

**OFFICIAL HANSARD REPORT**  
**FRIDAY**  
**8 APRIL 2011**  
**10.45 AM**  
*Sixth Sitting*

**The Speaker:** I will ask Deputy Premier, the Honourable Minister of District Administration, Works, Lands and Agriculture to read prayers this morning.

**PRAYERS**

**The Deputy Premier, Hon. Juliana Y. O'Connor-Conolly:** Let us pray.

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

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

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

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

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

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

**The Speaker:** I have no messages or announcements this morning.

**PRESENTATION OF PAPERS  
 AND OF REPORTS**

**Cayman Islands Constitution Order 2009, S.I. 2009  
 No. 1379—The Electoral District Boundaries Order, 2011**

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

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I beg to lay on the Table of this honourable House, by way of the Cayman Islands Constitution Order 2009, S.I. 2009 No. 1379, The Electoral District Boundaries Order, 2011.

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

**The Speaker:** So ordered.  
 Yes?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I was trying to get you before you actually ordered that because there is a significant procedural issue that I want us to resolve. This is a very important Order.

**The Speaker:** *[sighs]*

**The Premier, Hon. W. McKeever Bush:** Ah, Madam Speaker, if I may . . . you have ordered it to be laid on the Table, but it is a significant matter that we are dealing with, and I would like to hear from the George Town Member what his point is, if you don't mind.

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

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, perhaps it is best if I start with what the Constitution says about this procedure.

Do you have a copy of the new Constitution near, Madam Speaker?

**The Speaker:** Yes, I do.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** It is section 89.

**The Speaker:** Mm-hmm.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Section 89(3) that applies to the procedure.

It reads: **“(3) As soon as may be after the Commission has submitted a report”** (and it is some nine months ago the Commission submitted the report, but that is not my point) **“under subsection (1), the Premier shall lay before the Legislative Assembly for its approval the *draft* [Members’ emphasis] of an order”** (the draft of an order) **“by the Governor for giving effect, whether with or without modifications, to the recommendations contained in the report, and that draft may make provision for any matters which appear to the Premier to be incidental to or consequential upon the other provisions of the draft.”**

For completeness, Madam Speaker, I will read the balance of the applicable subsections so that when this discussion ensues we will have the full background.

**“[(4)] Where any draft order laid under this section would give effect to any such recommendations with modifications, the Premier shall lay before the Legislative Assembly together with the draft a statement of the reasons for the modifications.**

**“[(5)] If the motion for the approval of any draft order laid under this section is rejected by the Legislative Assembly or is withdrawn by leave of the Assembly, an amended draft shall be laid without undue delay by the Premier before the Assembly.**

**“[(6)] If any draft order laid under this section is approved by resolution of the Legislative Assembly, the Premier shall submit it to the Governor who shall make an order (which shall be published in a Government Notice) in terms of the draft; and that order shall come into force for the determination of the boundaries of the electoral districts to which it relates upon the next dissolution of the Assembly after it is made.”**

Now, Madam Speaker, what I understand the Premier has just done is to attempt to comply with section 89(3). I have two issues: This is not presented as a draft order, but as an actual order. This House obviously has no power to make the order; the order has to be made by the Governor. What we have to do here is to approve or reject a draft order presented.

The way this is written, Madam Speaker, it is entitled, the Cayman Islands Constitution Order 2009, Statutory Instrument 2009, number 1379, the Electoral District Boundaries Order, 2011. Then there are a series of recitals which set out the process. And the final recital says, **“AND WHEREAS a draft of this order giving effect to the recommendations contained in the report of the Electoral Boundary Commission was laid before the Legislative Assembly for its approval by the Premier . . .”** That is the bit that has not been done.

What we need this morning is a draft of the order, not the terms of the actual order itself.

And then, Madam Speaker, pursuant to section 89(5) and (6), there ought to be a motion brought

by the Premier for this House to debate and then either determine by vote whether to accept or reject the terms of the draft order.

So, Madam Speaker, in practical terms, I would suggest that we amend the terms of this document which was just laid, or presented, so that it conforms with the terms, complies with the terms of the Constitution as a *draft* order and that the Premier then proceeds to move a motion that this draft order be accepted or rejected as required by the Constitution.

We have seen no motion to that effect, although there is on the Order Paper something entitled, Government Motion No. 11/2010-11—Draft Order to effect recommendations to Electoral Boundary Commission.

That, I presume, is an attempt to comply with that section of the Constitution. But what we actually need is a motion to accept the recommendations of the Electoral Boundary Commission, which would be moved by the Premier.

Thank you, Madam Speaker.

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

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

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, what I have done is lay on the Table of this honourable House the paper, as I am required by the Constitution to do. In that paper, is contained a draft order.

Now, the Member might disagree that this is a draft order, and I do not know what point he is pointing to or making that he could disagree, because it is a draft order. What I have done, following that, after I have laid this and spoken to it, then we will, as the Order Paper of the day points out, debate it, accept it or reject it when we get to that motion.

Now, what I did say to the Clerk, Madam Speaker, which I believe was said yesterday in Business Committee when we went through this, it was explained and again . . . I thought the indication was that we were on all fours with the process we would take this morning. Anyway, I have seen this play out before as well.

The Member did tell me that the one point they did not make in Business Committee was that he could not say whether they would reject or accept it, but we knew the process.

Now, what I have said [is that] the Order Paper for the day shows that there will be a motion to be debated, and that motion can be accepted or rejected, meaning that this Draft Report can be accepted or rejected.

Now, Madam Speaker, what I did say, if we want to deal with that motion immediately upon my laying this Report, is neither here nor there with me. We have done that before. It is on the Order Paper, if

we want to bring it up further, then so be it. I have no problem with that.

I do not know what the other point is, or if there is another point, but I thought that that covered what the Constitution says. Now, if I am wrong, the legalities of this whole matter have been pursued with our legal advisors. The Governor has made this Report, I am tabling the Report. In that Report is a draft—not an actual, it's a draft . . . now we can accept it—

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** *[Addressing the Member interjecting]* The Report that I am laying on the Table. The motion is contained there.

There will be no changes, which I indicated, to the members—

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** I indicated yesterday, I informed them then, Madam Speaker, the Opposition (being members of the Business Committee), that Government had no intention of changing the way elections are done or boundaries are set from the last election. The only change that was being accepted by Government was that we would add three more members, two for George Town, and one for Bodden Town. Outside of that, this Government is not making any other change. That is what I informed His Excellency the Governor; that is what this draft order is all about.

*[Inaudible interjections]*

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

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

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I am not at this stage intending to get into debate about what position we are going to take; I am trying really hard for us to get the procedure on this critically important matter correct. And the Premier is right; I thought we were on all fours as well.

We went through in detail what the procedure was to bring this here this morning. But what has been done is not in accord with what we understood and what we had all agreed to do. But I am not interested in a fight, Madam Speaker. I am interested—

**The Premier, Hon. W. McKeever Bush:** No! But you need to say what the changes . . . Madam Speaker, if I may.

If the Member is saying that something is done different from what I explained and what we agreed on (and certainly this side understands that to

be what we decided on yesterday), what are the changes then? If the Member could, explain that because I am not sure.

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

Madam Speaker, the first point is that what has been tabled is not the language you would expect of a draft order. This actually refers in the final recital to a draft order. It says, “**AND WHEREAS a draft of this order**” (my question is, where is that draft?) “**giving effect to the recommendations contained in the report . . . was laid before the Legislative Assembly for its approval by the Premier . . .**” That is the bit that has not occurred.

