



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2017/18 SESSION

15 November 2017
*Sixth Sitting of the Second
Meeting*
(Pages 1-31)

**Hon W. McKeeva Bush, OBE, JP, MLA,
Speaker**

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PRESENT WERE:

SPEAKER

Hon W McKeeva Bush, OBE, JP, MLA
Speaker of the Cayman Islands Legislative Assembly

MINISTERS OF THE CABINET

Hon Alden McLaughlin, MBE, JP, MLA	<i>The Premier</i> , Minister of Human Resources, Immigration and Community Affairs
Hon Moses I Kirkconnell, JP, MLA	<i>Deputy Premier</i> , Minister of District Administration, Tourism and Transport
Hon Juliana Y O'Connor-Connolly JP, MLA	Minister of Education, Youth, Sports, Agriculture and Lands
Hon Dwayne S Seymour, JP, MLA	Minister of Health, Environment, Culture and Housing
Hon Roy M McTaggart, JP, MLA	Minister of Finance and Economic Development
Hon Joseph X Hew, JP, MLA	Minister of Commerce, Planning and Infrastructure
Hon Tara A Rivers, JP, MLA	Minister of Financial Services and Home Affairs

EX OFFICIO MEMBERS OF THE CABINET

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

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Hon Bernie A Bush, MLA	<i>Deputy Speaker</i> - Elected Member for West Bay North
Capt A Eugene Ebanks, JP, MLA	Elected Member for West Bay Central
Mr David C Wight, MLA	Elected Member for George Town West
Ms Barbara E Conolly, MLA	Elected Member for George Town South
Mr Austin O Harris, Jr., MLA	Elected Member for Prospect

OPPOSITION MEMBERS

INDEPENDENT MEMBERS

Hon D Ezzard Miller, MLA	<i>Leader of the Opposition</i> - Elected Member for North Side
Mr Alva H Suckoo, MLA	<i>Deputy Leader of the Opposition</i> - Elected Member for Newlands
Mr Anthony S Eden, OBE, MLA	Elected Member for Savannah
Mr V Arden McLean, JP, MLA	Elected Member for East End
Mr Christopher S Saunders, MLA	Elected Member for Bodden Town West
Mr Kenneth V Bryan, MLA	Elected Member for George Town Central

**OFFICIAL HANSARD REPORT
SECOND MEETING OF THE 2017/18 SESSION
WEDNESDAY
15 NOVEMBER 2017
4:20PM
Sixth Sitting**

[Hon. W. McKeeva Bush, Speaker, presiding]

The Speaker: Good morning.

I will invite the Honourable Minister for Education to say prayers this morning.

PRAYERS

Hon. Julianna Y. O'Connor-Conolly, Minister of Education, Youth, Sports, Agriculture and Lands:

Let us pray.

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

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

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

The Lord bless us and keep us. The Lord make His face shine upon us and be gracious unto us. The Lord lift up the light of His countenance upon us and give us peace, now and always. 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: There are none.

PRESENTATION OF PETITIONS

The Speaker: None.

PRESENTATION OF PAPERS AND OF REPORTS

REPORT OF THE STANDING FINANCE COMMITTEE ON THE APPROPRIATION (FINANCIAL YEARS 2018 AND 2019) BILL, 2017

The Speaker: The Honourable Minister of Finance.

Hon. Roy M. McTaggart, Minister of Finance and Economic Development: Thank you, Mr. Speaker.

Mr. Speaker, I beg to lay on the Table of this honourable House, the Report of the Standing Finance Committee on the Appropriation (Financial Years 2018 and 2019) Bill, 2017.

The Speaker: So ordered.

Does the Minister intend to speak thereto?

Hon. Roy M. McTaggart: Thank you, Mr. Speaker; briefly.

Mr. Speaker, in accordance with Standing Order 64(7), the Standing Finance Committee agreed that I submit to this honourable House, the Report of the Committee on the Appropriation Bill for Government's 2018 and 2019 Financial Years.

The Committee had its first meeting on Tuesday the 7th November 2017. In addition to that first meeting, the Committee had deliberations on five subsequent days, the last of which occurred earlier this afternoon when the Committee met to review and

Committee therefore held meetings over a six day period.

The Committee met to consider the items shown on the Schedule to the Appropriation Bill; a function that is referred to the Committee by Standing Order 64(3). The Committee considered the Schedule to the Bill and agreed to all the appropriations requested thereon, minor refinements or amendments were made to the description with respect to four appropriations but none of the appropriation amounts were changed by Finance Committee.

Mr. Speaker, the Committee also agreed to disbursements of up to \$15,650,000 from the Environmental Protection Fund with respect to expenditures which are planned to be incurred in connection with environmental matters. As the proceedings of the Committee have been broadcast publicly, there is no need for me to provide any greater detail on the deliberations of Finance Committee with respect to the Appropriation Bill that the Committee examined.

Mr. Speaker, I can report to this honourable House that a Bill shortly entitled The Appropriation Financial Years 2018 and 2019, Bill, 2017 was considered by the Standing Finance Committee which is a Committee of the whole House and the Bill was passed by the Committee with four minor amendments to the descriptions with respect to four appropriations, none of the appropriation amounts on the schedule to the Schedule to the Bill were change by Finance Committee.

Thank you, Mr. Speaker.

CAYMAN ISLANDS GOVERNMENT ANNUAL HR REPORT 2014/2015

The Speaker: The Honourable Deputy Governor.

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

Mr. Speaker, I beg to lay on the Table of this honourable House, The Cayman Islands Government Annual HR Report 2014/2015.

The Speaker: So ordered.

Does the Honourable Member wish to speak thereto?

Hon. Franz I. Manderson, Deputy Governor: Mr. Speaker, I will speak to the next report that is coming up since that is the most recent one.

CAYMAN ISLANDS GOVERNMENT ANNUAL HR REPORT 2015/2016

The Speaker: The Honourable Deputy Governor.

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

Mr. Speaker, I beg to lay on the Table of this honourable House, The Cayman Islands Government Annual HR Report for the years 2015/2016.

The Speaker: So ordered.

Is the Member speaking?

Hon. Franz I. Manderson, Deputy Governor: Mr. Speaker, just briefly to say that the key findings in the report include showing that there has been a growth in the Caymanian representation within the Core Civil Service to 74.3 per cent by June 2016 and the wider Public Service to 75.4 per cent, also in June 2016.

The percentage of Caymanians in the Core Civil Service has increased by small increments each year since the 72.5 per cent reported in 2012.

Mr. Speaker, an overall increase in the size of the public service during 2015/2016, we saw increases in both the core civil service and our SAGCs as is set out in the report. Mr. Speaker, 54 departments across the core civil service experienced a change in headcount between June 2015 and June 2016 and the majority of the departments, some 50, these increases were small, less than five employees. The departments experiencing the largest increase were Education, which was a major priority for the Government, and also District Administration.

Mr. Speaker, a continued trend of higher representation within the civil service of female employees were 54 per cent compared to the male employees of 46 per cent of movement of 2 per cent from the 52 per cent female and 48 per cent male reported in 2012.

More good news, Mr. Speaker, is that an increase of \$721.00 per annum on the average civil service annual full time equivalent salary to \$45,729 as of the 3rd June 2016. This is the second year that there has been increase in the average salary and this is between June 2014 and June 2015, shows an increase of \$2,497 following decreases in the preceding two physical years of \$191 and \$1,230 respectively.

An upward shift in the salary range which represents the largest per cent of the civil service as of the 3rd June 2016, 27 per cent of the civil service earned between \$40,000 to \$49,099 per annum compared to 30 per cent of the civil service who at the 30th June 2015 earned between \$30,000 and \$39,999. So, Mr. Speaker we have seen some really good things happening with the civil service in terms of pay for our employees, and that has had a tremendous impact on people's take home pay and their ability to take care of their families. We want to record our support to the Government and my thanks to the Government for their support.

Mr. Speaker, there are lots of other interesting stats in these reports. Basically, everything that anyone would want to know about the civil service is here and I would ask all Members and members of the Public to read the reports.

Thank you.

The Speaker: Does the Honourable Premier wish to move the suspension at this point?

**Moment of interruption—4:30 pm
Suspension of Standing Order 10(2)**

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

Mr. 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 in order for the House to continue after 4:30 pm.

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: I crave the indulgence to take a two minute break and I ask Members to stay in their seats.

Proceedings suspended at 4:31 pm

Proceedings resumed at 4:33 pm

The Speaker: Please be seated.

Proceedings are resumed.

I call on the Premier for the suspension of Standing Orders that question time may continue beyond the hour of 11:00.

Suspension of Standing Order 23(7) and (8)

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I beg to move the suspension of Standing Order 23 (7) and (8) in order that questions may be taken after the hour of 11:00.

The Speaker: The question is that Standing Orders be suspended in order for questions to be asked after 11:00 am.

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

AYES.

The Speaker: The Ayes have it.

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

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

QUESTION NO. 15

THE NUMBER OF CAYMANIAN STATUSES GRANTED BY THE CHIEF IMMIGRATION OFFICER SINCE 1ST JANUARY, 2009, BROKEN DOWN BY YEAR;

THE NUMBER OF PERMANENT RESIDENCIES GRANTED BY THE CHIEF IMMIGRATION OFFICER SINCE 1ST JANUARY, 2009 BROKEN DOWN BY YEAR; AND

THE NUMBER OF RESIDENCIES (BY SUBSTANTIAL BUSINESS PRESENCE, INDEPENDENT MEANS AND ALL OTHER CATEGORIES) GRANTED BY THE CHIEF IMMIGRATION OFFICER SINCE 1ST JANUARY, 2009 BROKEN DOWN BY YEAR

The Speaker: The Member for George Town Central, Question No. 15 standing in your name.

Mr. Kenneth V. Bryan, Elected Member for George Town Central: Thank you, Mr. Speaker.

Through you, Mr. Speaker—

The Speaker: Is it the George Town Central or Bodden Town West?

The Member for Bodden Town West, Question No. 15.

Mr. Christopher S. Saunders, Elected Member for Bodden Town West: Thank you, Mr. Speaker.

I just want to state for the record before I ask the question. I submitted these questions as a FOI (Freedom of Information) and I did not even get so much as an acknowledgement and I really regret that I have to go this route to put this question out there when I could have used it for something else. So, I just want that noted that these were previous FOI submitted.

The Speaker: It is not a fault of the honourable House.

Mr. Christopher S. Saunders: No, I just wanted to put out there from a FOI standpoint because that is another issue I am going to raise separately with the Deputy Governor. Like I said, these were submitted months in advance and I did not even get so much as an acknowledgement from the FOI Manager in that regard.

The Speaker: If you want to try, you can try again.

Mr. Christopher S. Saunders: No, no, that is okay. I went through this trouble to get here.

Thank you, Mr. Speaker.

Mr. Christopher S. Saunders: Thank you, Mr. Speaker.

Question No. 15: (a) What is the number of Caymanian statuses granted by the Chief Immigration Officer since 1st January, 2009, broken down by year; (b) What is the number of permanent residencies granted by the Chief Immigration Officer since 1st January, 2009 broken down by year?; and (c) What is the number of residencies (by substantial business presence, independent means and all other categories) granted by the Chief Immigration Officer since 1st January, 2009 broken down by year?

The Speaker: The Honourable Premier?

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

Mr. Speaker, I am sorry for the difficulties that the Member for Bodden Town West has encountered with the FOI process. I hope that this response will provide the answers he has been seeking.

The answer Mr. Speaker, is: the number of permanent residencies and the right to Caymanian status grants made since 2009 are as follows- The Chief Immigration Officer grants Right to be Caymanian Acknowledgement:

Year	Grants
2009	109
2010	273
2011	383
2012	263
2013	293
2014	437
2015	411
2016	426
2017	341
Total	2,936

That is a total of 2,936 for the years 2009 to 2017—Right to be Caymanian Acknowledgement.

Mr. V. Arden McLean, Elected Member for East End: I do not know if we have —

The Speaker: Member for East End, I believe there is a difference in your answers than what is written on the written answer.

Mr. V. Arden McLean: Well, I can tell you this is another FOI—

[Inaudible interjection]

Mr. V. Arden McLean: How many pages you have Alden?

Oh, it is saying one of eight and we only have one, three, five and seven. That is what happened,

Mr. Speaker; only one, three, five and seven if you look at the bottom.

The Speaker: There seems to be some pages missing, Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, perhaps we could suspend while the photocopies are made and then I can continue with the answer.

The Speaker: Let us take that suggestion from the Honourable Premier.

We will suspend and Members, please stay in your seats.

Proceedings suspended at 4:39 pm

Proceedings resumed at 4:49 pm

The Speaker: The Honourable Premier, it seems that the question is now in order.

[Inaudible interjection]

The Speaker: You have not received them yet?

Mr. V. Arden McLean: Mr. Speaker, we have not received them.

The Speaker: Oh okay, I am sorry, my fault; I thought that everybody had received them.

[Pause]

The Speaker: The Honourable Premier.

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

We shall try again and I will start at the top.

The answer: The number of permanent residency and the right to be Caymanian, Caymanian status grants made since 2009 are as follows: Grants by the Chief Immigration Officer—first, the Right to be Caymanian Acknowledgement:

Year	Grants
2009	109
2010	273
2011	383
2012	263
2013	293
2014	437
2015	411
2016	426
2017	341 (so far)
Total	2,936

Mr. Speaker, these are persons who are entitled as of right to be Caymanians and therefore, it is just a question of the Chief Immigration Officer assuring himself that they meet the criteria and giving them the acknowledgement.

The second category, Mr. Speaker, is the Right to be Caymanian, continuation at age 18. This is with respect to persons who were Caymanian or were declared to be Caymanian as minors, and who subsequently applied having met the requirements of the Law for that status to be continued once they reach the age of majority:

Year	Grants
2009	33
2010	84
2011	95
2012	71
2013	79
2014	96
2015	151
2016	149
2017	75 (so far)
Total	833

Moving on to permanent residency, Mr. Speaker; residency by virtue of a substantial business presence: There were no grants between 2009 and 2013, 1 in 2014, 5 in 2015, 10 in 2016 and 8 in 2017, so far.

