. As I said, I was discussing it with the Minister recently and I had the benefit of knowing what his plans were. So I decided that we would (obviously) address it from the Government side. But I do have to agree that this Motion is timely, because the complaints are widespread. You only have to look as far as Facebook on a daily basis, and you will see consumers complaining. I was one of them recently, engaged in a conversation about this very topic with a number of individuals who were making complaints to me.

I've already spoken, Madam Speaker, about the importance of this from an E-Government perspective. I have been charged with responsibility for E-Government. And, you know, I am a bit nervous about the present state of affairs, and I'm glad that the Minister has also recognised the need to improve the quality and service levels. We can't go ahead with our E-Government initiative and build it on a platform that will not support the level of transactions and interactions with the Government that we anticipate, Madam Speaker.

One other concern that I'm glad is being addressed is the locking-in of consumers with these fixed-term contracts. And I know that a lot of the companies will actually go to the extreme of even offering free gifts and so forth if you sign up for a two-year contract. This is anti-competitive, as far as I'm concerned. It locks you in for a number of years, and you're forced to keep paying for poor service. It is not something that we should be encouraging in this industry, and I'm glad to see that that is being addressed now.

The recent 911 outage, Madam Speaker, highlighted another key issue for us. A service as important to us as 911, should not, under any circumstances, be hosted anywhere but within these Islands. I believe that this outage—and I've seen some in the past where direct results were failure offshore, away from these shores. But we suffered the consequences. And heaven forbid that a major disaster happened during one of these outages and we're unable to communicate with 911.

These companies, Madam Speaker, must be told that they must continue to develop their infrastructure, improve their service, but as much as possible, they need to have their infrastructure here. Relying on some other country where we have no control over the quality standards, the labour standards, the technical standards is just unacceptable, as far as I'm concerned, Madam Speaker.

We also need to look into the issue of redundancy and ensure that the telecom providers are building redundancy into their systems. We all remember Hurricane Ivan, Madam Speaker. We remember the weeks without communication. I remember not being able to check whether or not there was a hurricane coming behind Ivan. For many, many weeks we didn't know what was out there unless you happened to have some sort of satellite communication. That was the scariest scenario. And we never want to put the country through that again, especially when you consider the crippling effect it had on our financial services.

I remember sitting in meetings with the then-Leader of Government Business and his Cabinet and discussing how devastating that was to this country and the impact that could have had on our financial services. As a matter of fact, it did have some impact. I hope we've learned lessons from that experience. And I encourage the Government, the Minister, to continue down that road of ensuring that the quality and the redundancy are in place. All critical infrastructure must be within these Islands.

My last major concern, Madam Speaker, is what I see happening regionally. And it's something that we have less control over. But we do have to engage with the telecom companies that are on-Island, and ensure that they understand that we are mindful of what is happening. And that's all the consolidation. It's inevitable with business. Companies are going to consolidate. They're going to merge. But we have to be careful, because the end result of a lot of these mergers could take us back to a situation where we're dealing with a monopoly again. And that would be something completely out of our control and down to a matter of business decisions made by these companies.

So, we have to keep a close eye on it. I'm not saying that we need to implement legislation, anti-monopoly legislation. But we need to ensure that we do have the choice of providers and the variety of providers so that we don't put all of our eggs in one basket.

So, Madam Speaker, I think most of the important points have been covered. I just want to again thank the Minister for taking this forward and thank the Member for North Side for bringing this issue up at this point in time. It is timely. And it is an issue that we can quickly put behind us because I think everyone in this honourable House supports what the Member has been asking the Government to consider. I certainly

support his Motion, and I will be voting for it. And I doubt there's anyone else who will have any issue with what he's proposed.

So, with those few short words, Madam Speaker, I would just like to thank you for this opportunity to contribute.

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

If not, I'll call on the mover, the honourable Member for the District of North Side, if he wishes to reply to the Motion.

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

Madam Speaker, first of all, let me thank the Government and all Members who spoke in support of the Motion and the others for their tacit support. And hopefully, they're going to vote 'Yes'.

Madam Speaker, it is good to hear that the Government is doing something about this stuff. But I want to impress on the Government the urgency in doing something. The consumer is really being treated badly. And the consumer can't do anything about it.

I am aware of some of the stuff that the Minister talked about that he expects to bring in in January. But, Madam Speaker, if I recall correctly, I think it was six-eight months ago, in going to the ICTA [Information and Communications Technology Authority] to complain on behalf of myself and my constituencies, the ICTA told me that they had submitted those same things to the Government. And these kinds of urgent matters, Madam Speaker, can't take eight, nine, ten months to sort out. We need to put some priority. And I understand the Government has many priorities, and each Minister has more work than he would care to have to do, but they voluntarily took the position. So if you've got to stay till twelve o'clock at night, let's get it done.

Madam Speaker, what we don't want to happen is, now that we finally have someone at the ICTA and some board members who are willing to take on these conglomerates and insist that they comply with the provisions of the Law and insist that they must provide better services. We don't want to take nine-ten months to respond to their request to do something and they become disinterested, like the one we had before, who was there forever and ever. And all of these problems existed then, and nothing was done about it.

Many of these are young Caymanians, who are happy, willing, able and grasping the opportunity to contribute to improving the situation. And when we get those kinds of Caymanians in those positions, which is far too rare, in my opinion, we have to assist them by putting some top priority and timeframes on getting these things done.

Madam Speaker, you know, anywhere else, any other business here, if I walk into a store and I

pick up 10 candies and I only pay for 5, I'm prosecuted for stealing! So why aren't these companies prosecuted under the penal code if I'm paying for 10 megabytes and only getting 1? They're stealing my money. That's what we used to call it in the good old days *robbery*.

Madam Speaker, the one thing that I didn't hear the Minister address, which I believe also has some urgency, is this false advertising. Both of these two providers claim they have fibre Island-wide. But when people like me go to them and say, *Listen, you have fibre in North Side?* They say, *Oh, yeah. Well, can I get a fibre line from your junction box by that playing field to my house, which is like 500 feet?* *Oh, no, we're not ready for that yet.*

Madam Speaker, the only thing I haven't done at my house to try to improve the Internet service is to build a new house around the cables. Because I've had the house completely rewired. I've insisted that the provider put up a new wire from my house to the junction box. And it's no improvement. They say—and I might not have the acronyms right—we must have DSL line to get higher speeds, right? So, I pay for a DSL line. A couple of months later, I have problems. The phone's not working. For some reason, in my area, any time it rain, that's it. It goes out. The house is waterproof. There's no water in my house.

One technician who happened to be a very close friend of mine came out. He said, *You know, Ezzard, here's what happened. You may originally have had a DSL line, but the first time it broke down, the technician went down and the two pairs of wires were working, he connected. I can tell you, you don't have a DSL line now.* But I pay for it every month.

Madam Speaker, the only way these companies can bring in technicians into this country to displace Caymanians from work is if the Government gives them work permits. The good old days, before work permit was the popular thing to do, cable and wireless came to this country. People my age were graduating from high school. We had the Oliver Hills, the Reggie Nixons, and the Philip Hislops straight out of high school. Went in, did all the technical courses, like people like Gregg Anderson, who went off and did all the other engineering. Albert Anderson, all local people who were trained. Why?—because they could not get a permit from Mr. Orman Panton.

If LIME [Landline, Internet, Mobile, Entertainment] decides it is no longer going to buy Ericsson equipment, but they're going to bring in Ericsson to service their equipment and outsource it to them, and LIME lays off all of their Caymanian technicians because they have no longer need for them, so they give them their retirement package, promising them that Ericsson is going to hire them, but Ericsson comes in and gets all the permits that they want, the only entity in this country that can do anything about that is the Government through directives to its boards. For

some reason, this Government is absolutely afraid to govern.

Madam Speaker, I agree with the Fourth Elected Member for Bodden Town. We need to develop these technical courses and opportunities. But what's the point? We have Caymanians qualified and experienced now who can't get jobs because [the companies] get work permits for the positions. So, if my cousin, who's been a technician with LIME for 15 years and have all the qualifications, can't get a job, you really think it makes sense for me to go and train to be a technician? We have to create heroes for our Caymanians so they can see that Caymanians are succeeding in these fields. And the only entity that can do that is the Government.

So, Madam Speaker, I think the Minister committed to have these regulations in place by the end of January that the ICTA is asking for, administrative fines, et cetera. I humbly ask him to include in those administrative fines a serious fine for false advertising. Because, as the Member for East End said, you go into North Side driving, and you get between two towers—signal gone. You get to Meagre Bay Pond in Breakers and you couldn't make a phone call to save your life. We don't have any mountains here that are blocking these signals. What is the problem? Somehow, the ICTA has to be given the authority. Mind, I believe, as the Member for East End says, that they have plenty of authority now, you know, to tell these people, *The basis on which you were granted a license was that you were going to roll out these services for the whole Island.* They must produce a timeframe to have these services available throughout the Island.

We just accept it, and the consumers have to accept it, and the consumers have to endure it. They come to me. I complain to the ICTA. The ICTA says, *We asked the Government. The Government is doing nothing about it.* Right? And, Madam Speaker, every time you get the bill, there's some other little charge. The only things worse than the telephone companies are the banks. And the Government will not regulate them either. If you want a detailed copy of your bill, you've got to pay for it. And as the Fourth Elected Member said about the text, I got one the day before yesterday. I got one yesterday. I got one already today that my bill will be due today; *please come pay it.* Don't have any trouble; that text message comes in loud and clear. But if Member for East End called me and tried to talk to me for 10 minutes, the phone gets disconnected.

So, Madam Speaker, I hope that relief . . . And I accept the Government's commitment, because I'm going to hold them to it. Because you know now I've got to submit the question when I leave here today for the next Meeting of the LA for a report on how far we've gone at the next Meeting. And that the consumers will get the benefit. So, Madam Speaker, I thank all Members for their contribution.

The Speaker: The Question is: BE IT THEREFORE RESOLVED that Government consider amending the ICTA Law to make it an offence for a provider to contract with a customer for a specific internet speed and not provide the contracted speed and that the penalties for such an offence be a substantial fine and a refund to the customer of the price charged for the service.

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

Ayes.

The Speaker: I believe the Ayes have it. Motion 11, 2015/16 is accordingly passed.

Agreed: Private Member's Motion No. 11 of 2015/16 passed.

The Speaker: We'll now take our luncheon break and reconvene at 2:30 pm.

Proceedings suspended at 12:35 pm

Proceedings resumed at 2:55 pm

The Speaker: Please be seated.

**PRIVATE MEMBER'S MOTION NO. 12 2015/16—
MOTION ON DISTRICT COUNCILS**

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

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

Madam Speaker, I wish to move Private Member's Motion No. 12 of 2015/16, entitled Motion on District Councils.

WHEREAS there is a District Council Law; AND WHEREAS the method by which these District Councils are established is undemocratic;

AND WHEREAS the electoral system is being changed;

BE IT THEREFORE RESOLVED that the Government consider revising the District Council Law to provide a more democratic process for the establishment of District Councils and the election of the officers.

The Speaker: Is there a seconder?

I recognise the Member for East End.

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

Madam Speaker, I wish to second the Motion.

The Speaker: The Motion has been duly moved and is open for debate.

Does the honourable Member for the District of North Side wish to debate his Motion?