This reads as though the process which I am urging had actually taken place and this is the Order that the Governor is going to sign. So that is point number one.

Point number two is that we have seen no motion. Even though the motion is on the Order Paper, there needs to be, in my respectful submission, a formal motion. This is a critically important issue; this is not the sort of matter you would expect to be dealt with by way of an oral motion, with the Premier simply getting up and saying what it is. There is no motion.

*[Inaudible interjection]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, the Deputy Premier is insisting there is a motion. I would love to see it. Perhaps she can explain.

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, the Member is trying to make some legal points that is not . . . that cannot bind us . . . he did not proven anything when he said earlier that we are doing something different from what we said in Business Committee. I don't think so. That is what we said we would do, that is what we are doing.

Madam Speaker, we are suspending Standing Orders because we need to get that—

*[Inaudible interjections]*

**The Premier, Hon. W. McKeever Bush:** Okay.

We suspend Standing Orders to get to the motion and then the Clerk will give them the motion and I have no problem with her giving them the motion now. I just got this one.

But we understood that and agreed that there would be a suspension and that is what is actually on the Order Paper.

**The Speaker:** As I understand it, when papers are laid on the Table, they are laid there for publication. They are laid there for public consumption, public

consideration. I did not assume that this was being laid on the Table and therefore would be written in stone. It is laid on the Table for consideration and the motion will follow. That is my understanding.

*[inaudible interjection]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Yes, all right.

Madam Speaker, I am doing my best to accommodate what the Government is trying to do.

They have had this Report for nine months. They laid it on the 24<sup>th</sup> of June last year.

**The Premier, Hon. W. McKeever Bush:** Well that's what you wanted.

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

**The Premier, Hon. W. McKeever Bush:** That's the fight you want that you say you don't want.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** No. I don't want to fight.

I am trying to point out, Madam Speaker, how unreasonable we are becoming in this place. The Opposition—on this critically important issue—on the morning that the motion is to be debated has still not seen the motion! And now it is being presented that we are being unreasonable because I am asking that we see the motion before we be asked to debate it.

We should have had this motion before the start of this meeting if it was going to be dealt with here. We have agreed. Let the Standing Orders be suspended because we want it to go ahead.

All I am asking is please let us comply with the Constitution; please let us have a copy of the motion before we are asked to debate it. How unreasonable is that?

**The Speaker:** Um—

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, if I may.

Yes, Madam Speaker, unfortunately this matter, once the Boundaries Commission dealt with this, had to be thoroughly examined and debated amongst our group. And that is where we came to the point that we were not accepting other . . . making any other change and we just got to that point that we could bring this matter now.

Now, yesterday, we sat in Business Committee awhile and we talked through this, and we said that we would suspend Standing Orders and we even talked about getting the motion. Now, Madam Speaker, I would have expected that they would have gotten the motion before, but that is what we agreed on.

Now, Madam Speaker, the big point, of course, that he wanted, although it is somewhat . . . I

find him behaving somewhat like that story, don't throw me in the briar patch. *I don't want to fight*—but that's what you are doing!

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** *[Inaudible]*

**The Premier, Hon. W. McKeever Bush:** Well, I asked them to give you a copy of the motion. I don't know why you haven't got it!

So, Madam Speaker, the Government is not being reasonable *[sic]* here. We agree that this is important.

*[Inaudible interjections]*

**The Premier, Hon. W. McKeever Bush:** We are not being unreasonable here, Madam Speaker.

So, I don't know what more the Member expects. He says he wants the motion and I expect that the Serjeant will give him the motion, if he hasn't given it to him yet.

And so, I do not find . . . I do not know what else can be done, unless they want to do the debate right now. And if that is so, then we accept and we do the debate.

**The Speaker:** The debate cannot take place on the floor of the House until the Standing Orders are raised to allow the motion to be entered. That is the correct procedure as I understand it.

*[ongoing loud tapping on a Members' microphone]*

**The Speaker:** I am sorry, I did not realise you were pounding to get my attention. I just . . . I am sorry. Yes sir.

Member for North Side.

**Mr. D. Ezzard Miller:** Madam Speaker, if I could make a suggestion, which I believe would solve this problem, [and that] is that the title of the Order being tabled, be changed to read "The Cayman Islands Draft Constitution Order" and I think it would fall squarely within the provisions of the Constitution.

I would also take the time to point out, Madam Speaker, that while the Premier says he is not making any changes to the electoral process, he may want to look at the Schedule, because the Schedule attached to this Order does, in fact, create 17 single-member constituencies. And I think the Schedule that needs to be attached to this Order is the existing Electoral Boundaries of West Bay, North Side, George Town.

*[Inaudible interjection and laughter]*

**Mr. D. Ezzard Miller:** I mean, I am just pointing out . . . if it is tabled, Madam Speaker, as an Order, and it carries with it this Schedule, we are going to have a serious problem!

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** I agree. I wasn't interrupting.

**The Speaker:** Honourable Attorney General?

*[Inaudible interjections]*

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, the intention of the Government is to . . . I heard what the Member for North Side has said. And, Madam Speaker, if I may, the intention of the Government is to keep the boundaries of polling stations in the electoral districts set out as they are.

And, once we pass a motion that we understand clearly that that is what we are doing, then that is all that we are going to do.

Now, I don't know what else the Opposition has in mind, but that is all that we planned to do. They have recommended two more Members for George Town and the boundaries remain the same. So people voting in George Town would vote for six people. And in North Side . . . in Bodden Town, we are accepting another Member for Bodden Town, and that would be four Members for Bodden Town, people voting for them in the same boundaries that they voted the last time. That is what is accepted by us and that is what we are trying to put forward.

Now, Madam Speaker, what I am going to do is ask for a suspension so that the AG can look at this again to make any corrections to it. And I would ask you to take that suspension, Madam Speaker.

**The Speaker:** I am going to suspend the House until 11.30 to give everybody time to go through this again.

*[Inaudible interjections]*

**Mr. D. Ezzard Miller:** Why?

No, you do not need to do that, Rolston. You can give me the motion whether you suspend the Standing Orders.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** But that's ridiculous, the motion should have been . . . the Business Paper should not have approved a motion coming unless it had the motion before the Business Committee. So, there is nothing wrong with distributing it before you suspend Standing Orders.

*[Inaudible interjection]*

**The Speaker:** I have suspended the House until 11.30 and you all can deal with this in private and then come back.

**Mr. D. Ezzard Miller:** We are Ma'am. It's suspended. We are talking *[inaudible]*

**Proceedings suspended at 11.04 am**

**Proceedings resumed at 12.06 pm**

**The Speaker:** When took the suspension there were some questions on the floor about the Constitution Order on the Electoral Boundaries Order that had been placed before the House and laid on the Table this morning.

We suspended so that a resolution could be reached on this as to where we go from here. I think the Attorney General is prepared to make a statement at this time.

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

During the break, which we certainly do appreciate, we looked at the Report itself, the actual Electoral Boundaries Report. And we sort of compared that with the language in the Schedule as seen in the Draft Order that was tabled this morning.

During the discussion, Madam Speaker, it was observed that the Schedules to the Report, namely Schedules A, B and C, speak to description of electoral districts and constituencies. That is the position, certainly, of Schedule A, Schedule B, Schedule C.