Residency with certificate of direct investment: there were none between 2009 and 2012, one in 2013, none between 2014 and 2017.

Residency by independent means:

Year	Grants
2009	28
2010	25
2011	18
2012	21
2013	27
2014	29
2015	28
2016	27
2017	19 (so far)
Total	222

That is a grand total of 222.

Next category, Mr. Speaker, indefinite permanent residency; persons of independent means: Between 2009 and 2013, there were no grants; 2014, 5; 2015, 7; 2016, 16; and 2017, 11 so far, for a total of 39.

Residency and employment right certificate—spouse of a Caymanian: there were no grants between 2009 and . . . that cannot be right. In 2016-2017 there were 247.

Residency with the right to work—spouse of a deceased Caymanian:

Year	Grants
2009	6
2010	5
2011	5
2012	5
2013	14
2014	9
2015	6
2016	3
2017	0 (so far)
Total	53

That is a total of 53.

Grants by the Cayman Status and Residency Board, Right to be Caymanian: in 2009 there was 1. There were none in any of the years between 2010 and 2017; grants by the board under section 22(5) of the Immigration Law.

Right to Be Caymanian Acknowledgement:

Year	Grants
2009	166
2010	0
2011	1
2012	0
2013	0
2014	1
2015	0
2016	0
2017	0
Total	168

So, it is 168 for the years from 2009-2017.

Next is the Right to be Caymanian—continuation at age 18:

Year	Grants
2009	31
2010	0
2011	0
2012	0
2013	0
2014	0
2015	0
2016	0
2017	0
Total	31

Mr. Speaker, I should point out that these are grants by the Board and the reason why you would have seen a significant reduction is that a significant number of these are now being dealt with by the Chief Immigration Officer hence the large numbers on that side of the equation.

Right to be Caymanian by Cabinet:

Year	Grants
2009	0
2010	0
2011	0
2012	4
2013	1
2014	3
2015	1
2016	2
2017	0
Total	11

2013	235
2014	342
2015	286
2016	353
2017	266
Total	1,955

That is a total of 1,955 for the years 2009–2017

The Right to be Caymanian—surviving spouse of a Caymanian:

For 2017, Mr. Speaker, this says none but the reason for that is that the three that were granted by Cabinet are yet to be ratified by this House and there are three motions to be brought this afternoon to deal with that. So, 2017 would be three so far; a total of 11.

Right to be Caymanian by grounds of decent:

Year	Grants
2009	55
2010	39
2011	64
2012	44
2013	48
2014	51
2015	40
2016	45
2017	32
Total	418

Year	Grants
2009	2
2010	4
2011	4
2012	2
2013	1
2014	4
2015	6
2016	4
2017	0 (so far)
Total	27

The right to be Caymanian, continuation after age 18:

That is a total of 418 for the years 2009-2017.
Right to Be Caymanian on the grounds of naturalisation as a British Overseas Territory citizen:

Year	Grants
2009	63
2010	144
2011	214
2012	264
2013	239
2014	233
2015	198
2016	251
2017	140
Total	1,746

Year	Grants
2009	31
2010	31
2011	55
2012	25
2013	40
2014	26
2015	44
2016	38
2017	26
Total	316

The total is 316.

The right to be Caymanian, possession of British Overseas Territory citizenship by virtue of birth:

That is a total of 1,746 for the years 2009–2017.

Right to be Caymanian on the grounds of marriage:

Year	Grants
2009	87
2010	69
2011	109
2012	208

Year	Grants
2009	8
2010	0
2011	0
2012	0
2013	0
2014	0
2015	0
2016	0
2017	0
Total	8

That is a total of 8 for that year.

Mr. Speaker, going back to one; the residency and employment right certificate when I doubted the number myself. It has occurred to be, as I have gone on, that again, the reason for this is likely that these things are dealt with principally by the Chief Immigration Officer and do not go to the board; the Residency and Employment Rights Certificate because it is simply a matter of proving you are married to a Caymanian and that the marriage is a subsisting and valid marriage and not one carried out for convenience of remaining in Cayman.

The Speaker: The Member for Bodden Town West, do you have a —

Mr. Christopher S. Saunders: Thank you, Mr. Speaker.

I just want to thank the Honourable Premier and his team for putting this information together. The information, just so the House is aware, is a part of a big analysis that I am working on and I just needed the information. So, I just want to thank the Premier for the information.

The Speaker: Any other questions?

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

BILLS

THIRD READING

THE APPROPRIATION (FINANCIAL YEARS 2018 AND 2019) BILL, 2017

The Clerk: The Appropriation (Financial Years 2018 and 2019) Bill, 2017.

The Speaker: The Appropriation (Financial Years 2018 and 2019) Bill, 2017.

The Minister of Finance.

Hon. Roy M. McTaggart: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that a Bill shortly entitled The Appropriation (Financial Years 2018 and 2019, Bill) 2017, as amended, be given a third reading and passed.

Thank you, Mr. Speaker.

The Speaker: So ordered.

The question is that The Appropriation (Financial Years 2018 and 2019) Bill, 2017, be given a third reading and passed.

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

AYES.

The Speaker: The Ayes have it.

Procedural Matter

Mr. V. Arden McLean: Mr. Speaker, on a procedural matter—

The Speaker: Member for East End.

Mr. V. Arden McLean: Thank you, Sir.

On a procedural matter, we are not reporting the Bill?

[Inaudible interjection]

Mr. V. Arden McLean: Where is it?

[Inaudible interjection]

Mr. V. Arden McLean: The table is not reporting.

[Pause]

Mr. V. Arden McLean: Mr. Speaker, I hear my colleague saying that it was reported. There is a specific—

The Speaker: Member for East End.

Mr. V. Arden McLean: Mr. Speaker, if I can get my standing order—

The Speaker: Are you still on the matter of—

Mr. V. Arden McLean: Yes, yes, on procedural —

The Speaker: Procedural matter.

Mr. V. Arden McLean: Yes, Mr. Speaker.

Mr. Speaker, if I can get the Standing Orders, there is a specific requirement of reporting to the House. It is not the laying of the matter; it is—

[Inaudible interjection]

The Speaker: The Minister of Finance.

[Crosstalk]

Hon. Roy M. McTaggart: Thank you, Mr. Speaker.

Mr. Speaker, during the remarks that I made, I concluded my speech by saying: “Mr. Speaker, I can report to the House that a Bill shortly entitled “The Appropriation Financial Years 2018 and 2019, Bill 2017 was considered by the standing Finance Committee which is a Committee of the whole House and the Bill was passed by the Committee with minor amendments to the descriptions with respect to four appropriations.”

The Speaker: Thank you, Honourable Minister.

The Third Reading was done and I know that the Minister did make a report, but out of an abundance of caution, perhaps we should take the report that a Bill was dealt with by a Committee of the whole House and some changes were made and then asked that it be given a third reading which we will take as done already.

[Inaudible interjections]

The Speaker: Honourable Members, if we do recall, the Minister was correct. The Minister did make a report to the House on the Bill.

[Inaudible interjection]

The Speaker: Yes he did.

The Honourable Minister made a report on the Bill —

[Inaudible interjection]

The Speaker: No . . .

[Inaudible interjection]

The Speaker: He did make a report, not only lay the report, but he made the report, if I remember correctly, and all was left to do was to do the Third reading, which we have done. Now, I am entirely in your hands, but I do not see the necessity to take up a vote at this time and in any event, we do not take a vote on the report.

Mr. V. Arden McLean: Mr. Speaker, usually, and I am trying to do this . . . he laid it under the “Presentation of Papers and of Reports”. Usually, there is a sub-

heading before third readings for reports and all the reports are listed and each Minister individually gets up and says, “I am to report to this honourable House that the Committee considered a Bill . . . and there were changes made . . .”

[Inaudible interjection]

Mr. V. Arden McLean: He did not. He did it under—

The Speaker: Honourable Members, I will take a suspension for a few minutes just to clarify this matter.

Proceedings suspended at 5:08 pm

Proceedings resumed at 5:21 pm

The Speaker: Please be seated.

Proceedings are resumed.

REPORT ON BILLS

APPROPRIATION (FINANCIAL YEARS 2018 AND 2019) BILL, 2017

The Clerk: The Appropriation (Financial Years 2018 and 2019) Bill, 2017.

The Speaker: The Appropriation (Financial Years 2018 and 2019) Bill, 2017 Report.

The Honourable Minister of Finance.

Hon. Roy M. McTaggart: Thank you, Mr. Speaker.

Mr. Speaker, I have to report to the House that a Bill shortly entitled The Appropriation (Financial Years 2018 and 2019) Bill, 2017 was considered by the standing Finance Committee, a Committee of the whole House and a Bill was passed by the Committee with minor amendments.

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

THIRD READING

APPROPRIATION (FINANCIAL YEARS 2018 AND 2019) BILL, 2017

The Clerk: The Appropriation (Financial Years 2018 and 2019) Bill, 2017.

The Speaker: The Honourable Minister of Finance.

Hon. Roy M. McTaggart: Mr. Speaker, I beg to move that a Bill shortly entitled The Appropriation Financial Years 2018 and 2019, Bill, 2017, as amended, be given a third reading and passed.

The Speaker: The question is that a Bill shortly entitled The Appropriation Financial Years 2018 and 2019, Bill, 2017, be given a third reading and passed.

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

AYES.

The Speaker: The Ayes have it.

The Premier, Hon. Alden McLaughlin: May we have a division, sir?

The Speaker: Division please.

The Premier, Hon. Alden M. McLaughlin: The point is to see whether the Opposition will vote for the Budget. You know we are going to vote for it.

[Inaudible interjection]

Division No. 8

AYES: 17

Hon. Alden M. McLaughlin
 Hon. Julianna Y O'Connor Connolly
 Hon. Dwayne S. Seymour
 Hon. Roy M. McTaggart
 Hon. Joseph X. Hew
 Hon. Tara A. Rivers
 Hon. Bernie A. Bush
 Capt. A. Eugene Ebanks
 Ms. Barbara E. Conolly
 Mr. David C. White
 Mr. Austin O. Harris, Jr.
 Hon. D. Ezzard Miller
 Mr. Alva H. Suckoo, Jr.
 Mr. Kenneth V. Bryan
 Mr. Anthony S. Eden
 Mr. Christopher S. Saunders
 Mr. V. Arden McLean

NOES: 0

Absent: 1

Hon. Moses I. Kirkconnell

The Speaker: The Division is as follows: 17 Ayes and 1 absentee.

The Appropriation (Financial Years 2018 and 2019) Bill, 2017, has been read a third time and is passed.

Agreed by majority: The Appropriation (Financial Years 2018 and 2019) given a third reading and passed.

FIRST READINGS

COMPANIES (AMENDMENT) (NO. 2) BILL, 2017

The Clerk: The Companies (Amendment) (No. 2) Bill, 2017.

The Speaker: The Companies (Amendment) (No. 2) Bill, 2017.

The Honourable Minister of Financial Services.

Mr. Kenneth V. Bryan, Elected Member for George Town Central: Mr. Speaker—

The Speaker: Sorry, the Member for George Town Central.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker.

I just want to take this opportunity to say that this is the final part of the Budget and my first budget as a new Member of this House, and I just want to thank all the Members who assisted me in that process, including Members from the Government and yourself, the Honourable Speaker, and Members of the Opposition.

I just want it to be noted that it was an interesting experience and one that I have learnt from and appreciate all those Members who assisted me in that process.

Thank you.

The Speaker: Thank you Honourable Member.

The Honourable Minister of Financial Services.

Hon. Tara A. Rivers, Minister of Financial Services and Home Affairs: Thank you, Mr. Speaker.

Mr. Speaker, I assume that the First Reading has been set down and is now ready to be set down for the Second Meeting?

Mr. Anthony S. Eden, Elected Member for Savannah: No, we have not done the First Reading yet. I think we should all go home early and start back tomorrow.

The Speaker: The Companies (Amendment) (No. 2) Bill, 2017, is deemed to have been read a first time and is set down for the Second Reading.

LIMITED LIABILITY COMPANIES (AMENDMENT) (NO.3) BILL, 2017

The Clerk: The Limited Liability Companies (Amendment) (No. 3) Bill, 2017.

The Speaker: The Bill has been deemed to have been read a first time and is set down for the Second Reading.

**COMPANIES MANAGEMENT
(AMENDMENT) (NO.2) BILL, 2017**

The Clerk: The Companies (Management (Amendment) (No. 2) Bill, 2017.

The Speaker: The Companies Management (Amendment) (No.2) Bill, 2017 has been deemed to have been read a first time and is set down for the Second Reading.

INSURANCE (AMENDMENT) BILL, 2017

The Clerk: The Insurance (Amendment) Bill, 2017.

The Speaker: The Bill has been deemed to have been read a first time and is set down for the Second Reading.

**BANKS AND TRUST COMPANIES
(AMENDMENT) BILL, 2017**

The Clerk: The Banks and Trust Companies (Amendment) Bill, 2017.

The Speaker: The Banks and Trust Companies (Amendment) Bill, 2017 has been deemed to have been read a first time and is set down for the Second Reading.

PENAL CODE (AMENDMENT NO. 2) BILL, 2017

The Clerk: The Penal Code (Amendment) (No. 2) Bill, 2017.

The Speaker: The Penal Code (Amendment) (No. 2) Bill, 2017 has been deemed to have been read a first time and is set down for the Second Reading.

TERRORISM (AMENDMENT) BILL, 2017

The Clerk: The Terrorism (Amendment) Bill, 2017.

The Speaker: The Terrorism (Amendment) Bill, 2017 has been deemed to have been read a first time and is set down for the Second Reading.

