

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**17 MARCH 2011**  
**11.26 AM**  
*Third Sitting*

**The Speaker:** I call on the First Official Member responsible for Internal and External Affairs to say—

**Mr. D. Ezzard Miller:** Madam Speaker, can I bring to your attention that we do not have a quorum?

**The Speaker:** We do not have a quorum?

**An hon. Member:** No, we don't.

**The Speaker:** We have eight persons in the chamber.

**Mr. D. Ezzard Miller:** [inaudible]

**Mr. V. Arden McLean:** [inaudible]

**The Speaker:** For the record, when I call for prayers the House has not resumed as yet.

Honourable First Official Member would you please say prayers?

### PRAYERS

**Deputy Governor, Hon. Donovan W.F. Ebanks:** Let us pray.

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

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

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

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

**The Speaker:** Morning everyone.  
Please be seated.  
Proceedings are resumed.

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

**The Speaker:** I have no messages.

I have apologies for absence from the Deputy Premier, Minister of District Administration, Works, Lands and Agriculture. She is on the Brac today and tomorrow.

### PRESENTATION OF PAPERS AND OF REPORTS

**Ownership Agreement Annual Report for Cayman National Cultural Foundation (CNCF) for the 2004/05 Financial Year**

**The Speaker:** Honourable Minister of Health, Environment, Youth, Sports and Culture.

**Hon. J. Mark P. Scotland:** Thank you, Madam Speaker.

In accordance with section 12(1) of the Cayman National Cultural Foundation Law, 1984, I am pleased today to place before this honourable House the Annual Report for the period 2004/2005.

**The Speaker:** So ordered.

Does the Honourable Minister wish to speak thereto?

**Hon. J. Mark P. Scotland:** Briefly, Madam Speaker.

The Annual Report being tabled today includes audited financial statements and achievements of the Foundation during the year 2004/05.

The Report shows that total revenue, including the Government grant for year ended 30 June, was \$2.9 million, while total expenditure was just over \$2.2 million. This resulted in a net increase of the fund balance of just about \$700,000.

The fund balance at 30 June 2005 was \$2.58 million. Total revenue included just over \$2 million which represented the proceeds from insurance claim

from hurricane Ivan. Total expenditure above included impairment on property plant and equipment from hurricane Ivan.

The foundation had current assets of \$2.2 million and non-current assets of \$475,000. So, total assets equaled \$2.7 million on 30 June 2005.

Current liabilities were just \$66,000 and non-current liabilities were \$73,000. Total liabilities plus fund balance totaled \$2.7 million at 30 June 2005.

Madam Speaker, the audited statements of the Foundation includes the Auditor General's opinion. The opinion was a qualified opinion due to the Foundation deriving a substantial portion of its income from theatre operations, donations, fund raising events and similar activities shown as other income in the Statement of Operations and Changes in Fund balances which cannot be fully controlled until they are entered in the accounting records and are therefore not susceptible to independent audit verification.

However, the Auditor General found that the Foundation's financial statements presented fairly in all material aspects. The financial position of the Foundation as of 30 June 2005, and its performance and its cash flow for the year, were in accordance with International Financial Reporting Standards (IFRS).

Madam Speaker, foremost amongst the achievements of the Foundation during the 2004/05 year were:

- Facilitation of exhibitions of Miss Lassie's collection of artwork at a Museum in Maryland, USA, and at the Cayman Islands London Office.
- Production of two major cultural festivals: *Cayfest* and *Gimistory*, which attracted more than 3,000 spectators and dramatically lifted the population's spirits after the hurricane.
- Production of three sold-out stage shows: *Rundown*, *Bubble Up* (for schools) and the *Dance Cayman Premiere*.
- Preparation and participation in international exchanges such as *Dance Cayman* at the Aberdeen International Youth Festival and groundwork for Carifesta 2006.

Madam Speaker, I invite Members to peruse the report in detail. Thank you.

**The Speaker:** Thank you, Honourable Minister.

### **Second Report of the Commission for Standards in Public Life 8<sup>th</sup> February 2011**

**The Speaker:** Honourable First Official Member.

**Deputy Governor, Hon. Donovan W.F. Ebanks:** Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this honourable House the Second Report of the Commission for Standards in Public Life 8<sup>th</sup> February, 2011.

**The Speaker:** So ordered.

Does the Honourable Member wish to speak thereto?

**Deputy Governor, Hon. Donovan W.F. Ebanks:** Just very briefly, Madam Speaker, thank you.

The Report is produced in accordance with section 117(9)(g) of the Cayman Islands Constitution Order, 2009, and the requirement therein for the Commission of Standards in Public Life to report regularly and not less than every six months to the Legislative Assembly on its activities.

The Report, therefore, represents a treatise of what the Commission has been doing over the period between the last report and this one. In addition to being available here it will be available on the Commission's website later on today, and I would urge Members here and indeed the general public to avail and familiarise themselves with the activities of the Commission.

Thank you, Ma'am.

**The Speaker:** Thank you Honourable Member.

### **Annual Report of the Ministry of Tourism, Environment, Investment and Commerce for the 2006/07 and 2007/08 Financial Years**

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, thank you very much.

I beg to lay on the Table of this honourable House the Annual Report of the Ministry of Tourism, Environment, Investment and Commerce for the 2006/07 and 2007/08 Financial Years.

**The Speaker:** So ordered.

Does the Minister wish to speak thereto?

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, no, [but] just to say that no one should get mixed-up of what years they are, 2006/07 and 2007/08. Absolutely clear what years we are dealing with.

**The Speaker:** Thank you, Honourable Minister.

### **Cayman Islands Stock Exchange Ltd. Financial Statements for the years ended 30 June 2007, 30 June 2008 and 30 June 2009**

**The Speaker:** Honourable Minister.

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House the Cayman Islands Stock Exchange Ltd. Financial Statements for the years ended 30 June 2007, 30 June 2008 and 30 June 2009.

**The Speaker:** So ordered.  
Does the Minister wish to speak thereto?

**The Premier, Hon. W. McKeeva Bush:** No, Madam Speaker, except to say that no one should get mixed up what years we are dealing with—2006/2007 or, rather 2007/2008, and 2009.

**Cayman Islands Development Bank Annual Report for the Years ended 30 June 2006 to 30 June 2008**

**The Speaker:** Honourable Minister [of Finance, Tourism and Development.]

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this honourable House the Cayman Islands Development Bank Annual Report for the Years ended 30 June 2006 to 30 June 2008.

**The Speaker:** So ordered.  
Does the Honourable Minister wish to speak thereto?

**The Premier, Hon. W. McKeeva Bush:** No, Madam Speaker. I think I have made it absolutely clear what years we are dealing with, and, therefore, no one should be able to get it mixed-up what those years were and who were the Ministers at that time.

**Cayman Islands Development Bank Financial Statements for the Six Months ended 30 June 2003, 30 June 2006, 30 June 2007, and 30 June 2008**

**The Speaker:** Honourable Minister.

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House the [Financial Statements] Reports of the Cayman Islands Bank Development Bank for 2003, 2008, 2007.

*[inaudible interjection]*

**The Speaker:** I do not think you named them all . . . for laying on the table.

**The Premier, Hon. W. McKeeva Bush:** Yes, Madam Speaker, I thought it was the half year 2003, 2006, 2007 and 2008.

**The Speaker:** Yes.  
So ordered.  
Does the Honourable Minister wish to speak thereto?

**The Premier, Hon. W. McKeeva Bush:** No, just that the 2003 is the half year report since we had moved into a new system of accounting at that time.

**The Speaker:** Thank you.

**Report of the Standing Business Committee—Third Meeting of the 2010/2011 Session of the Legislative Assembly**

**The Speaker:** Honourable Premier, Minister of Finance, Tourism and Development.

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

I beg to lay on the Table of this honourable House the Report of the Standing Business Committee for the Third Meeting of the 2010/2011 Session of the Legislative Assembly.

**The Speaker:** So ordered.  
Does the Premier wish to speak thereto?

**The Premier, Hon. W. McKeeva Bush:** No, Madam Speaker. They are ordinary Standing Business Committee reports that we normally lay, therefore no one should get that one mixed-up either.

**Annual Report of the National Gallery of the Cayman Islands for the 2004/05, 2005/06, and 2006/07 Financial Years**

**The Speaker:** So ordered.  
Minister of Health, Environment, Youth, Sports and Culture.

**Hon. J. Mark P. Scotland:** Madam Speaker, in accordance with section 52(2) and (4) of the Public Management and Finance Law (PMFL) (2005 Revision), I am pleased to place before this honourable House the Annual Reports of the National Gallery of the Cayman Islands for the fiscal years 2004/05, 2005/06 and 2006/07.

**The Speaker:** So ordered.  
Does the Honourable Minister wish to speak thereto?

**Hon. J. Mark P. Scotland:** Briefly, Madam Speaker.  
The National Gallery was established in April 1999 in accordance with the National Gallery Law. Prior to this date the Gallery operated as an unincorporated entity.

The Gallery through its Governing Board, Madam Speaker, acquires artwork and collects material to be held in trust for the purpose of preserving them for posterity and promoting their usefulness in the development of the arts exhibition, research and education for public benefit. Madam Speaker, the property

of the Gallery is vested in three trustees appointed by the Governor, one of whom is also a member of the management board.

The Gallery promotes and encourages the awareness, appreciation and practice of visual arts in the Islands through organising and maintaining permanent and temporary public exhibitions of works of art. As at 30 June 2010, the Gallery had 10 employees.

Annual Reports being tabled today include the audited financial statements of the National Gallery and the performance of the Gallery during those fiscal years. Madam Speaker, I would invite Members to peruse the Reports in more detail at their leisure.

Thank you.

**The Speaker:** Thank you.

## STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

**The Speaker:** I have statements from the Honourable Premier. I have given leave for three statements. I think two will be given at this point.

### Article on Recent Resignation of Public Accounts Committee's Chairman

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, on 11 March 2011, *Cayman News Service* posted an article on its website entitled, "Miller Packs in PAC."

I make this Statement for two main reasons: Firstly, to point out a significant inaccuracy contained in the article; and, secondly, to provide evidence of the sterling efforts made by the present Government since taking office in May 2009 to enhance the public sector's accountability to the country.

Madam Speaker, let me begin in earnest by demonstrating why a significant inaccuracy is contained in the aforementioned 11<sup>th</sup> March article. The significant inaccuracy that I mentioned is contained in the very last sentence of the article, which is stated as: **"The Attorney General, Miller stated, 'had revealed that the responsibility for compliance with the Public Management and Finance Law was with the Premier in his role as Minister of Finance.'"**

I wish to further explain the origin of this erroneous sentence.

The Chairman of the Public Accounts Committee (the "PAC") wrote to Government's Legal Department to obtain advice as to whether the PAC had the authority to request that the Legal Department prosecute chief officers and chief financial officers in the Civil Service under sections 76 and 77 of the Public Management and Finance Law (the "PMFL") on the basis that such officers had committed on tape and publicly to the PAC to comply with the PMFL in sub-

mitting their 2009/10 accounts to the Auditor General's Office, and had not done so.

I have obtained a copy of the Legal Department's advice to the former Chairman of the PAC. I have reviewed that advice quite carefully—several times, in fact—and I challenge anyone to show me where that advice indicates that the Premier in his role as Minister of Finance has the responsibility for compliance with the PMFL. It is not found in the Legal Department's advice. It is for this reason I stated earlier that the article by *Cayman News Services* contained a significant inaccuracy.

Madam Speaker, to appreciate the context of the Legal Department's concluding advice it is necessary to note the content stated in paragraph 16 (vi) of that opinion, which is, that "the power to request information under the PMFL rests with the Auditor General or, in other instances, the Minister of Finance (section 56 of the PMFL)".

Madam Speaker, the Legal Department's concluding advice is provided by paragraph 17 thereof, which is as follows: "The PAC does not appear to have the remit under the PMFL to make a complaint such as to lead to the institution of proceedings against Chief Officers and/or Chief Financial Officers who have failed to submit documents under the PMFL. This power appears to be vested in the Auditor General and the Minister of Finance."

Madam Speaker, if the Auditor General and the Minister of Finance, as stated in the Legal Department's advice, appear to have power to institute proceedings against chief officers and chief financial officers, that is completely different to the last sentence in the article which states that the Minister for Finance has responsibility for compliance with the PMFL. That distinction is significant!

Let me explain why. In practical terms, I, as Premier and Minister of Finance cannot guarantee or ensure total compliance with the PMFL. I, or any other Minister of Government, do not have administrative control over the Civil Service. Under the decentralised accounting system and the decentralised human resource system that operates in Government, chief officers and chief financial officers do not report to the Premier or the Minister of Finance.

The hierarchy is as follows: Chief financial officers report to their chief officers and chief officers, administratively report to the Deputy Governor. Given such a hierarchy in place, it is not possible for the Premier and the Minister of Finance to ensure total compliance with the PMFL.

One thing, Madam Speaker, the Constitution does not do is give Ministers any administrative responsibility over any person who is a civil servant. We can ask, and we do that, but we do not have administrative control over anyone.

Honourable Members, neither I nor my Government are in the business of bringing proceedings against chief officers and/or chief financial officers. What I do know is that human beings generally do not

perform well in an environment of fear. Instead, my Government believes in encouraging civil servants, not tactics of intimidation and using Swords of Damocles. And we believe in making sensible changes to the PMFL. Madam Speaker, that is what we intend to do!