However, Madam Speaker, the Draft Order that is tabled here this morning, although it speaks to electoral district boundaries, and it quite properly recites the fact that there are six such electoral districts, it was felt that the uninitiated, looking at the actual Report of the Commission, and looking at the Draft Order, could very well be forgiven for thinking that what the Government is attempting to adopt, or has adopted, is really 17 constituencies instead of electoral districts and polling divisions.

And so, Madam Speaker, it was considered necessary to make it quite clear in the Draft Order by, certainly, necessarily clarifying the language that appears at the top of each Schedule here to make it quite clear that what is being proposed and to be adopted by Government is really electoral districts and polling divisions, and not 17 constituencies.

And so, in the circumstances it is considered necessary that the matter be dealt with next week so that the Schedule can be amended to reflect that clarification.

**The Speaker:** Are you making a motion then to withdraw the document?

*[inaudible interjection]*

**The Speaker:** I . . .

**Hon. Samuel W. Bulgin:** Madam Speaker, I believe they are now prepared to deal with that procedural issue.

**The Speaker:** Honourable Premier.

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

Madam Speaker, the matter will be dealt with on Monday morning. We will come back . . . there is other business to deal with, but we will come back, God willing, Monday to deal with that also.

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

Can we proceed with the Order Paper as written now then?

## STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

### Parliamentary Pension Plan—Option to receive Defined Benefit Pension under section 27(2) of the Parliamentary Pensions Law

**The Speaker:** Honourable Premier.

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

Madam Speaker, in view of the recent articles in the press and public statements concerning MLAs receiving pension benefits while continuing to serve as elected representatives, I wish to make this formal statement to the Assembly concerning this issue and to provide the background information necessary to put the matter into its proper context.

Madam Speaker . . . *[pause]*

**The Speaker:** We will just wait for a few minutes until [copies of] the statement are in the House.

*[Inaudible interjections]*

**The Speaker:** It is a beautiful morning and we are alive and well.

*[Inaudible interjections]*

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

In the late 1980s, public sector pension and healthcare benefits were increasing liabilities to Government and their sustainability as pay-as-you-go arrangements from the general revenue of the Islands were at the forefront of discussions within the Portfolio of Finance and Development. By the early to mid-1990s, the Portfolio of Internal and External Affairs was brought into these important series of discussions and meetings.

With regard to the healthcare scheme a number of successive initiatives brought the Government to its current CINICO arrangements for Civil Service healthcare. As the issue at hand relates to pensions, a

broader picture of pension reform within the public sector is necessary.

The first milestone initiative was the establishment of the Public Service Pension Board and the Public Service Pension Fund by statute in 1992. This was closely followed by a series of actuarial reviews and consultations. A comprehensive review of the provision and benefit structure for pension plans within the public sector under the joint auspices of the Government and the Public Service Pension Board commenced in 1996 by way of a joint directive by the then Chief Secretary and Financial Secretary, thus being the Cabinet, Madam Speaker, at that time.

This series of reviews were largely cost driven by the urgent need to address the unfunded past service liability and projected future costs for public sector pensions. The general view and approach taken was that the defined benefit plans were very costly and needed to be closed to new entrants and funded in order to achieve an acceptable level of sustainability, and that defined contribution plans should be introduced similar to the requirements set out in the UN legislation introduced in 1997 to govern private sector plans.

As a result of many years of expert consultation, analysis of these complex matters and hard work, new pension legislation achieving these goals were introduced for the general Public Service, Parliamentarians and Judges of the Grand Court in 1999 and 2000, 2004 and 2009, and 2005 respectively.

In 2004, with the main Public Service plan as the established model, the Legislative Assembly brought into force the Parliamentary Pensions Law 2004, which repealed and replaced the Pensions Law governing the pension plan for the Legislative arm of Government. It should be noted that with the coming into force of this law, persons who had been elected as an MLA or appointed Speaker prior to 5 November 2009, are covered by the defined benefit section of the plan. All persons elected as MLA for the first time or appointed Speaker from 6 November 2009, will be part of the defined contribution section of the Parliamentary Pensions Plan.

The 2004 and 2009 legislation came into effect by the normal course of passage through the legislature, generally with a view to preparing for the closure of the defined benefit plan and the introduction of the defined contribution plan as a means of reducing future costs of pension provision for the legislature. MLAs and members of the public had the opportunity in 2004 and again in 2009 to question and have input into the benefit structure of the Parliamentary Pension Plan.

It should be further noted that the MLAs referred to in the media are part of the defined benefit section of the plan, and that the rules covering receipt of pension under this section of the plan are subject to the provision of section 27(2) of the Law. This section of the Law, as it now stands, allows those MLAs and/or Speakers who are eligible for a pension, 1) to

receive earned pension benefits under the defined benefit plan, and become part of the defined contribution plan; or 2) to continue in the defined benefit plan until maximum pension (that is, two-thirds of pay), and then become part of the defined contribution plan.

Alternatively, a parliamentarian in a defined benefit plan can opt to remain in the defined benefit plan until ceasing to be a Member of the Legislative Assembly and draw all pension benefits under the plan at the end of the parliamentarian's career.

It has been suggested that if it is not illegal, then it is immoral to allow the so-called "double-dipping." Effectively, what they are saying is that people should not be allowed to receive a pension while they continue to work for the same employer, meaning the Government. My question is: What is the difference between leaving one employer (that is, the Government) and drawing your pension, and becoming employed by another employer and drawing your pension while working for that same employer?

Madam Speaker, this mirrors the provision within the main Public Service Plan; 'this' meaning the Parliamentary Pensions Law mirrors the provision within the main Public Service Plan. Civil Servants have been able for generations to retire and draw their pensions and still work for Government.

Madam Speaker, in my view, today—and it has always been my view—there is nothing wrong with that. And I should say, Madam Speaker, that in these days, when life is so uncertain, when a person comes to that point in their life when they can get paid back what they paid into their pension, why should they not be able to get that pension? They worked for it. They paid into it. Should they not be able to get it back? What do you want to do? Wait until they die, and then somebody else gets it?

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** And then the spouse, Madam Speaker, in this instance—and I will use myself since I have been made the scapegoat in the whole thing. If I did that, all the money that I paid in, if I dropped dead today my wife would only get half (I think, or thereabout) of the pension. Half! If she gets that amount. Yet, so much has been made in the last couple of days about Mac double-dipping. I wish those people, Madam Speaker, would go home!

When you get a vacation, it should be when you have done a good day's work. When you get a pension is when you should pay for it. And it is nothing but jealousy and evil-mindedness in this country why people carry on. They carry on about the Civil Service and they carry on about the parliamentarians. Should we not get what we work for? Should we wait and then somebody draw half of it?

There is nothing illegal or immoral about it.

Let me conclude: It should therefore be concluded that by myself and other MLAs having met the eligibility requirements opted to receive their earned

pension benefits under the defined benefit plan, and acted solely in accordance with the provisions of the Parliamentary Pensions Law under the administration of the Public Service Pensions Board.

Opting to receive these benefits at this time in effect has closed the defined benefit plan to those of us who opted out. Therefore, what this does is reduce the future costs to Government that would have resulted in some cases from additional years of service and, specifically in my case as well as the others, cost of living and any future salary increases. In other words, no matter what happens, we will not get any benefits, no more than what we have already received. They can increase the salaries (that has been known to be done). They can increase by cost of living or just outright increases; we would not get a cent extra. It saves the Government money.