**SUSPENSION OF STANDING ORDER 46(1)
AND (2)**

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, I beg to move the suspension of Standing Order 46(1) and (2) to allow The Proceeds of Crime, Bill 2017 to be given a first reading.

The Speaker: The question is that Standing Orders 46(1) and (2) be suspended.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(1) and (2) suspended.

PROCEEDS OF CRIME (AMENDMENT) BILL, 2017

The Clerk: The Proceeds of Crime (Amendment) Bill, 2017.

The Speaker: The Proceeds of Crime (Amendment) Bill, 2017 has been read a first time and is set down for the Second Reading.

SECOND READINGS

COMPANIES (AMENDMENT) (NO.2) BILL, 2017

The Clerk: The Companies (Amendment) (No. 2) Bill, 2017.

The Speaker: The Companies (Amendment) No.2, Bill, 2017, the Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you very much, Mr. Speaker.

Mr. Speaker, I beg to move that a Bill shortly entitled The Companies (Amendment) (No.2), Bill, 2017, be given a second reading.

The Speaker: Is the Member speaking to the Bill?

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

Mr. Speaker, I rise to present the Bill on behalf of the Government. It is a Bill to clarify the law as it relates to certain aspects of the enabling legislations, that is, The Companies (Amendment) Law, 2017 that was passed earlier this year.

Mr. Speaker, the Cayman Islands, as you know, assigned an exchange of notes with the United Kingdom in April 2016. The exchange of notes calls for the Cayman Islands to cooperate and facilitate exchanges of beneficial ownership information on companies registered or formed in the Cayman Islands upon receipt and verification of a request from the United Kingdom's Law Enforcement Authorities.

Mr. Speaker, The Companies Amendment Bill, 2017, as is aid, that was passed earlier this year, enabled the creation of a centralised platform through which local law enforcement agencies and competent authorities may access beneficial ownership infor-

mation to facilitate the request for such information under the exchange of notes.

Mr. Speaker, I just want, for the benefit of the Members of this House and also for the listening public's perspective, this new regime is simply an enhancement to an already existing robust beneficial ownership regime which has certainly existed in the country for at least the past 15 years.

Mr. Speaker, one of the main aims of the Bill before us today is to clarify certain provisions in the Amendment Bill, 2017 that was passed earlier this year, including some of the provisions dealing with the exemptions. These exemptions have been discussed and consulted with the financial services industry, Mr. Speaker, and they also meet international standards. However, Mr. Speaker, now that the legislation has been enforced for a while, there are certain clarifications that were identified as being necessary in order to ensure that the legislation was properly utilised.

The Bill also seeks to specify the roles and responsibilities of corporate service providers in line with the design of the centralised platform to access the beneficial ownership information.

Mr. Speaker, very briefly to discuss certain aspects of the Bill; it is arranged in nine clauses.

Clause 1 provides a clause one provides for a short title and commencement.

Clause 2 of the Bill amends section 244 of the Companies Law to add a new definition of regulatory law for the purposes of Roman numeral Part XVIIA of the Companies Law.

Clause 3 of the Bill amends and clarifies the exemptions in section 245 of the Companies Law and specifically, the clause makes clear, under what circumstances an entity can qualify for an exemption.

Clause 4 of the Bill inserts a new provision that requires a company exercising an exemption to declare the exemption that is being utilised.

Clause 5 of the Bill makes clear that the issuance of the restrictions notice under section 256(3)(a) is subject to the limitations in section 265 of the Law.

Clause 6 amends section 261 of the Companies Law to require corporate service providers to regularly deposit beneficial ownership information received from companies as directed by the competent authority. The clause also imposes penalties for corporate service providers failing to comply with the provision.

Clause 7 of the Bill names the Anti-corruption Commission as the body which may request a search of the centralised platform to access beneficial ownership information.

Clause 8 amends section 263 as a consequential change due to the new definition of regulatory law as it contemplated by clause 2 of this Bill that I spoke to just a moment ago.

Clause 9 of the Bill amends section 280 as a consequence of the renumbering of section 245(1) caused by clause 3 of this Bill.

Mr. Speaker, this concludes the presentation on the proposed Bill. I would just like to thank the Ministry staff and relevant members of the financial services industry who worked with the staff in devising and coming up with the necessary clarifications, and, of course, the Legislative Drafting Department for their tireless efforts in helping us to design the preparation of this Bill. I therefore commend the Companies (Amendment) (No. 2) Bill to the honourable House for passage subject to no debate that may ensue. Thank you.

The Speaker: Does any other Member wish to Speak? *[Pause]*

The Honourable Attorney General.

Hon. Samuel W. Bulgin, Attorney General: Mr. Speaker, I just rise to give my support to the Honourable Minister on the Bill being proposed to the House. It is part of an ongoing initiative to enhance our international corporation regime and I am certainly aware of the ongoing work spoken to by the Honourable Minister and I just would like to be on record as expressing my unequivocal support for the Bill. Thank you.

The Speaker: Does any other Member wish to Speak? *[Pause]* Does any other Member wish to Speak? *[Pause]*

If not, does the Honourable mover wish to exercise a right of reply?

Hon. Tara A. Rivers: Mr. Speaker, just to thank the Honourable Attorney General the rest of the Members of the Chamber for their tacit support in moving this particular Bill forward.

Thank you.

The Speaker: The question is that a Bill shortly entitled The Companies (Amendment) (No. 2) Bill, 2017 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Companies (Amendment) (No. 2) Bill, 2017 has been given a second reading.

LIMITED LIABILITY COMPANIES (AMENDMENT) (NO. 3) BILL, 2017

The Clerk: The Limited Liability Companies (Amendment) (No. 3) Bill, 2017.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that a Bill shortly entitled The Limited Liability Companies (Amendment) (No. 3) Bill, 2017 be given a second reading.

The Speaker: The Bill has been duly moved.

Does the Honourable Member wish to speak thereto?

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

As I did before, I rise to present this Bill on behalf of the Government which is a Bill to clarify the Law as it relates to certain aspects of The Limited Liability Companies (Amendment) Law, 2017 which was passed earlier this year.

Mr. Speaker, as was indicated earlier, the Cayman Islands has assigned this exchange of notes with the United Kingdom which calls for the enhanced level of cooperation by the Cayman islands in facilitating beneficial ownership information on companies registered and formed in the Cayman Islands upon receipt and verification of a request from the UK Law Enforcement Authorities.

The Limited Liability Companies (Amendment) Bill, 2017 which, as I said, was passed earlier this year, enabled the creation of the centralised platform through which the local law enforcement agencies and competent authorities may access the beneficial ownership information to facilitate this request pursuant to the exchange of notes.

Mr. Speaker, one of the main aims of this Bill is to clarify, as I said, certain provisions of the Law now that we have had the various pieces of legislation enforced for a number of months. Some of these clarifying sections deal with the exemptions under the Law, and, as was done with the previous Bill, this Bill was also discussed with the industry and consulted specifically as it relates to the proposed amendments and the amendments also meet international standards. However, it was determined that clarifications were needed in order to enhance the regime to the extent that we needed to at this time. So, the Bill also specifies to the roles and responsibilities of the corporate service providers in line with the design of the centralised platform.

The Bill is arranged in 8 clauses.

Clause 1 of the Bill provides for a short title and commencement.

Clause 2 of the Bill amends section 70 of the Limited Liabilities Companies Law to add the new definition of a regulatory law for the purposes of Part 12 of the Limited Liability Companies Law.

Clause 3 of the Bill amends and clarifies the exemptions in section 71 of the Limited Liability Companies Law; specifically the clause makes clear under what circumstances an entity can qualify for an exemption.

Clause 4 of the Bill inserts a new provision that requires a company exercising an exemption to declare the exemption being utilised.

Clause 5 of the Bill makes clear that the issuance of restrictions notice under section 82(3)(a) is subject to the limitations in section 91 of the Law.

Clause 6 amends section 87 of the Limited Liability Companies Law to require corporate service providers to regularly deposit beneficial ownership information received from companies as directed by the competent authority. The clause also imposes penalties for corporate service providers failing to comply with the provision.

Clause 7 of the Bill amends section 89 as a consequential change due to the new definition of Regulatory Law as contemplated in clause 2 of this Bill.

Clause 8 amends section 106 as a consequence of the renumbering of sections 71(1) caused by clause 3 of this Bill.

Mr. Speaker, this concludes my presentation of the proposed Bill and, once again, I would like to thank the staff of the Ministry as well as the financial services industry working closely with us in helping to finalise this Bill and, of course, the Legislative Drafting Department for their efforts to ensure that we got this to this House in a timely fashion. I therefore commend the Limited Liability Companies (Amendment) (No. 3) Bill, 2017 to Honourable Members for passage of second reading.

The Speaker: Does any other Member wish to Speak? *[Pause]* Does any other Member wish to Speak? *[Pause]*

If not, does the mover wish to exercise a right or reply?

Hon. Tara A. Rivers: Mr. Speaker, just to, once again, say thank you to the Members of this honourable House for their tacit support.

The Speaker: The question is that a Bill shortly entitled The Limited Liability Companies (Amendment) (No. 3) Bill, 2017 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Limited Liability Companies (Amendment) (No. 3) Bill, 2017 has been given a second reading.

**COMPANIES MANAGEMENT (AMENDMENT)
(NO. 2) BILL, 2017**

The Clerk: The Companies Management (Amendment) (No. 2) Bill, 2017.

The Speaker: The Honourable Minister of Financial Services?

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that a Bill Shortly entitled The Companies Management (Amendment) (No. 2) Bill, 2017, be given a second reading.

The Speaker: The Bill has been duly moved.

Does the Honourable Minister wish to speak thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

Mr. Speaker, I rise to present the Bill on behalf of the Government which is a Bill for the Law to enhance the Cayman Islands Monetary Authority's (CIMA) enforcement powers against licencees in certain circumstances, such as where a licencee contravenes the requirements of Part XVIIIA of The Companies Law (2016 Revision) or Part 12 of The Limited Liability Companies Law, 2016.

Mr. Speaker, the Cayman Islands has signed these exchange of notes with the United Kingdom in 2016 and as I have explained in the two recent Bills, these notes require an enhanced system of beneficial ownership information gathering and reporting to the UK Law Enforcement Authorities as it relates to verified requests received from such authorities and The Companies (Amendment) (No. 2) Bill, 2017 and The Limited Liability Companies (Amendment) (No. 3) Bill, 2017, currently before this honourable House, makes clear the requirement for corporate services providers as it relates to maintenance and accessibility of beneficial ownership registers. These corporate services providers are regulated by the Cayman Islands Monetary Authority as licencees under The Company Management Law (2003 Revision).

Mr. Speaker, the Bill before us enhances the enforcement powers of the Cayman Islands Monetary Authority to allow the authority to take enforcement action against its licencees which breach the beneficial ownership provisions as set out in Part XVIIIA of The Companies Law or Part 12 of The Limited Liability Companies Law.

Mr. Speaker, this will allow the jurisdiction to have enforceable means to ensure corporate services providers comply with their requirements to maintain beneficial ownership registers for their companies for the purposes of access through the centralised platform; again, to access beneficial ownership information. So, Mr. Speaker, this is a Bill to enhance the regime which we have already had in existence for quite some time but it does give the Monetary Authority additional enforcement powers to ensure there is compliance.

The Bill also, in addition to the regulatory powers available to CIMA under the Companies Management Law, are also being enhanced to be commensurate with the regulatory powers available to CIMA under other regulatory laws and so, the amendments to this Bill will bring this Law in line with other regulatory laws in that regard.

So, Mr. Speaker, the Bill is arranged in two clauses.

Clause 1 of the Bill provides for the short title and clause 2 of the Bill amends section 18 of the Companies Management Law (2003 Revision) to provide for additional sanctions that the Authority may take against licencees under this regulatory Law. These include the power to suspend a licence, to impose conditions with respect to the decisions made by the licence and several others to make the enforcement powers of this regulatory Law commensurate with those other regulatory laws.

Mr. Speaker, this concludes my presentation of the proposed Bill, and in closing, I once again thank the Ministry staff, the relevant members of the financial services industry who have weighed in on the consultation of this Bill and, of course, the Legislative Drafting Department for their tireless efforts with respect to the design and preparation of the Bill. I therefore commend the Companies Management (Amendment) (No. 2) Bill, 2017 to Honourable Members for passage.

The Speaker: Does any other Member wish to Speak? *[Pause]* Does any other Member wish to Speak? *[Pause]*

Does the mover wish to exercise a right of reply?

Hon. Tara A. Rivers: Just to say thank you to thank you once again for the tactic support of all Honourable Members in this House.

The Speaker: The question is that a Bill shortly entitled The Companies Management (Amendment) (No. 2) Bill, 2017 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Companies Management (Amendment) (No. 2) Bill, 2017 has been given a second reading.

INSURANCE (AMENDMENT) BILL, 2017

The Clerk: The Insurance (Amendment) Bill, 2017.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that a Bill shortly entitled The Insurance (Amendment) Bill, 2017 be given a second reading.

The Speaker: The Bill has been duly moved.

Does the Minister wish to speak thereto?

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

I rise to present this Bill on behalf of the Government. It is a Bill for the ability to enhance the Cayman Islands Monetary Authority's enforcement powers against licencees in circumstances where a licencee contravenes the requirements of Part XVIIIA of The Companies Law (2016 Revision) or Part 12 of The Limited Liability Companies Law, 2016.

Mr. Speaker, this is a part of the suite of legislation that was passed in relation to the exchange of notes which were signed with the United Kingdom in April of 2016. As I indicated before, these exchanges of notes calls for the cooperation and the facilitation of exchanges of beneficial ownership on companies registered and formed in the Cayman Islands upon receipt and verification of a request from the UK Law Enforcement Authorities.