Madam Speaker, when Julius Caesar lay dying from stab wounds, he looked up and asked his former trusted friend, Marcus Brutus, who inflicted some of the wounds, 'and you too, Brutus?' My Government is not Brutus and we will not slay or prosecute civil servants; instead we want them to be like a Phoenix—to rise! And I have encouraged them so to do, by making the PMFL more practical and an instrument that they can use, understand and get their responsibilities carried out more easily.

If the Member for North Side is of the frame of mind of prosecuting civil servants, that is his business! I have more constructive and much less destructive work to do.

Madam Speaker, I have stated thus far that my Government and I will not prosecute civil servants and the Minister of Finance does not have explicit powers under the PMFL to force compliance with the PMFL. None of these two positions should be misunderstood or misconstrued to mean that my Government and I do not care about accountability to members of the public. To the contrary!

Let me provide evidence of the sterling efforts made by the present Government—my administration—since taking office in May 2009 to enhance the public sector's accountability to the country, which is the second stated reason for making this Statement.

Madam Speaker, I should say that I also see that the *Compass* and *Cayman News Service* never fail when they want to blame someone especially with these accounts matters. It was in the *Compass* the other day that I am the Minister of Finance and has responsibility for the Ministry, as if to say "McKeeva Bush is responsible." So let me state exactly what has been done by civil servants on the accounts since I became the Minister.

Since May 2009 to today's date, 17<sup>th</sup> March 2011, a total of 70 annual reports and financial statements for ministries, portfolios and public authorities have been tabled in the Legislative Assembly. Moreover, I have just tabled 13 more annual reports and financial statements. These 83 annual reports and financial statements that are provided in a <sup>1</sup>table in this statement will be publicly available. It is not necessary for me to read this entire table, Madam Speaker. I want to point that out. It is contained in the statement so that the press and all who want to have can see.

Clearly, this table shows that public accountability is important to the Government and disclosure of financial information is occurring to the Legislative Assembly and the public.

Madam Speaker, I would like to also inform honourable Members and the wider public that the Government will bring shortly an amending bill to the PMFL, the purpose of which is to make sensible and practical changes to the Law. As an example of the changes that will be forthcoming, the Bill will propose to suspend the present requirement for quarterly reporting to a future fiscal year. Again, Madam Speaker, this is evidence of a government that cares about public accountability.

It is also important, Madam Speaker, that I inform honourable Members and the public that the Government utilised the services of a former consultant to the Foreign and Commonwealth Office (FCO) Mr. Keith Luck, to review the PMFL and to prepare a report that recommends changes to the Law that will improve its usefulness and practicality. That report is now being finalised and it is expected that this will result in another amending bill to the PMFL.

I am going further to say that we will engage Mr. Luck with someone from Jersey, because Jersey's system is so practical and successful, to follow through and get the changes in the PMFL to pave the way for a more successful Cayman Islands Government. Again, this indicates Government is serious about enhancing the public accountability process and its regimes.

Honourable Members will also be aware, Madam Speaker, that I led a delegation to Jersey last month for the purpose of learning about the budgeting and accounting systems used in that jurisdiction. Jersey's system of budgeting and accounting is not as complex as those of the Cayman Islands but, more importantly, its systems are effective and efficient. Jersey has a centralised accounting function, whereas in the Cayman Islands we have a decentralised system of accounting and human resource functions in which each Ministry and Portfolio has its own general ledger and, therefore, its own set of financial statements that are prepared by its own staff—its own chief financial officer and a whole slate of staff.

It is my intention, Madam Speaker, to move towards a centralised accounting and human resource function. This too will require further changes to the PMFL and the Public Service Management Law (PSML).

I am absolutely convinced, Madam Speaker, that the difficulty the public service is experiencing with meeting the full requirements of the PMFL stems from the fact that the regime was too sophisticated and complex for the size of the public service that exists in the Cayman Islands. An analogy would be, Madam Speaker, to ask a 16-year-old first-time driver to drive a manual shift Ferrari Sports Car, as opposed to

<sup>1</sup> See Appendices A and B after page 920—Table of Annual Reports and Financial Statements for Ministries, Portfolios and Public Authorities tabled and not tabled in the Legislative Assembly.

a more appropriate automatic transmission Honda Civic.

Madam Speaker, I have taken the high ground approach in formulating this statement. There is however one part of the *Cayman News Service* article that I find particularly offensive. It is deserving of a similar reply, but I will resist doing so. The article states however, and I quote: **“Miller wondered if it wasn’t in Government’s interest to continue to allow delays as it would mean they could avoid accountability for public spending during their term.”** The words “they” and “their” refer to the present Government—my Government.

Honourable Members who are not playing politics would agree, based on the content of this statement, that, this Government does not plan to avoid accountability. I will only further add, Madam Speaker, that there are too many games being played by that Member who is only gearing up to introduce his own team or party (call it what you may), but these games being played—which are said to be for the people—are not doing the country any good and only go against our real national interest.

I don’t know of any politician, Madam Speaker, in recent years, who has gone through the fire and discouragement as I have had to bear personally for love of country since 1988. And McKeever Bush did not and will not quit! I have no time for that political game that I see being played around the Cayman of today. Let them go ahead and play their games!

In conclusion, I will end by reiterating the two main reasons for making this statement: Firstly, to point to a significant inaccuracy contained in the 11<sup>th</sup> March *Cayman News Service* article entitled “Miller Packs in PAC,” and secondly, to provide evidence of the sterling efforts made by the present Government since taking office in May 2009 to enhance the public sector’s accountability to the country.

In regard to the PAC, Madam Speaker, and the resignation, we intend to make some changes, add to the membership with a new chairman, and will do that in the Budget Meeting starting in May. I said this to the Honourable Leader of the Opposition on Tuesday and I have given him the letter this morning stating such.

I am satisfied, Madam Speaker, that we are being successful in our endeavours in this mess that we have to deal with calling “accounts.” But I am not going to prosecute any civil servant for not getting these accounts here, because, Madam Speaker, the system is just too much for the public servants of this country.

**The Speaker:** Thank you, Honourable Premier.

You have another statement to deliver at this time.

### Statement on Constitutional Commission

**The Premier, Hon. W. McKeever Bush:** Thank you very much Madam Speaker.

Madam Speaker, the Constitutional Commission has now spoken out two times in direct opposition to actions legitimately taken by my Government, most recently, as reported in the press on 10<sup>th</sup> March. Opposition to my Government, Madam Speaker, is not the issue at hand, even though I do know that most of those Members have opposed me personally over the years. My opposition to their position is not against any individual that is a commissioner there; it is against their poor performance of their mandated functions.

Firstly, Madam Speaker, anyone who has followed the evolution of the Constitution will appreciate why I would say that the Constitutional Commission as set up does not have my support.

When I offered the PPM, the Opposition of 2001/2005 and the Government of the 2005/2009, the proposal for an appointed senate they rejected it. I offered them a proposal for a constitutional commission and they rejected that too but later changed their minds and included in their proposals. However, Madam Speaker, I did not vote for the Constitution for several reasons as a personal choice. One of the reasons was the way the commissions were being placed in the Constitution, the likely cost of those commissions and of the Bill of Rights.

My view of a constitutional commission was, firstly, to have a commission that educated our people, but in particular our young people, on the way Cayman has evolved constitutionally, where we have come from, and, most importantly, where we want to go; the possibilities of where we may end up constitutionally and the advantages and disadvantages of our possible choices.

Madam Speaker, there is no doubt that the majority of our young people are an enlightened and action-oriented generation, while our age group in the majority is a more docile one, at least politically. I doubt that our grandchildren, Madam Speaker, are going to tolerate a constitution such as we are abiding by forever. When the day comes that they opt for political independence they need to be prepared no matter if it takes 10, 15 or 20 years.

And my view is still that a constitutional commission ought to focus on educating our people about the pros and cons of independence or any other form of constitutional change. It also should be there to advise Government if they have that ability on treaties and such. That’s what I wanted in a constitutional commission.

Madam Speaker, the statement by the Constitutional Commission in the *Caymanian Compass* on the 10<sup>th</sup> March is an embarrassment. It is an embarrassment to the Governor who appointed the Commission, it is an embarrassment to the people whom the Constitution is to serve, and it is an even greater embarrassment to the Constitutional Commission itself. It is absolutely astounding that a body charged

with such a solemn role in the context of good government of the Cayman Islands could be so absolutely misguided in its understanding of its role. It is with great dismay that one has to consider how awfully confusing such statements may be to the Cayman Islands public. The people do deserve better and it is for their sake that it is imperative that the Constitutional Commission regain the correct footing.

Madam Speaker, I must speak to the newspaper article in some detail before concluding with some general observations. The early part of the article makes an issue of Government having passed the Advisory District Council Law, and I quote, "before getting the Commission's input."

Madam Speaker, this glosses over the fact that Government provided the Constitutional Commission with a copy of the Bill in October 2010 inviting their comment on the Bill. In early November the Commission wrote and expressed concerns as follows:

Concern No. 1: That the Advisory District Councils (and I quote) "would simply be an additional layer to the other Advisory bodies that currently exist." In fact, the Councils give institutional form to the very public consultation that the Constitutional Commission repeatedly presses for.

Concern No. 2: That (and I quote) "as proposed the Councils would be funded by the public purse but will become extensions of the political parties."

Actually, strenuous efforts have been made to shape the law in such a way as to minimise the cost of the Councils, as well as to ensure that a fair balance is maintained. We have said that they will get a stipend for being a member, as other members of boards presently do in Cayman today, but that they will not be salaried. No way does the law allow that.

The Advisory District Councils have been structured so as to ensure that the voices of those in government as well as those who are not may be more clearly heard.

Concern No. 3: That the Bill not be passed into law hastily. In fact, though it has not been acknowledged by them, the Bill was published for public comment and was the subject of an extended and very vigorous debate in this honourable House, which was, in turn, widely reported in the media and discussed by all and sundry who wanted to and had the ability to . . . and even they who did not have ability still debated it.

I have given these details, Madam Speaker, so that the public can have a more accurate picture of Government's responses to the views of the Constitutional Commission, as the public deserves. The public also need to fully appreciate that no government is intended to base its executive decisions on the advice of a constitutional commission. If they want to play powerful let them go and put up their dollars and get

elected so that in that process some light can be shed on them.

But they cannot run the Government from behind the scenes. And that is one of the things that I was concerned about hence the reason why I did not vote for the constitutional commissions. Because, as the old people will say, "I know who is who in these Islands." We are not 30 million, we are just over 50,000, so I have a good idea, Madam Speaker, who is going to be appointed where. When they do get appointed it does not surprise me.

The Constitutional Commission seems to have gotten so far adrift from their real role that they have apparently not even read the Advisory District Council Law. Their newspaper interview claims that the Advisory District Council would be advising Cabinet, and they got that from the Member for North Side because that is what he said too. On that mistaken premise, they go on to say that the research they propose is to be used to clarify the roles of the Advisory District Councils by making comparison with how departments, non-governmental organisations, et cetera, functions as advisors to Cabinet.

First of all, Madam Speaker, the Advisory District Council Law, in keeping with the Constitution, actually requires the Councils when they are appointed to advise the respective district MLAs—advise the MLAs, not the Cabinet, as was so erroneously said in this House and on radio shows and in the newspapers. That is what the law says—"advise MLAs, not the Cabinet."

Secondly, let no one overlook the fact, Madam Speaker, that their proposed research is grossly oversimplified. The entities they list, which also includes MLAs and statutory bodies, do not all advise the Government. These are important distinctions as the Constitutional Commission ought to know. They ought to know, for instance, that by definition statutory authorities have specific legal powers and responsibilities. They are not just and are not always advisory.

Similarly, MLAs are not Government's advisors. If legislators were reduced to mere advisors to the Government of the day there would be no real separation between the legislative and the executive functions of Government thus displacing one of the corner stones of liberal democracies.

In any event, Madam Speaker, it is way off the mark for the Constitutional Commissioners to determine (and I quote), "whether the work of the Advisory District Councils duplicated that of other organizations in terms of advising Cabinet." (A) First the Advisory District Councils will not be advising Cabinet as stated before; and (B); secondly, the Constitutional Commissioners jobs are not this sort of organisation and management exercise.

By now the Constitutional Commission may have been instructed by His Excellency the Governor based on legal advice received, that (and I quote), "there is no reasonable link discernable between such

an objective and the Commission's specific mandate. There is nothing to show an underlying intention for such activities to be undertaken by the Commission.

The newspaper article goes on to say that the Constitutional Commission wants to (and I quote) "hear more from Members of the public on their thoughts about advisory district councils."

The business of canvassing public opinion is a very delicate undertaking for a body such as a constitutional commission, a body whose credibility rests on their clear and unequivocal nonpartisanship. Sadly, our Constitutional Commission stumbles hard when it expresses the view that they (and I quote) "don't agree with what is in place at the moment." Here they virtually destroy any chance of not leading public opinion as opposed to simply voicing any opinions which might have valid bearing on the Constitution.

Then, Madam Speaker, they really fall flat with the statement that the District Council in North Side (and I quote) "is more along the lines of what we had envisioned." This is a blatantly partisan political view. It is as though the Constitutional Commission is out to revive January's debate in the House by saying in effect that we agree with the MLA for North Side and we oppose the UDP Government and we encourage the people to adopt the same way.