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

Madam Speaker, I guess I should start by saying that the correct title of the Law which I'm seeking by this Motion to amend is actually the Advisory District Council Law 2011. So I apologise for that error. But it wasn't until I went to look for a copy of the Law and we couldn't find it that we found out what the title was.

Madam Speaker, the [Advisory] District Councils are established under section 119 of the Cayman Islands Constitution Order 2009. And it says, "**Advisory District Councils 119. Subject to this Constitution, a law enacted by the Legislature shall provide for the establishment, functions and jurisdiction of Councils for each electoral district to operate as advisory bodies to the elected members of the Legislative Assembly.**" And, Madam Speaker, it is interesting that that clause of the Constitution falls under Part VIII, which is entitled "**Institutions Supporting Democracy**".

If we look at the Law, Madam Speaker, the councils are established not by any kind of an election, but section 4 of the Advisory District Council Law 2011, Composition of the Councils, and I quote from the Law, Madam Speaker, with your permission. It reads:

"4. (1) A Council shall consist of the following members, all of whom shall be appointed by the Governor in Cabinet—

- a) a Chairman;**
- b) a Vice Chairman;**
- c) a Secretary;**
- d) a Treasurer; and**
- e) not exceeding six other members at least two of whom shall, subject to subsection (2), be recommended by the Leader of the Opposition appointed under section 68 of the Constitution,**

and in making the appointments, the Governor in Cabinet shall be cognizant of recommendations made to him from within the electoral districts."

I'm not exactly sure how that is to be achieved, because it only specifies that two shall be done on the recommendation by the Leader of the Opposition. And all the others are appointed by the Governor in Cabinet.

"(2) Where the representation in the Legislative Assembly for any given electoral district is split between two or more political parties, each party may make recommendations for appointments to the Council for the district but where the recommendations for the party in opposition are accepted, subsection (1)(e) shall have no effect.

"(3) A member of a Council shall be a person who lives in the relevant electoral district and who is by reason of his special qualifications,

training, experience or knowledge of the district suitable for appointment to a Council.

“(4) Where an electoral district does not have a Member who belongs to the party whose leader has been appointed Premier under section 49(2) of the Constitution, the party or Member shall be entitled to nominate up to three members to the relevant Council.

“(5) If single member constituencies were to be introduced or new electoral districts added, subsection (4) shall apply to them in the same way as it applies to constituencies existing at the commencement of this Law.

“(6) A person appointed to be a member shall be appointed for a term of one year and on such terms and conditions as may be determined by the Governor in Cabinet at the time of the appointment; and in considering re-appointments, the Governor in Cabinet shall take into account the need to ensure continuity on the Council by ensuring that not more than two-thirds of the members are replaced at any given instance.

“(7) At the expiration of their term of office, the members of each Council shall be eligible for re-appointment.

“(8) The Governor in Cabinet may give such directions as he may consider necessary or expedient, with respect to the content of proposals for appointment under this section, including the manner in which nominations may be made from the communities involved, for consideration by the Governor in Cabinet.”

So, Madam Speaker, nowhere in the establishment of the council does it provide for any democratic process of election within the constituency that this District Council is going to represent.

Now, Madam Speaker, I have been fortunate in that the community I represent established a District Council in 2009. They had a series of public meetings. They came out, selected a small group of three people to establish a six–seven page constitution, which was approved by all the people present at the meeting. And most of the times, there were more than 50 people present at the meeting. They elected from amongst themselves the officers, which is provided by their constitution, in open nomination by secret ballot the Chairman, Vice Chairman, Secretary, Treasurer and three directors.

Madam Speaker, it has functioned well. I have been the beneficiary of good advice. I have been the beneficiary of being able to discuss with them on a monthly basis concerns for the district. We have been able to entertain various entities, such as Ironwood when they talked about coming to our community to set up business; hotel, golf course and all that. And we also entertained OTEC and the proposed pad development for Cayman Kai. And we've interacted with the Government on many things that they have proposed—marine parks. We always discussed in detail

the legislation that is coming before Parliament, provided I get it before . . . because the meeting is on the last Thursday of every month at 8:00 pm.

So, Madam Speaker, I can say to Members that the establishment of these Advisory District Councils would be a good thing and that they would have an opportunity to interact, sometimes with members of the community whom they may not often see or get a chance to deal with on a regular day-to-day basis. And I found it to be very productive. We have sponsored programmes within the community. We are currently sponsoring a community development project for the district. And I believe, Madam Speaker, that if these district councils are established in a more democratic manner—that is, the community itself and not the Governor and Cabinet . . . If the community in which the district council is going to operate, elect these people, they know they have the confidence of their peers. They know they have the support of the people who elect them, rather than imposing on the constituency a district council that is appointed by Cabinet.

Even though the representative, depending on whether he's in the party in Government or not, would be involved in making some recommendations to the Government, and the Leader of the Opposition would be entitled to make certain recommendations., I am of the firm view, Madam Speaker, that having open public meetings or some other form of election process within the constituency itself would be a much more democratic way, and it is more likely that the district council will be accepted, that the district council will be supported, that the district council will be successful in its undertakings for the constituency. And in the North Side case, the Member is also a member of the executive. So there's quite open and frank discussion and consultation. And we usually have an executive meeting prior to the monthly meeting.

My recommendation, what I'm asking the Government to do, is to consider finding, in my view, a more democratic and what I believe is a more suitable way to establish these district councils. And, Madam Speaker, now that we're going to 19 single-member constituencies, and what I will for clarity purposes, the traditional geographic districts, which remain intact under that restructuring of the electoral process, the Law currently provides for an Advisory District Council for the West Bay, Advisory District Council for George Town, Advisory District Council for Bodden Town, Advisory District Council for North Side, Advisory District Council for East End, and Advisory District Councils in Cayman Brac and Little Cayman.

Madam Speaker, I am not aware if any of these district councils were actually established and the people were appointed by Cabinet and officers were appointed by Cabinet and are still functioning today. But for those detractors from the single-member constituency, who talk about dividing the geographic districts into a number of constituencies—

i.e., West Bay 4, George Town 7, Bodden Town 4—if they kept the district councils as a more global council, it could have the effect of unifying and at least, on a regular basis, the members of the various constituencies would be meeting with each other and with the district council to receive counsel and have discussions with the members of the constituencies.

So, Madam Speaker, I'm simply asking the Government in the Motion to look at the Advisory District Councils. And I think now is the appropriate time to do it, since we're looking at revising the whole electoral process and amendments to the Elections Law. Now would be the appropriate time, I believe, to have a national discussion on the makeup of these Advisory District Councils and to so amend the Law, as they decide. Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

I recognise the Honourable Premier.

The Premier, Hon. Alden McLaughlin: Thank you, Madam Speaker. Madam Speaker, before I start my reasoning, I would just like to indicate that the Government is happy to consider what is being asked for by the Member for North Side in this Private Member's Motion.

Madam Speaker, those of us who were around in the last dispensation of this House will remember the debate or debates that went on about the Law, which would give effect to the relevant section in the Constitution which permits the establishment of these Advisory District Councils, and that we thought that what was being proposed was wholly undemocratic, so much so that in protest, we declined to appoint any district councils under the Law. And as far as I'm aware, if one was actually appointed, it was in West Bay. As far as I'm aware, there are none which are actually functioning.

The one in North Side is not a district council under the Constitution, as the Member said. It was established even before the Constitution. And it certainly is not appointed in accordance with the Law. So that's a separate and standalone organisation.

Madam Speaker, I don't believe that making significant changes to the Law to come into effect in advance of the new electoral system is the right thing to do at this stage. We are 18 months away—well, 16 months away from the dissolution of this House. And there's a new electoral system that is entrained to be established in advance of the next elections. There's a tremendous amount of work that is already underway and that will have to be done both in terms of actually the administration of the next election, but also in terms of education of the electorate and those who intend to run, for that matter.

So, while the Government is happy to accede to the Motion and say that we will consider the matter, and we certainly will do that, I do not see changes.

There will have to be some substantive changes to the Elections Law. We are grappling with that now and getting the necessary resources together to make sure that happens in time, plus the other challenges that we generally have to get through other promised legislation. And I don't see that the Government is going to be in a position to come with essentially new district councils' law in advance of the next elections.

We have already been contemplating how the new single-member electoral districts would work. And actually, I think that the Advisory Councils would certainly work much better in that new dispensation because it was always going to be a huge challenge to have an advisory council trying to advise Members of the Government and Members of the Opposition about issues relating to the constituency, when they often take radically different views. So, I've always worried about how that would work. But I believe it will work very well because, regardless of which side you're on, there will only be one representative in each electoral district. So I do see there being a really important and useful role of the district councils in the next dispensation. But really, I don't see either the urgency or the good sense of trying to fix that and establish district councils for what would probably be the last year of this term.

So, I just wanted to make those observations, Madam Speaker, and to say to the Member that we are thinking, as you are, that this ought to be a more democratic system of establishing these councils. And God and the people willing, the next time around, it will certainly be one of the first items on our agenda, to make those changes so that they would work, that these councils would be able to work in tandem with the new single-member electoral districts and representation. 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 Honourable Leader of the Opposition.

[Inaudible interjections]

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

Madam Speaker, I rise to put my views forward on this matter. And while I've been appreciative of the cooperation on both sides in this Meeting so far, I certainly can't support this Motion. I would support a move in seeing how we can get the councils working. But I can't support the move to have an elected council at this time.

Madam Speaker, the Constitution that we have now, which was given its support by the Governor, I still don't know whether it was passed by the people that he said it was passed by, because when I went and asked him that I wanted to see the votes, he said they had burnt them that morning. So, I don't

know what the votes were that brought the Constitution into force. Nevertheless, Madam Speaker, we have a Constitution, many parts of which I have supported. In fact, Madam Speaker, I took great interest in the discussions; the Discussion Paper of 2008, Madam Speaker, *The Cayman Islands Constitutional Discussion Paper 2008: The Cayman Islands ...Where are we going and why? How will we get there? What are the challenges?* Put forward by the United Democratic Party.

Madam Speaker, we polled this country, and we had meetings in every district. And we got input from people in every district in this country. And, in regards to empowering the people, in [section 9—“Empowering the People”] Part Two: District Councils, we said, Madam Speaker, that- **“Civil society is keen to have a more formalized voice in the running of communities. We envisage local appointed councils being established. These bodies would assist in the direction their district takes by deliberating over how their districts’ allocable portion of monies voted by central Government be utilized. They would have as [sic] say in things like road development, post offices, play fields etc.**

“Each council’s deliberations would assist Government in forming its annual policy as it relates to that particular district. Such involvement could run wide. For example, if a particular district is having issues with juvenile delinquency this could lead to government allocating more truancy officers, community development officer or police to assist in stemming the negative outcome that flow from such behaviour. Another example could be a community in dire need of youth amenities. This could lead to a multi-purpose sports court being built in conjunction with a local church or sports club.

“The district councils would be appointed by government, opposition and the governor (with the balance of power typically resting in the hands of the governor’s appointees as they are seen as the independent members with no party loyalty or affiliation). This would empower and involve members of the public.”

And the question was then put:

- a) Do you believe formally appointed district councils should be established?
- b) Do you believe they should work along with Government and its agencies to monitor how well resources are allocated and utilized for the district?
- c) Do you think you would get better representation by adding district councils?