The Companies (Amendment) (No. 2) Bill, 2017 and The Limited Liability Company (Amendment) (No. 3) 2017 currently before this honourable House make clear the requirements for the corporate service providers as it relates to the maintenance and accessibility of beneficial ownership registers.

Again, these are regulated by the Cayman Islands Monetary Authority. However, some of the cooperate services providers do not require a licence under The Company Management Law (2003 Revision) and they may provide corporate or company management services under licences of other regulatory laws. So, in this case Mr. Speaker, the Bill seeks to ensure that insurance managers which provide company management or corporate services, comply with the requirements of Part XVIIIA of The Companies Law (2006 Revision) and Part 12 of the Limited Liability Companies Law, 2016, as they are not required to obtain a licence under The Company Management Law (2003 Revision) because they are regulated under their own law.

Mr. Speaker, this Bill also inserts a provision to require auditors to notify CIMA where the auditor suspects that Part XVIIIA of The Companies Law or Part 12 of The Limited Liability Companies Law is being contravened by a licensee under this Law.

Additionally, the Bill enhances section 24 of the Insurance Law, 2010, to allow the Authority to take enforcement action against a licencee that breaches the beneficial ownership provisions as set out in Part XVIIIA of The Companies Law or Part 12 of The Lim-

ited Liability Companies Law. Mr. Speaker, this allows the Cayman Islands as a jurisdiction to have enforceable means to insurance managers that provide corporate or company management services, comply with their requirements to maintain beneficial ownership registers for their companies for the purposes of access through the centralised platform.

Mr. Speaker, the Bill is arranged in four clauses.

Clause 1 of the Bill provides for a short title.

Clause 2 of the Bill amends section 20 of the Insurance Law, 2010 to require an auditor to give notice to the Authority where the auditor suspects that the licencee has contravened Part XVIIIA of The Companies Law or Part 12 of the Limited Liability Companies Law.

Clause 6 amends section 21 of The Insurance Law to require an insurance manager to give notice to the Authority if the insurance manger suspects that a licencee who is a corporate service provider has contravened Part XVIIIA of The Companies Law or Part 12 of The Limited Liability Companies Law.

Clause 3 amends section 24 to allow the Authority to sanction a licencee that contravenes Part XVIIIA of The Companies Law or Part 12 of The Limited Liability Companies Law.

Mr. Speaker, this concludes my presentation of the proposed Bill and, I once again thank all involved; the Ministry staff, members of the financial services industry for weighing in on the consultation as well as the Legislative Drafting Department for their tireless efforts with respect to the design and preparation of this Bill. I therefore commend The Insurance (Amendment) Bill, 2017 to this honourable House for passage of second reading.

The Speaker: Does any other Member wish to Speak? *[Pause]* Does any other Member wish to Speak? *[Pause]*

Does the Honourable mover wish to exercise the right of reply?

Hon. Tara A. Rivers: Just to, once again say thank you to all Members in this honourable House for their tacit support.

The Speaker: The question is that a Bill shortly entitled The Insurance (Amendment) Bill, 2017, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Insurance (Amendment) Bill, 2017 has been given a second reading.

**BANKS AND TRUST COMPANIES
(AMENDMENT) BILL, 2017**

The Clerk: The Banks and Trust Companies (Amendment) Bill, 2017.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that a Bill shortly entitled The Banks and Trust Companies (Amendment) Bill, 2017 be given a second reading.

The Speaker: The Bill has been duly moved. Is the Member speaking thereto?

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

I rise to present this Bill on behalf of the Government. It is a Bill to enhance the Cayman Islands Monetary Authority's enforcement powers against licencees under this Bill in circumstances here a licencee contravenes the requirements of Part XVIIIA of The Companies Law (2016 Revision) or Part 12 of the Limited Liability Companies Law, 2016.

Mr. Speaker, this is a part of the suite of amending Bills addressing the exchange of notes which was entered into by the Cayman Islands and the United Kingdom in April 2016 and, as I said in all my presentations thus far, these notes call for an enhanced system of beneficial ownership collection and exchange upon receipt and verification of a request from the UK Law Enforcement Authorities.

Mr. Speaker, as I have also indicated, The Companies (Amendment) (No. 2) Bill, 2017, and The Limited Liability Companies (Amendment) (No. 3) Bill, 2017, currently before this honourable House makes clear the requirements for corporate service providers as it relates to maintenance and accessibility of beneficial ownership registers. These corporate services providers are regulated by the Cayman Islands Monetary Authority, Mr. Speaker, and some of these corporate services providers however, do not require a licence under The Company Management Law (2003 Revision) and may provide corporate or company management services under licences of the other regulatory laws, such as the Insurance Law which we have just discussed.

Mr. Speaker, this Bill seeks to ensure that licencees under The Banks and Trust Companies Law (2013 Revision) which provide corporate or company management services, comply with the requirements of Part XVIIIA of the Companies Law and Part 12 of The Limited Liability Companies Law as they are not required to obtain a licence under The Companies Management Law (2003 Revision) because they are licenced pursuant to The Banks and Trust Companies Law.

This Bill also inserts a provision to require auditors to notify CIMA where the auditors suspects that Part XVIIIA) of The Companies Law or Part 12 of The Limited Liability Companies Law is being contravened by a licencee. Additionally, the Bill enhances section 18 of The Banks and Trust Companies Law (2013 Revision) to allow the Monetary Authority to take enforcement action against a licencee that breaches the beneficial ownership provisions as set out in Part XVIIIA of The Companies Law or Part 12 of The Limited Liability Companies Law. Mr. Speaker, this will allow our jurisdiction to have enforceable means to ensure that banks or trust companies that provide corporate or company management services comply with their requirements to maintain beneficial registers for their companies for the purposes of accessing through the centralised platform.

Mr. Speaker, the Bill is arranged in five clauses.

Clause 1 of the Bill provides for short title.

Clause 2 of the Bill amends section five of The Banks and Trust Companies Law 2013 to identify the licencees to which are subject to complying with Part XVIIIA of The Companies Law or Part 12 of The Limited Liabilities Companies Law.

Clause 3 of the Bill amends section 13 of The Banks and Trust Companies Law to require an auditor to give notice to the Authority where the auditor suspects that the licencee has contravened Part XVIIIA of The Companies Law or Part 12 of The Limited Liability Companies Law.

Clause 4 amends section 18 of The Banks and Trust Companies Law (2013 Revision) to allow the Authority to sanction a licencee that contravenes Part XVIIIA of The Companies Law or Part 12 of the Limited Liability Companies Law.

Mr. Speaker, Clause 5 amends section 22 of The Banks and Trust Companies Law (2013 Revision) to empower a Justice of the Peace to also issue a search warrant where there is reason to believe that an offence has been committed pursuant to Part XVIIIA of The Companies Law (2016 Revision) or Part 12 of the Limited Liability Companies Law, 2016.

Mr. Speaker, this concludes my presentation on the proposed Bill and once again, I thank the staff of the Ministry of Financial Services, the relevant Members of the financial services industry who weighed in on the consultation of this Bill, and also to the Legislative Drafting Department for their tireless efforts with respect to the design and preparation and delivery of this Bill. I therefore commend the Banks and Trust Companies (Amendment) Bill, 2017 to this honourable House for a second reading.

The Speaker: Does any other Member wish to Speak? *[Pause]*

The Member for North Side.

Hon. D. Ezzard Miller, Leader of the Opposition: Thank you, Mr. Speaker.

Mr. Speaker, on behalf of the Opposition, I just wish to offer our full support and endorsement of the package of Bills that is presented by the Government; that is, The Companies (Amendment) Bill, The Limited Liability Companies (Amendment) Bill, The Companies Management (Amendment) Bill, The Insurance Bill, The Bank and Trust Companies (Amendment) Bill. We believe that this enhances the local financial industry and also, it demonstrates our commitment and the Government's commitment to its continued improvement of the international image of the Cayman Islands.

I would also take the opportunity to invite the Government to look at particularly The Banking and Trust Company Law to address some of the concerns that Caymanians are encountering in the local commercial industry of banking. Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to Speak? *[Pause]* Does any other Member wish to Speak? *[Pause]*

The Member for George Town Central.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker. Just to give the Government and the Minister my full support in making the relevant changes to enhance the industry of financial services here in the Cayman Islands. Thank you.

The Speaker: Does any other Member wish to Speak? *[Pause]* Does any other Member wish to Speak? *[Pause]*

Is the mover exercising the right of reply?

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Just to publicly thank the Leader of the Opposition on behalf of the Official Opposition for your support in the suite of legislation which we have just had a second reading to; and also to the Member for George Town Central for your support and obviously to my colleagues on the Government Bench, thank you for your tacit support as well.

The Speaker: The question is that a Bill shortly entitled The Banks and Trust Companies (Amendment) Bill, 2017 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Banks and Trust Companies (Amendment) Bill, 2017, has been given a second reading.

PENAL CODE (AMENDMENT) (NO. 2) BILL, 2017

The Clerk: The Penal Code (Amendment) (No. 2) Bill, 2017.

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, I beg to move that a Bill with a short title . . . no, I better read the long title.

I beg to move, Mr. Speaker, that a Bill entitled a Bill for a law to amend the Penal Code (2017 Revision) to make it an offence to provide a false statement, omit a statement or obstruct a public officer in relation to the collection of money for the purpose of government revenue and for incidental and connected purposes.

Mr. Speaker, I beg to move the Second Reading of this Bill.

The Speaker: The Bill has been duly moved.

Does the mover wish to speak thereto?

Hon. Samuel W. Bulgin, Attorney General: Yes, Mr. Speaker, thank you very much.

Mr. Speaker, this is a very short Bill and it is along identical trajectory, if I might say so. The draft of Bills presented by the Honourable Minister a while ago is part of ongoing efforts by this jurisdiction to continue to enhance our international reputation as it relates to us interfacing with the outside world and our financial services industry.

Mr. Speaker, Members of this honourable House are aware that the Cayman Islands in 2015 conducted a national risk assessment as a precursor to our upcoming fourth round of mutual evaluation which is to be done by the Caribbean Financial Action Taskforce (CFAT) with the onsite visits starting on the 4th December this year.

As a part of that national risk assessment, Mr. Speaker, which was a sort of a diagnostic test of our regulatory framework and the various supporting laws, some weaknesses were identified which required further tweaking of our legislation so as to make it compliant with the FATF [Financial Action Task Force] 40 recommendations, Mr. Speaker.

The upcoming evaluation will be based on the methodology for assessing what is called technical compliance with these recommendations and it also involves, Mr. Speaker, a test of effectiveness again for our anti-money laundering systems. As it relates to technical compliance, Mr. Speaker, the evaluators when they arrive in the next two weeks, will closely examine all our relevant laws to determine whether they are in compliance with these 40 recommendations.

Mr. Speaker, one such recommendation requires countries to ensure that its predicate offence for money laundering covers all serious crimes or offences and that, at a minimum, such predicate offences should include a range of offences in relation to crimes to do with direct and indirect taxes.

Mr. Speaker, this Bill is part of past legislative changes which is aimed at ensuring that this and other obligations are met, and that our jurisdiction's anti-money laundering and combatting of the financing and tourism framework effectively achieves the purpose for which it was established.

So, Mr. Speaker, the Bill in its entirety sets out in clause 1 what is known as the short title.

Clause 2 inserts a section 247 A into The Penal Code (2007 Revision) which creates an offence relating to internet to defraud the Government in relation to its collection of money for the purposes of general revenue. In particular, Mr Speaker, it creates an offence where a person among other things, wilfully delivers false or fraudulent information or who wilfully omits information required to be provided to, or wilfully obstructs a person in the public service to collect money for general revenue, Mr. Speaker. That is the extent of the amendments proposed in this Bill and I certainly would wish, understandably, to commend it to Honourable Members of this House. Thank you.

The Speaker: Does any other Member wish to Speak? *[Pause]*

The Member for Bodden Town West.

Mr. Christopher S. Saunders: Thank you, Mr. Speaker.

Having taken a look at this Bill, Mr. Speaker, it was actually giving me some pause in the sense that recognising that this is a change to the Penal Code and general revenues for government is so broad. Mr. Speaker, I am not even sure if this would include even customs duty if someone put the wrong customs duty on or if they fill out an immigration form and put the wrong job title which would then basically lessen the revenues to government. It is actually quite broad, Mr. Speaker, and I am a bit concerned with its broadness.

[Inaudible interjection]

Mr. Christopher S. Saunders: Well, I agree and thus the reason, but I would have preferred if the language was a bit more specific. Now, I will be the first to tell you that anyone who is looking to cheat government should pay a price for it. But the thing about it is that where intent has always been or where there is a mistake from the public or sometimes it could be a genuine error, and once you have something within the Penal Code, it is my understanding, Mr. Speaker, that it gives someone a criminal record or a police record and that is what I am a little bit fearful of; where if someone makes a mistake and it is being seen as

intent and then the person ends up with a criminal record for it. So, that is why I am a little bit concerned Mr. Speaker, and I just wanted to make that concern be put out there because the language in this is actually a bit too broad as opposed to what the Honourable Attorney General said the reason for the Law was. Thank you.

The Speaker: Does any other Member wish to Speak? *[Pause]*

The Member for Newlands.

Mr. Alva H. Suckoo, Jr., Elected Member for Newlands: Thank you, Mr. Speaker, I will be extremely brief.

Just to make the point that I see here in the amendment, the amending Bill section 1(2): "This Law shall come into force on such date as may be appointed by order made by the Cabinet and different dates may be appointed for different provisions of this Law in relation to different matters."

Just to point out my objection to doing things this way and maybe the Honourable Attorney General will explain why that is in there. I do not think that will happen with this particular Bill but we have seen where this has caused issues in other legislation. So, just to note that point using the Conservation Law as an example. We should avoid that as much as possible. Thank you.