Do you think salaries are going to remain the way they are forever? No, they not going to be fool-fool like McKeever and take 10 per cent of their cuts.

It is noteworthy that this opportunity, Madam Speaker, is available to every Member currently sitting in this honourable House as each and every one becomes eligible to do so under the Law. Further legislative reviews will certainly occur over the short to medium term providing the legislature with a further opportunity to ensure the benefit structure is fit for purpose. But I want to repeat, Madam Speaker, that civil servants who retire get their pension and happen to be re-employed somewhere in Government, are not doing anything wrong. They worked for it; they should get paid.

And if the Government needs their service, they should be able to be re-employed. And it is the same with the parliamentarians, except that when a parliamentarian gets kicked out, they are not likely to get rehired in that position.

Thank you, very much, Madam Speaker.

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

## GOVERNMENT BUSINESS

### MOTIONS

#### Suspension of Standing Order 24(5)

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I beg to move the suspension of Standing Order 24(5) to enable a Government motion to be dealt with during the current Meeting.

**The Speaker:** The question is that Standing Order 24(5) be suspended to enable a Government motion to be dealt with during the current Meeting.

All those in favour please say Aye.

**Some Hon. Members:** Aye.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker. I believe the Premier should indicate which motions these are.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, as I said "a Government Motion," it is the Government Motion amending the Legislative [Assembly] Standing Orders.

**The Speaker:** Yes. [pause] We are . . . no, they can be dealt with any time during the current meeting, these motions.

*[Inaudible interjection]*

**The Speaker:** Well, that is what is on the Order Paper. Should we amend this at this point to read "a motion"?

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I said to deal with a motion. The motion, which we intend to deal with, as I said, it is a Standing Order motion. The motion that we are not going to deal with is the one to do with the Boundaries Commission. I can suspend the Standing Order now because that will come Monday, but I just did not do it now. I intend to do it Monday morning, God willing. But if Members agree I will say that we are asking to suspend Standing Order 24(5) to enable the two Government motions to be dealt with during the current meeting.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Thank you, Madam Speaker. We do not have any difficulty with that. I just, again, implore the Government to let us have a copy of the motions.

**The Speaker:** This is what is on the Order Paper to enable two Government Motions to be brought.

The question is that Standing Order 24(5) be suspended to enable two Government motions to be dealt with during the current meeting.

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

**Ayes and one audible No.**

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

Standing Order 24(5) is accordingly suspended to allow two Government motions to be dealt with during this meeting.

**Agreed: Standing Order 24(5) suspended.**

**The Speaker:** Ah. Yes?  
Madam Clerk.

## BILLS

### Suspension of Standing Order 46(1) and (2)

**The Clerk:** Suspension of Standing Order 46(1) and (2) to enable the Bill on the Order Paper to be read a first time.

**The Speaker:** The question is that Standing Order 46(1) and (2) . . . I'm . . .  
Mr. Premier.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I move the suspension of Standing Order 46(1) and (2) to enable the Bill on the Order Paper to be read a first time.

**The Speaker:** The question is that Standing Order 46(1) and (2) be suspended to enable the Bill on the Order Paper to be read a first time.

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

**Ayes and one audible No.**

**The Premier, Hon. W. McKeever Bush:** Boy you don't know any other language?

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

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

## FIRST READING

### Information and Communications Technology Authority (Amendment) Bill, 2011

**The Clerk:** Bills, First Reading, the Information and Communications Technology Authority (Amendment) Bill, 2011.

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

### Suspension of Standing Order 46(4)

**The Clerk:** Suspension of Standing Order 46(4) to enable the Bill on the Order Paper to be read a second time.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I move for the suspension of Standing Order 46(4) to enable the Bill on the Order Paper to be read a second time.

**The Speaker:** The question is that Standing Order 46(4) be suspended to enable the Bill on the Order Paper to be read a second time.

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

**Ayes and one audible No.**

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

**Agreed: Standing Order 46(4) suspended.**

## SECOND READING

### Information and Communications Technology Authority (Amendment) Bill, 2011

**The Clerk:** The Information and Communications Technology Authority (Amendment) Bill, 2011.

**The Speaker:** Honourable Deputy Premier.

**The Deputy Premier, Hon. Juliana Y. O'Connor-Conolly:** Thank you, Madam Speaker.

Madam Speaker, I beg to move that a Bill to amend the Information and Communications Technological Authority Law be given the Second Reading.

**The Speaker:** You are moving the Second Reading of the Bill. The Bill has been duly moved. Does the mover wish to speak thereto?

**The Deputy Premier, Hon. Juliana Y. O'Connor-Conolly:** Yes, thank you, Madam Speaker.

Madam Speaker, this Bill seeks to amend the Information and Communications Technological Authority Law (2010 Revision). There are three clauses contained therein: Clause 1 of the Bill provides for the normal short title.

Clause 2 amends section 2 of the principal law in two respects: (1) it adds a definition of "ICT Infrastructure"; (2) it amends the definition of ICT service so that it includes the provision of ICT Infrastructure.

Madam Speaker, clause 3 seeks to amend the section 23 of the principal Law so as to empower the Governor in Cabinet, after consultation with the ICT authority by notice published in our *Gazette* to exempt a company from the requirement to obtain an ICT licence if the sole ICT network or ICT service that the company provides is the provision of ICT infrastructure to a wholly-owned subsidiary that is subject to the Law. The exemption will be subject, of course, to such terms and conditions as the Governor in Cabinet sees fit.

In addition, Madam Speaker, clause 3 also amends section 23 subsection (2) by deleting [the words] "Subject to subsection (3)" and substituting [the words] "subject to subsections (3) and (3A)".

Madam Speaker, by way of further explanation, "ICT infrastructure" will seek to include "dark fibre" and "ICT service" would include a service that consists of or includes the provision of ICT Infrastructure.

The new addition to [section] 23, if approved by my honourable colleagues in this House, would

read as follows: "(3A) The Governor in Cabinet may, after consultation with the Authority, by notice published in the *Gazette*, exempt a company from the requirement to obtain an ICT licence if the sole ICT network or ICT service that the company provides is the provision of ICT infrastructure to a wholly-owned subsidiary that is subject to this Law, and the exemption shall be subject to such terms and conditions as the Governor in Cabinet sees fit."

Madam Speaker, the amendment to section 23 deals specifically with the provision of ICT Infrastructure. Under the current ICT licence regime, a company may create a wholly-owned subsidiary to obtain an ICT licence and to conduct all of its ICT related business provided the ownership of all the associated ICT infrastructure is transferred from the parents to the subsidiary. Only the subsidiary need obtain an ICT licence and therefore pay 6 per cent royalty fee to the Government. The parent would not, in this instance, Madam Speaker.

However, if the ownership of the ICT infrastructure is retained by the parent, the parent itself is providing a licensable ICT service that is providing ICT infrastructure to another licensee. The parent company then, Madam Speaker, would be required an ICT licence and is liable to pay 6 per cent royalty on its gross turn over.

In the majority of cases this particular regime would be perfectly satisfactory. However, Madam Speaker, cases can arise when these consequences are not in the public's interest. Yet the Law does not currently permit the ICT Authority to make any exceptions.