Madam Speaker, I’m going to table this. This is the only one I have, because, at that time, I must say, we didn’t have—not only that time, at this time, too—the money to print a lot of these, so they had to be passed on, and we didn’t have a lot left. I didn’t have funds from Government to help me, Madam

Speaker, in getting the public’s opinion on the new Constitution as proposed by the Government. I did ask them, but I couldn’t convince them to give us any funding for such things as printing this book. So I have this and I’m going to lay this on the table. But I’m going to ask, Madam Speaker, that the Legislature take a copy of it and keep the copy and this then would be my original copy. I hope we can agree on that. I lay that on the table. So I don’t think that the Clerk got one. I don’t think the House has one.

The Speaker: Agreed.

[Cayman Islands Discussion Paper 2008, laid on the Table of the House]

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

Madam Speaker, we put that forward because I and the party, and being the Leader of the Party, I believe in having a body, as such, to help as representatives. Because being here and being involved in politics as long as I have, I know how the public feels. They want to be involved. They want to know. They want to know where a road is going to go. They want to have a say in what happens in their community. And more and more, we’ve found that that was what people wanted.

So, I am a great believer in that, Madam Speaker. I don’t mind saying at this point that I’m a great believer in a bicameral system. I believe that we should have had a Senate here (and I’ll come to that because I’m going to come to it), where we could appoint people who are not going to get into the cut and thrust of debate and fight the battle. But they have a knowledge; a knowledge base that we could utilise. The Government of the day didn’t go with that. And the next best for us was this district council. But they didn’t go with it either, Madam Speaker. The Government of the day today that was the Government then, didn’t support, they didn’t go with district councils or with the bicameral system. And they, of course, made the public understand that.

Madam Speaker, elections were taken, and we know what happened. But before that, we went to the United Kingdom with the Government as a unified body. As I said, we could not promote our views, because we didn’t get any support to do so, to promote any democratic institutions that we sought. And certainly, they did not support district council. But at the last minute in the Lancaster House of the Constitutional Conference we held, they realised that I had the support on it, and they put it in the document there. They didn’t speak on it, as far as I can remember, Madam Speaker. They didn’t say anything. They told me, *This is your baby. You talk on it.* I did that. And you can see the three lines they put in the Constitution, nothing great. I don’t know if the Member for North Side, the mover of this Motion read it all, but I’ll read it again for emphasis.

“Subject to this Constitution, a law enacted by the Legislature shall provide for the establishment, functions and jurisdiction of Councils for each electoral district to operate as advisory bodies to the elected members of the Legislative Assembly.” That’s what exists in the Constitution. We note, Madam Speaker, that this Constitution did not say *elected bodies as advisory bodies to the elected Member of the Legislative Assembly*.

Madam Speaker, if anyone wanted it to be an elected body that was the place to have done it. The Government of the day that has the majority Members in the Conference in London, and were at London, should have put it in that Constitution and then we wouldn’t be here today talking about it.

Madam Speaker, I do not believe—I don’t believe that the people want a full-fledged form of local government being elected and all that goes with that, because that really sets in motion a huge bureaucracy. You have to set up virtually many legislatures throughout every . . . And not only districts, but when you get constituencies going, it will be constituencies, too. When you go to single-members, you are going to have a local government council for each constituency. Now, Madam Speaker, I heard the Member, I think the Member said, in putting forward his position, that that’s not necessarily . . . I don’t want to quote wrong, but I believe he said that that is not absolutely necessary that you have one council for each district when you go to single-members.

[Inaudible interjection]

Hon. W. McKeever Bush, Leader of the Opposition: But, Madam Speaker, I don’t know how they could get away with that argument. Because you mean to say that—although our Constitutional Orders say what they say, it says, and it says it quite clearly, the councils are to be advisory—we should set up very costly effort to have an election, whether together with something else and all that that presupposes, to elect a council that is only advisory? Well, I can’t agree with it, because that will only cause more problems. And it will dilute by more trouble upon trouble the democracy we are trying to enhance. Then you would have to have four. And if you don’t have that, as he’s saying, one for West Bay, one for Bodden Town, one for George Town, one for East End, one for North Side, one for Cayman Brac—I think that’s what the Member said.

Mr. D. Ezzard Miller: That’s what the Law says.

Hon. W. McKeever Bush, Leader of the Opposition: Yes, that’s what the Law says. But I am saying, Madam Speaker, you’re going to elect how many persons to that council, then why in the world you don’t want to elect a district council for any district and see that as right, fit and proper? You don’t want to elect members,

four members, and you can’t see that as fit and right? But electing four, five, six, seven, whatever you’re going to have, let’s call it local government members—to put it straight, and let me repeat myself just in case I’m confusing anybody—it is wrong according to this House to elect four people in West Bay to this House, but it’s right to go to West Bay to elect five, six or seven people to a local council that is only going to be advisory?

My friends, many things you bring, but I can’t support that. It’s very convoluted.

Mr. D. Ezzard Miller: You’re forgetting a lot of things that you got in this.

Hon. W. McKeever Bush, Leader of the Opposition: A lot of things in here are the same principle I’m talking about.

[Inaudible interjection]

Hon. W. McKeever Bush, Leader of the Opposition: You were sleeping; I want to wake you up.

[Laughter]

Hon. W. McKeever Bush, Leader of the Opposition: And most of the time when I’m shouting, my friend is taking his daily rest. I’m only shouting, yes, to wake them up. This is not vexation—emphasis.

Mr. D. Ezzard Miller: You know who my Leader is? I know you don’t show any love on him.

Hon. W. McKeever Bush, Leader of the Opposition: I know that.

[Laughter and inaudible interjections]

Hon. W. McKeever Bush, Leader of the Opposition: All I’m saying is, Madam Speaker, tell me the rationale. Show me the prudence, cost-wise, and how it’s going to improve democracy any better than what would have happened under a council appointed. How? And I want to repeat because it’s so fresh in everybody’s mind. It is wrong according to this House, the majority, to elect four people to represent West Bay to this House and Bodden Town to this House and six or seven, or whatever they’re going to choose, ten or fifteen for George Town—we never know. That is wrong, too much. That’s not good democracy. But it is right democracy to now elect four, five, six, seven, whatever you’re going to have, as local government, as local district council. Whatever you call it, it is a form of local government. And how are you going to set that up if you’re not going to set up all the right democratic procedures and institutions within institutions to make it work? I know how local government works. I well know. And that’s the only thing I was

scared of, Madam Speaker, was not to overdo it, but to have something where people can be a part of, where people can come and talk amongst themselves and get the representation, get the amenities, get the service that they want to get.

Madam Speaker, certainly, democracy is not only determined by a direct election. No! While that is the greatest and a great ideal, it is not determined only by a direct election. In other words, I believe that democracy can be attained, can be served by appointed bodies, or else many states, many countries would have important institutions that perform legislative functions, but then would be undemocratic, if appointing people is undemocratic. So we can have bodies that support democracy, as far as I'm concerned, which are based on the principle that everyone in society is equal. Certainly!

So, Madam Speaker, what we went ahead and did was we had in West Bay and we've always had a council. I've been there . . . this is, what, my eighth term? We've had a council. And, Madam Speaker, that council, committee, first started out as what you'd call committees, but now it's a council. And that council is determined by any portion or number of people who want to attend that meeting, as we had a few nights ago. But what happened in West Bay, after we passed the Law, was that we had a community meeting—not one, but several community meetings. We had nominations. We took nominations. And then we had another meeting another week. And then we went, it must have been three or four meetings explaining, and finally chose a group. The community chose the members and the chair and the ExCo. That's what would have been put to Cabinet.

The Cabinet would have agreed. You're not going to go as a Cabinet after your community in a good solid meeting makes an appointment. Well, as the Premier said, his party didn't make . . . North Side had theirs. And we were satisfied that that was progressing, and they had a legitimate body. And we would have accepted that. But the people whom we appointed, who were selected, who came to the meeting, too . . . well, they were there, they wouldn't have gotten that otherwise, but they rejected their nominations because their party was not in support. That's what floundered the process, is that the main Opposition party would not support the council process, because they said then that it was not an elected body.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: If the Premier is repeating his dictum that it is not democratic, since he said that, let me repeat what I said. If only an election determines democratic representation, then you mean to tell me that all those other countries that have a Senate which is appointed, the House of Lords, which there is all kinds of fuss going

on there, we know, but you'll never see that abolished. You wait till the day you see that happen.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: That's all.

So, all of that performing the greatest functions of democracy, is undemocratic? And we here in this little island, with 50,000-odd people can't function properly, setting up properly. If you want to make changes, say. Say that I was wrong! I mean, I'm told that quite often in this House. Say that I'm wrong! But I do not believe that this country . . . And maybe it will be pushed down our throat. I mean, you heard what the Premier said. The Premier said that he's not going to do this now until the next time around.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: That's what it is.

[Laughter]

Mr. V. Arden McLean: Everything he's putting off until the next round so that he think he can fool the people to make him come back to do it.

Hon. W. McKeeva Bush, Leader of the Opposition: You think so?

Mr. V. Arden McLean: That's what he's doing.

Hon. W. McKeeva Bush, Leader of the Opposition: He doesn't want to do it now.

Mr. V. Arden McLean: No!

[Inaudible interjection]

Mr. V. Arden McLean: Wait 'til we get a good Premier, because it's not much to you.

[Laughter]

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, I believe in the . . .

[Inaudible interjections]

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, I can sit down and give the two of them the floor.

[Laughter]

Hon. W. McKeeva Bush, Leader of the Opposition: Because I know that the Premier wants to answer the

Member for East End, but he knows that the Member from East End has yet to speak. He's done.

The Speaker: Please continue.

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

Madam Speaker, you know, it's not that because we put it in there that it's not something that can't be changed. We must change it if it needs changing for the better. But I am saying, Madam Speaker, it is a costly exercise. You're going to elect people. You're going to elect them to only be advisory? You're going to have an election in your district to only be advisory? So, because you elect them, that makes it right? No! What makes it right and what makes it give the foundation that is needed is that advice. And the Constitution says it's only advisory.

The Senates around the world are that. The councils and legislative councils around the world are that. They make and pronounce and advise the governments, the upper house, or the lower house—yes, that would be the lower house. But they never make money Bills, for instance. And where issues can come from, it is still dependent on the elected government of the day to do the work and carry it out and agree with it. If they don't agree with it, it cannot work. So, every one of them is a form of advice.

As I said, I believe that people don't want to get into the electoral process as such. They don't want to campaign. And people whom we need (at least I believe so), who are experts in the various sciences, who have education and knowledge, background in various issues—environment, finance, tourism, education, technology. But will they want to go there, put their deposit and have an election? And I believe that we are defeating our purpose, Madam Speaker, if we do that. Because then, what are you going to get? We are all worried now about who's going to run in those small districts. I told them I was coming to run in George Town North! That was on the radio the other day. Yes. I told them so . . .

[Inaudible interjections and laughter]

Hon. W. McKeeva Bush, Leader of the Opposition: And now, Madam Speaker, I just think that we are defeating our own purposes.

Mr. V. Arden McLean: You hear Alden say you will be one less if you come to George Town North?

Hon. W. McKeeva Bush, Leader of the Opposition: Alden got his own seat to worry about.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: You just listen. I know you weren't so emphatic just now.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: No, we don't want you West Bay.

[Laughter]

Hon. W. McKeeva Bush, Leader of the Opposition: You've got seven seats in George Town. The Member is proposing that he's coming to West Bay. No! We've only got four. You stay in George Town.