The Speaker: Does any other Member wish to Speak? *[Pause]*

The Member for George Town Central

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker. I rise to agree with my colleague from Bodden Town West in respect to his analysis on the wording of this Bill, and just for the purpose of the Committee, I want to read section A again and what I think could possibly be interpreted by the honourable Courts. It says: "Wilfully makes, delivers or cause false or fraudulent information to be made by a person employed by the public service." Now, in isolation, by itself, Mr. Speaker, a person can deliver, like my colleague said, a mistake. The delivery of that mistake in isolation can be seen as a crime.

I heard the Honourable Premier say "the intent" and I agree with him that they have to prove intent, but I think the wording of this where it says "or" rather than "and", can be seen in isolation that once you deliver it without the intent, it can be seen as a crime. I think that leaves a very wide open space for a person to simply make a mistake on a form, like my colleague said, for Customs or any other department and find themselves before the courts for a simple minor mistake. So, in my contribution, I would ask that, and obviously the Attorney General's wisdom as a very experienced lawyer, that if the word "or" or "and" would make a difference in the interpretation of

the Law, maybe that could be considered. And not only for him to consider that, but I rise today that if there is any misunderstanding of what the intent of the Law was, that the *Hansards* would show that the intent was not for mistakes but was for persons who wilfully and knowingly try to avoid paying monies and revenues due to this honourable country.

The Speaker: Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to Speak? [Pause] Does any other Member wish to Speak? [Pause]

If not, does the Honourable mover wish to exercise the right of reply?

Hon. Samuel W. Bulgin, Attorney General: Thank you, Mr. Speaker, and thanks to all Honourable Members who have contributed to the debate and the Bill; very helpful.

Mr. Speaker, let me just deal with the point raised by the Honourable Deputy Leader of the Opposition and the reason for the wording in clause 1 which is, as he says, a wording that we often use when we do Bills in this House. Mr. Speaker, there are times when there are administrative framework to be put in place before we bring the law into force; personnel to be appointed, regulations to be crafted and other things to be done. It is never usually helpful to bring the law into force before all the other supporting mechanisms are in place to ensure that you can have a smooth flow and usually when that provision is put on there, it is to make it clear that although the law is passed by the Legislative Assembly on a particular date, the usual constitutional position is that once it is assented to and gazetted, it comes into effect. That provision there means that even though it is assented to and gazetted, it does not necessarily come onto effect until an order is made by Cabinet and that lead time would allow for the necessary supporting work and mechanism to be put into place to ensure a smooth rolling out of the Law. That is the only reason why we usually include that provision in there but it is quite fairly standard and it has no other sort of significance, Mr. Speaker.

In respect of the points raised by the Member for Bodden West, and the Member for George Town Central, Mr. Speaker, the language is cast very wide because it means exactly what it says, but it also says “wilfully” which means that you have to demonstrate intent, Mr. Speaker. In other words, a person would have to deliberately sell out, to defraud the Government and in so doing, you do so by one of these acts. Mr. Speaker, to buttress the position that I make, the Law does not punish you necessarily for an honest mistake. As a matter of fact, even in the case of murder, if you kill someone in honest belief that you were defending your life or the life of someone else—

honest belief—then, you are legally not guilty of murder. I am not giving any free legal advice now.

Mr. Speaker, section 8 of our Penal Code says “**A person who does or omits to do an act under an honest and reasonable, but mistaken, belief in the existence of a state of things is not criminally responsible for the act or omission to any greater extent than if the real state of things had been such as he believed to exist.**” In other words, Mr. Speaker, the Penal Code makes it quite clear that we do not punish in circumstances where it can be established that what was done was an honest mistake as to the existence of certain facts or state of affairs; that is the Law.

Of course, there is a different thing about the Law. If there is a mistake about the existence of the Law, you are in trouble, but if there is a mistake as to fact, Mr. Speaker, then, the Law does not seek to punish you. And so, I hope that I have clarified that position for Honourable Members. But the Law makes it quite clear that it has to be wilful or intentional or deliberate; any one of those synonyms, Mr. Speaker.

Thank you.

The Speaker: The question is that a Bill shortly entitled the Penal Code (Amendment) (No. 2) Bill, 2017 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Penal Code (Amendment) (No. 2) Bill, 2017 has been given a second reading.

TERRORISM (AMENDMENT) BILL, 2017

The Clerk: The Terrorism (Amendment) Bill, 2017.

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, I beg to move that the Bill entitled a bill for a Law to amend The Terrorism (Amendment) Bill (2017 Revision) to ensure its compliance with international standards and for international and connected purposes be given a second reading.

The Speaker: The Bill has been duly moved.

Does the Honourable Attorney General wish to speak thereto?

Hon. Samuel W. Bulgin: Yes, Mr. Speaker.

Mr. Speaker, this Bill too, has its genesis, if I might say so, in the background outlined in respect of the earlier Bill which is the Penal Code, and it is in

preparation for the ongoing review because we have started in earnest already with part of the provision with questionnaires, and the onsite inspection starts on the 4th; so, it is all in earnest, Mr. Speaker.

Mr. Speaker, in that regard, the FATF requires that jurisdictions implement what is called targeted Financial Sanctions Regimes which comply with the United Nations Security Council Resolutions relating to the prevention and suppression of terrorism and terrorist financing. Those UN Security Council resolutions, Mr. Speaker, require countries to freeze without delay, the funds and other assets of any persons or entity that has been designated by the United Nations Security Council or where the Governor, in the respect to the Cayman Islands, designate a particular person as being involved in such activities.

Mr. Speaker, in addition, the United Kingdom's Terrorist Asset-Freezing etc. Act 2010 (Overseas Territories) (Amendment) Order 2017, requires the British Overseas Territories to consult with the Secretary of State or the Treasury Department when dealing with designations and licences relevant to targeted financial sanctions, and to also increase certain penalties for offences under the regime. Mr. Speaker, we are all familiar with, for example, the sanctions against North Korea which is probably more current, and the other sanctions against other countries. And, Mr. Speaker, we need to have a way to give effect to those locally.

Mr. Speaker, those proposed changes to the Terrorism Law are aimed at strengthening the Cayman Islands framework in a way that ensures full compliance with the FATF recommendations while bringing the Law in line with the United Kingdom's Intonation obligations and of course their requirements Mr. Speaker.

Accordingly, clause 1 of the Bill sets out the short title.

Clause 2 amends section 10 of the Terrorism Law in order to expand the category of offences to which there will be extraterritorial application. In effect, Mr. Speaker, the amendment allows an offence committed outside of the Cayman Islands and under the stipulated categories to be treated if necessary, as having been committed within the Cayman Islands. These offences relate to the soliciting of terrorist property, the use and possession of terrorist property, and arranging for property to be used for terrorist purposes. I think we will readily appreciate the significance of these, given nowadays the reach of terrorist, Mr. Speaker, and their networking across various jurisdictions and various international borders.

Clause 3 amends section 12 of the Terrorism Law, in order to extend the category of offences that may be attributable to a body corporate as well as to, among other things, directors and managers who consent to the committing of such offences by the company. These offences also relate again to the soliciting of terrorist property, the use and possession of

such property and arranging for property to be used for terrorist purposes.

Clause 4 repeals and replaces section 29A of the Terrorism Law, Mr. Speaker, in order to provide the Governor with the power to propose the listing or the delisting of a person by the United Nations Security Council, as a person who is involved in terrorist activities. It also seeks to make freezing of funds and economic resources automatic upon the designation of a person, Mr. Speaker, by removing the requirement for direction to be given by the Governor to freeze the funds and the economic resources of the designated person. In other words, the United Nations does a designation, it would take automatic effect if there is a person here who is designated as involved in terrorist activities or there are funds here that are established to belong to a terrorist. So, it can be done without delay.

Clause 5 amends Schedule 4A of the Terrorism Law in order to provide among other things for the following: It provides for the expansion of the term "relevant institution" to include persons engaged in the relevant financial businesses but who are not subject to anti-money laundering monitoring by the Cayman Islands Monetary Authority. Mr. Speaker, that means that there are persons within this jurisdiction who are conducting businesses which are described as relevant financial business but are not regulated by CIMA; they fall outside of the regulatory remit of the Cayman Islands Monetary Authority. It also speaks to the introduction of the definition for the terms "Relevant United Nations Security Council Committee and Treasury", as these terms are being introduced by the Bill in clause 5(a)(ii). It also speaks to the definition of the term "designated person" to include persons whose name on the list maintain by the relevant committees of the United Nations Security Council and those who are required by the UK terrorist asset fees in Order 2017, as I mentioned earlier.

Mr. Speaker, it also speaks to the power of the Governor to propose through the Foreign and Commonwealth Office (FCO) the listing of a person by the relevant committees of the UN Security Council as a designated person and, of course, the delisting of such person where there is no reason to believe that the person is any longer, or that it has been established that the person is not involved in terrorist activities. The Governor is also provided with the power to establish procedures relating to the delisting of persons who no longer meets the criteria for designation as a terrorist.

Mr. Speaker, the Bill also empowers the collection of information in order to identify persons who meet the criteria for designation under clause 5(f)(ii); that is information in order to be able to make an informed designation of a person as a terrorist.

Mr. Speaker, in the designation or delisting, the Bill provides for the Governor to consult with the Secretary of State when dealing with such designa-

tions and to consult with the HMG Treasury when dealing with licences for such financial resources.

The Bill also addresses the requirement for the Financial Reporting Authority (FRA) to communicate designations as soon as reasonably practicable after the designations have been made to the relevant instructions as well as to any public body or self-regulatory body assigned by Cabinet under section 4 (9) of The Proceeds of Crime Law. Mr. Speaker, what that means is that the Financial Reporting Authority will have the duty to make it quite clear to the relevant service providers and public bodies that someone has been designated as a terrorist or the property has been designated a terrorist property and therefore the usual freezing and so on took place. It also speaks about body assigned by Cabinet under section 4(9), that the Cabinet now has the power under the Proceeds of Crime Law to designate the DCI (Department of Commerce and Investment) as a regulatory or supervisory body for persons involved in precious stones and metals and jewellers and for the purpose of money laundering activities.

So, Mr. Speaker, there is the expansion of instances in which a person is required to freeze without delay and without giving prior notice to the owner of the funds; those funds and the economic resources of the designated person.

The amendment, Mr. Speaker, also seeks to ensure among other things that funds that are wholly or jointly owned by a designated person or funds derived or generated from funds of or economic resources owned or controlled by a designated person are also caught, Mr. Speaker. So, those will be subject to freezing orders as well.

Mr. Speaker, the Bill also speaks to an increase in the penalties and summary conviction for offences under Schedule 4A and clause 5(u). And, of course, Mr. Speaker, as to be expected, the Bill deals with savings and transitional provision. And so, Mr. Speaker, it is quite a mouth full but the fact is that it is a further attempt, I might say, at showing up the Cayman Islands framework as it relates to targeted sanctions imposed by the United Nation Security Council where persons are involved or engaged in terrorist activities, and there is a need to move with dispatch in immobilising their properties and designating them and make that known to prevent them from conducting their affairs in or through or from this jurisdiction.

I thank you.

The Speaker: Does any other Member wish to Speak? *[Pause]* Does any other Member wish to Speak? *[Pause]*

Is the Honourable Attorney General intending to reply?

Hon. Samuel W. Bulgin: Thank you, Mr. Speaker.

I understand that we should thank Honourable Members for their support of the measures outlined in the Bill. I thank you.

The Speaker: The question is that a Bill shortly entitled The Terrorism (Amendment) Bill, 2017 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Terrorism (Amendment) Bill, 2017 has been given a second reading.

PROCEEDS OF CRIME (AMENDMENT) BILL, 2017

The Speaker: The Honourable Attorney General.

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

Mr. Speaker, this is the final Bill in this regard; The Proceeds of Crime (Amendment) Bill, 2017, and I seek leave of the House to move for the Second Reading. It is a Bill entitled a Bill for a Law to amend The Proceeds of Crime (Amendment) Bill, 2017 Revision to ensure that the Law complies with the international best practices and for incidental and connected purposes.

[Pause]

Hon. Samuel W. Bulgin, Attorney General: Can I proceed, Mr. Speaker?

The Speaker: Proceed.

Hon. Samuel W. Bulgin, Attorney General: Thank you.

Mr. Speaker, the basis for this Bill is similar to those outlined in the previous two Bills and I intend to run through the provisions of this Bill and to have a little more to say in respect of this particular Bill and some of the overall initiatives that we are pursuing.

Mr. Speaker, the Bill in clause 1, sets out the short title.

Clause 2 seeks to amend section 2 of the Proceeds of Crime Law by inserting definitions for the terms “competent authorities”; “financial year”; and “insurance business” Mr. Speaker. The first two definitions are terms being introduced by further amendments contained in this Bill and just require definition, while the latter term was previously introduced but was left undefined, Mr. Speaker. So, for example “competent authorities” now means a public body in the Island charged with the responsibility for combat-

ting money-laundering and the terrorist financing, including the Financial Reporting Authority and any authority charged with the responsibility for investigating; and the prosecuting of money-laundering, associated predicate offences and terrorist financing, and for seizing or freezing and confiscating criminal assets.

Mr. Speaker “financial year” now means, in relation to the Financial Reporting Authority (FRA), the year ending 31st December. This is to bring that in line with the other amendments that we have done in this House to change the financial year, Mr. Speaker.

Mr. Speaker, “insurance business” means business of any of the classes of business specified in the Schedule to the Anti-Money Laundering Regulations, 2017.

Mr. Speaker, there is a committee stage amendment that has been circulated in respect of this Bill which we will discuss at the relevant time.

Mr. Speaker, clause 3 seeks to amend section 4 of the Proceeds of Crime Law so as to permit the Financial Reporting Authority to disseminate information and results of any analysis it has conducted to be able to disseminate this to the Cayman Islands Monetary Authority where necessary and also to law enforcement agencies, and to any other relevant public body to which has been assigned regulatory powers under section 4(9) of the Proceeds of Crime Law. I mentioned earlier, Mr. Speaker, for example the DCI, the Department of Commerce and Investment; they would have supervisory powers or supervisory role for persons involved in precious metal and precious stone, jewellery, real estate and so on.