The present example, of course, concerns, Caribbean Utility Companies (CUC). In this particular instance, Madam Speaker, CUC wishes to make available to other licensees some of its spare capacity on its ICT infrastructure. This includes dark fibre optic cable and the so-called telecommunication space on its electricity poles. It proposes to create a wholly owned subsidiary called Datalink in order to obtain the appropriate ICT licence and to handle its ICT business. However, Madam Speaker, neither CUC nor the Government wishes ownership of the ICT assets to be transferred to Datalink. There are both practical and public interests reasons for this.

From a practical perspective, Madam Speaker, the assets in question are a number of fibres within a single cable rather than the entire cable. And the telecommunication space on the poles is a 24 inch space, many feet above the ground. More importantly, my Government considers that these assets were paid for by the Caymanian residents and Caymanian consumers and therefore should not be transferred out of the parent company, being CUC.

As I have already explained, Madam Speaker, if the assets are not so transferred, CUC would be providing ICT infrastructure to another licensee (being Datalink), and would, itself, require an ICT licence.

The Government is of the opinion that this would lead to an unacceptable situation where CUC would be regulated, then, both by the Electricity Regulatory Authority (ERA) and the ICTA, and would be liable to pay both statutory authorities royalty fees.

This could result in confusion and increased electricity charges to the consumer, which, of course, my Government would not be supporting.

The proposed amendment allows Cabinet to correct such a situation by exempting a parent company from the requirement to obtain an ICT licence if the only ICT network or ICT service it provides is the provision of ICT infrastructure to a wholly owned subsidiary that is an ICT licensee. It should be noted, therefore, Madam Speaker that this exemption can only be granted in the very specific circumstances I have just described.

Clearly, the subsidiary will normally pay the parent for the use of the ICT infrastructure. Where both the parent and the subsidiary ICT are licensees, the parent would pay Government 6 per cent royalty on that income. And the subsidiary would be able to deduct such payment from its gross revenue before calculating its royalty payments. If the parent is exempted, as we are purporting to do with this amendment, from obtaining an ICT licence, it will not be required to pay royalty on that said income. However, neither will the subsidiary be entitled to deduct the payment prior to calculating its royalty.

Madam, Speaker, we believe that the amendment so proposed now on the floor are timely and relevant as it will enable our Government to pursue diligently the insulation of CCTC (closed circuit television cameras) cameras to help [with] the rising crime within the jurisdiction. And I commend these amendments to my honourable colleagues in this House.

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

Does any other Member wish to speak?  
Member for East End.

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

Madam Speaker, I could not allow this opportunity to pass, of course, because as a minister during the last administration I had constitutional responsibility for this subject from both angles (that is, the electrification and information technology) within this country.

I rise here, Madam Speaker, not to oppose the amendment to this Law that the Government is proposing. However, there are certain things that I believe need to be aired, and I will try to do that.

Madam Speaker, it would be hypocritical of me to oppose this amendment. It would be seriously hypocritical of me, Madam Speaker, when on the 3<sup>rd</sup> April 2008, I, as minister of the electrification business in this country, signed the main Agreement with CUC on behalf of the people of this country to effect the

same thing that the Government is now doing. And, Madam Speaker, with your permission I would like to quote from the main Agreement of the negotiations between CUC and the then Government that I had the position of minister in.

Madam Speaker, CUC's [main Agreement](#) between this Government, this country, the then Government that I was a minister, [in] section 25 [.8] it says: **“CUC may be permitted to allow third parties, (including a subsidiary) to utilize or have access to its facilities (e.g., space on its distribution poles, un-utilized real estate), on an arm’s-length basis where this will allow CUC to utilize more fully or more efficiently the physical assets and other resources (“Electricity infrastructure”) acquired to provide for the generation, transmission and distribution of electricity. The leasing or use of such assets will be offered subject to approval by the Authority which approval shall not be unreasonably withheld but shall not be given if the Authority is reasonably satisfied that such approval is not in the interest of the Consumers. CUC shall charge a third party a fee for allowing the third party to access the relevant facilities and any such fee shall be determined on an arm’s-length commercial basis that is related to the value of such access, as reflected in the revenues derived from it by the third party and any arrangement with such a third party shall provide for such fee to be subject to periodic review or to a formula so that it is not fixed for the duration of the new CUC T&D Licence. For the avoidance of doubt, revenue from such activity shall be included in the Licence Income as defined in the new CUC T&D licence (and therefore be taken into account for the purposes of the RORB [Rate of Return Base] calculation), but would not be considered to be a part of the Licensee’s gross revenues for the purposes of calculating the Licence Fee and the Regulatory Fee.”**

**The Speaker:** Member for East End, are you going to provide the Chair with a copy of all of that so that I can—

**Mr. V. Arden McLean:** Madam Speaker, this is a public document.

**The Speaker:** It’s not on my desk, though. I would like a copy at least supplied to the Clerk so we can have it here in the records.

**Mr. V. Arden McLean:** Now or . . . ?

**The Speaker:** Afterwards.

Please continue. Let’s finish this.  
You have it *[addressing a Member]*?  
Thank you, Deputy Premier.  
You may continue.

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

Madam Speaker, I am going to read from the [licence](#) too, which is, in essence, the same thing except that it has some referral numbers to it.

**“Also, any distribution made by a subsidiary to the Licensee would be included in the Licensee Income but would not be considered to be a part of the Licensee’s gross revenues for the purposes of calculating the Licence fee and the Regulatory fee. The provision of such services or access may subject CUC to the licensing requirements of another regulator such as the Information and Communication Technology Authority (ICTA). CUC shall not build its electricity infrastructure explicitly for the purpose of accommodating such non-electric uses.”**

Madam Speaker, subsequently, when the licence was signed, the licence mirrored that same Agreement, with the exception of where the conditions were in the licence. So we referred to those. In essence, what happened there was that CUC had, many years prior to me becoming a minister, built a dark fibre infrastructure for the provision of generation and distribution of electricity, and it was a CAPEX (capital expenditure) paid for by the consumers. So, in essence, it was built on the basis that it was for the generation and the distribution of electricity to enable such. So, it formed the part of the electrification of this country. We were extremely aware of that; so was the Opposition at the time because they had just had the same situation facing them in the negotiations.

Madam Speaker, the then Opposition, the now Government (some of them anyway), took me to task and said that I was going to allow this same subsidiary that the now Minister speaks of, “Datalink”, to piggy back on the infrastructure that was put in place by the consumer, and, therefore, they were not going to benefit as a result. Obviously, Madam Speaker, they were not a part of the negotiations, so they did not understand, nor did they know, what the negotiations entailed.

These things, as I have come to understand, never come to light until after the fact, and only time will prove some people wrong; all of us, as a matter of fact. Time proves us wrong.

Madam Speaker, then, and now, I believe, it would be a waste of infrastructure to just allow it to stay there and nothing happens with it. But like the Third Elected Member for West Bay (who was, I believe, then the Fourth Elected Member for West Bay) was very cognisant of this other possibility of revenue by CUC. I, like him, wanted to ensure that the consumers who paid for that CAPEX would benefit as a result. So, in essence, all of what I read there, what it meant was that if CUC was going to get into selling and deriving revenue from that infrastructure, it had to go to the consumers who originally paid it. We had some seriously heated discussions surrounding how that was going to be done.

The Fourth Elected Member for George Town obviously did not understand what I meant. I said any profits derived from that infrastructure must go to the electricity consumer.