What is really sad, is the failure of the Constitutional Commission to guide the public in keeping with their constitutionally assigned function, that any one approach to the formation of the Advisory District Councils may lead to certain advantages or benefits; relative to the intent of the Constitution, whereas another approach may lead to certain dangers or drawbacks. Being thus informed of pros and cons the public would then be alert to how best to participate in and take ownership of the setup and operation of the Advisory District Councils instead of being encouraged to oppose the Government's action to establish the Councils as required by section 119 of the Constitution.

And, Madam Speaker, let me read for one and all what section 119 of the Constitution says on advisory district councils. And I quote: "**Subject to this Constitution, a law enacted by the Legislature shall provide for the establishment, functions and jurisdiction of Councils for each electoral district to operate as advisory bodies to the elected members of the Legislative Assembly.**"

Madam Speaker, the more the Constitutional Commission muddies the water, the more embarrassing it becomes. For example, they go on to talk about the National Conservation Bill (and I quote) "not yet being passed." Apparently blind, as they seem to be, just as with the Advisory District Councils to the possibility that the Government may prove itself capable of affording the protection of heritage and wild life, and the land and sea by our diversity of the Cayman Islands, as required by section 18 of the Constitution without specific legislation such as what the proposed Conservation Bill is talking about.

It is surely the fulfillment of that intent that ultimately matters, not the adoption of a specific means by which to achieve it. The people ought to be able to place confidence in the Constitutional Commission that they are capable of making this important distinction and will act accordingly. Madam Speaker, this is where the Constitutional Commission seems to be in a complete muddle as to its role and functions.

On no reading of section 119 could it be said that the Constitutional Commission is expected to be an advocate for specific means, specific policies and specific forms of legislation. It ought to be a champion for the intended ends for the intent of the Constitution. In this press statement that they made, their performance fails to measure up to this to a degree that is really embarrassing, Madam Speaker, but it is also mischievous. And that does not surprise me.

Madam Speaker, the Commission seems to be going in the wrong direction (and I say *seems*) but I have no power to tell them where to go, and that too I find faulty with what we ended up with. The Foreign and Commonwealth Office (FCO) created a commission that must report to the Governor, something that I did not realise they were going to do.

No, the Constitutional Commission should be the remit of the people elected. This is our Constitution, one that was supposed to give—*SUPPOSE TO GIVE*—these Islands more authority. It is obviously an urgent necessity that the Commission appointed under the Constitution must be effectively accountable. They cannot themselves be above the Constitution which created them.

While section 118 requires the Governor to consult the Premier and the Leader of the Opposition on the appointment of the Constitutional Commission, no measure of accountability for its performance is provided. The Commission should have been something that the people's elected representatives have some say in—not the Foreign and Commonwealth Office. But, Madam Speaker, some of our people don't seem to learn that there are those who are not as impartial as we need them to be and that the Foreign and Commonwealth Office will play us like pawns on a chess table when it suits them.

Some of our people would rather trust someone they do not know and not our own. And then there are those who, when they can't have their way, because the election process put people like McKeever Bush in place, are prepared to do what they can to conjure, obstruct, deter and smear elected politicians as a blanket group.

Fortunately, Madam Speaker, His Excellency the Governor has been sufficiently alert to the need for such accountability. As I said earlier, he quickly sought legal advice on some of what the Constitutional Commission has set out as an agenda. Fortunately, the Governor has undertaken to steer them away from this. However, he is also encouraging them to further discuss their ambit with the Honourable Attorney

General because, clearly, they need to be better schooled in their role and functions.

It cannot be right that those who are appointed may feel they can go and do as these have done; believe they can frustrate my administration and say we are ultra vires the Constitution while, clearly, they themselves are misinterpreting and misusing their positions.

Madam Speaker, I call on the Constitutional Commission to reevaluate their position, to revisit the functions prescribed for the Commission under the Constitution and to refocus their programme accordingly. We cannot always get it right, but we must do our best to not get it so wrong.

Thank you, Madam Speaker.

**The Speaker:** Thank you.

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READINGS

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker.

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

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, this morning I delivered to you a letter giving notice, pursuant to Standing Order 11(1), of my intention to move a motion that this House do now adjourn for the purpose of a debate on the issue of the resignation of the Chairman of the Public Accounts Committee, the appointment of a new chairman, and a discussion of the membership and quorum of that Committee.

Madam Speaker, because this is a Standing Order that is not utilised very often in this House, I wish to read the relevant provision for the benefit of the House and those listening.

Standing Order 11(1): **“When, for any reason, it is not desired to formulate a motion in express terms for the purposes of debating a matter or matters, a motion ‘That the House do now adjourn’ may be moved for the purpose of such a debate.”**

Sub-order (2): **“A motion under paragraph (1) may be moved by any Member who shall give notice of his intention to the Presiding Officer.”** And, Madam Speaker, that was the purpose of my letter this morning. **“The Presiding Officer may decline to propose the question to the House if he considers it an abuse of its rules.”**

Sub-order (3): **“A motion for the adjournment under paragraph (1) may only be moved between two items of business.”** Hence, Madam

Speaker, why I move the motion now between Statements by Ministers and the commencement of Government Business.

Sub-order (4): **“If a motion for the adjournment made under paragraph (1) is agreed upon, the House shall stand adjourned in accordance with Standing Order 10 (Hours of sitting). If such motion is negated or withdrawn, the House shall proceed to the next item of business.”**

Madam Speaker, translated into plain language, these provisions enable a Member to bring to the attention of the House and to for debate to ensue on any matter or matters of importance, the use of the term “That the House do now adjourn” is simply a parliamentary provision or parliamentary vehicle by which the debate is allowed to proceed. If at the end of the debate the motion for the adjournment is either withdrawn or voted down, the House will simply move to the next item of business.

And so, Madam Speaker, this is an entitlement of a Member, to move a motion under this provision, unless, Madam Speaker, you were to determine that you should not propose the question because the process is an abuse of the rules of the House.

And so, Madam Speaker, I will resume my seat pending your indication as to whether or not you determine that the motion I am proposing to move, which is that the House do now adjourn, would be an abuse of the rules, given the issue that I am proposing to place on the Floor of this honourable House.

**The Speaker:** As you will recall, Honourable—

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Sorry, Madam Speaker, I do apologise. I need a seconder for the motion.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, is there a motion being proposed?

**The Speaker:** *[Addressing the Hon. Premier]* Let me deal with it please.

The Leader of the Opposition came to me just before the House began this morning with this statement, and I have tried to do some research on it in the very short time I was allowed, in section 12(1) of the Standing Orders; section 12(2) which follows on—**“A Member who wishes to ask leave to move the adjournment of the House shall, before the commencement of the sitting, hand to the Presiding Officer written notice of the matter which he wishes to discuss. Such a motion by the Member may not be made unless the Presiding Officer is satisfied that the matter is definite, urgent and of public importance, and-**

- (a) the leave of the House is given; or
- (b) seven or more Members rise in their place to support the request.”

So now, I have to put a motion as to whether the leave of the House is going to be given for this motion to be heard.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I—

**The Speaker:** That is my interpretation.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I hesitate to disagree with you, Madam Speaker, and I do so most respectfully, but the Standing Order to which you have referred is a separate Standing Order dealing with a separate procedure.

This procedure, which I have invoked, is a procedure which I have an entitlement to do under Standing Order 11. I have not sought to invoke the provisions of Standing Order 12—for that very reason—because you can only proceed under Standing Order 12 with the leave of the House, or if I can get seven Members in the House to stand to indicate their agreement. I do not think the chances of my getting seven Members to agree are terribly great, and so I would not run that risk.

The procedure under [Standing Order] 11(1) is an entitlement of a Member, and the only way the Member can be prevented from proceeding under that Standing Order is if the Presiding Officer determines that what is being done is an abuse of the rules and declines to propose the question. That is Standing Order 11(2), Madam Speaker.

**The Speaker:** And what do you propose Standing Order 12(1) refers to?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, these Standing Orders, 11 and 12, deal with three ways by which Members can get a matter before the House—

**Mr. D. Ezzard Miller:** Urgently.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:**—urgently.

There are three processes: 1) is a matter of entitlement, which is Standing Order 11(1), which I just read. The other is where a Member wants an answer from a Government Minister. That is dealt with, Madam Speaker, in Standing Order 11(6), (7) and (8).

**The Speaker:** Mm-hmm.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** That requires notice to be given. And, unless the Speaker dispenses with the need for notice, notice is required. It is two days notice. I have not moved under that.

Standing Order 12 deals with what is called a definite matter of urgent public importance. Moving under that Standing Order requires the leave of the

House or seven Members standing indicating their agreement with the motion being moved.

I have not sought to invoke either of those last two Standing Orders because they require notice or the leave of the House. I have moved under Standing Order 11, which gives to every Member of this House an entitlement to move a motion that the House do now adjourn to permit the debate of any matter or matters on the Floor of the House in between Government Business.

The only way that that can be prevented, Madam Speaker, is if the Speaker were to rule that what is being proposed is an abuse of the rules of the House and declined to put the question (that is, that the House do now adjourn). Otherwise, it is an entitlement of each Member; it does not rely on the agreement of the Speaker; it does not depend on notice; it does not depend on the leave of the House. It is an entitlement of a Member.

*[inaudible interjections]*

**The Speaker:** I have to decide how I have to deal with what is before the House. And in the short time I was given to review this I looked at all of the sections involved in the handling of such a matter, and my conclusion was that [Standing Order] 12(2) . . . if you are going to ask leave to move an adjournment of the House—which you have done—I have to deal with it in a certain way.

I have to be satisfied that the matter is definite, urgent and of public importance and that the leave of the House is given or seven or more Members rise in their place to support the request.

Now, I am going to take the lunch suspension and I will study this matter some more. But at the present time, that is the only option I see offered to the Chair. Thank you very much.

House is adjourned until 2 pm.

*[inaudible interjection]*

**The Speaker:** Suspended, sorry, until 2 pm. You almost got what you wanted.

*[laughter]*

**Proceedings suspended at 12.36 pm**

**Proceedings resumed at 3.03 pm**

**The Speaker:** Proceedings are now resumed. Please be seated.

#### **SPEAKER'S RULING**

**The Speaker:** When we suspended we had a query, or a motion from the Leader of the Opposition based on a letter which he presented to me this morning. He

made that submission under Standing Order 11(1), (2), (3), (4).

Before I left the House I stated that I thought Standing Order 12(2) was in order. And I based that decision on the statements made in the letter submitted to me by the Leader of the Opposition, in which he stated that “it does not appear that Government intends to deal with this urgent matter during today’s sitting of the House, it’s critical importance or how critical it is to this Committee that this Committee continues to function. These are issues of urgent national importance and they ought to be addressed at the earliest possible opportunity (that being today’s sitting).” And my conclusion at that time was that I would have to decide if it was a matter of urgent public importance.

The Leader of the Opposition argued that he was [moving the motion] under [Standing Order] 11(1) because he did not believe he would get leave of the House, or seven Members to rise in their places. I will read [Standing Order] 11(1) and (2): “**When, for any reason, it is not desired to formulate a motion in express terms for the purposes of debating a matter or matters, a motion ‘That the House do now adjourn’ may be moved for the purpose of such a debate.**”

“(2) A motion under paragraph (1) may be moved by any Member who shall give notice of his intention to the Presiding Officer. The Presiding Officer may decline to propose the question to the House if he considers it an abuse of its rules.”

“(3) A motion for the adjournment under paragraph (1) may only be moved between two items of business.”

“(4) If a motion for the adjournment made under paragraph (1) is agreed upon, the House shall stand adjourned in accordance with Standing Order 10 (Hours of sitting). If such motion is negated or withdrawn, the House shall proceed to the next item of business.”

Is the Leader of the Opposition proposing bringing a motion that the House do now adjourn and is there a seconder for that motion?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I did move, but, out of the abundance of caution and to make sure that everything is clear, I again move that the House do now adjourn.

**The Speaker:** Is there a seconder for that motion?

**Mr. V. Arden McLean:** Madam Speaker, I beg to second the motion.

**The Speaker:** The question before the House is that the House do now adjourn. All those in favour, please say Aye.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, with respect, I believe that the proper procedure now is that the mover of the motion is asked to speak to the motion.

**The Premier, Hon. W. McKeever Bush:** You got to get permission.

**The Speaker:** You have to have permission of the House.

**The Premier, Hon. W. McKeever Bush:** Oh yeah.

**The Speaker:** Yes, you do have to have permission of the House.

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** No, no, no, she has to put that motion. She is right.

**The Speaker:** I can’t have two motions on the Floor of the House. The motion is that the House do now adjourn. If that motion stands the House is adjourned.

*[inaudible interjections]*

**The Speaker:** If it does not stand the business of the House continues.

**Mr. V. Arden McLean:** Then there won’t be any debate.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, you are absolutely right.

But, with respect, we are ignoring one of the basic principles of debate in this House. When a motion is moved, the mover of the motion is generally invited to speak to the motion.

**The Speaker:** The motion is a motion for adjournment. Persons can make statements on the motion of adjournment but you are asking for a motion of adjournment. You are asking for the House to agree to be adjourned. If they agree that the House is adjourned, the House is adjourned. If they agree that it is not adjourned, we will continue the business of the House.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, may I try to explain this again Using Erskine May, which I did not refer to when I spoke first?

**The Speaker:** Yes, I have that here too and it does not . . . Go ahead.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, Standing Order 11 is de-

signed as a vehicle which will allow any Member of the House to elicit a debate on a subject without putting formally (complying with all the rules in relation to notice and so forth) a written motion. This is a procedure that we have adopted from the Westminster system which is explained at some length in Erskine May's *Parliamentary Practice*.