Mr. Speaker, the Bill also, in clause 4, amends section 11 of the Law so as to change the date for the submission of the FRA Annual Report from the 30th September of each year to now read no later than three months after the date of the end of the Financial Year.

Clause 5, Mr. Speaker, amends section 114 of the Proceeds of Crime Law to place an obligation on the Collector of Customs to report cash seizures under this section to the Financial Reporting Authority. So, where the Collector of Customs seizes cash coming across the border in excess of a certain amount and, for which, of course, there is no explanation, then he has the duty to report that to the Financial Reporting Authority.

Clauses 6 and 7, Mr. Speaker, amends sections 136 and 137 of the Law so that the court may consider guidance issued by any public body or a self-regulatory body to which the Cabinet has assigned the responsibility for monitoring AML compliance. In addition to that guidance issued by CIMA [Cayman Islands Monetary Authority], when the court is determining matters relating to the commission of an offence or failure to disclose suspicious activity report to a nominated officer, Mr. Speaker, that means that if someone has committed an offence (one of these regulatory offences) and it is established that CIMA has issued

guidance on how these activities should be carried out, and it is determined during the trial that this guidance was ignored, then it is open to the court to take into account the fact that there was guidance issued by CIMA and DCI, and were ignored by the body or the person who is alleged to have transgressed. And so, it could very well be an aggravating feature, Mr. Speaker, and in disposing of the matter, the court is entitled to take that into account.

Clause 8 amends section 138 of the Law to allow the Financial Reporting Authority, in circumstances where it has cause to suspect that criminal conduct has been committed, to make disclosures, not only to the Cayman Islands Monetary Authority and the department responsible for international tax matters, but also to any other public body, again like DCI. So, it would now enable the Financial Reporting Authority to make a similar report to the Department of Commerce and Investment in respect of one of its licencees.

Mr. Speaker, clause 9 of the Bill seeks to amend section 144 of the Principal Law to stipulate the issues to be considered when a determination is to be made as to whether a person is the beneficiary of the proceeds of criminal conduct. It stipulates, Mr. Speaker, for example, that when making that determination (the court that is), it is immaterial or irrelevant for that matter, whether or not the person was provided with money or goods or services in order to enable them to commit that offence. What is relevant, Mr. Speaker, is to show that he was the beneficiary of the crime, whether by getting proceeds or something.

Mr. Speaker, clause 10 is a minor amendment to specify a cross reference to section 45(2) to (7) instead of what is now there, which is section 45. So, it is a minor error being corrected there. It should read: “section 45(2) to subsection (7) instead of section 45”. This has the effect of allowing the grant of external restraint orders without the need for an investigation to have been commenced within the Cayman Islands. Simply put, Mr. Speaker, whenever a request is made from abroad for a restraint order that is to freeze someone’s assets in the Cayman Islands because the person is being investigated abroad for a criminal offence, the Law as it currently stands, seems to suggest that for the restraint order to be granted by the court, the prosecutor would need to demonstrate that the person has committed an offence here as well, and that an investigation is happening here. That is inconsistent with our obligations under the international obligation. So, once we are satisfied that an offence is being investigated in the foreign country and it is established that there are assets here, we ought to be able to carry out that restraint order once we are satisfied as to the genuineness of the investigation without having to require that an investigation be started locally in order to trigger the external restraint orders.

Finally, clause 11 amends paragraph 11 of Schedule 6 by inserting after the word “management” the word “and”. Mr. Speaker, this is a minor change so that the section would now read “individual and collective portfolio management and advice”. The amendment remedies what was an inadvertent omission of the word “and”.

Mr. Speaker, allow me to touch briefly on the related issue in the context of what we are discussing here. You would have heard the five Bills moved by the Honourable Minister of Financial Services. There are three that have been done by me so far, which represents a continuum, if I might put it that way, over the last two years, and certainly way back before then. This House has consistently made amendments to our Laws in order to enhance our reputation and to assist with our international cooperation regime, Mr. Speaker.

We saw recently, this issue of the theft and the unauthorised disclosure of person’s private information in circumstances where these investors have obviously followed the relevant laws in ordering their legitimate investments in other countries. Mr. Speaker, Cayman, like all other civilised democracies operate on the basis of the rule of law. In that regard, the Cayman Constitution provides in section 9 of the Bill of Rights, that every person should enjoy respect for their private and family life. Of course, there are certain well recognised documented exceptions created by the Constitution itself, and, none of which are relevant in the context of what has transpired with these thefts. Mr. Speaker. That is what they are; thefts.

The significance of this is that in the publication of, and the commentaries and the infamous paradise papers, it has been repeatedly stated and correctly so, that nothing unlawful has been revealed. Mr. Speaker that is, that there was nothing unlawful on the part of the investors, the service providers or indeed the jurisdictions involved. It therefore begs the question, Mr. Speaker, what was the aim of this unwarranted invasion of privacy of others? Whatever the aims, Mr. Speaker, I think we can all agree that it was not a legitimate aim.

Mr. Speaker, the issue of country to country cooperation in the enforcement of each other’s tax laws has a very long history and which has seen the evolution of various protocols over decades to try and bring about a mutually acceptable framework. Indeed, we only need to cast our minds back to the universally accepted position back some 62 years or more, even further back, from the 1700s, I think, where the common law emphatically stated then, that a state has no legal obligation to enforce the tax laws of another state and that the only exception Mr. Speaker, to this rule, as authoritatively stated by the 1955 UK House of Lords case of the *Government of India v Taylor*, was that if there is in place a treaty between the two countries whereby, they agree to assist each other in the enforcement of their tax laws. Accordingly, the

way that countries seek cooperation with each other in the enforcement of their respective tax laws is by way of treaties, conventions, or other similar agreements, whether these agreements are bilateral or multilateral. In other words, by way of diplomatic accords; not through threats, not wars, and certainly not in seeking to name and shame another country.

Mr. Speaker, in the context of the Cayman Islands, this is of particular significance. It is of significance because, as we are all well aware, the Cayman Islands did not set out to rewrite its tax laws so as to entice businesses away from other competitor jurisdictions for financial services business. No, Mr. Speaker, the position is and has always been that the Cayman Islands have never had direct taxes. It is still a jurisdiction based on indirect taxes. But, Mr. Speaker, the lack of domestic tax base has not prevented the Cayman Islands from entering into numerous tax Information exchange treaties, conventions and other similar agreements, bilateral and multilateral, with numerous countries throughout the world. These, Mr. Speaker, include with the European Union, as you are all aware, starting with the European Union Savings Directives, agreements with the United States; one of the first countries with which we signed tax agreement in 2001, and other major countries in Asia, Central, North and South America, in order to cooperate with them an enforcement of their respective tax laws and to allow, as allowed by our domestic laws.

Mr. Speaker, as you are aware, we have such agreements with Japan, Australia, Singapore all of these major countries. So, we have been engaging Mr. Speaker. These diplomatic engagements by Cayman started decades ago and continue as I stand on my feet here today.

Mr. Speaker, Cayman is a party to more than 30 Tax Information Exchange Agreements, including with the European countries. We are a party to the OECD [Organization for Economic Cooperation and Development] Common Reporting Standards Initiatives and Taxes, including being a party to the convention and mutual administrative assistance in tax matters which has been developed by the OECD and the Council of Europe and which, as you know, Mr. Speaker, are protocols put in place to facilitate the global automatic exchange of financial accounts and tax matters.

Mr. Speaker, we should not forget the USA’s FATCA [Foreign Account Tax Compliance Act] and the similar arrangement with the United Kingdom which is the forerun, of course, to the Common Reporting Standards which is by itself a by-product of the Mutual Administrative Assistance Convention and to which Cayman Islands is a party.

Mr. Speaker, another significance of these initiatives mentioned by me is that as you are aware, when the discussions started way back then, and the first set of agreements were to be entered into, it was on the understanding, Mr. Speaker, that, the assis-

tance would have been by way of request so we would only share the information upon request. However, since then, Cayman is one of the many countries which have agreed to automatic exchange of such information and so, Cayman no longer sits around idly and await a request to share such information; it is now done on an automatic basis and which, Mr. Speaker, is further evidence of our ongoing cooperation with the world to fight tax crimes.

Mr. Speaker, the OECD Global Forum which as you know, is the global standard set of a transparency and the sharing of information in tax matters, has consistently confirmed that there is no secrecy laws in the Cayman Islands that prevent the exchange of tax information for regulatory or law enforcement purposes. Our last report, Mr. Speaker, on the second round of reviews published this year; August 2017, a couple months ago. It was confirmed, Cayman's overall rating of largely compliance and transparency on tax matters. Mr. Speaker, with your permission, it reads at page 89, paragraph 291; the heading is "Secrecy Provisions". Mr. Speaker, this is the latest OECD Global Forum Report on the Cayman Islands, August 2017.

The Speaker: Sorry, you are saying . . .

Hon. Samuel W. Bulgin, Attorney General: Page 89.

The Speaker: Page 89.

Hon. Samuel W. Bulgin, Attorney General: Yes, paragraph 291.

Thank you.

"Secrecy provisions"—Mr. Speaker, the report and I quote: "Secrecy Provisions in a jurisdiction should not impede the exchange of information and appropriate exception should be allowed where information is sought in connection with their request for information on exchange of information agreement."

It goes on, Mr. Speaker, quite instructively and says: "No secrecy provisions exist on the Cayman Islands Law to prohibit or restrict the disclosure to tax authorities of accounting, ownership and identity information for exchange of information purposes.

"There are no specific bank secrecy rules in the Cayman Islands. Confidentiality of any form of information is governed by the general common law obligations of confidentiality. Further, the Confidentiality Information Disclosure Law, 2016 which replaces the Confidential Relationship Preservation Law (2009 Revision) in 2016, like its predecessor, provides gateway for the provision of information which would otherwise be regarded as confidential. In any event, all confidential requirements are overridden by section 8 subsection (6)(b) and sections 18 and 19 of The Tax Information Authority Law where information is required to be produced for exchange of information purposes. This allows the Cayman Islands Tax Infor-

mation Authority to access and then to exchange information notwithstanding any common law or statutory rules on confidentiality and without invoking any gateway provisions."

It goes on, Mr. Speaker: "In addition, any offence or liability civil claims which would otherwise arise against the holder of information as a result of producing that information is expressly excluded by section 18 of the Tax Information Authority Law."

Mr. Speaker, overleaf, paragraph 294, "Bank Secrecy" says: "The 2013 Report noted that there are no limitations on the ability of the Cayman Islands Tax Information Authority to update information held by a bank or other financial institutions for the purpose of responding to an exchange of information requests and the means of accessing information via notice to produce the same as for all other types of information. This continued to be the case as noted above. There were no issues in accessing banking information over the review period."

Finally, Mr. Speaker, in that regard, paragraph 297 states: "The Cayman Islands authorities and their exchange of information partners have indicated that no cases have occurred in practice where information could not be obtained because the holder of the information, lawfully or not, made a secrecy claim." [UNVERIFIED QUOTES]

Mr. Speaker, so, this is not just the Cayman Islands saying that. Our information exchange partners abroad, people who seek requests, who request information from us has confirmed that no cases have occurred in practice where information could not be obtained because anybody has invoked any secrecy provisions.

Mr. Speaker, it is the clearest validation of the framework that we have in the Cayman Islands. This is the OECD Global Forum Report. This is a standard setting body, not a Cayman Islands' entity. This is a world's standard setting body, Mr. Speaker. And so, Mr. Speaker, it is clear that the ongoing diplomatic engagements are working and therefore it is most unfortunate, indeed very disappointing to see the recent threats by those who still have the diplomatic avenues open to them, to now try and smear this jurisdiction, Mr. Speaker.

It is even more disappointing to the subterfuge being employed by those who think that it is okay to steal and to publish peoples' private investment information to the rest of the world; shameful! Such an approach, Mr. Speaker, is not only unhelpful, it is counterproductive. We are known for our stellar record of cooperation as confirmed by the OECD and, as a jurisdiction, we will continue to do so.

Mr. Speaker, the Government has been pounding the pavement to explain our framework and to pledge our cooperation within the context of a domestic law. Mr. Speaker, we strongly urge those involved to desist from these counterproductive conducts and to, instead, continue the constructive and

obviously productive dialogue to which we have all grown accustomed. I thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak?

The Member for George Town Central.

Mr. Kenneth V. Bryan, Elected Member for George Town Central: Thank you, Mr. Speaker.

Mr. Speaker, I just had a concern in respect to legislation and the ability to freeze persons' assets without a timeline of how long it can be frozen for. By all means, nobody wants to handcuff the legislation from its intended purpose, but sometimes we have cases where persons are . . . I apologise, Mr. Speaker, because this microphone is too low. I am six feet, 2 inches and I have asked for the microphone to be increased a bit higher, therefore, I constantly have to get down low to speak to you.

The Speaker: We can hear you.

Mr. Kenneth V. Bryan: My concern is whether or not the Attorney General's Office have had concerns in respect to, or considered whether or not a timeline on specifics, or is that not something that is the norm in other jurisdictions in respect to freezing of proceeds for this kind of element of terrorism.

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

The Minister of Financial Services.

Hon. Tara A. Rivers, Minister of Financial Services and Home Affairs: Yes, Mr. Speaker.

Mr. Speaker, I rise to make a very short contribution because I think the Honourable Attorney General has done a stellar job in outlining and reinforcing all of the efforts in what we have done in the Cayman Islands, and what we continue to do in the face of threats to the jurisdiction; but also to ensure that we are not just talking the talk when it comes to global cooperation in fighting anti-money laundering and the financing of terrorism, fighting anti-corruption, fighting tax evasion and generally demonstrating why we are, and why we should continue to be a leader in the global financial services industry.