Madam Speaker—

Mr. V. Arden McLean: And those four are already taken by your family.

[Laughter and inaudible interjection]

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

Madam Speaker, there were arguments even then about not including public servants. But we believe that that was the right thing to do. And I think in section 6(3) of the Law, it does provide and make allowances for certain things to be done. Madam Speaker, perhaps I've said my piece on this matter. But I will await to hear and see what Government is going to propose at any point. The truth is I don't believe the Government is going to propose anything on this. It was a good whipping horse when he was beating it. But now that he has the rein in his hand, it's not going to get . . . because he knows the costs that it could be to the country. He knows, Madam Speaker, the problems that can come out of it.

Rather than being a council where you have government appointed and you have opposition appointed, we propose the Government but if there's any changes, do take that one out—no more government-appointed anything. Take that one out.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, I believe in the advisory, you would have less adversarial room, less adversarial politics in it, rather than when you have the elections. You're going to have that fight. So I believe that you'll get more done that way. And that's what it should be.

Madam Speaker, we are dedicated to the critical democratic principle, that every person should have the right to say directly or indirectly in every decision that affects his or her life. And that includes democratic participation in the choice of governments, the opportunity for a voice in planning, whether it's the

environment and the delivery of public services and similar matters.

We believe, Madam Speaker, that, the best chance for the future of Cayman and all Caymanians lies in our working together for the common good. And so, we must be devoted to a society in which every person is able to achieve, to actively and productively participate in the life of the community, and the whole community responds thoughtfully to the individual needs. And so, we are dedicated to the community that embraces, Madam Speaker, cultural diversity based on mutual respect and acceptance whilst at all times protecting Caymanian heritage and our values. I don't believe that we're trying to drift from that. And whether it be advisory or elected, I don't think that we are drifting from those values and that kind of thought process that I'm talking about.

So, Madam Speaker, I would have liked to support the Member. But I can't support his . . .

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: No, I'm not mincing them. I think I've been very forthright in what I'm saying. I am. And the Hansard records me quite accurately in the same thought process.

So, Madam Speaker, we on this side, on this end of the House will not support it. But of course, it will have the Government's support, although it won't go anywhere. And therefore, it will pass, but that's about what we will see of it.

The Speaker: Does any other Member wish to speak?

I recognise the Member for the District of East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Madam Speaker, I'm not going to be as long on this as I've been on other matters relating to this House. But I feel compelled to speak now that I've heard the two mighty ones get up and speak. And that is the Premier and the Leader of the Opposition.

Madam Speaker, whilst I was also a part of those negotiations, like you, on the Constitution, I have my own memories of what transpired, too. I hear the Leader of the Opposition say that because we were in charge then, we should have put it in place, the election process for those councils. Well, Madam Speaker, I can say to the Leader of the Opposition and this honourable House that if you refer to the minutes of those meetings, you will see where I advocated for an election process for the advisory councils. I wanted a local government.

Now, Madam Speaker, those were the days when we had six constituencies. And I advocated then for the maximum of three to be elected. And I wanted, pushed for and proposed that we do midterm elections, but it would be every four years for those coun-

cils for that local government, quasi-local government if you want to call it that. But I didn't see the need for anything more than three people. But, Madam Speaker, I wanted to see, like I said, a midterm—midterm, that is national elections; mid-national elections, you would have your local government elections. And it would ensure that there was continuity with the national government.

Now, Madam Speaker, the advent of 19 single-member constituencies may require that I change my position on that. And I'm not afraid of changing my position. I certainly did not support what the UDP Government did. And I think it was 10 or 12 that we would have appointed. It would have been 10 or 12 per district.

Mr. D. Ezzard Miller: Six and four is ten.

Mr. V. Arden McLean: Ten.

Now, Madam Speaker, what I believe (and this is my opinion and I proffer it as I see it). What I believe needs to happen is, that we need to really bring it down to three now. And I may very well change my mind about the election of those people, as well. And it may be some kind of democratic process by virtue of nomination by those constituencies or the 19 different constituents that would then manage (so to speak) these smaller areas. But to comply and to be compliant with the Constitution, I think the need has arisen for us to do this.

Now, the Government, whilst they say they are prepared to do this, they do not believe it is the appropriate time to do it since we are now going into single-member constituencies, and this will further complicate that whole process, I believe was the intent of the Premier when he responded. There may be some merit in it, looking at it from that direction, Madam Speaker. But certainly, we need to ensure that we do these electoral district councils.

Madam Speaker, besides giving those of us who were elected at this level, advice, it also creates a broadening of that knowledge of how government works a little further down and prepares these people to be able to represent their people at a higher level within these Chambers. However, we know we politicians love to hold onto that knowledge and not pass it on for fear of being succeeded by these people. We know. We know how that is, Madam Speaker. But if we were afraid of that and we've become paralysed with that kind of fear, then we shouldn't be here, because we for sure won't be here forever. But there are some of us who think that this is a God-given right or a family right to be in here—until those pencils start hitting those papers. And then we know what kind of family right we have.

Madam Speaker, the Leader of the Opposition talked about a bicameral system. I think we, all, most of us, disagreed with that because of the cost. And more importantly, we have a bicameral system now as

it is. The same people we would put in the upper House we've got on committees. So we get the same advice. Whether we get it there or if it's structured properly like most countries, independent countries have it, where there are upper and lower Houses, and the upper would only be advisory still; therefore, we have a committee system of government in this country, which is, we have what we call the Financial Advisory Committee or something like that, with all these people from the financial industry. We have the legal . . . well, we've got to be careful with them. But anyway, we have the legal advisory part of it. We have different people advising.

Now again, I'm not going to be as strongly opposed to it as I've always been, because it may be—it may be it is necessary to bring them into one formalised group and position, where we can throw some blame back on them. Because that's precisely what people do with a bicameral system. I certainly wouldn't go to the point . . . And one of the good things about a bicameral system—and this is not that I've changed my mind, totally—is that you get the expertise there that if you find yourself in a situation where you get an elected government that does not have the expertise in Cabinet, you can borrow someone from there in the interest of good governance. Now, I don't know if that's how far we would go with it. But I believe most of our objection to it was it was too costly to do.

Madam Speaker, I truly believe that some form of additional participation by our people, who have much more knowledge and the knowledge base out there is much greater than it is in here, much more diverse. And some way, somehow, we need to attract that and utilise it through the district councils or whatever the case may be.

[Inaudible interjections]

Mr. V. Arden McLean: And if Her Majesty's Loyal Opposition doesn't want to support it, it is not the end and all. I mean, I never heard of three beating all these other ones. But that is their democratic right. But I believe we need to get more people involved in this democratic process. I really believe that, Madam Speaker, because contrary to what people believe, we have a lot of work to do. It is no longer where it is voluntary when it used to be voluntary and we had 15–20 laws on the books. That is over. When you're inundated with these drafts—people sending all this paperwork, cutting down another number of trees and you have to do your own research to see what their intent is, there's a lot of work. And then you have to take care of your constituents during the day. And at night, you're up all hours of the night. We need more people involved.

Because one of the fallacies in this country about election is that people believe that they need to come out six weeks before the election and show their

support and then crawl back in after the election is over and don't participate in the running of the governance of their country. And more and more, there is a need for it. There is an absolute need for it. And if we can encourage that participation through legislation, like councils, whatever name we call it by, we need to do it. We need to do it.

I mean, there's not one Member in here, Madam Speaker, who at election time does not have a committee that is made up of a few people who are very close. Who knows? It may not be a few, like your good self, Madam Speaker, well, at least one. And then all of a sudden, that one or those few fade away. Now, that's not to say that they are not loyal and they don't support the individual still. But they don't see the need to be there side by side. And that is what councils will do. They will, not necessarily for the person who is elected, but certainly respect and see the needs on the ground that those of us who are elected at this level don't see, and make recommendations.

It holds the elected representative more accountable, too, Madam Speaker. It does. And those, you have three or ten or whatever it is who will say, *Well, the Member has it. He has to make the representation to Government, or if he's in Government let's see what happens.* And it holds you more accountable. So, I believe in it. I know the Premier knows that I believe in it. I've always believed in this participation by people, and this is one way of doing it, and I want to see us getting it done. Obviously, the Government, who has the say, we know how that works. The Opposition will have its say, but the Government will always, always have its way. And that's what a democracy is all about. The majority, to the victor go the spoils. And they decide how this country is run.

It is my job and the Member for North Side to bring it to the attention of the Government. If it is that the Government wishes that it doesn't get done, or if it's not within their timetable, they have the authority to do that because they are the ones who have to answer to the public for the governance of the country. It's not me at this stage. It is my job to get in the governance of the country. So, the Government decides. And it appears that, whilst they are sympathetic to these things, they don't think that they can do it at this time. And that's fine. But I would encourage them to do something to get our people involved in the democratic process. Thank you, Madam Speaker.

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

If not, I'll call on the mover to exercise his right of reply.

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

I understand the position of the Government in exercising their priorities and this is not one of their

top 10. I didn't expect any different contribution from the Leader of the Opposition. After all, this is his baby. He presented the Bill that his Government passed into Law. But I do find it interesting that he is all of a sudden now concerned about the cost to elect the people when he has built into this Law basically a carte-blanche cheque for any council that his Government could appoint. Because it says in section 6 of the Law, "Funding, and remuneration of members"—

“(1) The funds available for the purpose of enabling the Councils to perform their functions under this Law shall consist of such sums as -

- a) **may be provided for those purposes in the estimates of revenue and expenditure of the Islands for the purpose and approved by the Legislative Assembly, in such years as the Legislative Assembly may, on the recommendation of the Minister responsible for finance, choose to do so;**
- b) **the Councils may receive as donations; and**
- c) **(c) the Councils may raise through community and other activities.”**

This is the interesting one. Section 6(2) says,

“(2) Councils shall have no power to charge to the general revenues of the Islands any of their expenditure.

“(3) Members who are not public officers as defined in the Constitution shall be paid such allowances as the Governor in Cabinet may determine.”

Now, we know when we see *Governor in Cabinet*, we're not talking about Her Excellency making the decision; we're talking about the Cabinet.

So, under this they could appoint on section 6(4) any of their political intends-to-run, pay them a salary, and fund the programmes to help them get elected—all at the expense of the people.

Madam Speaker, the Leader of the Opposition, I know what his position is. Like I said, this is his law. He brought it, he piloted it and I think it is significant that the section of the Constitution that creates Advisory District Councils is located in [Part] VIII—“Institutions Supporting Democracy”. That, to me, indicates that there must be some democracy involved, right? And the normal interpretation of that would be that these officers would be elected in some kind of a format by the people whom they're going to represent and advising the Member, too.

Madam Speaker, my political mantra has always been *participative democracy*. I have always practiced and I've always believed that the people whom I represent have an inherent right to be involved in decisions I take and the positions I represent in this Parliament on their behalf. And therefore, they should be consulted. And I believe that properly elected Advisory District Councils could provide such an avenue. I don't have to believe it, Madam Speaker. I

know. I have enjoyed the pleasure and the comfort of members of my constituencies attending monthly meetings and involving themselves in the governance of the country through their participation at the district councils.

So, Madam Speaker, I understand the Government position. I still hope that it will be something that we could get done within this term, because, Madam Speaker, I have no assurances or guarantees that I'm coming back the next one. So I would like to get it done here so that it is properly put in place before I leave. Thank you, Madam Speaker.