I am referring to the Twenty-third edition at page 325. It is a relatively short paragraph that explains the procedure which I am seeking to invoke by using these Standing Orders. It talks about the substantive motions for the adjournment and it reads: "**The substantive motion, 'That this House do now adjourn'**" (which is the exact language of Standing Order 11) "**may be moved to provide a vehicle for discussing many subjects. Once such a motion has been agreed to, a sitting is necessarily terminated, but it frequently happens that an adjournment motion is moved without any intention of pressing it to a conclusion, and it is consequently withdrawn. The substantive motion for the adjournment is in fact a technical form devised for the purpose of enabling the House to discuss matters without recording a decision in terms.**"

And that, Madam Speaker, is precisely what I am seeking to do here—discuss the issue of the resignation of the elected Member for North Side as Chairman of the Public Accounts Committee and how we go about dealing with the situation created as a result of that resignation.

Reverting to the text of Erskine May: "**It is, therefore, not subject to amendment.**" (That is such a motion). "**Such motions are often the form used for, for example, a general foreign affairs debate, or for a wide-ranging debate on a topic such as the protection of the environment, or for debate of a report from a select committee. The government may move such a motion to provide for discussion of a topic at the instance of the Opposition. The proposed subject for debate is indicated on the Order Paper. Such motions are commonly withdrawn with the leave of the House at the conclusion of the debate, although occasionally a division is forced to indicate dissent from government policy, in which case the government may vote against the motion in order to preserve the remaining business of the day.**"

And that, Madam Speaker, is the relevant bit that I wish to refer to so that this language "That the House do now adjourn" is simply the time-honoured way of allowing Members to intervene, when Government Business is proceeding, when there is a matter of importance which they wish to debate, and when, in our case, the Speaker does not conclude that to allow the motion to proceed would be an abuse of the rules of the House.

Often, as Erskine May says, the motion is not pressed to conclusion because the objective of the exercise is not to adjourn the House, but to allow a

debate on subject which the Member thinks is important.

**The Speaker:** Ah—

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** And so, Madam Speaker, it is that objective that I am seeking to achieve, by moving the motion in this way by invoking Standing Order 11, sub-orders (1) through (4).

**The Speaker:** I draw the Member's attention to page 361 in Erskine May: "**Standing Order 24 gives private Members an opportunity to move the adjournment of the House for discussing a specific and important matter which should have urgent consideration, if the Speaker agrees that the matter in question warrants this. Under the terms of the Standing Order, such motions be made . . .**" (And their days are different from ours.) "**The Member wishing to move such a motion must inform the Speaker of his intended application . . .**"

"**Under the terms of this Standing Order the Speaker has to state whether or not he is satisfied that the matter is proper to be discussed without giving the reasons for his decision to the House. If he decides that the application should not be granted, further debate on the submission is out of order.**" (We are talking about private Members now.) "**If he considers that the terms of the motion are in order, he asks whether the Member has the leave of the House, and if such leave is not unanimously given, calls on those Members who support the motion to rise in their places.**"

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Absolutely, Madam Speaker!

And the comparable provision in our Standing Orders is Standing Order 12 which you have referred to at length.

**The Speaker:** Standing Order 12 does not—

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Twelve . . . which deals with an attempt for a motion to be brought by a private Member with the leave of the House or the signification of seven Members, in our case (because it is a numbers point), who consent or agree with the motion being brought.

The section which I just read, Madam Speaker, relates to . . . can be compared, or is analogous to Standing Order 11. The one which you just read is analogous to Standing Order 12.

So, there are two different procedures. I have not sought to invoke the provisions of Standing Order 12.

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker.

**The Speaker:** Yes, Mr. Premier.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, our Standing Orders, the one the Member rose under, and I think he wrote to you on, is absolutely clear.

[Standing Order] 11(1)—“**When, for any reason it is not desired to formulate a motion in express terms for the purposes of debating a matter or matters, a motion ‘That the House do now adjourn’ may be moved for the purpose of such a debate.**” So, that gives the Member a right to move.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Entitlement.

**The Premier, Hon. W. McKeever Bush:** Well, entitlement, right, whatever.

[Standing Order 11] Subsection (2): “**A motion under paragraph (1) may be moved by any Member who shall give notice of his intention to the Presiding Officer. The Presiding Officer may decline to propose the question to the House if he considers it an abuse of its rules.**” That’s (2).

Now, we move on from there. You gave him permission so he has that permission and he has gotten up to say . . . Well, she gave . . . Madam Speaker, you gave the Member permission to rise to put it to the House. [Standing Order 11(3)]—“**A motion for the adjournment under paragraph (1) may only be moved between two items of business.**”

The Member did that. All of that is correct.

[Standing Order 11](4): “**If a motion for the adjournment made under paragraph (1) is agreed upon, the House shall stand adjourned in accordance with Standing Order 10 (Hours of sitting). If such motion is negated or withdrawn, the House shall proceed to the next item of business.**”

Now, Madam Speaker, if a motion for the adjournment, made under paragraph (1) is agreed, obviously, what our Standing Orders say [is that] a motion has to be agreed by this House.

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** No, you can’t put it first and then the Member agrees because then he has gotten his point across.

What this is doing, Madam Speaker, if I may . . . Our Standing Orders set out clearly what is expected of the Presiding Officer and what is expected of the Member. The Presiding Officer gave permission, the Member has to get the permission of the House to talk about what he wants to talk about, but that motion has to come—because the House is sitting—and so the House has to be adjourned. And the House has to be adjourned by a motion. And it is at that point that the Member must get his permission

after he has gotten the permission of the adjournment. Now that is absolutely clear.

And let us get something straight here, those of us who attend commonwealth parliamentary meetings understand a little bit about parliamentary procedure. This Book, or any other book that any Member might draw reference to, can only be used where our Standing Orders are silent. Just remember that!

All of us who claim we are parliamentarians. This can only be used where we are silent.

So, Madam Speaker, I submit that the Member has had his opportunity. You have given him his opportunity. He has come and said that he wants to adjourn the House for a specific reason. Now that motion has to come; that’s what this says.

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** No, no, no, no, no. If a motion for the adjournment made under . . . if the Member was to speak, then, he would say all that he want to say. That’s not what this means.

No!

What sense would it make then, Madam Speaker?

**The Speaker:** I—

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I want to be clear again. I want to be clear again—our Standing Orders, Madam Speaker, take this matter step by step, from (1) through right down. [Standing Order 11] (3) tells what happens; (4) tells us . . . You’ve given him down to (3) . . . The Member has his right, or his privilege, or whatever he terms it, but [Standing Order 11](4) will tell you that if a motion for the adjournment made under paragraph (1) is agreed upon, the House then stands adjourned in accordance with that other Standing Order. And then the Member can raise his matter.

But he cannot raise the particular matter before the House stands adjourned, because right now we are in the midst of an Order Paper, and this tells us that you can only get to that point in between items. You have allowed that—in between items. But still, when you get in between items he has to move that motion to move further, and now that is where we are at, the Member has moved it.

And now, Madam Speaker, I say clearly to you, the motion must be voted upon. Then the Member, if he wins his motion, introduces his matter.

**Mr. V. Arden McLean:** So if you are reading a motion the House got to adjourn?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker—

**Mr. V. Arden McLean:** Oh Jesus!

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, the fallacy in the Premier's—

**The Premier, Hon. W. McKeever Bush:** Nah no fallacy!

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** —in the Premier's argument is this: No one can debate a matter in the House if the House is adjourned.

**The Premier, Hon. W. McKeever Bush:** Oh yes!

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Because the House is not sitting. There is no—

**The Premier, Hon. W. McKeever Bush:** Madam Speaker—

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker—

**The Premier, Hon. W. McKeever Bush:** —if the Member would give way . . . make me enlighten him a bit why the purpose is for that.

**The Speaker:** Order please. Order please.  
You know—

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Now, Madam Speaker—

**The Premier, Hon. W. McKeever Bush:** I'll book my chance then, Madam Speaker. I'll sit and book my chance after he is finished.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, let's not get into a shouting match. The Premier can respond with your permission when I am through.

The whole object of this exercise, Madam Speaker, and the use of the language "That the House do now adjourn" is simply for that to be the vehicle which allows the Member to proceed to debate whatever the matter is that has given him or her concern. If the vote is put before that happens it should be self-evident that there can be no debate; the House would have been adjourned, or—

*[inaudible interjection]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** —or the motion would have been voted down, in which case the Standing Order provides that the House moves on to the next item of business. So, to take that position gives me a pyrrhic victory.

The Premier will say, and his side will say, that I have been given the opportunity—the "privilege"

he said—to exercise the rights I have under the Standing Orders, when, in fact, there are no rights at all—the right to move a motion which the Government simply votes down without me being able to say one word substantively on what it is that has caused me to go to all of this trouble and put the House to all of this trouble today.

**The Premier, Hon. W. McKeever Bush:** *[microphone not turned on or speaking away from the microphone]* Madam Speaker, I think I deserve a right to reply to that. And since we are trying to sort this out just let me say . . . What I am saying it is not a policy, Madam Speaker.

Madam Speaker, these Standing Orders are absolutely clear. It gives us step by step. If the Member wanted, without taking a vote, he could have asked your permission to say something at the end of the day. At the end of the day, when the business is done, a matter can be raised. The Speaker sits there, the House sits there, and the Member asks for whatever he is going to be talking about, bringing it to light, and Government takes note of it but no decision is made at that point.

But for the next one that he is dealing with, he wants a specific outcome, and he wants to take a vote at that point. And so the Standing Orders provide that you do these steps. But to do that you have to then adjourn the House. You cannot adjourn the House without a specific motion and in a specific motion in this the House has to be adjourned.

*[inaudible injection]*

**The Premier, Hon. W. McKeever Bush:** Well, I think I am thinking right. I think I am thinking right, Madam Speaker. I will stand by what I have said. The Member will give his motion and then a vote is called on it. And if the House is adjourned the Member will tell the country, tell the House, tell the Members what it is he wants done.

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** Because you *[inaudible]* new business.  
*[inaudible interjection]*

**Hon. Rolston M. Anglin:** Madam Speaker, might I just interject two observations?

Firstly, what the Premier said is no fallacy. There are many times that you, as Speaker, on the adjournment vote can allow this House to continue until you, Madam Speaker, say this House now stands adjourned. So, you can take that vote.

If that vote is 'yes' you can then invite the Honourable Leader of the Opposition to bring the motion contemplated in [Standing Order] 11(1), that is a motion that is in expressed terms for purposes of debate

or matter or matters (it can be more than one, okay) before you actually declare this House adjourned.

So, that would be perfectly in order. In fact, you have invited us to make statements, such as our Christmas greetings, using a similar procedure.

But, Madam Speaker, the crux of the matter is, and the bottom line of this is, I would be very interested as a Member of this House to understand the full content of the letter provided to you by the Honourable Leader of the Opposition. Because, the content that you have alluded to thus far—*thus far*—clearly tells me as a Member of this House that in his mind the issue surrounds the PAC and that it is important to the governance of the country.

He full well knows that any topic like that should only be properly brought under Standing Order 12. He did not have the numbers so he tried this trick. Madam Speaker, it is [up] to you to utilise Standing Order 12(2), and not put the question to this House.

In my humble submission it is an abuse because he does not have a leg to stand on. It is in his mind a critical matter that is of urgency that should be brought under [Standing Order] 12. But he has purposely now tried to bring it under [Standing Order] 11.

This is an abuse of the process in this House, in my humble submission, and under [Standing Order] 12(2) you have every right to not put the question.

*[inaudible interjections]*

**The Speaker:** There is a motion before the House, that the House do now do stand adjourned, and it has been seconded. I am putting it to the vote.

Will all those in favour, please say Aye.

*[No audible response]*

**The Speaker:** The motion is that the House now do stand adjourned. All those in favour, please say Aye. Those against, No.

**Noes** *[only]*

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

**Mr. D. Ezzard Miller:** Madam Speaker, can I have a division please?

*[inaudible interjections]*

**The Premier, Hon. W. McKeever Bush:** There is a division called.

**Hon. Cline A. Glidden, Jr.:** The division has been called; let's hear the yeses.

*[inaudible interjections]*

**The Clerk:**

## Division No. 35 2010/11

**Ayes: 0**

**Noes: 8**

Hon. W. McKeever Bush  
Hon. Rolston M. Anglin  
Hon. Michael T. Adam  
Hon. J. Mark P. Scotland  
Hon. Cline A. Glidden,  
Capt. A. Eugene Ebanks  
Mr. Elbio A. Solomon  
Mr. Dwayne S. Seymour

**Abstention: 2**

Mr. D. Ezzard Miller  
Mr. Anthony S. Eden

*[ongoing inaudible interjections while waiting on division result]*

**The Speaker:** If you would like to make a speech, you may rise to do so. Please do not do it from your chair across the floor.

**Mr. D. Ezzard Miller:** Madam Speaker, with the greatest of respect, I tried desperately by panging the microphone at least two dozens times to get your attention and you refused to give me an opportunity to speak.

**The Speaker:** I beg your pardon—I have never refused you and opportunity to speak.

Member from North Side, never have I refused you an opportunity to speak. In fact, I have allowed you to speak on many, many occasions more than once.