So, in essence, what happened, Madam Speaker, CUC was required under this licence to create a subsidiary, which I think they did Datalink or something. At the time they were talking about the same name—Datalink, at arms length from CUC and the regulatory requirements of CUC under the ERA, and put it under the ICTA.

Any company that creates a subsidiary, as the current Minister explained a few minutes ago, would also be charged on the proceeds therefrom because CUC has a requirement for certain regulatory fees and licence fees in this licence. So, to avoid that in the licence we carved out that the proceeds would not be calculated nor could it go into their revenue, which would be affected by the licensing fees nor the regulatory fees, because that was . . . the Premier just did a statement about double-dipping, that would really be double-dipping into the consumer’s pocket. So we . . .

**The Speaker:** Member for East End, please, there is somebody’s phone receiving a message, a text or something else. Please turn it off; it prevents us from having a proper recording of what the person is saying.

Member for East End, please continue.

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

We decided and agreed with CUC and the ERA that that profit, whatever that may be, after the regulator of that subsidiary (which in this case would be the ICTA) would, after the ICTA put their charges (I think it is 6 per cent) on their gross revenue of that subsidiary, the remainder of it after whatever expenditures, would go into the rate base of CUC, thereby driving the cost of generation and distribution of electricity. Not on the fuel. Madam Speaker, it was not intended for the fuel; it was on the rate base.

No disrespect to my other colleagues in here, Madam Speaker, but I know the Member for West Bay (who is here) was on that negotiating team before I was, and he understands, and the Minister for Education too. And I am sure the current Minister understands the rate base.

So in essence, Madam Speaker, I ensured that these things, when they come into being, would eventually benefit the consumer who paid for this over the last 15 to 20 years, since that dark fibre was installed in the furtherance of electrification of this country. Because at that time when the capital expenditure was done, it was put in the rate base. So in essence, we paid for it; whoever had electricity in their house paid a portion of it to get it done.

Now, here is where I am at, Madam Speaker. The Government needs to let me know what is going to now happen. And certainly, Madam Speaker, this is going to come from the ERA, but it is the same Minis-

ter. What is going to happen with all of the current agreements that CUC has? And I guess there would have to be consultation with the ICTA as well.

There are current agreements that CUC has with Cable and Wireless to provide them dark fibre, in particular. I believe they provide them dark fibre across the North Sound. And they also provide them space (the Minister spoke of it) on their infrastructure. I think on the poles. I do not remember the spacing. That's what I did and I believe it is 24 inches within 40 and then the distance is 44 or something like that. I don't know; I cannot remember that exactly. But that must also fall under the ICTA, as far as I am concerned.

It was hitherto unregulated but now that we are creating what my vision was, to create a subsidiary to deal with that at arms length, now all of those things need to come into play. They all need to be regulated.

The difficulty they have is that they are going to be regulated by two different entities. And if we do not dovetail these regulatory requirements we will have a number of issues to deal with. I believe that the objective here, whilst Government will probably be renting two or so of those dark fibres to facilitate their cameras, there are many more that can be utilised. And I think Government should not restrict themselves to just cameras on two or one, whichever they are going to do, because they can also use other communication aspects on it.

But the others in this community (and I know) that are currently looking at provisions for TV and the likes, CUC is poised even better than Cable and Wireless to provide this fibre which they will have under Datalink, if that is the same name of the company that they are going to use as a subsidiary. I believe for a period there the consumer may very well not be getting the full benefits of this subsidiary, but in the long run this is where the electricity consumer of this country can benefit. They can benefit and reduce cost to them in rates.

Madam Speaker, much has been said in this country about my having worked at CUC, and then my becoming the minister, and the conflicts, and the what-have-you. Much has been said about that. I stood the test of time and my integrity stood the test of time, Madam Speaker. No one can prove that I was on anything to do anything other than for the consumer in this country. Madam Speaker, so much so, that the then Opposition ridiculed me quite strongly, beat me up on the radio and the media. At the same time I engaged some of the best legal and technical minds this country had to offer. So, if I was doing anything that was not in the interest of the consumers of this country at the time, by extension that means those people were doing the same.

Now, Madam Speaker, I have been vindicated in my actions and in my decision to hire those same people, because today those same people remain on the board. The Government saw the value in keeping

them on that board. That vindicates me. And I believe the Government made the right choice because all of those members on that board that I had, as board members, as the negotiating team, are extreme-ly capable people who believe in their integrity. Madam Speaker, they are the same people who are the regulators now, who wrote this same provision to ensure consumers were protected.

Madam Speaker, I do not know the final outcome of this and how it is going to be treated when it reaches the ERA, but I am sure that the members there will ensure that the public's interest is protected. Fortunately, Government has an opportunity now to ensure we get quality service with our cameras that we all hope will deter crime and help protect the people of this country. And the new technological age requires that we do fibre. Yes, we can use other mediums to transmit that video but fibre is the most economical and efficient way to do it.

Madam Speaker, I know that the Government and its Backbenchers do not necessarily like when I congratulate them continuing in the veins of another Government and benefitting as a result of previous governments, and that is what this should be about, Madam Speaker, in the interest of the country.

I am reminded that they gazetted the East/West arterial a few days before the election in 2005 and through Cabinet under the then Minister of Works ([Mr.] Gilbert McLean). And I continued as soon as I stepped into office in 2009. So, Madam Speaker, I am glad to see that the Government has reached the point where they can support and exempt CUC from the authorities' double-dipping into the consumers benefit from these dark fibres, because in essence that is what it would be if we do not exempt CUC the company and put the subsidiary under the regulatory requirements of the ICTA since we would both as the Minister quite eloquently explained in her presentation of this Bill.

Madam Speaker, we support the Bill. I would have to be hypocritical not to. So, I trust that these cameras will be installed soon and they will be of benefit to the deterrence of crime, [and the] prevention and protection of our people from crime.

Thank you very much, Madam Speaker.

**The Speaker:** Thank you, Member for East End.

I think this is a good time to take the lunch break. I will suspend the House until 2.30.

**Proceedings suspended at 1.10 pm**

**Proceedings resumed at 3.02 pm**

**The Speaker:** Proceedings are resumed.

Please be seated.

When we took the lunch break, we were in the process of debating the amendment to the Information and Communications Technology Authority (Amendment) Bill, 2011.

The Member for East End had concluded his debate and I will open the floor. Does any other Member wish to speak? [pause]

Third Elected Member for West Bay, Deputy Speaker.

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

I just have a few short comments to make based on the contribution made by the Elected Member for East End. As the listening public may be aware, I have some knowledge and understanding of the discussion, and I think the Elected Member for East End made reference to the fact that I was pretty intimately involved from when [I was with] the Government's negotiating team up until 2005, prior to him becoming the Minister with responsibility for electricity and electricity regulation.

So, I felt it was important for me to explain what I see as a significant difference in the policy of this Government and the Government of which he was in and had responsibility for the provision of electricity.

Madam Speaker, it is necessary to do that because he spent a significant amount of time making the point, or associating himself with the actions of the Government, in saying that in some way he found himself to be vindicated in the actions that he was criticised for. So, it appears to me, Madam Speaker, that even though a lot of time has transpired since, I think the Member still does not understand the genesis of the criticism that occurred during the actions of his Government, for which he had direct constitutional responsibility, and the role that was played in the situation that we now find ourselves in with regard to the provision of electricity.