The Speaker: The question is: BE IT THEREFORE RESOLVED that the Government consider revising the Advisory District Council Law to provide a more democratic process for the establishment of District Councils and the election of the officers.

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

Ayes.

The Speaker: I believe the Ayes have it.

Hon. W. McKeeva Bush, Leader of the Opposition: Can we have a division, Madam Speaker?

The Speaker: Madam Clerk.

Hon. W. McKeeva Bush, Leader of the Opposition: We want it recorded.

The Clerk:

Division No. 13

Ayes:10

Hon. Alden McLaughlin
 Hon. Moses I. Kirkconnell
 Hon. D. Kurt Tibbetts
 Hon. Tara A. Rivers
 Mr. Winston C. Connolly, Jr.
 Mr. Roy M. McTaggart
 Mr. Joseph X. Hew
 Mr. Alva H. Suckoo, Jr.
 Mr. D. Ezzard Miller
 Mr. V. Arden McLean

Noes: 3

Hon. W. McKeeva Bush
 Mr. Bernie A. Bush
 Capt. A. Eugene Ebanks

Absent: 4

Hon. Osbourne V. Bodden
 Hon. G. Wayne Panton
 Hon. Marco S. Archer
 Hon. Anthony S. Eden

The Speaker: The results of the division are as follows: 10 Ayes, 3 Noes, 4 absent. The Motion has accordingly passed.

Agreed by majority on division: Private Member's Motion No. 12 of 2015/16 passed.

**PRIVATE MEMBER'S MOTION NO. 13/2015-2016—
MOTION ON IMMIGRATION**

The Speaker: I recognise the Member for North Side.

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

Madam Speaker, I beg to move Private Member's Motion No. 13/2015-2016—Motion on Immigration, which reads as follows:

“WHEREAS there appears to be some concern with recent interpretation of the provisions of the Immigration Law (2015 Revision) that were intended to prevent job hopping by work permit holders;

AND WHEREAS there appears to be some concern with recent interpretation of the provisions in the Law that define who is an aggrieved party to challenge decisions of the Immigration Work Permit Board, the Business Staffing Plan Board and the Residency and Cayman Status Board;

BE IT THEREFORE RESOLVED that Government consider reviewing these provisions in the Law and making necessary amendments to ensure these provisions are more robust and offer better protections for Caymanians in the work place.”

The Speaker: Is there a seconder to the Motion?
I recognise the Member for East End.

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

Madam Speaker, I beg to second the Motion.

The Speaker: The Motion has been duly moved. Does the honourable Member for the district of North Side wish to speak to the Motion?

Honourable Member for North Side.

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

Madam Speaker, I have received representation from several employers, that, in their view, the Immigration Boards are largely ignoring section 50 of the Immigration Law. And, Madam Speaker, section 50 of the Immigration Law clearly states, and I quote from the Law: **“During the currency of a work permit, the holder of that permit may not change his employer unless- (a) the Board, including the Cayman Brac and Little Cayman Immigration Board, or the Chief Immigration Officer believes there are special circumstances; or (b) the circumstances of his employment are within a description or class of descriptions specified in a direction made by the Cabinet.”**

Madam Speaker, I am not aware of any directives made by Cabinet under (b) which would allow the boards to ignore the provisions of section 50. And,

Madam Speaker, the special circumstances are defined in clause 2 “definitions” of the Immigration Law (2015 Revision) as follows: And I quote: **“‘special circumstances’, in relation to a change of employer or occupation, includes a situation where- (a) the position has become redundant; (b) the worker is being victimised by the employer or by other employees of that employer; (c) the employer has changed due to corporate action such as merger or amalgamation; or (d) the worker has been given written consent by his present employer;”**.

Madam Speaker, I think (d) is commonly referred to as a release letter.

Now, Madam Speaker, in my view, section 50 was placed in the law for two main reasons. These reasons all went back to when we called the law what it should still be called, “The Caymanian Protection Law” which was passed into law in 1971. But, in my view, the two reasons for section 50 in the law are: It protected employers’ investment in the recruiting process and bringing the employee to the Cayman Islands and the cost of, or a portion of transport to the Cayman Islands, and also, it could include a portion of the cost of the work permit. Because under the current law, I believe I am correct in saying that the maximum you can get refunded for on a work permit is six months if it is cancelled prior to the first six months. So, if you pass six months you do not receive anything back. Up until five months and 30 days, you can get back six months.

More importantly, this section of the law was relied on by Caymanians to prevent work permit holders from changing jobs, employer to employer, and what we commonly call “job hopping”.

For many years and by many boards, Madam Speaker, the litmus test as to whether an employee could change employment during the currency of a permit was the letter of release, unless it was demonstrated that the other circumstances, as I read earlier, existed. And, Madam Speaker, there were often times that even on the expiry of a work permit, if the employer intended to reemploy the person and the person wished to change the employer, it was often required by the boards that they produce a release letter saying that that employer who recruited them, brought them to the Island, provided them with the training et cetera, had no longer any interest in retaining their employment.

Now, Madam Speaker, I have received representation from employers that the boards are granting permits for work permit holders to change employers in the absence of a release letter, or in the absence of demonstration of special circumstances.

Madam Speaker, I have even heard of instances where somebody cancels a permit, the employee themselves or somebody else, and if the employer goes to ask for the instrument that cancelled the permit they are told that they need a court order to get it.

Madam Speaker, when these employers came to me with this complaint I told them that that was impossible; that is illegal. Section 50 offers protection that if you do not give the person the release letter, they can't change jobs during the currency of the permit. But I told them that I would investigate it and would put the EIU [Ezzard's Investigation Unit] to work on the case to find out what I could find. And, Madam Speaker, during the last several months, I have turned up some interesting things.

After myself and other members of the EIU spoke to board members, and spoke to immigration staff, we discovered that the boards and some members of the staff are claiming that they have been advised that they could issue these permits if the conditions of section 50 were not met by the work permit holder, because the clause contains the word "may". And the interpretation of the word "may" is that "may" allows discretion and it is not mandatory. Well, I don't disagree with that, Madam Speaker, because it says **"During the currency of a work permit, the holder of that permit may not—may not—change his employer unless—"**.

Now, up until recently, the interpretation of the discretion of that "may" by the boards, including the one that I chaired for over a year, was that the board may refuse the permit due to other circumstances that are required under consideration of other sections of the work permit, even if the person had a release letter. But it was never intended that that "may", could be interpreted that they could grant a work permit if the person did not have a release letter. And it is that change that is causing the concern by employers and by Caymanians who rely on section 16 to provide them with certain protections. Because if this interpretation is allowed to continue, it means that every work permit holder is equal to Caymanians in their choice of jobs. And the whole reason and rationale why our forefathers put into place the Caymanian Protection Law was to make sure that people on a work permit did not have the same opportunities and advances to move freely in the workplace as Caymanians.

Now, Madam Speaker, this interpretation of the word "may", by the board, and by certain employees at the Immigration Department, as I said, is far reaching and now makes every work permit holder equal to a Caymanian in the workplace. Madam Speaker, I do not believe any of the elected Members in this House wish for this situation to continue. I am therefore asking the Government to correct this situation, either by amending section 50 to replace the word "may" with "shall" if that happens to be a more robust legal term, or do it in regulation or by directive from Cabinet or by advice of the Attorney General to return section 50 to providing the necessary protections for both employers, in preventing job hopping and, also, to protect Caymanians in the workplace.

Madam Speaker, I believe that under section 100 of the Immigration Law (2015 Revision), Cabinet

could correct this situation by issuing a directive as opposed to having to wait to get an amendment to the law which might take several months.

It was also reported to me by at least one source, that one member of the Business Staffing Plan Board has said to the Immigration Appeals Tribunal that they cannot hold employees hostage because employers are refusing to give them a letter of release and therefore they have to grant the permit. Madam Speaker, I do not think that is the intention of the law.

Now, Madam Speaker, the second resolve section is asking to look at the definition of an "aggrieved party" under the Immigration Law. The Immigration Law in clause 2 is silent as to the definition as to an aggrieved party. And the general interpretation of the people surrounding this at the immigration department and the boards is that the only party that is aggrieved is the applicant. And, Madam Speaker, given the treatment of Caymanian applicants for jobs and the generosity of the boards, whether by policy direction or otherwise, in particular, the Business Staffing Plan Board, willingness to grant permits, I am encouraging the Government to amend clause 2 to include a definition of an aggrieved party. And, in my view, Madam Speaker, such a definition should include the ability of Caymanian job applicants who are not successful in getting the job, the ability to appeal the work permit board's decision to grant a permit to somebody else, particularly, Caymanians who are qualified academically, has the relevant experience that is advertised for—right? And has climbed the interview ladder, in particular, in some of the top management positions here, where you have to be interviewed by a local group and then interviewed by somebody else.

I know of situations of Caymanians, Madam Speaker, where the job is advertised, the person is qualified, they apply for the job, pass every test that is given, met all the criteria, is interviewed five times, and the Caymanian believes that they are in the process of negotiating contracts and salary, and when they get the approval from the Business Staffing Plan Board, they get a letter saying, *Sorry, we don't need you anymore.*

Moment of interruption—4:30 pm

The Speaker: Member for North Side, allow me to recognise the Honourable Premier as we have reached the hour of interruption.

Honourable Premier.

SUSPENSION OF STANDING ORDER 10(2)

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

Madam Speaker, before I move the Motion, could I just signal to Members that because, in particular, the Deputy Governor is going to be acting as

Governor on Monday and will not be here, I am striving for the House to finish this particular Motion. But once this is done, I propose to adjourn until Monday.

Madam Speaker, I 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 the 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: Member for North Side, please continue with your Motion.

Mr. D. Ezzard Miller: Madam Speaker, I have witnessed these boards going even further than that. I have witnessed the Business Staffing Plan Board granting permits for non-Caymanians when Caymanians are in the job and doing an excellent job, according to their employer. Public announcement of the excellence of doing their job, and the Business Staffing Plan board grants a permit for somebody to replace the Caymanian. So, that person who is now out of a job, out of salary, out of benefits, should have the right to appeal that kind of decision by the board.

Madam Speaker, with those few comments I ask the Government to support looking at these provisions with a specific objective to restore the authority of section 50 of the Immigration Law.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

I recognise the Honourable Deputy Governor.

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

Madam Speaker, the Government agrees that this matter does need to be reviewed. And, Madam Speaker, please allow me to use some of my previous knowledge to give some background as to how we got where we are today in terms of this particular section of the Immigration Law.

Madam Speaker, in the 1990s there were a number of situations where, at the Immigration Department we have seen almost a free moment of workers on work permits going from job to job. And, of course, in any country the only person who should be able to do that are the nationals of that country. All other foreign workers are regulated.

Madam Speaker, we also saw situations, and I think the most obvious case that I remember is a non-national coming in as a pump attendant and being granted a work permit for a year, and within three months of being on the Island, a work permit came in for them to be an accountant. That means that basically persons were coming in here, getting a foot in the door (so to speak), getting a job and then trying to find the job that they really wanted while they were on Island. The Government at the time decided that that was something which needed to be addressed. And what the Member for North Side said is correct. We put provisions in the law for what is sort of called "job hopping" so that non-nationals were not allowed to move freely from job to job.