Mr. Speaker, as I said, the Honourable Attorney General gave us a good overview of some of the very early efforts the country has taken from the first tax information agreement with the US, as he referred, in 2001. But, Mr. Speaker, our efforts to tackle these global ills which plague many jurisdictions and the fight needs to be a global fight. And, as such, we have demonstrated our willingness to be active participants in helping to shape these standards of what are considered acceptable with respect to exchange of information.

The Honourable Attorney General spoke about the various parties to which we now exchange this information for tax purposes from the early turn of the century to where we are now. Mr. Speaker, we have over 110 exchange of information for tax purposes, countries that we exchange on request. But, we also, as the Attorney General indicated, we have now moved to adopting the common reporting standard as it relates to the automatic exchange of requests, and we have just as many partners in that process as well.

I think it is also important to underscore what was said with respect to the lack of secrecy laws that exist on our books. And, Mr. Speaker, it is unfortunate because when people do not understand or intentionally misrepresent, depending on their perspective, what we do in Cayman, it is often with the claim of things being done, shrouded in secrecy. But as the Honourable Attorney General has so poignantly pointed out, don't just take our word for it, refer to the organisation, the OECD Global Forum which is seen as the global standard setters for these initiatives in their recent report on information for tax purposes. They have reinforced that point. And so, Mr. Speaker, gone are the days of "The Firm". And that is one thing we have to say about the effects of Hollywood; they live on long after reality has determined otherwise. But it is unfortunate, Mr. Speaker.

With your permission, Mr. Speaker, I would like to Table in this honourable House, just so Members will have copies of a pictogram that just gives an overview of some of the key initiatives that this country has been engaged with since the 1960s, up until the present, 2017. And, Mr. Speaker, obviously, this does not capture what we are doing here today with respect to the amendments and the changes we have made to further enhance our regime. But this, Mr. Speaker, should give everybody in this House a clear understanding and ammunition to be able to help to inform, because, Mr. Speaker, we have to do better as a country. We have to do better as an industry to help people, not just across the pond, but even our own people, to help from a domestic perspective to get the message out as well as an international perspective so that people will really understand who we are and what we do versus what we are not.

We are not a tax haven. We do not have the secrecy laws, as I said, as was expounded upon by the Honourable Attorney General, as confirmed by the OECD in their latest 2017 review of our jurisdiction. We do not have the anonymous numbered accounts that would facilitate the kinds of mischief, I should say (being very kind). We do not have the double taxation agreements that would facilitate the abuse of such tax agreements in the efforts to promote tax evasion or aggressive tax avoidance. So, Mr. Speaker, there are a number of things that we have been doing, we continue to do and we are committed to continue doing to ensure that we do our part to see that the global fi-

financial services industry thrives for the benefit of the global economy, and we have done so from the very beginning.

Again, just wanting to underscore what the Honourable Attorney General has said, because I think it is something people need to understand. We have not designed our tax system in a way to try to aggressively market the jurisdiction, in a way that creates harmful taxation to other jurisdictions. We have never had corporate tax. We have never had the income tax but we have a very robust tax system of custom duties, stamp duties, licensing fees, business tariff, that, Mr. Speaker, generally equates to about roughly 25 per cent of GDP. So, this is very, very comparable to other jurisdictions that may have the corporate taxation, the income taxation. So, because our tax system is different, it is often misunderstood. And those are just some of the key, not just messages, but understanding of the jurisdiction, the kinds of value that we add.

Mr. Speaker, the Government, as the Honourable Attorney General has said, has, long before I took on this particular role—certainly, we have continued to do so. We did not just hit the ground running, I think we got off to a flying start when it comes to continuing the engagement on the international level to ensure that we help people to understand who we are, what we have done, but yet we do know that there are many, many forces lining up to try to ensure that that true message is somehow lost in the rhetoric. And, I have often said this on the radio, Mr. Speaker, and I am not sure I had the opportunity to say it in this House before, but it reminds me of an adage where it is said: “Why let the truth get in the way of a good story?” Unfortunately, Mr. Speaker, it just means that we have to ensure that the truth of what we do, our regulatory regime, the robustness of our cooperation and efforts to engage to ensure that we are partners in the fight of financial crime is not lost when the stories are created.

With that, Mr. Speaker, I will, with your permission, table this graph. This is a work in progress, Mr. Speaker, because, as I said, every time we make a change to make our system even more robust, even more cooperative, even more innovative in the fight in financial crime, this, we expect to change. So, this is a snapshot but it will just give an overview of all of the work we have done for many decades to ensure that Cayman continues to do its part, and why we have earned our place in the global financial services industry as an international financial centre.

Thank you, Mr. Speaker.

[Document laid on the Table of the House by the Honourable Minister of Financial Services and Home Affairs]

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

speaking? [pause] Does any other Member wish to speak?

The Honourable Premier.

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

Mr. Speaker, I wish to make a short contribution to the debate on this important Bill and I wish to endorse what has been said by the Honourable Attorney General and the Minister of Financial Services with respect to this ongoing issue of seeking to persuade the world that the Cayman Islands is a legitimate jurisdiction for the conduct of financial services business.

Mr. Speaker, I think I have said this in this House before, but it was actually a situation similar to the one that we now face with the imminent promulgation of the EUs latest Blacklist scheduled for the 5th December, that drove me or louvered me into politics more than 17 years ago. And, Mr. Speaker, one of the great ironies is that these years hence, the issues are still the same; notwithstanding the tremendous amount of what Cayman has done, and other jurisdictions, to be part of the global solution to fighting tax crime and money laundering and terrorism financing and the range of financial crime that exist in this big bad world.

Mr. Speaker, the so-called Panama . . . sorry, Paradise Papers to which the Honourable Attorney General referred, as I said much earlier in this Meeting, have been published, or were published at the time they were, as a deliberate and powerful effort to influence the views of the EUs ECOFIN (Economic and Financial Affairs Council) Ministers, the Economic and Finance Ministers of the 28 Member States of the European Union; as they consider the work of the Code of Conduct Group, which has been going through the affairs of various jurisdictions across the world that conducts some form or the other, of financial services business, to determine whether or not these jurisdictions are non-cooperative with respect to the fight against global tax crime and money laundering and terrorism financing.

So, Mr. Speaker, what we had since the theft of the confidential information for which otherwise reputable organisations appear to have paid huge amounts of money for the proceeds of crime, but, Mr. Speaker, ironically no mention is made of the fact that the confidential information, all of which, by their own admission, represents legally conducted business and business affairs. No discussion is made of this huge criminal set of offences which have not just been sanctioned, apparently, by members of the international media, but they also appeared to be part and parcel of what is an ongoing crime or a set of crimes; but, anyhow, that aside!

Mr. Speaker, here is where we are at as a jurisdiction. I am not going to try from memory to sit and recite the long list of international agreements, conventions, protocols to which Cayman is a signatory

and participant, and in many instances, an early adopter. But I say without reservation, that Cayman is at the leading edge when it comes to the fight against international financial crime, money laundering, terrorism financing and tax evasion, tax avoidance or tax crime. We are out front. We are in a better position than the United Kingdom and of most of the European Union countries. But here we are, having to fight to persuade ECOFIN Ministers that we ought not to be on a blacklist which I am willing to wager just about anything to save my soul, will never include some of the greatest offenders, some of the least transparent and cooperative jurisdictions in the world when it comes to tax matters and when it comes to money laundering issues like the mighty United States of America and China.

You can walk into any bank in Miami (let's not go too far afield) and open an account in 15 minutes with whatever money you have in your pocket and your driver's licence. Try to open an account in Cayman if you think you bad!

Mr. Christopher S. Saunders: Try to keep your account open.

Mr. V. Arden McLean: Try and keep it open.

The Premier, Hon. Alden McLaughlin: Try, Mr. Speaker, to find out anything about the beneficial ownership of any company registered in the State of Delaware. But, Mr. Speaker, those countries and that state runs no risk of appearing on any blacklist promulgated by the European Union.

Mr. Speaker, as I started to say, here is where we are at as a jurisdiction. We have to start asking ourselves what the point is of the expense and the trouble that we put ourselves and customers and clients of these Islands to, to be part of the global solution if the quid pro quo for that is one threat after another of appearing on a blacklist somewhere. We are at a stage now where no one seriously questions the transparency of the jurisdiction and our international cooperation with respect to the exchange of . . . well, it is not really an exchange, it is a one-way trade of tax information. So now, the challenge, Mr. Speaker, is that although everything is done lawfully and the latest exposes and commentary about the Paradise Papers, they have been very careful, perhaps because Her Majesty the Queen, part of her estate has been involved in some of the investments in Cayman and other funds. Perhaps that is why there is certain difference about that. But they have been careful to say there is no illegality involved, and they now claim it is a moral issue.

Of all the places in the world to talk about morality, it is the European Union. Anyhow, that is another story. But it is now a moral issue and so it is now immoral for legitimate countries and investors to use tax neutral or low tax jurisdictions as part of their legit-

imate business arrangements, so that, it is somehow wrong now for investors all over the world who reside in jurisdictions with varying tax rules, to decide to invest in a Cayman registered fund; a fund set up because of Cayman's tax neutral status, and so, there would be no tax payable by the fund in Cayman as the result of capital gains or otherwise. But tax remains payable by each investor in that fund on any profit they derive in their home countries. So, where is Cayman? How is Cayman and the jurisdiction and the tax rules that we have, somehow negatively impacting any other country in the world? How are we somehow depriving the United Kingdom of any profit the Queen's estate might make as a result of investments made by this fund? Her estate is required to pay tax in the UK on any profits that are so derived.

How is it, Mr. Speaker, wrong and immoral for Airbus, an EU company entity, to purchase an aircraft using a SPV (Special Purpose Vehicle) as a vehicle by which to obtain the necessary financing to do the transaction? They do it so there are no complications with respect to the tax rules that differ between Airbus's jurisdiction and the jurisdiction of the financier. But whatever rules apply with respect to interest earned on the loan or on the asset that is acquired by Airbus, are payable by the respective entities in their home jurisdictions. What is immoral and wrong about that?

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: But, Mr. Speaker, there are so many of people who, either are blinded by whatever cause it is; they think that somehow they have been persuaded that financial services jurisdictions which are offshore, like the Cayman Islands, are somehow facilitating the highway robbery and theft of assets from developing countries in Africa and around the world, and are responsible for the poverty that exist in some of these countries. Because if jurisdictions like ours did not exist, there would be tax payable and somehow that would make the lives of everybody in the world that much better. They do not recognise, seemingly, Mr. Speaker, places like the Cayman Islands which have evolved without any form of direct taxation, through their ingenuity and the absence of overwhelming taxation, have been able to create systems and services which actually facilitate the flow of global capital, thus increasing what is paid in terms of tax, because the more profit, the better the profit of the organisations and entities that do invest in Cayman funds, as an example, the more tax they have to pay in their home jurisdictions. So, Mr. Speaker, we have been engaged, some of it quietly for quite some time because it never ceases.

As I started to say, I was first exposed to this in a serious way when I was President of the Bar Association in 1998; that is when I started to get seriously engaged in these issues and that was not yester-

day. But, Mr. Speaker, we are at a point now. We have gone full circle and I spoke about that particular issue; about the requirement of what they are calling 'substantial presence'. In other words, if the entity which is registered in the Cayman Islands, whether it is a company or whatever, does not have a substantial presence—and we do not know quite what that means because it is not defined anywhere; perhaps, presumably they mean a big building, lots of employees that are being paid—that somehow that renders their presence in the jurisdiction as illegitimate; that they are just there as a name plate and serve no other purpose, so therefore there has to be, this is the evidence of some kind of tax dodge when in reality, Mr. Speaker, the SPVs which I referred to earlier, are often created for a particular transaction, like the sale of an aircraft to Airbus. And their purpose falls away once the transaction has been completed.

Mr. Speaker, the people involved in this are much smarter than me, I believe. This is what they study and do. I cannot believe that they do not understand these things, and I am driven inexorably to the conclusion that the purpose is not anything else besides trying to run jurisdictions like the Cayman Islands out of the financial services provision business. And all the rest of it is just the means to get there. It has been a quarter of a century of sustained effort on their part. As I said, I first came into this in 1998 and it they were hammering from before that.

So, Mr. Speaker, only about eight per cent of the investments in Cayman funds come from Europe. The two big financial powerhouses in Europe, one is already outside the EU which is Switzerland, and Britain is on its way out. Whether Cayman escapes the Blacklist or not, I have no doubt that over the medium term, access by EU countries and therefore companies and investors who live there and do business there, investments from them, the use of this jurisdiction and jurisdictions like our by EU nations, is going to fall away to almost nothing.

Clearly, though, the fact that Cayman, Bermuda or BVI or the rest that appear on the EU Blacklist is not a good thing. It will have significant reputational negative consequences. And we are doing everything we can to avoid that eventuality. We are engaged, the Minister of Financial Services, me and the Ministry, and Cayman Finance, Mr. Jude Scott was over in London and he may still be there because today is only Wednesday. He appeared last night on a show hosted by OffshoreAlert, to defend what we do in Cayman. We are engaged with the Code of Conduct Group. We are making representations. We are writing to each EU Ministers and inviting conference calls with them, so that, I personally, as well as the Minister, can explain and hopefully answer any questions they may have regarding Cayman's status. As you know, we spent a week over there last month engaged with the European Commission. We met with the Vice President of the European Commission and

many others, but at the highest level, the Vice President, Mr. Valdis Dombrovskis. We are engaged and will continue to fight that fight.

Mr. Speaker, here is where I draw the line as Premier. We cannot make unreasonable concessions which will have the effect of making the Cayman Islands irrelevant to the very business that is the basis of our existence as a financial services jurisdiction. And so, if the choice is the Blacklist or maintaining the basis of the business that we have now, we will choose the Blacklist. Cayman will survive and continue to thrive. I wonder if the European Union will. So, Mr. Speaker, this is where we are at. If we have done everything that every other country has done and some more than most of them; if we have . . . AG, how many tax information exchange agreements?