And, in this particular case, [there is] a hiving off of some of the assets of that company creating a subsidy called "Datalink" for the provision of ICTA, which will allow us to use the cameras, which we all support and, you know, under this administration [we] will find a way to ensure that the citizens of the Cayman Islands and their protection is foremost and in an enhanced position.

So, Madam Speaker, if I [could], just try to pick up on the difference that the Member for East End referred to, [because] he spent a bit of time referring to the rate base and the calculation and what was his vision and goal in what he saw to be accomplished with the licence arrangement and the fact that he was criticised for that.

Madam Speaker, the problem that we have is that we have a situation where we had an electricity company that . . . and I will try to make this as simple as possible, Madam Speaker, which is a very technical subject. But in layman's terms we had the Agreement that was a longstanding agreement with the sole monopoly provider of electricity, both distribution and generation in the Cayman Islands. It was an existing licence up for renewal. A renewal process started by

one administration and the People's Progressive Movement Government and the Minister, being the Minister for East End then, after the election, took up that charge for the renewal of the licence.

Madam Speaker, the challenge that we have is that we were moving away from a guaranteed rate of return which the country had complained about for a significant period of time, because when the licence was initially given some 25 or 28 years ago by a previous administration, it was seen as being beneficial for the country to have a motivation of a return on CAPEX (Capital Expenditure) invested to allow them to make a return.

#### POINT OF RELEVANCE

**Mr. V. Arden McLean:** Madam Speaker, on a point of relevance. The Member is not debating the Bill in front of us. I did not go into any rate of returns except to say that as a result of hiving off a part of CUC it would benefit the consumers in the rate of return. He is debating a completely different issue about returns based on what it used to be and that has nothing to do with what this amending Bill relates to.

**The Speaker:** Member for East End, I allowed you considerable latitude to make your statements. I think that the other side of the House deserves the same. If he strays too far I will stop him.

**Hon. Cline A. Glidden, Jr.:** While I appreciate your ruling, Madam Speaker, I need to explain because, obviously, that Member is not as enlightened when it comes to the provision of electricity as he claims to be.

This Datalink Company, this asset that we are referring to was bought and paid for by the people of the Cayman Islands during a period of time when it was the licence that allowed a rate of return in place. So, in case the Member would have forgotten, this asset, this company that we are talking about now hiving off, that he is referring to hiving off, was done during a period of time under the old licence.

*[inaudible interjection]*

**Hon. Cline A. Glidden, Jr.:** Hopefully, hopefully.

But it goes to show, Madam Speaker, again, why the kind of agreements that were given, the sweetheart deals that were given to the power company at the time, were given because there is a clear lack of understanding. If the Member had asked then we would have explained from then, but that is what I am attempting to do now, Madam Speaker. And I appreciate you giving me the time to further educate the Member who had responsibility for the provision of electricity and who gave CUC a sweetheart deal at that time.

*[inaudible interjection]*

**Hon. Cline A. Glidden, Jr.:** If I am able to continue, Madam Speaker, as you have granted me the permission, I would like to carry on to say that that arrangement which existed at the time allowed CUC to get a return on their investment based on a rate base that was calculated using the assets that were acquired by the company. Now, how we get into a problem is that during the time that that licence was in effect, CUC decided that they were going to extend their network. But not only were they going to extend the network with equipment that would allow for the provision of electricity, they were also going to provide in that equipment and get paid for by the people of the Cayman Islands a fibre optic network that was also included in that rate base.

And so, Madam Speaker, here we have the problem. We have a rate base and an Agreement in place that says you can get a return on your investment that was done many, many years ago, and what it has provided us now with is an excellent network, because there was a financial motivation. The more money that was spent in the provision of electricity services, both generation and transmission, the more of a return you were given.

Where we got into a problem was that if there was a gray area that said it can be used in the provision of electricity but it can also be used in the provision of ICTA services, which was not in the licence, why should a consumer who is paying an electricity bill pay for that?

And so, in our negotiations we recognised that. And, we had an Auditor General who did an investigation and came out and said [in his report] that the problem we had with CUC, while that Agreement encouraged substantial investment to give us a first class electricity infrastructure, which benefitted the country, there is a point in time where it starts to become counterproductive because you start getting not 100 per cent or a very good infrastructure, you start getting a “gold plated,” which was the exact terminology used by the Auditor General.

It was a gold plated infrastructure which was much more than deemed necessary. But the reason for that was because they were incentivised. The more they spent on that infrastructure, the more money they got.

And our administration decided that that was no longer beneficial for the people of the Cayman Islands and we said we were going to change that arrangement. The problem was that because the asset had been paid for by the consumer we felt that CUC should not be compensated and a rate base should not be left at the rate that was calculated by including an asset that was not used for the provision of electricity. And so we worked very hard and negotiated hard, Madam Speaker, to find a way that we would be able to remove that asset because it was not justified within the arrangement that was allowed for under the licence. So, it was not justified and we wanted to find a way.

Now, Madam Speaker, during that period of time we were in negotiations and we had gotten to a point of discussion with CUC. But, obviously, a hurricane came along, called Hurricane Ivan—

*[inaudible interjection]*

**Hon. Cline A. Glidden, Jr.:** Madam Speaker, just so we are clear, because we have heard this story many, many times. We did not sign an agreement giving CUC a licence. The agreement was signed by the People’s Progressive Movement. And as the Members on that side would know, we do not have an agreement until we have a full agreement.

So, they like to reference and talk about where we were in an agreement. Our challenge in the agreement was where do we start a base? We did not have a problem with how we calculate increases; what we had a problem with was that you had used gold plating, as determined and announced by the Auditor General, to get the base rate to a certain point. Before we can agree . . . we can agree on the method that would be used and change the method of calculation going forward and what would be included in that. Where we have a problem is agreeing on what the starting position should be.

Should the starting position be the artificially inflated base rate that had been calculated and agreed to because of the inclusion of equipment that was not used in the provision of electricity? Or, should we adjust the base rate before the new agreement comes into place? Those negotiations got halted because of the hurricane, and then we had a change in Government.

Now, not surprising, Madam Speaker, after getting elected the People’s Progressive Movement not only decided to leave the base rate at the highly inflated rate—which meant we charged the Caymanian public more money—they also, with the wisdom exercised with the Agreement, decided that not only this asset that there was a question about, [but] even the asset that was destroyed by the hurricane that had already been paid for, and the asset that was repaid by the people of the Cayman Islands with the hurricane surcharge, they agreed to leave that asset in the base rate as well.

And then, Madam Speaker, what did they come and do? Because we have this inflated base rate and then we have an Agreement in place that gives a range no longer on assets employed . . . so, now the new licence signed by the PPM says we are starting at this rate and on an average basis we are going to get an increase of somewhere between 9 per cent and 11 per cent, which is going to work out somewhere around 10 per cent.

We don’t have to worry about employing the capital. We don’t have to worry about doing anything else, but we are pretty much getting . . . so in the difference of that 5 per cent, you are now telling me that

I don't need to spend the money to increase the rate base already, or anymore.

CUC is happy with that deal because the rate base is already high. And the Government of the day, in signing that Agreement, had no interest in trying to reduce that base, even though they knew it was inflated with items like the Datalink cable that is going to be used now that caused the rate base to get high.

*[inaudible interjection]*

**Hon. Cline A. Glidden, Jr.:** After the arrangement was made, it was so terrible, Madam Speaker, to try and pacify the public they decided that the rate of electricity was so high that they had to give a concession for duty to make the public be fooled into thinking they had a lower electricity bill.