Madam Speaker, that worked well, but we then had situations where work permit holders, for good reason, wanted to change jobs where they were victimised by their employer. They were not being paid, not being treated fairly. They were being not just treated fairly in terms of work, but in terms of their living conditions. We have seen some really scary cases that really demanded that the persons be released from their work permit.

So, again, the law was amended and a definition was put in there of special circumstances. And the law says, as the Member for North Side said, that a worker was not allowed to change employers unless there were special circumstances and special circumstances was a defined term in the law to say that if you were victimised by your employer or employees of your employer, or you change jobs through an amalgamation, or, and most importantly in this case, you were given permission to do so by your employer. That seemed to work well, Madam Speaker, in that we were providing the protection that we wanted for our people, but also protection for employers who were complaining that they were spending tens of thousands of dollars sometimes, recruiting people. They came into the country and then another employer decided to pay them one dollar more an hour and they would then leave and originally the employer was significantly out of pocket.

We also did provide protection for persons who were being victimised or the employer agreed that they could change jobs.

Madam Speaker, we also had a situation where employers were not in a timely manner advising us that persons were no longer in their employ and we did put a provision in the immigration regulations that required employers to forthwith notify the immigration department that one of their employees was no longer in their employ, which then triggered the department to ensure that that employee came into the immigration department for their immigration status to be regularised.

So, Madam Speaker, that, however, was not a letter of release. That was a formal notification that the person was not in their employ. And that is how it was

always treated, that that was not a letter of release, and until the employer provided a letter of release, the employee could not change jobs. And so, Madam Speaker, we at the time believed that the system was working very well.

Madam Speaker, like the Member for North Side, we too have heard that the law is not being applied consistently and fairly across the board and there appears to be some confusion as to whether the section still operates (which obviously it does), on whether employees can change jobs. So, the Motion is timely because we all accept that this matter needs to be resolved.

Madam Speaker, to that end, just a week ago the Chief Officer in the Ministry of Home Affairs who is responsible for Immigration, wrote to the Attorney General and asked him to please review all the sections that we mentioned just a while ago, and to give us a definitive opinion as to how this section should operate, whether we have to do exactly as the Member for North Side said, change some of the wording. But we want to make sure that how the law was envisaged, as I just said, is the way that the law allows us to do it.

One of the key provision is that obviously if you're saying that you cannot change your job during the currency of a work permit and your employer comes down, and because they are required to do so by regulations, cancels the work permit, well, is the employee changing jobs during the currency of a work permit because the work permit has now been cancelled? At the Immigration Department, certainly, when I was there, our view was that that work permit, yes, it was cancelled but it was still current in the way that the law was designed, in that there was no letter of release, no suggestion of victimisation, no suggestion of special circumstances as defined in the law.

Madam Speaker, we are also hearing stories of persons being allowed to sort of self-release themselves from work permits. Now, Madam Speaker, that is a new concept I was not familiar with. Obviously, we allowed persons to come in and say, *I am no longer working with John Brown, he fired me last night, can you now regularise my stay.* And we would say, *Of course.* But that did not give you a right to go and change jobs unless, again, you were able to justify special circumstances.

So, Madam Speaker, to recap, it is, or was understood that basically an employee on a work permit was not allowed to change jobs unless they could prove special circumstances as defined in the law, otherwise, they would have to leave the Island until the work permit that they were working on had expired, and, of course, unless they got a letter of release. That thought process seems to be changing at the moment and we agree, Madam Speaker, this section needs to be looked at by our Attorney General and he will give us a definitive opinion. If it means that it cannot work as drafted, then, I am certain the Gov-

ernment will take that on board and look to make the necessary amendments to the Immigration Law.

So, Madam Speaker, we thank the Member for North Side for bringing this matter up. It is timely, it is something that needs to be properly reviewed, and, Madam Speaker, we give undertaking that that will happen. Thank you.

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

I recognise the Member for East End.

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

Madam Speaker, I feel compelled, and I rise reluctantly as well.

Madam Speaker, about three years ago, I guess, I stood on this honourable House Floor and questioned the movement of certain professionals from one big company to the next. The headline of the papers largely captioned how a number of professionals were moving from one company to the next. And I wondered how it was going to be affected. I questioned it because of the same thing; that it would set an unhealthy precedent where people on work permits were continuing to hop and jump all over the place.

We have seen many professionals who come to positions of prominence in this country go through that process. Someone over Commissions as chairperson, we always wondered how they got there. The fact is, Madam Speaker, when I questioned that years ago, my good friend from North Side received certain windshield information which he shared with me, but it was too late. We didn't know what to do with it but we kept it dry. We kept it very dry.

One thing I have learnt about this thing called politics is that whatever paperwork comes by, store it properly because in the not-too-distant future, it gains its currency.

Madam Speaker, the Deputy Governor says that he is now employing the services of our Attorney General to opine on this particular subject. And I guess that is the right place for it to go, but I trust that he is going to go directly to the Attorney General and not to the Attorney General Chambers. Directly to the Attorney General and find out directly his position.

Madam Speaker, those dry papers were recovered 4 o'clock this morning. I specifically emphasise the Attorney General and not his chambers, because, Madam Speaker, it is our collective view, between the two of us, that the reason we are in this mess with section 50(a), the definition of special circumstances, is because an opinion has already been proffered thereon. That is the reason we are where we are now. So, when the Attorney General opines on this, I expect that the boards and their chairmen will tear up the other opinion.

Madam Speaker, I have said before, if there are 100 lawyers, there are 100 different opinions for varying reasons.

Madam Speaker, we knew of this a long time ago. Others may not know in here but we knew of it. We filed it away for the proper time. Madam Speaker, I don't want anyone to start questioning me either. I am trying to be as kind and you notice how slow I am speaking to pick the right words. I am trying to be kind and gentle for once in my life for those who may be concerned in this matter. Now, I proffer no opinion as to why or how. I know when these opinions were made, given. But I do know it has directed the members of those boards. And it is my view that that is why we are where we are at today. Most will know by now that I am not going to get up here and lie on people. Most will know I am not going to try to look publicity just for the sake of publicity. When you hear me speak, there is something else that I have available.

Madam Speaker, I encourage the Government to go and get the Attorney General. Ask the Attorney General to tie light around his head at night so that he can have sufficient time to proffer an opinion on this in order that we can get back on the straight and narrow. Since the Deputy Governor says that something is wrong with it and he is prepared to make the necessary legislative changes, I want him to try and get an opinion from the Attorney General, him and himself only, as soon as possible, so that we can try to get back on track. Make a directive to the board quickly.

It is not fair for Caymanians who are out of work to go into one establishment today, see someone there, and a month later go into another establishment and see that same person at the next establishment when the Caymanians cannot get a job. Or, the Caymanians who are applying for the job at that second establishment see someone who came from another establishment. Madam Speaker, it is wrong, it is unfair to the Caymanians in this country.

I know, Madam Speaker, that every employer offer packages to their prospective employees to attract them. But when you are offering them partnerships in your firms, it goes beyond. Everybody comes here has a right to do as they please on work permits ya na! On work permit!

Madam Speaker, now I want us to understand that the Government is no different because there are many, many who come to this country—and I speak specifically now to the Police Force—as police, get their feet wet in the compliance arena—

[Inaudible interjection]

Mr. V. Arden McLean: We pay for them to go to school to do law and they move right over to one of the law firms to do compliance.

Madam Speaker, we bring them into Planning and wet their feet and they learn the southeastern

code and how we build, and then the big developers jerk them, take them right out of Planning and take them to wherever they have their big developments and utilise the contacts that they have had within the Planning Department to get approvals. That is what is happening. But, Madam Speaker, when I suggested at one time that government also employ the non-compete clauses that some people do, I was ridiculed.

[Inaudible interjection]

Mr. V. Arden McLean: Why is it, Madam Speaker? Is it because they do not like my face? Or is it because I am from East End that they do not like me? They need to come up with something now to counter what I have said in my country to protect my people. What is it? Everybody can put in non-compete clauses in their contract except government. And then, those who are moving from one place to the next—

[Inaudible interjection]

Mr. V. Arden McLean: —on work permits, you know, Madam Speaker, (that I am talking about now), they negotiate to have that non-compete, non-disclosure as well, removed from their original contract! And they say, Okay, *you can go over there by my friend because we all work together.* And then, those same companies that are managed by plenty of us, in here too, get rid of the Caymanians.

The Caymanians who are doing a little job like ICT [Information, Communications and Technology], being in charge of computers, who are chief financial officers in some of the banks and the businesses, are made to sign a non-disclosure and a non-compete. And, Madam Speaker, it is not only the foreigners doing it, you know, our own people are also doing it to our own people.

Madam Speaker, it is really hurtful. And if that is what the politics brings in this country and we can do nothing about it, then, we do not deserve to be Members of this Legislature where we are put here to protect against that very thing! We need to be sent out to pasture! Every one of us!

Unna nah going to get me started here this evening. I see that Fifth Elected Member had one little motion here and it was pretty good but looks like we watered that down that is coming.

[Inaudible interjection]

Mr. V. Arden McLean: Yeah, I know I can't anticipate.

[Inaudible interjection]

Mr. V. Arden McLean: Try to get home before morning? You have spent many nights out until the next evening, much less.

[Inaudible interjection]

Mr. V. Arden McLean: You don't want to do it again tonight. You will do it any time.

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, he and I have done that many times, killing cow in East End and all kinds of things we've done, with our eyes red as firestone.

Madam Speaker, if we are allowing others to do as they please and then crucifying our very own, is it any wonder our people cannot survive in their very own country? They cannot! Everybody is viewed in this country as having the privilege to do as they please; that is, by Caymanians. And Caymanians are having difficulty feeding their children. And then, Madam Speaker, those who are on work permit come here, like what Connor was in Mobile, get their opportunity and that is fine, and they buy their chateaus in the hills of France and Colorado in the snow, and they become Lords on the green acres of Scotland—

Hon. W. McKeeva Bush, Leader of the Opposition: No, England.

Mr. V. Arden McLean: —or England, wherever it is, the UK, as a result of their financial position. It's not of anything that they did for the country, you know. They buy their way into that and then, they are most likely appointed to the House of Lords too. And they leave us here, who can't even repair the roof of our thatch huts. And then they say that Caymanians operate on merit—*No one gets promoted in our firms unless it is based on merit.* That's good. But, Madam Speaker, you know what it is? They are telling us that we are not meritorious enough. That is what they are saying. And we sit here and say, *You hear, if you don't have merit you can't cut it.*

They are making fun of us and we do nothing. That is what they are doing. And, in the meantime, they jump their friends, and their friends' friends from the next door firm to theirs, and they go to the immigration board and promise they are going to promote one, two. The Caymanians were not promoted now, and the one on work permit stay there until they can establish their nine years and they get status because of those members on our boards that are not fit for purpose. They get status and they do not thicken the glass ceiling, they turn it into concrete. Precisely the reason why, Madam Speaker, that I have said and continue to say, *We know how many of your partners we made Caymanians, the question is, how many Caymanians have you made partners?*

Yes, Madam Speaker, there will be people in this country who will say, *Arden, you constantly have that song.* Well, it's broken, Madam Speaker, stuck right on it—*scooo-scooo-scooo.* I am always going to

be on that song! That is what we for the last forty years have worked for; that our people do not participate. But we are to blame! In this moment it is 18 of us and in this moment it is the Caymanians out there who have reached someplace that refuses to assist those at the bottom.

Madam Speaker, I have a very good friend. Nah you!