*[inaudible interjections]*

**The Speaker:** The result of the division: 8 Noes and 2 abstentions.

**Hon. Michael T. Adam:** All right, let's get back to business.

**The Speaker:** The motion is negatived. Shall we proceed with the business of the House?

**Agreed by the majority: Motion to adjourn negatived.**

**An Hon. Member:** In a word—pandemonium!

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READINGS

Terrorism (Amendment) Bill, 2011

**The Deputy Clerk:** The Terrorism (Amendment) Bill, 2011.

**The Speaker:** The Bill has been read a first time and is set down for second reading.

**Medical Negligence (Non-economic Damages) Bill, 2011**

**The Deputy Clerk:** The Medical Negligence (Non-economic Damages) Bill, 2011.

**The Speaker:** The Bill has been read a first time and is set down for second reading.

**SECOND READINGS**

**Terrorism (Amendment) Bill, 2011**

**The Deputy Clerk:** The Terrorism (Amendment) Bill, 2011.

**The Speaker:** Honourable Second Official Member.

**Hon. Samuel W. Bulgin:** Thank you, Madam Speaker.

Madam Speaker, I beg leave of the House to move the Second Reading of a Bill for a Law to amend The Terrorism Law (2009 Revision) in order to impose financial restrictions and in relation to certain persons believed or suspected to be or to have been involved in terrorist activities and for incidental and connected purposes.

**The Speaker:** [The Bill has been duly moved and is open for debate]. Does the Member wish to speak thereto?

**Hon. Samuel W. Bulgin:** Thank you, Madam Speaker.

Madam Speaker—

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, can the question now be put, please?

*[inaudible interjections and laughter]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, there is no need for the Attorney General to speak to the motion because we just vote on things in here and Members are not allowed an opportunity to speak to motions anymore.

*[inaudible interjections and general uproar]*

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, you know, this is the country's business.

Madam Speaker, really, the Members on the other side seem to want to do anything to obstruct as much . . . some Members anyway. But this is the

country's business and I maintain that we have gone a long ways here today probably we should not have gone. But now we are on a specific very important matter. Either the Members mean what they say . . . but not under the premises that he said it. If he wants the Attorney General to not explain the matter, then fine, but under the premise to just say that no Member got a chance, then that is an abuse.

*[inaudible interjection]*

**Hon. Cline A. Glidden, Jr.:** Madam Speaker.

**The Speaker:** There is enough talk across the floor! Please cut it out!

**Hon. Cline A. Glidden, Jr.:** Madam Speaker?

**The Speaker:** Honourable Attorney General, please continue with your presentation. Thank you.

**Hon. Samuel W. Bulgin:** This Bill is about freezing, so hopefully it will help to freeze some of the adrenaline that is pumping through some *[inaudible]*.

*[laughter and inaudible interjections]*

**Hon. Samuel W. Bulgin:** Madam Speaker, I wish to present The Terrorism (Amendment) Bill, 2011, to this House.

By way of background, on the 28 September 2001, the United Nations Security Council passed Resolution 1373. This Resolution requires all states to implement legislative measures to freeze the assets of terrorists.

As a consequence, in October 2001 the United Kingdom passed an Order in Council to give effect to the United Nations Security Council Resolution [UNSCR] 1373. Separate Orders in Council covering the Crown Dependencies and Overseas Territories (including the Cayman Islands) were also passed.

Madam Speaker, in December 2010 the United Kingdom Terrorist Asset-Freezing was enacted and it now places the United Kingdom Domestic Terrorist Asset-Freezing Regime on a permanent primary legislative footing.

Section 54 of the UK legislation, Madam Speaker, extends the vires protection to the Orders in Council covering Crown Dependencies and Overseas territories until the 31 March 2011. So, there is a deadline of the 31 March this year, Madam Speaker. It also provides that the United Kingdom Government may by Order in Council extend the provisions of Part 1 of the 2010 Act (that is the part related to terrorist asset-freezing) with or without modifications for the Cayman Islands among other Overseas Territories and Crown Dependencies.

Madam Speaker, as a result of these legislative developments, the Cayman Islands Government agreed that instead of having the Order in Council

extended to us, that we would put in place appropriate domestic legislation by the 31 March, 2011 deadline, in order to ensure that a proper legislative framework is provided for terrorist asset-freezing as mandated by Resolution 1373.

I should point out, Madam Speaker, that we are not aware of any issues in the Cayman Islands which involve or require the freezing of terrorists assets. In this regard, and given the legislative efforts of the Cayman Islands over time to combat any potential threat of terrorism through our Tourism Law which was enacted as far back as July 2003, Madam Speaker, these proposals should be seen as a proactive measure on the part of the Islands to introduce another component aimed at strengthening our regulatory mechanisms.

Madam Speaker, we recognise the need to ensure that there are no vulnerabilities in our legal system which will undermine our successful efforts to date. And we understand the damage to our reputation that could occur should these Islands be seen as a repository for terrorist assets.

The Cayman Islands Government therefore believes it is appropriate at this time to make the proposed amendments to the Terrorism Law (2009 Revision) since this presents an opportunity, Madam Speaker, to ensure that we have in place legally sound domestic terrorist asset-freezing legislation which is in compliance with the United Nation's obligations.

Madam Speaker, against that background, I wish to just highlight some of the salient provisions of the Bill before this House:

Clause 2 of the Bill seeks to amend the Terrorism Law (2009 Revision) by introducing a Part IIIA. This part would insert a Schedule 4A under which the Governor is empowered to designate persons as being involved in terrorist activities, and to direct, as a result of such designation, that the funds and economic sources of such persons be frozen.

Schedule 4A, Madam Speaker, which is captioned "Freezing of Funds," paragraph 1 of that Schedule contains the interpretation of important terms which are necessary to properly identify the person's assets and conduct targeted under this regime. Also, Madam Speaker, it indicates against whom legal obligations are imposed in order to ensure the effective enforcement of the legislation. These include "designated persons," "final designation," "economic resources," "financial services," "funds," "government entity," "relevant institution," as well as a definition of "terrorist activity."

Madam Speaker, in addition to empowering the Governor to designate a person as being involved in terrorist activities this Law, if passed, would provide that he may also make a final designation against that person in furtherance of instructions from the United Nations Security Council, or, in circumstances where he either believes that a person or that person's as-

sets are in any capacity involved in terrorist activities, are designations in the public's interest.

Madam Speaker, the definition of "terrorist activities" is broadly formulated in order to capture any conduct which involves, for example, the commission, preparation, instigation, facilitation or support of terrorism.

Madam Speaker, the Bill seeks to satisfy the element of due process by requiring that the Governor notify a party against whom he has made a final designation. There is a requirement that a notification be published by notice in the *Gazette*. The object of this Bill is prevention, detection and prosecution. Therefore, publication of a notification will not be required if the Governor considers that disclosure of a final designation should be restricted for, among other things, in the interest of national security.

In recognition of the fact that children may be used to facilitate terrorist activities, Madam Speaker, the Bill takes into consideration the sensitivities in such circumstances and appropriately stipulates that publication of a final designation will not be required if the designated person is an individual under the age of 18 years of age.

Madam Speaker, under the Bill a final designation will expire at the end of one year commencing from the date on which it was initially made, unless, of course, it is renewed. Given the implications of a designation, it was necessary to provide for its expiration if there is no continued basis to attach a designation to a person or to his assets. At the same time, it was equal important to allow for the flexibility to renew a designation if the circumstances so warrant it. This flexibility extends to permitting the Governor to vary or revoke a final designation. And, as in the case of the usual final designation, the Governor is required to give written notice to a designated person of such a variation or revocation.

Madam Speaker, under the Bill the Governor is also empowered to make what is termed "interim designations." Interim designations can be made on the same basis as a final designation. Accordingly, notification of an interim designation is required and the Governor has the power to make or vary such a designation. The interim designation expires at the end of 30 days commencing from the date on which it was made, or from the date on which that interim designation is made final, whichever occurs earlier.

A renewal of an interim designation will not be permitted under the legislation. The rationale for this prohibition, Madam Speaker, is to encourage action within the 30-day period by either making a designation final or revoking the interim designation where it is not required. Madam Speaker, we certainly do not want to unjustly allow a person to carry the label of a designation ad infinitum. For these proposals to work effectively, Madam Speaker, confidentiality is a key component of the proposed Law.

In my earlier remarks I mentioned, or I pointed out that prevention, detection and prosecution are the objectives behind this proposed Law. Therefore the Bill empowers the Governor to prohibit any person to whom he indicates that a designation has been made to keep that information confidential. The exception, Madam Speaker, is that the information concerning the designation may be disclosed to a person who has lawful authority to do so or to receive that disclosure.

Madam Speaker, in order to ensure that the application of this regime is not in any way frustrated or compromised, there are several prohibitions under the Bill as they relate to the designation, whether it be a final or interim designation. These prohibitions include refraining from dealing with the funds and economic resources of a designated person, or making funds or financial services available to a designated person, making funds or financial services available for benefit of designated persons, making economic resources available to a designated person, and making economic resources available to another person for the benefit of a designated person.

So, Madam Speaker, the inclusion of these provisions in this Bill is in recognition of the creative methods that individuals may seek to employ in an attempt to circumvent the legislation. Essentially, we are attempting to prevent the dissipation of terrorist assets and have sought to cover all possibilities, Madam Speaker. Madam Speaker, the Law, if enacted, will also provide that it is an offence to breach any of the prohibitions or attempt to circumvent or facilitate the contravention of any provision of this Law.

While the prohibitions are in fact an integral part of this Bill, it also provides for exceptions and licences which stipulate the circumstances under which breach of a prohibition would not amount to a contravention of the Law. For instance, a relevant institution will not be held in contravention if it credits a frozen account of a designated person with interest or other earnings due on the account. However, the relevant institution is under an obligation where it does so to notify the Governor if an account is credited. Similarly, where a person deals with the funds or sources of a designated person under the authority of a licence granted by the Governor, he will not be in breach of any of the prohibitions proposed in this Bill unless he fails to comply, of course, with the conditions stipulated in the licence.

Madam Speaker, the provision of information is another component of this Law, if it is passed. A relevant institution is under obligation to inform the Governor if it knows, or has reasonable cause to suspect, that a person is a designated person or has breached a prohibition. This application extends the information obtained during the course of business with that person. The Bill also gives the Governor a broad power to request information or documents relating to the designation and it will be an offence for a person who fails to comply with such a request or recklessly, knowingly without reasonable excuse or

with intent to evade the authorities or with intent to obstruct the Governor.

Madam Speaker, the Governor may specify the manner in which, and the period in which information should be provided, and he has the general power to disclose that information obtained by him. Disclosure of information is permissible to a wide range of persons and entities that may be considered crucial in the enforcement of this regime, Madam Speaker. And these would include a police constable, a public officer, the reporting authority or the Cayman Islands Monetary Authority, or indeed, any relevant organs of the United Nations.

Madam Speaker, in an effort to facilitate a successful investigation in relation to the funds, economic resources or financial transactions of a designated person, the Governor is also empowered to take the necessary steps to cooperate with relevant authorities in the Islands or elsewhere by way of international cooperation.

So, Madam Speaker, while the Governor has the power to make, vary, or revoke a final interim designation in the interest of justice, the Bill permits a person against whom a designation is made a right of appeal to the Grand Court in relation to that designation. The Bill further permits any other person a right to apply to the Grand Court for a review of a decision of the Governor in connection with a designation and the obligations that are attached thereto. By way of example, a relevant institution which is prohibited from dealing with the funds of a designated person may apply to the Grand Court for a review, or a setting aside of the decision made by the Governor himself.

Finally, Madam Speaker, as to be expected, there are offences under the Law, if passed, which would guarantee enforcement. It will be an offence to breach several provisions of this proposed Law. And without appropriate sanction, established procedures to deal with the commission of an offence, our objectives could be rendered ineffective and, as such, the Bill provides for penalties that also deal with extra-territorial application of offences, liability of officers or body corporate companies, time limits for proceedings for summary offences, as well as procedure for offences by unincorporated bodies.

Madam Speaker, it is a bit technical, but I believe that implementation of these proposals to amend the Terrorism Law will further enhance our investigatory capabilities, and, of course, the overall legal framework formulated to combat terrorist activities in all its multiple forms. It is with that objective in mind that I would wish to commend this Bill to all honourable Members of this House and to seek their support therefore.

Thank you.

**The Speaker:** Thank you.

Does any other Member wish to speak?

Leader of the Opposition.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Thank you, Madam Speaker.

I just rise to indicate the support of the Opposition for the Bill.

**The Speaker:** Thank you.

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 call on the mover of the [Bill] to conclude his debate.

**Hon. Samuel W. Bulgin:** I thank you, Madam Speaker.

I wish to thank all honourable Members for their support of this Bill.

**The Speaker:** The question is that a Bill shortly entitled a Bill for a Law to amend the Terrorism Law [2009 Revision], 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, 2011, has been given a second reading.**

**Medical Negligence (Non-economic Damages) Bill, 2011**

**The Deputy Clerk:** The Medical Negligence (Non-economic Damages) Bill, 2011, second reading.

**The Speaker:** Minister for Health.

**Hon. J. Mark P. Scotland:** Madam Speaker, I beg to move the Second Reading of a Bill shortly entitled, The Medical Negligence (Non-economic Damages) Bill, 2011; a Bill for a Law to limit non-economic damages in claims for medical negligence; and for incidental and connected purposes.

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

**Hon. J. Mark P. Scotland:** Thank you, Madam Speaker.

Madam Speaker, I rise this afternoon to table in this honourable House the Medical Negligence (Non-economic Damages) Bill, 2011.