Mr. Alva H. Suckoo, Jr., Elected Member for Newlands: Thirty plus.

The Premier, Hon. Alden McLaughlin: Thirty plus tax information exchange agreements. If we know the beneficial ownership of every entity that is registered in Cayman which the UK can't say and no country in Europe can say (forget about the US), if we have all of these things, if we cooperate. The AG read from the OECD report. We are largely compliant, I think, is the term used, with respect to every aspect that is required under the OECD rules and protocols.

Mr. Speaker, what more can we do? And so, Mr. Speaker, if the OECD is not supportive of this blacklisting exercise that is going on by the EU (and they are not), the OECD was and ought to continue to be the organisation by which these tax transparency issues are dealt with and judged by. And so, Mr. Speaker, if, despite doing all of that, we are going to be put on a blacklist with countries—I am not going to name either one because I do not want to create any international issues and embarrassment but we know who some of the greater offenders are that simply just say, *We don't care! You can do whatever you want to do, we are not going to be cooperative, we are not going to comply with any global rules with respect to transparency or anything else.* But if you are going to put a place like the Cayman Islands on a list with that, then I say, Mr. Speaker, that list is not credible and will be shown to be not credible. They cannot list places like the Cayman Islands and leave countries like the United States and China off—to name the two big ones that just thumb their noses at all of this.

Mr. Speaker, we have a fight on our hands. We've always had but right now it is heating up and, as I said, we will do everything we can through the diplomatic channels, to continue to try to persuade those that make these decisions, that, Cayman does not belong on any such list. But I say it very publicly, that as long as I am Premier, this list and Cayman's presence on or off it, will be a defining point in how we

go forward in terms of continued cooperation with EU entities.

Now, Mr. Speaker, the United Kingdom, it is time for her to do her duty by her territories, because, Mr. Speaker, the blacklisting requires unanimity of all 28 EU States. The United Kingdom remains a full member with full voting rights of the European Union until the day they formerly exit the European Union following the Brexit process. So, if the UK holds out, Cayman or no other territory can be blacklisted.

I wish, Mr. Speaker, for the House and the country to understand that we are doing everything on our part, through the good Office of the Governor and our Office in the UK, to engage with the UK Government on this issue, with MPs who are not necessarily Members of the Government, as part of our efforts to persuade the UK to do its duty by its territories that have complied.

For the time being, the British Virgin Islands and the Turks and Caicos Islands have been given a Bly (to use a colloquial expression) because of the hurricane. But Cayman and Bermuda are clearly in the sights of those who want to take these territories down. So, Mr. Speaker, that is where we are at. I don't think I can say anymore. I don't think I should say anymore. But you know me, most Members of this House know me fairly well; I am not one who comes with blazing guns because an idea just popped into my head. This has given me a great deal of restless, sleepless nights and I have been through a great deal of reflection and have now reached that particular point in terms of my thinking. And those who also know me, know that when I reach a certain point, it is very difficult to move me, save by doing the right thing. Thank you, Mr. Speaker.

[Pounding on desks]

The Speaker: If other Members are going to speak on this matter, I will take a break at this point. I will suspend for 15 minutes, until 8 o'clock.

Should I say that after such a resounding speech as was made by the Premier, you should all get up and applaud him?

An Hon. Member: We have been doing that.

Proceedings suspended at 7:45 pm

Proceedings resumed at 8:25 pm

SECOND READING

PROCEEDS OF CRIME (AMENDMENT) BILL, 2017

[Continuation of debate thereon]

The Speaker: Please be seated. The Assembly resumes its sitting.

Does any other Member wish to speak?

The Member for West . . . Bodden Town West.

Mr. Christopher S. Saunders: You putting me in West Bay now, Mr. Speaker?

The Speaker: Sorry

Mr. Christopher S. Saunders: I thought you wanted me out of West Bay.

The Speaker: You down there a little too much, yes.

[Laughter]

Mr. Christopher S. Saunders: Yeah, that is right too.

Mr. Speaker, on behalf of the official Opposition, I want to rise to endorse what the Premier said earlier. I think it is important for the country to recognise that there are some issues in this country that should be beyond politics and our financial services industry and our tourism industry, education and health care, to name a few, are definitely one. As you can see tonight, Mr. Speaker, the Opposition on this side voted unanimously with the Government to support their budget, as proof positive that there should be some things beyond politics.

One of the things I want to stress, Mr. Speaker, and I think it is important for the Caymanian public to understand exactly how our financial services industry works, briefly. I will not get into all of the technical stuff but to kind of give an idea, because many times we have heard batted around the story that if we can take one cent from every dollar that passes through Cayman or anything like that, the country would be rich. I think it is important for the public to know that the money does not pass through the Cayman Islands at all.

I can tell you, Mr. Speaker, that as a former banker who have seen a balance sheet go from over \$200 million to \$2 billion, that the only amount of money that was in the Cayman Islands was only the money that we actually had inside the vault, which, at that time was around \$1 million. And, Mr. Speaker, why I say that is (and just to put things into context for the listening public) that if you were home at night and saw a nice commercial on television advertising some magic sleep portion down in Australia and decided you wanted to buy it via a wire transfer, that process entails you going to your local bank and getting the banking instructions and wire the money to that bank. What is actually missing from that process is that the money never leaves your bank nor the money is ever received by the bank in Australia. What normally happens is that your bank would have a clearing house bank in the US, probably the Bank of New York or one

of them, and the other bank that is also receiving the money on behalf of their client, would also have a clearing bank account at the Bank of New York. And the only instructions is the local bank will say to the bank in New York, take money from my account and put it into that account, and then, the Bank of New York will say to the Australian Bank that somebody just put money into your account, this is what it is for, this is one of your clients; nothing touches the Cayman Islands, nothing moves.

The only money that we have in the Cayman Islands, Mr. Speaker, is literally the money we have in circulation. So, I kind of find it a bit, I guess, where sometimes when people talk about all of this money in the Cayman Islands, when, in fact, the money they are talking about have never really their jurisdictions. On paper based on ownership the money may be here but outside of that the money has never ever set foot in the Cayman Islands barring physical cash. And it is important for the public to know that when it is being said about taxing one cent that passes through, it does not pass through. It always remains onshore, in the United States, in North American, in Europe and elsewhere, in Asia.

Mr. Speaker, earlier this year, I think people will remember the last documentary, I think it was "Britain's Trillion Pound Paradise" or something like that, which people were up in arms about. And—

[Inaudible interjection]

Mr. Christopher S. Saunders: Yeah, well . . . thanks.

—what's missing from that is actually the title—"Britain's Trillion Pound Paradise". And I say that, Mr. Speaker, for a simple reason: whether we want to accept it or not, and I think it is important for the public to know, that Britain itself, the UK, and elsewhere, make more money from the Cayman financial industry than the Caymanian people actually do themselves.

I will give you an example, Mr. Speaker: about maybe a year ago it was a big legal case that was concluded in the Cayman Islands in which the legal fees were around \$1 million. A QC from the UK came in and he did all of the nice fancy work—the Silk I think they referred as to him. Of that \$1 million in fees, Mr. Speaker, \$500,000 or thereabouts, went to Her Majesty's Treasury, I think, inland-revenue; another \$300,000 went to the UK attorney and \$200,000 went to the firm that brought him here. The only thing we made from that, Mr. Speaker, I think, was around \$1,500 for the work permit fee; not even the hotel accommodation tax we got, simply because he had a work permit and he had to pay that—\$1,500. One million dollars in fees and \$1,500 is what the Caymanian people got from it.

It is important, Mr. Speaker, for people to recognise, and I think this has been one criticism of the financial industry in that it has never done enough to really educate the public nor to give enough people to

show its impact to the country. I sometimes will hear people say, *You know what; to hell with the financial industry*, not recognising how the money flows through our economy via consumption and development.

Mr. Speaker, it is important for us to recognise that the Cayman Islands do have a place to play in the offshore financial centre. And what is actually missing from many of these countries, Mr. Speaker, is that they fail to recognise it is the failing of their own tax system; it is their own socialist policies in a globalised world that have basically generated the business coming into the Cayman Islands and elsewhere. This is their own citizens basically saying, *You know what; we are not happy with the tax system that we have*.

Now, I can tell you one thing that we should be looking at is probably the proposed Republican tax plan that is similar to what Canada has done where they have allowed Canadian subsidiaries to repatriate funds back home without paying taxes on it. That, naturally would be something more, I guess, damaging to the Cayman Islands with regards to capital flows.

Mr. Speaker, what really moved myself and Members of the Opposition, is to see the Premier stand firm, and I really must commend him, that twice now, in two days I have seen him take a position that I must say I am proud of him in that regard. I also accept, Mr. Speaker, that in his role as Premier, he has to be a little bit more cautious in regard with his words, whereas, we on this side do not have that problem. So, I will go as far as to say something. I think the Premier did not want to say it but I will say it on his behalf: if at the end of the day they decide to blacklist us, all of those countries that we have these agreements with that have chosen to blacklist us, despite the fact of knowing that we are transparent and are open to do business, then we should look at cancelling some of those agreements because, what is the use of us bending our backs over chasing eight per cent of businesses and then at the same time run the risk of losing 92 per cent of the business? What do we want?

[Inaudible interjection]

Mr. Christopher S. Saunders: Yeah, we're on the same page here.

The reality of it is, Mr. Speaker, the EU is dead and we need to recognise that the OECD and many of those countries want the Cayman Islands out of this business.

Mr. Speaker, my uncle, George McCarthy, defended the Cayman Islands as much as he could on many government missions, and two of my own [past] representatives for Bodden Town, Mr. Roy Bodden and Mr. Gilbert McLean also told me a story where they were told point blank in no uncertain terms, the Cayman Islands should get out of the fi-

nancial services business. Well, Mr. Speaker, I am here to tell many of those countries on behalf of the Opposition side and maybe some on the Government side, that we have survived more than 20 years of a tax. We have survived Tony Blair. We have survived Gordon Brown. We have survived eight years of Bill Clinton. We have survived eight years of Barack Obama and we will survive whoever else comes because we are doing nothing wrong, except taking advantage of a globalised world that has become smaller through technology and capital flows.

Mr. Speaker, I think it is important for all and sundry to know that this is one issue in which, both the Government and the Opposition are united. We cannot afford for our Islands that many people have worked very hard to build—*very hard*—to have given us the success that we have today that that while, even when our own sister territories had problems and the UK would not help them, we were still in a position to do what the UK should have been doing because of the economy that we have built.

Mr. Speaker, I know Members are anxious to go but let it be known that we are one of the largest offshore financial centres. We have been at the forefront; we have sacrificed much and we have given much and every single goalpost that they have given us we have passed and they keep moving the goalpost, and at some point we will have to say 'enough is enough' and say 'no more'. So, Mr. Speaker, through you, to the Premier and his Government, we stand united with you Sir, in this regard, and anything that we can do to help, we are here to support you. But this is one thing that we want everyone to note that we are unanimous in our position and the position that the Premier has taken. Thank you all and goodnight!

An Hon. Member: Well said.

[Desk thumping]

The Speaker; Does any other Member wish to speak?

The Member for George Town Central.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker.

I rise to add my contribution to the subject matter that we are discussing, and also to agree with my colleague who just gave his contribution, the Member for Bodden Town West, in supporting this Government, the Minister and the Premier in respect to their approach in dealing with the unfortunate matter of the Paradise Papers.

I agree with the Honourable Premier in respect of his analysis, that this seems to be an indirect attack on our industry in a malicious way, simply on the basis of trying to accuse us of doing wrongdoings when the truth, in fact, is that they are just trying to take away our business. I think this is the time that we as Members should unite, as my colleague for Bod-

den Town West said. I want to encourage the public, all the voters, all Caymanians to support the Government on this matter; they need all the blessings they can get from every corner of these lovely Islands. It is not a time for politics. I want to say that I am proud of the Premier, the Minister in the Government's stance in respect to the handling of this, and we as a country, as a nation, as a people have to stand together and give the Government our full support because this is one of the strongest pillars of our economy and it is important to our livelihood. But like the Member for Bodden Town West has suggested, we will get through this as well. So, with that being said, I would like to continue to give my full support to the Government in respect to this matter.

Thank you, Mr. Speaker.

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

If not, I will call upon the mover to exercise his right of reply.

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

I certainly understand and wish to thank Members for their spirited contribution to the debate on the Bill. And just to add, Mr. Speaker, that maybe the supreme irony of all of what has been happening in terms of the threats, is that when listening to those who are running for offices elsewhere in other countries, they all campaign on who can lower taxes the most. They all do that. So, Mr. Speaker, I certainly thank Honourable Members for their contribution to the Bill.

The Speaker: The question is that a Bill shortly entitled The Proceeds of Crime (Amendment) Bill, 2017 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Proceeds of Crime (Amendment) Bill, 2017 has been given a second reading.

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

ADJOURNMENT

The Premier, Hon. Alden McLaughlin: Mr. Speaker, with your permission sir, if I might.

Mr. Speaker, I have been prevailed-on by Members on both sides of the House to adjourn, fol-

lowing the passage of the last Bill. And, Mr. Speaker, in an effort to preserve the spirit of good will, harmony and generosity which currently obtains, I am prepared to accede on the basis of the discussion had with the Honourable Leader of the Opposition, that we will take the balance of Government Business first tomorrow, before we proceed to the Private Members' Motions.

So, sir, with your permission, I move the adjournment of this honourable House until 10:00 o'clock tomorrow morning.

The Speaker: The question is that this Honourable House stands adjourned until 10:00 o'clock tomorrow morning.

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

AYES.

The Speaker: The Ayes have it.

At 8:41 pm the House stood adjourned until 10:00 am Thursday, 16 November 2017.