I have a very good friend, Madam Speaker, and everybody in the PPM knows that there is friendship that I have with this person. And there is no difference between . . . I have never once tried to use my position against someone politically to stop them. And when a friend of mine told me what happened to them, Madam Speaker, I couldn't say that it was because of politics. Tom might look fool but Tom nah fool. It can be nothing but politics. And if that is how this thing is going to go, we need to get out of this business. We cannot victimise people because of politics and make them redundant! But, Madam Speaker, that is for another day too. I know you want the less traverse road. I know, Madam Speaker, I'm coming.

Madam Speaker, now we will see (and this is how I am tying it in) a transfer of somebody from one other institution to take up that position. That is what is going to happen! And my friend must go and search for a job! Madam Speaker, I have never said anything about the pigmentation of our skin. I nah getting into that! I am leaving that aside because it is not fair to do that. Other people do that.

The Speaker: Member for East End, it is not necessary for you to further explain because you have already just stated it in your usual fashion, but continue.

Mr. V. Arden McLean: Madam Speaker, I figured you were going to do that. I know you very well.

Madam Speaker, I know the headlines will have that tomorrow or Monday. Madam Speaker, I am like my good friend from Bodden Town, water on a duck's back. We are going to say what we have to say, because the last time I saw a slice of bread on my doorstep it came from a loaf that I was carrying into my house and the sack broke. Nobody brings anything there to help me with. Okay? And this must be our last stand, Madam Speaker. If we do not stand now to protect the Caymanians so that they can get the jobs, what was the last thing? Almost 2,000 Caymanians are out of jobs.

Madam Speaker, it is bad enough to have those out of jobs but then, what about all of those who are lower down the ladder that can be promoted? And they are stifled because we are moving one from next door and the immigration board on a legal advice is allowing them to go.

Madam Speaker, this morning in Question time I asked about statutes. Who is breaking the statutes of this country, because that is a criminal offence too? So, Madam Speaker, the statutes say that there

are certain areas in the country where speed limits are posted. If I can go there in the 50 [mile zone] and drive 100 [miles], that is an encroachment on the statute. Now, if you go, the statutes say that you cannot transfer, cannot get another work permit until you get released, unless it is under special circumstances, so if somebody gives it, that is criminality too! So, who is suing those who are encroaching on the law?

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, I hear the opinion of the Attorney General who says it might be *ultra vires* but not criminal. Well, okay, I will concede that. So, what do you do with *ultra vires* issues of the law?

[Inaudible interjection]

Mr. V. Arden McLean: Can't prosecute um.

Madam Speaker, the Premier, another lawyer, says that they cannot be prosecuted. I don't know what the other lawyers will say. Where are they out there?

Madam Speaker, if that is the case then, may I ask the Deputy Governor, that when he goes to get an opinion from the Attorney General on section 50(a)—Special circumstances—interpretation thereof, if he can maybe ask him to give him an interpretation of anyone who is *ultra vires* of the law, as to what we can do with them too? I have already said that barren those who are born with some special circumstances, all others know the difference between right and wrong. And if it was deliberately done, it should be me to hang the noose around the neck.

Madam Speaker, we laugh at some of my antidotes and the likes; of course, we laugh. But sometimes some of this is serious you know. Sometimes we have to understand what is happening in our country. Someone needs to be prepared to work towards making some decisions that are going to help our people.

[Inaudible interjection]

Mr. V. Arden McLean: No, that Motion he has cannot do it either.

So, Madam Speaker, I hope the Government will say that they are going to do it and they are going to look at it. I hope they do. Because everyone is getting their basket full except us. The Caymanian baskets continue to get shallower, emptier and emptier. It is just not fair to Caymanians, knowing that it is their country and they can see people moving from job to job and they can't get one.

Now, I would like to know how that can be explained to them, because I can't. Maybe the Government needs to explain it to them.

So, Madam Speaker, I want to encourage the Government to do what is necessary to get this thing straightened out.

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

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

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

I rise to echo the sentiments put by my good friend from East End, in his support of the Motion on Immigration by the Member for North Side.

Madam Speaker, my support for the Motion will be brief, but I thought it was right that I support something that I have also preached. Madam Speaker, there has to be a balance in support. Yes, we in Government (I mean all 18 Members) have to balance the rights of employers and employees. We have to often look at the larger picture or we can't choose myopic views. And, Madam Speaker, that big picture needs to show us that we do have to sometimes take positions when it is in the public interest to do so. And also, for the people who voted us into these seats.

Madam Speaker, I don't think anybody agrees with employers abusing employees, expat or local. I think some of the sentiments expressed by the Members for North Side and East End are very relevant, in that they have expressed the bigger picture. In a wider immigration context, we, from this side, need to give clear direction, not only on section 50 of the Immigration Law, but all areas of the Immigration Law, because we see what happens when we leave it up to interpretation. And when we are not clear on points that are this important, somebody else fills that void, and sometimes the rosier language, the most persuasive argument, even when it is wrong and self-serving, will fill that void.

Madam Speaker, the bigger picture in this on a public policy standpoint, is that we might think that this is an issue which affects just Caymanian employers and expat employees. But I agree with, I believe, the Member for East End, that it absolutely impacts the Caymanian workers as well. Madam Speaker, the debate, I guess, is for another day, but where we allow laws to be interpreted as is currently, we will always have the issues that I hear when I meet with my constituents, which are examples of qualified Caymanians being out of jobs for two and a half years, trying desperately to get jobs that are filled, not by only locals.

Madam Speaker, I said we would go back to the Immigration Law and all of its sections. How can a Caymanian be overqualified if they are willing, able and capable of filling a job? We need to get more specifics on those special incidents and circumstances set out in section 50. We need boards that not only

read and understand the laws which they are making decisions on, but applying them objectively and not subjectively, Madam Speaker.

I am very aware of one of the incidents that I am sure the Member for North Side must be aware of as well, in bringing this Motion. It affects a well-known employer on island. I am not choosing sides but some of the frustrations raised there, Madam Speaker, were very concerning to me when I spoke to that employer. Because again, time, money spent in bringing people to the Island, relocating them and expecting that at least for the period of that work permit, that that employer would be getting the services. But not only that, Madam Speaker; the intellectual property, special knowledge about someone's business, clients of that employer, all of these things, Madam Speaker, come into play when we allow "job hopping".

Is it fair to that employer when someone comes in for a period of time, and before, at least, the allotted time, they are then able to leave with such information, and either they go to a competitor or, in some instances, they set up their own business. Madam Speaker, that is where the protections come in, and a lot of people may say, *Well, in a free market society, we shouldn't protect.* Now, Madam Speaker, we are a small place and if we do not, in some instances, carry out some level of protection, then, we are going to be overrun. And I do not mind that to a certain degree, but we cannot be overrun and then held for ransom against the people that overran.

Madam Speaker, the people who elected us, expects for us to look out for their interests, and we have to balance that with us looking out for the country's interest. But, by no means are we elected to look out for any specific interests, and especially when they are not from our voter base, and people who permanently reside here and have a stake in Cayman's economy and society. Madam Speaker, anyone can come here and prosper, but not to the detriment of existing Caymanians.

Madam Speaker, I do hope that when we look at this law, we look not only at section 50, but look at other things that affect unemployment in this country and keep the status quo going. If anyone of us believes that the status quo is satisfactory when it comes to immigration in this country, we ought not to be in these seats.

[Inaudible interjection]

Mr. Winston C. Connolly, Jr.: Madam Speaker, I fully support this Motion. I will look to the Deputy Governor and whomever else he tasks with looking at this section of the law. However, as I said, I would also say that if we are looking at this, to look at some of the other ones that create loopholes. Look at the regulations. Look at all of these things that intentionally or unintentionally have a detriment on the livelihoods of our Caymanians, because if sections like this are al-

lowed to continue, if the status quo exists in perpetuity, it does not have to take a crystal ball to know what is going to happen. And the last time I read my history books, when situations like this were allowed in other places, some of those people ended up with 40 acres and a mule. Madam Speaker, we are tasked with protecting the interest of our people and while I am here, I will do that unapologetically and will support anyone who is doing the same thing on any side of this hallowed Hall. I take that obligation very seriously, even if it means that you are shunned or looked on with disdain or contempt or whatever that may be.

Madam Speaker, I have said many times in this House, when it is over and done—and that could be 17 months, it could be 6 years, who knows? But I am going to look myself in the mirror and know that I stood up for my people when called upon. And that I did what I had to do for their best interests, even when it went against my best interest.

Madam Speaker, the hour is late. I think the points have been made sufficiently and I will not harp on. But collectively, Madam Speaker, with this Motion and others such like it, we have to stand together, because if not, Madam Speaker, we are not doing the job which, the people who elected us and put us into these seats, require, want, or absolutely need. Madam Speaker, we have to stand up for our people and if not, we should give up our seats. Thank you, Madam Speaker.

Mr. V. Arden McLean: We have failed!

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

If not, I call on the honourable Member for the district of North Side to windup.

Mr. D. Ezzard Miller: Madam Speaker, because of the late hour, I will not say all of the things I would like to say. I was hoping that we would have had Monday and everybody would have had a clear day.

If a Caymanian or an employer does not notify in the letter that the Deputy Governor talked about, that the person no longer is in their employment, they are subject to a fine. And section 9 of the regulations says, and I quote: **"Where a person whose employment in the Islands is authorised under a work permit, the grant of which is conditional upon his remaining in the employment of a particular employer ceases to be employed by that employer – (a) the work permit ceases to be valid; and (b) the employer shall forthwith give written notice of the termination of the employment to the Chief Immigration Officer, and if he fails to do so commits an offence and is liable on conviction to a fine of five thousand dollars."**

Here we have our board members who can grant permits, or the administrative officers, in direct contravention of the law.

[Inaudible interjection]

Mr. D. Ezzard Miller: But they are just *ultra vires* so nothing happens to them.

The point I am making, Madam Speaker, is, why are there not consequences for these people who knowingly are doing the wrong thing?

Madam Speaker, no one can tell me that if a public function is attended where the manager is congratulated by the owners for doing such a good job in bringing a \$10 million project before time, on budget, that a work permit can be granted to somebody who can replace them the next week.

Mr. V. Arden McLean: Tell um they are closing it down tomorrow.

Mr. D. Ezzard Miller: I hope so but we got . . .

Madam Speaker, we poor Caymanians, all kinds of stunts are pulled in this work permit business to get away with it.

In one of those cases that we are talking about where the board granted the permit for the person to change jobs, Madam Speaker, this is the advertisement that they granted the permit under. It says: "Human Resource Agency Limited is seeking applications on behalf of our client for the following position: Manager." [UNVERIFIED QUOTE]. It does not identify where the person is going to work.

[Inaudible interjection]

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

"The position requires the following qualifications. The successful candidate for the position should have at least ten years' experience in a busy retail environment at a management level with experience in training, and to set up a new facility, a must for the position." [UNVERIFIED QUOTE]

Manager Speaker, this could be the manager of one of those shopping carts that sell coconuts to those tourists downtown. But they deliberately do this to reduce the level of Caymanians who are likely to apply for it. Had this clearly identified the company that the work permit was for, clearly identified the position of a manager for a new store (which the Government let um cut all the ribbons), people like myself might have even applied for it. But, of course, they would tell me as the Fifth Elected Member for George Town said, overqualified . . . everything I applied for in the last five years, I am overqualified for. I even tried tearing out four pages out of my CV and was still overqualified.