Members would be aware that this Bill was gazetted on 18 February, and it replaces the Torts Reform (Amendment) Bill, which was withdrawn last month.

Madam Speaker, I made a statement in the House at the time we withdrew the Torts Reform (Amendment) Bill, which outlined the rationale for withdrawing the Bill, and also for replacing it with this

Bill, a standalone Bill which deals solely with the non-economic damages in medical negligence cases.

After the Torts Reform (Amendment) Bill was published in the *Gazette* on 31 December last year, during the consultation period there was input received from various stakeholders. And while the feedback that was received was generally positive and supportive of the proposed amendments to the legislation at that time, a concern raised by several of the stakeholders was that the proposed legislation did not go far enough.

To have a meaningful effect on medical malpractice insurance premiums stakeholders in their comments felt that while the Torts Reform (Amendment) Bill would impose an appropriate cap on non-economic damages for cases of Tort, they expressed concern, Madam Speaker, that the amendments would be ineffective against cases of medical negligence which could be brought under contract law. The idea was that there would be potential for claimants to simply sidestep the cap on non-economic damages under Tort Law and pursue much higher awards through breaches of contract cases instead.

So, Madam Speaker, after we received the input from the stakeholders we consulted, as we would normally do, with our legal advisors in the Attorney General's Chambers as they are our legal advisors for any legislation that is brought before this honourable House. And legislation can only be brought after full consultation with the Attorney General and the Legal Department and subsequent approval through Cabinet.

Madam Speaker, [in] the Attorney General's Chamber with the legal advisors we all agreed that there was a concern, and that this concern did have merit and warranted further consideration. So, after further review by the Legal Department they subsequently advised us that in order to effectively cap the non-economic damages in medical negligence cases, including those arising from Tort and Contract Law, it would be better to have a standalone piece of legislation that would address it rather than attempting to insert Contract Law into Tort Law. And so, Madam Speaker, the new Bill was drafted, submitted to Cabinet, approved, and subsequently gazetted on 18 February, as I said a few minutes ago.

Madam Speaker, the Bill proposes to implement a cap on non-economic damages originating out of claims of medical negligence. As I said before—and I want to reiterate clearly for the record once again—the Bill will not cap economic damages. Economic damages, which will be payable to the claimant to offset cost of long-term care, loss of income, and other such quantifiable expenses arising as a result of the injury or malpractice will not be restricted or limited in any way by this Bill. The Bill proposes to place a cap on non-economic, or the intangible, award, awards for pain and suffering, which we have seen skyrocket in many jurisdictions, including the United States. But

this proposed Bill will limit those non-economic awards to a maximum of C\$500,000.

Madam Speaker, a bit of background on it: As we know, for a long time now local practitioners, in particular obstetricians, have been experiencing an increase in their malpractice insurance premiums. This has been going on for probably over five years. The increases have been very significant. For example, local obstetricians saw their premiums go from around US\$44,000 in 2006, to US\$153,000 in 2010—an increase of more than 300 per cent in just four years, Madam Speaker. And this increase continues.

I am sure that Members would have seen the headlines in yesterday's *Caymanian Compass* entitled "Obstetricians Insurance Rates out of Control." In that article, Madam Speaker, the local OB/GYNs have reported that they had a \$40,000 increase in their insurance premiums just this year. Obviously, this is a tremendous increase in just one area of their overhead costs, and this has left many practitioners questioning whether they will continue their obstetric practice.

Given that the current standard health insurance fee for routine obstetric care, including regular delivery, is approximately US\$3,000, Madam Speaker, with the 2010 insurance premiums of US\$153,000, one obstetrician would have to deliver at least 51 babies just to cover the insurance premium. And that does not take into account all of the other expenses that the practitioners have to pay for other overheads. And, Madam Speaker, in a small jurisdiction like this where we only have on average around 600 births per year, the only way to help the practitioners would be to start having more babies. And I am not sure if that would be the answer anyway!

*[inaudible interjection]*

**Hon. J. Mark P. Scotland:** Some of us might be past that age.

*[inaudible interjection and laughter]*

**Hon. J. Mark P. Scotland:** And, Madam Speaker, there are examples of practitioners here who have decided to cease their obstetric practice because of the high insurance rates.

But, seriously speaking, Madam Speaker, this does give us concern because when we see that one practitioner has stopped delivering babies and there are others who are deciding whether to continue or not, and even in the same article the *Compass* quoted two of six of those private obstetricians who expressed concerns over the impact of the premiums and also the potential negative impacts of those increased premiums on the nation's healthcare, and even more specifically, on their choosing to cease their private practice.

Madam Speaker, we asked the question, what would fewer private obstetricians mean? According to one practitioner the increased caseload for remaining

practitioners may result in increased risk for patients as the remaining practitioners are forced to take on increased numbers of patients to meet the demand. If this were to occur and there was a perception that the risk had increased then this would not be the answer either because surely we would see the insurance rates continue to go higher as well.

That same practitioner expressed a concern that the increasing premiums will mean that we will not see any new obstetricians because new ones will not open practice here due to the cost of business.

Another impact that we could expect from a decreased number of obstetric practitioners is the insurance premiums for others practitioners would be increased to offset the loss of contributions from those who opted out. The pool of risk would not decrease; it would still be the same forecasted number of deliveries and therefore the same potential risk that the insurer would need to be prepared for.

So, Madam Speaker, at the current rate of approximately US\$163,000 per practitioner per year, if one of the remaining practitioners of the six remaining private practitioners would stop their obstetric practice, their contribution would be spread across the remaining five, and these would even see another \$32,000 increase in their premium, assuming that no other increases are required due to the perceived increased risk associated with having fewer practitioners.

Madam Speaker, this is not only the private practitioners, this situation also affects the HSA (Health Services Authority), because of the number of practitioners at the Health Services Authority their insurance premium is paid as an aggregate total sum for all practitioners, and HSA has also seen significant increases in its premium over the past few years. They have been advised that one of the main drivers of the increases has also been the risk associated with their obstetricians. The HSA currently has four obstetricians employed and the medical malpractice insurer views their risk as being even higher than those in the private sector as HSA obstetricians are responsible for nearly half of the deliveries in the Cayman Islands, and there are few practitioners to spread that risk around. So, presumably, Madam Speaker, loss of a private sector obstetrician would also impact the HSA premiums as they would likely have to handle additional deliveries, and, therefore, increased risk to be spread amongst the four obstetricians at HSA.

So, Madam Speaker, as I said earlier, this issue of the increasing rates is not new. From 2006 the Medical Protection Society (MPS), which is the organisation that is the primary medical malpractice insurance provider for our local practitioners here, wrote to Government, the Health Practice Commission (HPC), and outlined some of the factors which were contributing to the increase in the medical malpractice insurance premiums. Some of the things they spoke about were the fact that while, historically, non-

economic damages have not been a significant component of the awards in our cases here, they had become aware of at least one case where the total award was approaching \$6 million.

MPS viewed this as an indication that the Courts in the Cayman Islands were prepared to award damages at a level much higher than historic levels. And, in fact, Madam Speaker, there are a number of other cases pending before the Courts which have not been settled yet but MPS is also watching those with a careful eye as well.

Madam Speaker, I want to talk a bit about a recent story on the *Cayman News Service* website where the Member for North Side was speaking about this particular Bill that we are speaking to here today. He was quoted, Madam Speaker . . . He noted that there had never been a non-economic damage award that exceeded \$300,000 in Cayman. And, Madam Speaker, while that is true, and there has not been an award exceeding that, the MPS, and all insurers for that matter, like I said earlier, have been observing what they deem to be a trend of growing or increasing awards. And we know that insurance is purchased to protect against losses for events in the future. This is how insurers arrive at their premium rates. Caps and damages will allow insurers to better protect their future expenditures and claims and therefore be able to have better control over premium rates.

So, Madam Speaker, the Member for North Side referred to what we are talking about with the caps on damages as hogwash-101, but I was thinking, when I saw that, that the hogwash-101 is the radio show that I hear every Tuesday morning. That's the lecture that comes on every Tuesday morning—hogwash-101.

So, Madam Speaker, the insurance provider by MPS to the practitioners offers protection on an occurrence basis as opposed to a claims-made basis. The occurrence base cover means that a member of MPS has access to assistance for all claims in the future that will arise from work done in that membership year. This means that premiums that members pay this year must be sufficient to provide funds to pay for all claims in the future from incidents that will arise from work done by the members in this year. So, as a result of that, when MPS sets their premiums they have to project the lighted cost of claims arising from any particular specialty well into the future. Looking at the trend in past judgments for damages awarded the number of pending cases and the size of the pool which is contributing to the premiums to offset the awards paid out, MPS has made the determination that the premiums for our local practitioners had to be significantly increased to manage the risk they are taking on.

Madam Speaker, remember that MPS is a non-profit making company so their increases cannot be attributed to a drive to maximise profits. MPS is a company owned by practicing physicians who all pool

together to insure themselves. So, it is a non-profit making company. So, the increases reflect MPS' views on what is required just to cover their risk giving the conditions that obtain.

When MPS wrote to the Government in 2006 (to the Health Practitioners Commission), they offered a number of potential actions that would help to mitigate their risk and therefore to help to manage the increases in the medical malpractice insurance premiums. They highlighted a cap on non-economic damages as one of those factors that should contribute to containing or even reducing medical malpractice premiums. Other solutions that they recommended included proposals that Government should cover the medical malpractice insurance premiums for obstetricians (and, Madam Speaker, we know that that would not be reasonable for Government to do); the implementation of decreased limitation periods for minors making injury claims; legislation requiring attorneys to only take on cases where they have reasonable grounds for believing they will be successful, thus limiting frivolous cases and controlling costs; and, Madam Speaker, taking active steps to keep medical negligence claims out of the courts by pursuing mediated resolutions.

So, some of these proposed actions to contain medical malpractice premiums for local practitioners are just not economically feasible, Madam Speaker, and others are not within the control of Government to implement or to enforce. So the one area that Government is currently prepared to explore, and we have explored and brought this Bill today, is to propose a cap on non-economic damages. Madam Speaker, we do recognise that this is not the silver bullet which says it is going to solve the problem of increasing medical malpractice insurance premiums. However, we do believe that evidence from research in other jurisdictions where it has been done, shows that the outcome from capping non-economic damages has been positive. And, as I said, we do believe that the cap on non-economic damages will contribute significantly to help to slow the rate of increase, at least, and hopefully lead to a decrease in the malpractice insurance premiums.

In fact, Madam Speaker, the American Medical Association released a policy paper in 2005 which explored the impact of caps and damages and the paper concluded in one short quote: “. . . **the body of research on the impacts of tort reform shows that caps have resulted in lower growth in medical liability losses in states that pass caps than in states that did not. The more recent literature on premium effects has found that caps result in lower premium growth.**”

Madam Speaker, I note that in the article in yesterday's *[Caymanian] Compass* a representative from MPS is quoted as stating that the MPS had delayed introducing increases in the obstetric malpractice insurance rates over the past two years. And I

know that is a fact as well, Madam Speaker, because they have written to the Ministry as well as to the CIMDS on several occasions hoping that the intervention from Government would prevent the necessity to do this.

The representative is also quoted as stating that MPS had increased their rates (obstetricians and gynaecologists) due to an increase in settlement values, particularly those involving catastrophic injury. Without a cap on non-economic damages in place MPS has no option but to assume the worst-case scenario for the awards and budget accordingly. At least with a cap they will be able to put a boundary on the particular aspect of their risk, which should contribute to lower premiums.

Madam Speaker, we also acknowledged the additional reason for this Bill, [which] came from Government's Agreement with Dr. Shetty for the proposed medical tourism facility. And the Agreement signed in April 2010 between the Government and Dr. Shetty, which gives an undertaking that the Government would take the necessary steps to limit malpractice medical negligence awards to a maximum of US\$500,000; in fact, we capped it C\$500,000 per individual case in respect of non-economic loss.

At the time that the Government was negotiating the Agreement, Dr. Shetty's insurers had provided him with two estimates for malpractice insurance premiums for his facility. The estimates for the premiums with this proposed cap in place were nearly 85 per cent less than the estimated premiums in the absence of a cap on non-economic damages. Now, Madam Speaker, we could all recognise that an 85 per cent in premiums from Dr. Shetty's insurer, with that cap in place, we could just consider the implications when you look at the operating costs if you have a 2,000 bed hospital. Madam Speaker, those savings would be so significant that it could be viewed as a key factor in the economic feasibility of that project.

Imagine, Madam Speaker, what kind of savings it would mean to our local practitioners and their cost of doing business here. And even a fraction of those savings would be welcomed.

Madam Speaker, I also wanted to take an opportunity to clarify something that was also quoted in the article on the CNS when the Member for North Side said he wanted a clear indication from the Attorney General that his office was fully consulted over the Law. Madam Speaker, I believe that the Member could be deemed to be acting irresponsibly in making such statements, which can only be construed as a suggestion that the Attorney General was not involved in this Bill.

Madam Speaker, I think the Member and everyone in this honourable House knows the legislative process. Once a policy decision has been made to amend or create legislation Cabinet approval is sought in principle to proceed, drafting instructions to be issued, and, as the Second Official Member of Cabinet, the Attorney General is consulted at that ini-

tial approval stage. And once the drafting instructions are prepared they are forwarded to the Legal Department who drafted the Bill. They review it. And the Bill, once drafted, is then submitted to Cabinet for final approval for it to be submitted to the Legislative Assembly.

So, all through that process, Madam Speaker, the Attorney General is intricately involved and so are the members from the Legal Department who work with him. And there is no difference in the formulation of this Bill through my Ministry. But I do want to say here how my Ministry has tremendously benefitted from the Attorney General's advice and his staff in his Chambers in the Legal Department, and the Legal Drafting Department. And the Bill would not be before the House today, Madam Speaker, without their input and the Attorney General's assistance. And for them I would like to say 'thank you' at this time as well, Madam Speaker.

Madam Speaker, just to note as well, that we received input from the Medical Dental Society. They commented on the previous Bill, the previous amendments to the Tort Reform Law, of generally being in support of it. Because, as I said, they had been lobbying for this for a number of years so they were pleased to see that legislation was being put forward, as well as support that came from the Health Insurance Commission (HIC).

So, Madam Speaker, as I have outlined, there are many factors contributing to the need for the Medical Negligence [(Non-economic Damages)] Bill, 2011. Medical fraternity expressed the need for this cap, clear evidence of ever-increasing medical malpractice premiums in the absence of the cap, and also the Government giving an undertaking to impose the cap in our Agreement with Dr. Shetty.

So, while some have suggested that past awards do not suggest there is a need for any cap on non-economic damages as they have not exceeded the proposed cap, the fact is that the insurers have seen a trend of increasing awards and have explicitly stated that it was a concern. We therefore felt, Madam Speaker, that the precautionary principle should be applied, and that the cap on non-economic damages should be put in place before we saw the non-economic damages award approach the high levels that have been seen in other jurisdictions.

Again, there is no intent to cap economic damages. This Government recognises that there are very real quantifiable economic costs that often result from medical negligence and that these costs must be met by the negligent party or their insurer.

Now, Madam Speaker, just briefly to address the Bill itself: The proposed Medical Negligence (Non-economic Damages) Bill, 2011, deals specifically with non-economic damages arising from medical negligence.

Madam Speaker, clause 2 of the Bill includes definitions for terminology used in the Bill. I will speak to the definition of "claim for medical negligence" in

more detail at committee stage. Since the publication of the green bill we have gotten feedback from stakeholders and there has been a slight amendment which will be made at committee stage. "Non-economic damages" includes damages, an arbitral award or other monetary compensation awarded for the purpose of compensating a claimant for the following non-economic losses that would not have occurred but for the injury giving rise to the claim for medical negligence –

- a) physical pain and suffering;
- b) mental or emotional pain or anguish;
- c) loss of consortium;
- d) disfigurement;
- e) physical or mental harm or impairment;
- f) loss of amenities of life;
- g) loss of capacity for enjoyment of life;
- h) loss of expectation of life; and
- i) any other non-economic losses to the extent that the claimant is entitled by law to recover such damages, arbitral award or other monetary compensation.

Clause 3 of the Bill includes the provision to limit civil liability for non-economic damages and claims for medical negligence so that civil liability (including vicarious liability) for non-economic damages is limited to an amount not exceeding CI\$500,000 for each claimant, regardless of the number of registered practitioners against whom; and health care facilities in respect of which the claim is asserted or the number of separate causes of action on which the claim is based.

Madam Speaker, clause 4, which is the last clause, clarifies that notwithstanding any law enforced in the Islands, or rule of private international law to the contrary, that foreign judgment, arbitral award or other monetary compensation award is not enforceable by the courts in the Cayman Islands in respect of non-economic damages to the extent that it exceeds the amount of the non-economic damages that may be awarded in the Cayman Islands.

Madam Speaker, this clause is included in the Bill because of the concern that if it was not addressed in legislation, it may mean that a cap on non-economic damages could be overridden by judgments in other jurisdictions. This is obviously a particular concern for the medical tourism providers.

Madam Speaker, in closing I would like to thank you for the opportunity to speak to this Bill, and, as I said, to thank the Attorney General and his Chambers for the drafting of the Bill and all the advice throughout it, and my Chief Officer as well, for the hard work in putting this Bill together. And I now welcome the support of this honourable House.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Minister.

Does any other Member wish to speak?  
[pause]

Member for North Side.

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

Madam Speaker, I would like to make a contribution to the debate on this Bill before the House, a Bill to limit non-economic damages and claims for medical negligence; and to provide for incidental and connected purposes.

Madam Speaker, I have several concerns with the proposals and the effect that the Bill will have, once passed into law here today, on the provision of healthcare in the Cayman Islands. I am also concerned about the reasons and the rationale given by the Government to justify the Introduction of this Law.

I heard the Minister presenting the Bill say that one of the things that this Bill will do is, at a minimum, stop the rising cost of malpractice insurance or reduce it. And he gave a wonderful figure that if . . . The other reason which they are giving for bringing this Bill is because it is required under the MOU (Memorandum of Understanding) that the Government signed sometime last year.

Madam Speaker, I wonder why the Government is still trying to meet the conditions of that MOU because the copy that I have says it expired some several months ago, and there has been no notification in the press that there has been any extension to the MOU. So, maybe there has been an extension and we in the public are not aware of it.

He suggested that he had been given figures by that particular investor that, because we are capping the noneconomic damages in this case, he has been quoted malpractice insurance with an 85 per cent reduction to what he was quoted before he acknowledged that the Bill was going to be brought. Now, Madam Speaker, I hope that is a fact and that the local practitioners would then be able to look to the Government to try and get the Medical Protection Society (MPS) to offer a similar benefit to local practitioners of an 85 per cent reduction in their premiums.

Madam Speaker, I am not too concerned about the investor because, based on numbers that were tabled here some weeks ago for this investment that is predicting a total cumulative revenue during a 10-year period (2010-2023) of \$4,420,000,000 we really do not need to be too concerned about offering them too many protections. What I am concerned about are the local practitioners in this country who are not being assisted by the Government through proper policies and procedures at the major hospital that could lead to a reduction in malpractice insurance.

Madam Speaker, I think the article the Minister referred to in the *Caymanian Compass* was from Wednesday, 16 March, entitled "Obstetricians' insurance rates out of control" indicates that this Bill which has been in the public knowledge for several weeks is

not going to have the effect that the Minister is hoping it is going to have. That article clearly states that even though the cap is being put in place by the Government, the cost of malpractice insurance for local physicians, and in particular obstetricians, is being increased next month.

Therefore, Madam Speaker, as I suspected, what we are in fact doing by placing the cap knowingly—because the Member agreed with me that he could not find any non-economic award that exceeded \$300,000 either—and that the Government knowingly raising the cap set by precedence from \$300,000 to \$500,000 is going to increase the premium rather than reduce it because all of the public now will be trying to get a \$500,000 award.

So, it is going to have the complete opposite effect that the Government wishes. But I do not really believe that that is of major concern to the Government.

The major concern to the Government is the MOU, because we never heard too much. We have heard the doctors complaining for many, many years in this country about increasing malpractice insurance. But we have not seen too many actions by Government over the last two years to do anything about reducing that insurance.

So, while I have hoped that the local physicians may have benefitted, I believe the article in Wednesday's newspaper, in fact, proves that they are going to suffer by what we are doing. Because, Madam Speaker, you see the real problem is not a cap for the courts. The real problem with healthcare in this country, in particular the obstetricians, is that we cannot certify any level of quality of care at all to the insurers. And the Government is doing nothing about that.

So, not being in a position to certify to an insurance what the risk is likely to be based on performance at our hospital, at the HSA (Health Services Authority), the government-owned hospital, the insurers have no choice but to over-charge and over-protect their risk. That's what they do. That is how they get a premium. They calculate the risk, what the exposure is going to be, and how many people they can spread it over and that is how they calculate a premium. It is not arbitrarily done.

Now, Madam Speaker, there are in fact simple administrative procedures that can be put in place by the Government which can certify and ensure that we have a higher quality of healthcare in the Cayman Islands. It is not very difficult to do. It is simply . . . Madam Speaker, all the Government needs to do is to introduce proper medical bylaws at the HSA which require three simple things. It requires that the doctors can only be privileged to practice at the institution according to their credentials. In layman's language, Madam Speaker, what that means, is that the surgeon will not be doing obstetrics, he will be doing general surgery. The Orthopedic will not be interfering with patients' charts when they are being treated for heart

problems—cardiology. Because, Madam Speaker, they will only be allowed to practice in specialties for which they are certified. The big problem with that is the Medical Director himself wouldn't be certified because he has no specialty.

Madam Speaker, the other thing that needs to be added on top of that is a medical audit and peer review. Simple procedures. Just like how we are auditing the accounts of the Government, medical records can be audited to determine what quality of care is being given to and received by the patient. And what is the risk to the insurance company covering it.

Again, this is not rocket science. It was done in 1990. And I would say here, Madam Speaker, without fear of successful contradiction, that, the obstetricians are not innocent in this increase in premium, because many of them are offering pregnant women such wonderful things as selecting the birth date for the child because they will do a caesarean section. Some of the reasons why they will do those are because they get more money than they get for a normal delivery. They won't be called by the midwife nurse at the hospital at two o'clock in the morning to get out of their bed and go to the hospital if there are complications on midwife delivery because they can schedule a caesarean section for two o'clock in the day.

#### **Moment of interruption—4.30 pm**

**The Speaker:** Member for North Side, can I interrupt you for just a moment? I need a motion to continue business of the House after 4.30.

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

**Hon. J. Mark P. Scotland:** Madam Speaker, in accordance with the relevant Standing Order, I move a motion to carry on business past the hour of 4.30.

**The Speaker:** The question is that [Standing Order 10(2) be suspended to allow] the business of the House to continue after the hour of 4.30 pm.

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

#### **Ayes and audible Noes.**

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

**Mr. V. Arden McLean:** Can we have a division, Madam Speaker?

**The Speaker:** Madam Clerk.

**The Deputy Clerk:**

#### **Division No. 36 2010/11**

#### **Ayes: 5**

Hon. Rolston M. Anglin  
Hon. Michael T. Adam

#### **Noes: 5**

Hon. Alden M. McLaughlin, Jr.  
Mr. Moses I. Kirkconnell



**The Speaker:** Yes, Leader of the Opposition. Which Standing Order?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, Hours of Sitting, Standing Order 10, governs the hours of sittings of this House.

**The Premier, Hon. W. McKeever Bush:** [inaudible]

**The Speaker:** Go ahead.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Standing Order [10](2) provides: “At 4.30 p.m. the proceedings on any business under consideration shall be interrupted, any motion which has been moved for the adjournment of the House shall lapse” That will be like a motion that I tried to move

[Laughter]

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** “. . . and, if the House is in Committee, the Presiding Officer shall return to the chair of the House, save that if the Presiding Officer is of the opinion that the proceedings on which the House or the Committee is engaged could be concluded by a short deferment of the moment of interruption, he may in his discretion defer interrupting the business.”

“[(3)] if a division is in progress at 4.30 pm the business shall not be interrupted until the result of the division has been announced.”

And then, the important one, Madam Speaker, sub order (4)—“Except as provided in paragraph (5) of Standing Order 11 (Adjournment of the House) no further business shall be entered upon after the interruption of business under paragraph (2).”

“[(5)] Any matter under discussion at the moment of interruption and any business not entered upon before that time shall stand over to the next meeting or sitting.”

So the effect of the vote, Madam Speaker, has been to conclude this sitting of the House. And there is no other sitting of the House possible until 10:00 am tomorrow.

[Laughter]

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** That is what the Standing Orders say.

**The Premier, Hon. W. McKeever Bush:** [inaudible] what the Standing Orders say.

**Hon. Rolston M. Anglin:** Madam Speaker—

**The Premier, Hon. W. McKeever Bush:** [Chuckle] You want to go to cocktail party and drink up?

**Hon. Rolston M. Anglin:** —Standing Order 10(1) reads: “Every sitting shall, unless the Presiding Officer otherwise directs, begin at 10 a.m.”

We are going to ask the Presiding Officer to direct that the next sitting of this House shall start at 7.30 pm, 17 March 2011.

**The Premier, Hon. W. McKeever Bush:** That’s what I moved the motion for.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** It can’t happen [inaudible]

**Hon. Cline A. Glidden, Jr.:** Don’t worry guys, you will have time to go to the cocktail reception that you decided to adjourn the House for. You can do that and come back at 7.30 after you finish cocktails.

[inaudible interjections]

**The Premier, Hon. W. McKeever Bush:** Of course.

**Hon. Cline A. Glidden, Jr.:** For many days we have had two Order Papers in this House so don’t even play that game because you know better than that—many, many days.

**The Premier, Hon. W. McKeever Bush:** Had it two o’clock in the day.

**Mr. Elvio A. Solomon:** Leader of the Opposition breaking up the House for a cocktail party?

**The Speaker:** All of that aside, section 10(1) says, “Every sitting shall, unless the Presiding Officer otherwise directs, begin at 10 a.m.”

I am directing this sitting to begin at eight o’clock tomorrow morning. The House is adjourned.