Madam Speaker, we have to tighten up the whole process of granting permits. It has to be the

exception rather than the rule! We talk about Caymanians. And, Madam Speaker, you know, we let these people tell us these things so often, that *we believe it*.

[Inaudible interjection]

Mr. D. Ezzard Miller: Who it was that said, don't care how big the lie is, if you say it often and loud enough, they will eventually believe you?

Here are some of the words that they are making us believe today: 'overqualified, underinsured'. You remember that after Ivan? Totally created out of their imagination! Nobody in the Cayman Islands was underinsured prior to Ivan. Up until that point, if you had your house insured for \$25,000, you were paying a premium based on \$25,000. If you lost your house, you got the \$25,000. All of a sudden in Ivan, if you had it insured for \$100,000, but they determined through these evaluations that we talked about here in the last session, produced by some of these evaluators here, that if it is worth \$500,000 you would get one-fifth of it because you were underinsured.

[Inaudible interjection]

Mr. D. Ezzard Miller: "Caymanians lazy".

[Inaudible interjection]

Mr. D. Ezzard Miller: Yeah, "Caymanians lazy". It is them who are putting those labels on us you know, and convincing ourselves. Our Caymanians are as good a worker as any in the world. If you treat them fairly, reward them properly, motivate them and give them equal opportunity, they could work against any nationality in the world.

Madam Speaker, in my younger days we did not have any trouble of getting Caymanians to drive the garbage trucks you know. We had a couple from Bodden Town who did a masterful job on that. Right? But all of a sudden now, only people on work permits drive the garbage trucks. If my constituents go and apply they do not have any jobs. But they have permits.

I understand, Madam Speaker, that the Government finds itself in a ticklish position with this work permit issue, for two reasons: the amount of revenue it produces, and secondly, the lobbying force by these people of how badly they need these permits. And all of them will tell you that if they are given permits, they will create jobs for five Caymanians. If they are given a concession, they will create jobs for 100 people. Does not happen!

Madam Speaker, I just want to impress on the Deputy Governor the urgency of this situation. Because right now Caymanians are feeling that their Government is letting them down. And I know the press likes to tell me that I must not use the word rev-

olutionary but I keep reminding the people in this House, it is not the poor people and the idiots that cause revolutions in countries, it is the educated people who believe they have no access or opportunity and no hope that causes these problems.

Madam Speaker, when a Caymanian struggles through the education system in Cayman, gets a good enough academic record to go to university, goes to university and competes against the best over there, comes out on top of their class, and the people who are struggling on Ds and Cs and barely making the grade, are getting invited out to dinner by huge corporations and recruited [agencies], while these bright Caymanians who succeeded in a foreign environment, comes back and carry their CVs to these corporations and they treat them like criminals.

Madam Speaker, until the Government accepts a simple fact about jobs in this country (and this goes back to the interpretation of the law), my interpretation of the Cayman Islands Immigration Law (2015 Revision) says that every job in the Cayman Islands belongs to Caymanians unless it can be demonstrated that one cannot be found. And the law provides extensive requirements for that to be demonstrated. But we have accepted the interpretation that because they are coming here and they might create one job for Caymanians, we must give them ten permits. Or they can walk in and some can get started without anything! And only the ads in the paper are seen.

We bring the Trade and Business Law down here and we do not correct the inadequacies in it. We allow it to continue.

Madam Speaker, if you take time to study the transitions of the Caymanian Protection Law to what it is today, and all of the amendments that have taken care over the years, starting with the famous Adjudicate [SOUNDS LIKE] amendment in 1976 after the law was passed in 1972 to allow US citizens to get Cayman status. With the original law they could not get it. And the architect of the Caymanian Protection Law, Mr. Benson Ebanks, maintains until this day, that it was a typographical error for Cayman status. It was supposed to be one or two and the drafter left out the "or". So, they gave twelve per year.

Today, all we do is to amend legislation to facilitate other people coming to this country and taking advantage of the environment that our forefathers created, and this Government is creating, and we are not insisting that Caymanians be a part of it.

The Fourth Elected Member for Bodden Town talked about people being trained in IT [Information Technology]. If we are not getting the jobs, why bother to get trained?

One of the problems I have in my constituency, Madam Speaker, is that I have families who have mortgaged their houses, because, as I have said all along, the \$20,000 that government gives for scholarships, just sets them up to fail. It would be better for

the Government to say that they can only afford 10 scholarships for the year, but they are going to the 10 brightest people in this community and they are going to be full scholarships.

When I went off in 1970 I went on a full scholarship. My accommodation was paid. My transportation was paid. My schooling was paid and I was given a whole lump sum of \$28.00 a month for expenses. My good friend and others in the university across the street, got \$32 and I got \$28. Right? But that is fine, I managed.

What we are doing today is that we are giving students US\$20,000 each. One or two things are going to happen. Their parents are going to have to mortgage everything they have, because the banks do not take a little bit to get a little bit. They want everything to give you a little bit. Or, they are going to go to some back-to-the-wall university college and when they come out their degree is not worth anything. And they have a degree in accounting but they do not even have enough accounting credits to sit the exam much less pass it, because they are looking at American history and all of those other kinds of other foolishness to get their degree.

I spoke to the Deputy Governor a couple of months ago. When I left High School, Madam Speaker, the Government had a list of scholarships for positions that needed to be filled. If you applied for one of them and you didn't get any . . .

[Inaudible interjection]

Mr. D. Ezzard Miller: They knew what their manpower requirements were and were trained for that specific job and when they came back they got the job.

[Inaudible interjection]

Mr. D. Ezzard Miller: What we are doing now, because some past genius education minister believed that we should release everybody. So, they come back and cannot get jobs. And, at the same time, everybody is getting permits.

So, Madam Speaker, I want to impress on the Deputy Governor and the Premier, the urgency of this matter. I believe it can be done. The Deputy Governor said that they are asking the AG for his legal opinion on it. I believe (and I am not a lawyer) if that legal opinion is what I think it should be, which is what we have been doing for all of these years, if that is publicised . . . because even though this one that we are talking about now was not publicised, the wrong people still know about it because they are the ones who are taking advantage of it. And the rest of us who could take advantage of it, do not know anything about it.

So, the statement . . .

[Inaudible interjection]

Mr. D. Ezzard Miller: Yeah. Excuse me.
Madam Speaker—

The Speaker: Member for North Side, the legal opinion that you are referring to, are you intending to specifically refer to it? If so, you would need to seek permission to lay it on the table.

[Inaudible interjection]

Mr. D. Ezzard Miller: Oh, Madam Speaker, he wants it; no problem. I will quote one sentence out of it so that I can lay it. Just hold on one minute. Let me find it.

[Short pause]

Mr. D. Ezzard Miller: I was not intending to lay it really, but I will just quote one line out of it. So, I will have to table it, right?

It says, and I have it underlined in red: “The word “may” is used which is discretionary, not a mandatory provision.” [UNVERIFIED QUOTE]

I [beg to] lay the opinion to which I refer.

The Speaker: So ordered.

[Copy of Legal Opinion laid on the Table of the House]

The Speaker: Serjeant, please make some copies.
Please continue, Member for North Side.

[Inaudible interjection]

Mr. D. Ezzard Miller: So, Madam Speaker, sometimes the Member for East End says that we raise the issue of lawyers being transferred between certain law firms, and we were told the usual bureaucracy was involved in the process. A couple of days later, that opinion appeared on my truck windshield at a certain location in town. And I could not use it then because it was after the fact, but I filed it away and four o'clock this morning when I was preparing my speech I remembered it. So, I went and looked into a special cupboard at my house where I have documents from the windshield. It took me a while but I found it. And that Opinion is what the boards are relying on, in my view, to dilute the intention, the effectiveness of section 50 in the law. And we need to correct that with the boards as a matter of urgency, Madam Speaker.

I know that the Deputy Governor did not give any response to my concerns about the definition of “aggrieved parties”, and while, Madam Speaker, it might be a stretch to say . . . because we do not want everybody who applies for a job to be able to appeal a decision of the board because they did not get it. But certainly, as explained earlier, when a person goes through the hierarchy of interviews and is in a position of what is believed to be negotiating terms of em-

ployment, and a letter is received saying that they are no longer interested in them and it is asked what happened, it is heard that they got a work permit renewed. And this did not just happen in one institution with this person, it happened four times in a row.

In the second institution he started as a general manager and applied for every position that were advertised downward until he got to the facilities manager. And they offered there to create a position for him while they had transferred one of their servers from the bar with no management experience to manage the residences, because his friend liked him and asked him why he didn't go and try that since he may have liked it. And the final offer to the Caymanian was that we will create a position for you and they negotiated it and told him that they could not do it in this budget year and would have to wait until next year. So, he would need to stay unemployed until 2016 before he could get a job. And the person is qualified in all areas for every one of those jobs that he applied for.

[Inaudible interjection]

Mr. D. Ezzard Miller: The general manager that interviewed him first was from the Bahamas. He looked at him and said, *Sir, you know if this was my country, I would not be here. You would be in my position.* But we in Cayman are afraid to do it because they are going to run away. Where are they going to run?

[Inaudible interjection]

Mr. D. Ezzard Miller: So, Madam Speaker, I want the Deputy Governor to look at some expansion of “aggrieved parties” because I am a bit concerned of the narrow interpretation of that, and maybe if the boards know that the Caymanian who did not get the job—we are going to have to put certain criteria on it—can appeal the decision, they will be less reluctant to grant a work permit over a Caymanians.

So, Madam Speaker, with those few words, I thank the Government for supporting the Motion and look forward to a big news line next week, in that a directive has been issued to the board, that section 50 and “special circumstances” has been restored to its original authority.

Thank you.

The Speaker: The question is: BE IT THEREFORE RESOLVED that Government consider reviewing these provisions in the Law and making necessary amendments to ensure these provisions are more robust and offer better protections for Caymanians in the work place.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Private Member's Motion No. 13/2015-2016 passed.

The Speaker: I recognise the Honourable Premier.

ADJOURNMENT

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

Madam Speaker, we have left on the agenda for this Meeting, one Private Member's Motion, the conclusion of the Committee stage of the two Bills, The Whistle Blower Bill and the Endangered Species Trade and Transport (Amendment) Bill, a number of questions, a report under the Governor Vesting of Lands Law, a number of parliamentary questions, The Strategic Policy Statement and the Motion for the Adoption thereof.

So, in terms of division of the work, I am proposing that on Monday we take the next Private Member's Motion, the Committee stage amendments of those Bills which I just mentioned, The Governor Vesting of Lands Law Report and that we then adjourn and deal with the . . . sorry, Madam Speaker. I've just recalled the Honourable Deputy Governor will not be here on Monday so it is perhaps best that we put those, at least the Committee stage . . . well, might as well do both at once; the Committee stage Bills over onto Wednesday as well. And so we just deal with the Private Member's Motion, the Parliamentary Questions and the Governor Vesting of Lands Report on Monday. So, it should be a short day.

[Inaudible interjections]

The Hon. Premier, Alden McLaughlin: I just wanted to indicate that to Members so that people understand what it is that the Government is proposing.

With that, Madam Speaker, I move the adjournment of this honourable House until Monday at 10 am.

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

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

AYES.

The Speaker: The Ayes have it.

At 6:01 pm the House stood adjourned until Monday, 23 November, 2015, at 10 am.

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