**At 4.42 pm the House stood adjourned until 8 o’clock am on Friday, 18 March 2011.**

## APPENDIX A

(TO STATEMENT ENTITLED: ARTICLE ON RECENT RESIGNATION OF PUBLIC ACCOUNTS  
COMMITTEE'S CHAIRMAN)

### ANNUAL REPORTS AND FINANCIAL STATEMENTS FOR MINISTRIES, PORTOFLIOS AND PUBLIC AUTHORITIES TABLED IN THE LEGISLATIVE ASSEMBLY SINCE JUNE 2009

	TITLE OF REPORT	TABLED BY	DATE TABLED
1	The Cayman Islands Law Reform Commission 1 <sup>st</sup> April 2008 / 31 <sup>st</sup> March 2009 – Fourth Annual Report of the Law Reform Commission	Hon. Samuel Bulgin, QC, JP	26 June 2009
2	Annual Report 2006-07 Third Annual Report of the Office of the Complaints Commissioner of the Cayman Islands addressing the Fiscal Year July 2006 – June 2007	Mr Cline Glidden, JP	1 July 2009
3	Cayman Islands Monetary Authority Annual Report 1 <sup>st</sup> July 2007 – 30 <sup>th</sup> June 2008	Hon. W. McKeeva Bush, OBE, JP	14 October 2009
4	National Drug Council 2007 Annual Report	Hon. Mark Scotland, JP	14 October 2009
5	Financial Statements of the Civil Aviation Authority of the Cayman Islands for the years ended 30 <sup>th</sup> June 2006 and 2005	Hon. Donovan Ebanks, MBE, JP	14 October 2009
6	Annual Report 2008/2009 Financial Reporting Authority (CAYFIN)	Hon. Samuel Bulgin, QC, JP	18 November 2009
7	The National Trust for the Cayman Islands Annual Report 2009	Hon. Mark Scotland, JP	2 December 2009
8	Cayman Islands National Pensions Board Annual Report 1 July 2006 – 30 June 2007	Hon. Rolston Anglin, JP	24 February 2010
9	Cayman Islands National Pensions Board Annual Report 1 July 2007 – 30 June 2008	Hon. Rolston Anglin, JP	24 February 2010
10	The Water Authority of the Cayman Islands Annual Report for the first half of 2003 Financial Year	Hon. Juliana O'Connor-Connolly, JP	25 February 2010
11	The Water Authority of the Cayman Islands Annual Report for the 2003/04 Financial Year	Hon. Juliana O'Connor-Connolly, JP	25 February 2010
12	The Water Authority of the Cayman Islands Annual Report for the 2004/05 Financial Year	Hon. Juliana O'Connor-Connolly, JP	25 February 2010
13	The Water Authority of the Cayman Islands Annual Report for the 2005/06 Financial Year	Hon. Juliana O'Connor-Connolly, JP	25 February 2010
14	The Water Authority of the Cayman Islands Annual Report for the 2006/07 Financial Year	Hon. Juliana O'Connor-Connolly, JP	25 February 2010
15	The Water Authority of the Cayman Islands Annual	Hon. Juliana O'Connor-	25 February 2010

	<b>TITLE OF REPORT</b>	<b>TABLED BY</b>	<b>DATE TABLED</b>
	Report for the 2007/08 Financial Year	Connolly, JP	
16	Annual Report of the Cayman Islands Audit Office for the 2007/2008 Financial Year	Mr. D. Ezzard Miller, JP	28 April 2010
17	Annual Report of the Office of the Auditor General for the Year Ending 30 <sup>th</sup> June 2009	Mr. D. Ezzard Miller, JP	28 April 2010
18	Annual Report 2008-2009 Cayman Islands National Insurance Company CINICO	Hon. Mark Scotland, JP	28 June 2010
19	Cayman Turtle Farm (1983) Limited Financial Statements – 30 June, 2006	Hon. W. McKeeva Bush, OBE, JP	24 June 2010
20	Fifth Annual Report of the Law Reform Commission 1 April 2009/ 31 March, 2010	Hon. Samuel Bulgin, QC, JP	25 June 2010
21	Public Service Pensions Board Annual Report 2005 – 2006	Hon. W. McKeeva Bush, OBE, JP	15 June 2010
22	The Electricity Regulatory Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2005	Hon. Juliana O'Connor-Connolly, JP	25 June 2010
23	The Electricity Regulatory Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2006	Hon. Juliana O'Connor-Connolly, JP	25 June 2010
24	The Electricity Regulatory Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2007	Hon. Juliana O'Connor-Connolly, JP	25 June 2010
25	The Electricity Regulatory Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2008	Hon. Juliana O'Connor-Connolly, JP	25 June 2010
26	The Electricity Regulatory Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2009	Hon. Juliana O'Connor-Connolly, JP	25 June 2010
27	Civil Aviation Authority of the Cayman Islands Annual Report for the period July 2005 to June 2006	Hon. Donovan Ebanks, MBE, JP	30 June 2010
28	Civil Aviation Authority of the Cayman Islands Annual Report for the period July 2006 to June 2007	Hon. Donovan Ebanks, MBE, JP	30 June 2010
29	Civil Aviation Authority of the Cayman Islands Annual Report for the period July 2007 to June 2008	Hon. Donovan Ebanks, MBE, JP	30 June 2010
30	Civil Aviation Authority of the Cayman Islands Annual Report for the period July 2008 to June 2009	Hon. Donovan Ebanks, MBE, JP	30 June 2010
31	Information Commissioner's 2009 Annual Report Cayman Islands	Hon. W. McKeeva Bush, OBE, JP	30 June 2010
32	Maritime Authority of the Cayman Islands Year in Review 1 <sup>st</sup> July 2007 to 30 <sup>th</sup> June 2008	Hon. W. McKeeva Bush, OBE, JP	9 July 2010
33	Public Service Pensions Board Annual Report 2006-2007	Hon. W. McKeeva Bush, OBE, JP	9 July 2010
34	Civil Aviation Authority of the Cayman Islands Financial Statements for the year ended June 30 <sup>th</sup> 2007	Hon. Donovan Ebanks, MBE, JP	8 September 2010
35	Cayman Islands Monetary Authority Annual Report 1 <sup>st</sup> July 2008 – 30 June 2009	Hon. W. McKeeva Bush, OBE, JP	10 September 2010
36	Annual Report 2007 – 2008 Fourth Annual Report of the Office of the Complaints Commissioner of the	Mr Cline Glidden, JP	10 September 2010

	<b>TITLE OF REPORT</b>	<b>TABLED BY</b>	<b>DATE TABLED</b>
	Cayman Islands addressing the Fiscal Year July 2007 – June 2008		
37	The Financial Reporting Authority (CAYFIN) Annual Report 2009/2010	Hon. Samuel Bulgin, QC, JP	5 November 2010
38	Financial Statements of the Port Authority of the Cayman Islands June 30 <sup>th</sup> 2005 and 2004	Hon. W. McKeeva Bush, OBE, JP	9 December 2010
39	Financial Statements of the Port Authority of the Cayman Islands June 30 <sup>th</sup> 2006	Hon. W. McKeeva Bush, OBE, JP	9 December 2010
40	Financial Statements of the Port Authority of the Cayman Islands June 30 <sup>th</sup> 2007	Hon. W. McKeeva Bush, OBE, JP	9 December 2010
41	Cayman Islands Airport Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2005	Hon. W. McKeeva Bush, OBE, JP	9 December 2010
42	Cayman Islands Airport Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2006	Hon. W. McKeeva Bush, OBE, JP	9 December 2010
43	Cayman Islands Airport Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2007	Hon. W. McKeeva Bush, OBE, JP	9 December 2010
44	Cayman Islands Airport Authority Financial Statements for the Year Ended 30 <sup>th</sup> June 2008	Hon. W. McKeeva Bush, OBE, JP	9 December 2010
45	Ownership Agreement Annual Report for Cayman Islands Health Services Authority for the year ended 30 <sup>th</sup> June 2004	Hon. Mark Scotland, JP	10 January 2011
46	Ownership Agreement Annual Report for Cayman Islands Health Services Authority for the year ended 30 <sup>th</sup> June 2005	Hon. Mark Scotland, JP	10 January 2011
47	Ownership Agreement Annual Report for Cayman Islands Health Services Authority for the year ended 30 <sup>th</sup> June 2006	Hon. Mark Scotland, JP	10 January 2011
48	Ownership Agreement Annual Report for Cayman Islands Health Services Authority for the year ended 30 <sup>th</sup> June 2007	Hon. Mark Scotland, JP	10 January 2011
49	Annual Report of the Office of the Auditor General for the Year Ended 30 <sup>th</sup> June 2010	Mr. D. Ezzard Miller, JP	10 January 2011
50	Electricity Regulatory Authority Financial Statements for the year ended 30 <sup>th</sup> June 2010	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
51	The Water Authority of the Cayman Islands Annual Report for the 2008/09 Financial Year	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
52	Financial Statements of the National Roads Authority for the year ended 30 <sup>th</sup> June 2005	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
53	Financial Statements of the National Roads Authority for the year ended 30 <sup>th</sup> June 2006	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
54	Financial Statements of the National Roads Authority for the year ended 30 <sup>th</sup> June 2007	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
55	Financial Statements of the National Roads Authority for the year ended 30 <sup>th</sup> June 2008	Hon. Juliana O'Connor-Connolly, JP	21 February 2011

	<b>TITLE OF REPORT</b>	<b>TABLED BY</b>	<b>DATE TABLED</b>
56	Financial Statements of the National Roads Authority for the year ended 30 <sup>th</sup> June 2009	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
57	Financial Statements of the National Roads Authority for the year ended 30 <sup>th</sup> June 2010	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
58	Annual Report of the Ministry of District Administration, Planning, Agriculture and Housing for the 2005/06 Financial Year	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
59	Annual Report of the Ministry of District Administration, Planning, Agriculture and Housing for the 2006/07 Financial Year	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
60	Annual Report of the Ministry of District Administration, Planning, Agriculture and Housing for the 2007/08 Financial Year	Hon. Juliana O'Connor-Connolly, JP	21 February 2011
61	Cayman Islands National Insurance Company (CINICO) Annual Report 2009-2010	Hon. Mark Scotland, JP	21 February 2011
62	Cayman Islands Airports Authority Financial Statements for the Year Ended 30 June 2009	Hon. W. McKeeva Bush, OBE, JP	21 February 2011
63	Financial Statements of Cayman Turtle Farm (1983) Limited – 30 June 2007	Hon. W. McKeeva Bush, OBE, JP	21 February 2011
64	Financial Statements of Cayman Turtle Farm (1983) Limited – 30 June 2008	Hon. W. McKeeva Bush, OBE, JP	21 February 2011
65	Financial Statements Segregated Insurance Fund for the 16 Month Period ended 30 June 2005 & the 14 Month Period ended 29 February 2004	Hon. Mark Scotland, JP	23 February 2011
66	Financial Statements Segregated Insurance Fund for the 12 Month Period ended 30 June 2006 & the 16 Month Period ended 30 June 2005	Hon. Mark Scotland, JP	23 February 2011
67	Financial Statements Segregated Insurance Fund for the Year Ended 30 June 2007	Hon. Mark Scotland, JP	23 February 2011
68	Financial Statements Segregated Insurance Fund for the Year Ended 30 June 2008	Hon. Mark Scotland, JP	23 February 2011
69	Financial Statements Segregated Insurance Fund of the Cayman Islands for the Year Ended 30 June 2009	Hon. Mark Scotland, JP	23 February 2011
70	Financial Statements of Cayman National Cultural Foundation June 30, 2004 and 2003	Hon. Mark Scotland, JP	23 February 2011

## APPENDIX B

(TO STATEMENT ENTITLED: ARTICLE ON RECENT RESIGNATION OF PUBLIC ACCOUNTS  
COMMITTEE'S CHAIRMAN)

### ANNUAL REPORTS AND FINANCIAL STATEMENTS FOR MINISTRIES, PORTOFLIOS AND PUBLIC AUTHORITIES RECEIVED BY THE LEGISLATIVE ASSEMBLY BUT NOT YET TABLED

	TITLE OF REPORT	TO BE TABLED BY
1	Ownership Agreement Annual Report for Cayman National Cultural Foundation for the 2004/5 Financial Year	Hon. Mark Scotland, JP
2	Annual Report of the Ministry of Tourism, Environment, Investment and Commerce for the 2006/07 Financial Year	Hon. W. McKeever Bush, OBE, JP
3	Annual Report of the Ministry of Tourism, Environment, Investment and Commerce for the 2007/08 Financial Year	Hon. W. McKeever Bush, OBE, JP
4	Cayman Islands Stock Exchange Ltd. Financial Statements for the year ended 30 June 2007	Hon. W. McKeever Bush, OBE, JP
5	Cayman Islands Stock Exchange Ltd. Financial Statements for the year ended 30 June 2008	Hon. W. McKeever Bush, OBE, JP
6	Cayman Islands Stock Exchange Ltd. Financial Statements for the year ended 30 June 2009	Hon. W. McKeever Bush, OBE, JP
7	Cayman Islands Development Bank Financial Statements for the six months ended June 30 2003	Hon. W. McKeever Bush, OBE, JP
8	Cayman Islands Development Bank Annual Report for the year ended June 30, 2006	Hon. W. McKeever Bush, OBE, JP
9	Cayman Islands Development Bank Annual Report for the year ended June 30, 2007	Hon. W. McKeever Bush, OBE, JP
10	Cayman Islands Development Bank Annual Report for the year ended June 30, 2008	Hon. W. McKeever Bush, OBE, JP
11	Annual Report of the National Gallery of the Cayman Islands for the 2004/05 Financial Year	Hon. Mark Scotland, JP
12	Annual Report of the National Gallery of the Cayman Islands for the 2005/06 Financial Year	Hon. Mark Scotland, JP
13	Annual Report of the National Gallery of the Cayman Islands for the 2006/07 Financial Year	Hon. Mark Scotland, JP