*[inaudible interjection]*

**Hon. Cline A. Glidden, Jr.:** And there we go, Madam Speaker.

And the fundamental difference between the administration, the decisions that are being made now by the forward-thinking Government, the United Democratic Party (UDP), and what the Member for East End tried to associate himself as being his vision. We wanted to make it clear, Madam Speaker. We do not subscribe to, we do not agree to, we don't . . . this idea, this burden that the People's Progressive Movement has placed the people of the Cayman Islands under for the next 25 years with the licence, we do not subscribe to that.

What we are trying to do now, Madam Speaker, we have now found ourselves in a situation where we have a fiber optic cable that has been paid for by the people of the Cayman Islands. It is sitting unused, but it has been paid for by the people of the Cayman Islands and our Government has decided that because the agreement has already been made, there is nothing that we can do about it now and the people have paid for this cable, let us find some way of giving some benefit back to the public.

It does not answer the question, Madam Speaker, it does not say that we are going to correct the rate base and make it right for those people who have paid so much for their electricity for so long for equipment that provides them no service at all in terms of the generation of electricity. That asset we cannot take back. The opportunity was missed because the People's Progressive Movement decided to give CUC a sweetheart deal. We cannot fix that, Madam Speaker. But what we have decided to do is try to utilise that asset. Because now that you have given them a sweetheart deal, now that they have gotten the deal they have for 25 years, now we need to find a way to try to get a benefit for the people who paid for that. Madam Speaker, much time has passed [and] even if we were going to take the asset and remove it from the rate base, there is now a significant deprecia-

tion that has occurred. So, basically, they got paid for it—it's sitting there, it is not being used—and our Government has decided that since the people have suffered so much for so long under the high prices in paying for this asset that we are going to try to find a way.

*[inaudible interjection]*

**Hon. Cline A. Glidden, Jr.:** And what better way, Madam Speaker, than to use it for the provision of securing and increasing the security and safety of our residents and citizens?

So, Madam Speaker, I just felt it necessary . . . I understand that it is the modus operandi of the Opposition to try to jump on and support, to jump on and take credit for anything that is being done positively for the country. But in this case, Madam Speaker, I thought it was a bit too blatant and disregard for the truth to allow the Member to give the impression that what is now being done in some way was similar to what he was doing.

Madam Speaker, the only thing that is similar is that we now have a fibre optic network that has been paid for by people paying their electricity bills that is going to be used for the provision . . . well, at the time it wasn't even discussed about cameras. At his time I think they were proposing to use it for ICTA network. Now we are using it for ICTA network that includes a camera system.

Madam Speaker, the difference being that that Member, his Government had an opportunity to bring the cost of services—the essential service being electricity—to reduce that by demanding and ensuring that the rate base we were using as a starting reference point was to be reduced because of the inclusion of assets that were not provided for in the licence as far as the provision of electricity. But surprise to some (not a surprise to us), when the Agreement was made there was no consideration for the reduction of that rate base. All agreed was that we were starting from here and this is the model that we are using to go forward. And so the country got burdened with an artificially inflated rate base, a portion of that rate base is the fibre optic cable.

We are happy because it has been paid for. We are happy now to be able to find some use. We would have preferred for it to have been removed. We would have preferred for the people of the Cayman Islands to have gotten some relief by a reduction. But, Madam Speaker, people have their own suspicions and their reasons as to why it was not pushed, why it was not forced, why CUC was allowed to maintain the rate base, but I don't know what those reasons would have been, Madam Speaker. All I know is that where we find ourselves now is that there is a situation where CUC has a fibre optic network, dark fibre that we refer to it as, that has been paid for by the users of electricity in paying their bills every month and it is

sitting there unused. And as a Government we felt it necessary to try to find some benefit to use that.

I would have been hopeful, Madam Speaker; I would be much happier if we could say that this fibre optic network would be paid for by the users of the Datalink of providing that data, even if Government had to pay the fee. But sadly, because of the actions of the previous administration, this cable that we are talking about using has been paid for and will continue to be paid for by the hardworking Caymanian public through high, high, unreasonably high, electricity bills because they were signed by the Member for East End who . . . I want to make sure there is no association with what he was working on doing and his vision and that being continued by this Government.

If I were a member of the public and I heard that we were continuing that policy I would be scared, Madam Speaker. I would be scared because I would know that more hardship is on the way. So, for that purpose, Madam Speaker, I felt it necessary to simply stand up and spend a few minutes clarifying the difference between this Government's policies and those of the previous administration. And, with that, Madam Speaker, I thank you for your indulgence.

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

If not, I call on the mover of the Bill.  
Leader of the Opposition?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I hesitate to rise to debate this particular Bill. It's a very technical bill. It is a Bill which I thought had been adequately dealt with in the contribution by the Elected Member for East End on this side. But . . . and I am not going to get into a great deal of detail because, Madam Speaker, the truth of the matter is that this is not my area of expertise at all.

But, I noted . . . and I have to bring this to the attention of the House and the broader public. The effort by the Third Elected Member for West Bay to claim that the Government of which he was a back-bench member did not enter into any agreement with CUC . . . that, Madam Speaker, flies in the face of the facts.

I have in my possession a Heads of Agreement dated 16 June 2004, entered into by Caribbean Utilities Company Limited and the Governor in Cabinet of the Cayman Islands, and signed by the Honourable Juliana Y. O'Connor-Connolly, JP, Minister of Planning, Communications, District Administration and Information Technology on behalf of the Cayman Islands Government.

That, Madam Speaker, sets out the Heads of Agreement, that is, the terms of the licence, which, in broad terms, the then Government was prepared to enter into on behalf of CUC.

Madam Speaker, the Third Elected Member for West Bay went to lengths to try to convince the public—because I do not think he convinces anybody in here—that the Agreement which was entered into on behalf of the Government of which the Elected Member for East End and I were a part, has put the country in a much more difficult position, much more expensive situation, relating to the cost of electricity, what you pay for electricity than would have been the case under the UDP Administration.

Madam Speaker, if I can just refer to . . . sorry. If I can refer to a comparative study, Madam Speaker—

**The Speaker:** Honourable Leader of the Opposition, is that the same document that the Member for East End was referring to?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** I am not sure, Madam Speaker.

This is a Memorandum to the then Honourable Minister, who is now the—

**The Speaker:** Are you going to quote extensively from this Memorandum? I just need to know because I don't have a copy of it, and I sent the copy back to the Minister that I had here on the Table that the Member for East End was quoting from.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I am going to read as much of it as I possibly can to try to deal with some of the subterfuge which we have just been treated to by the Third Elected Member for West Bay.

**The Speaker:** Well, in that case, I need to have a copy, if you are going to read extensively.

I just . . . it is . . .

*[Inaudible interjections]*

**The Speaker:** It does not matter who started what; I just need to have a copy so that when he quotes I can confirm it is what is going in the record.

Please hurry, Mr. Serjeant.

*[Inaudible interjections]*

**The Speaker:** The House has not been suspended. Please refrain from all the conversation across the floor. We are waiting for a document to be returned.

*[Pause]*

**The Speaker:** Are we ready to proceed now please, because we are debating a Bill before the House and we are going all over the place with it. I am waiting to see what is going to happen here now.

Mr. Leader of the Opposition, please continue.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I noted—and I actually wrote it down—your observation that you had exercised considerable latitude and you were extending that to the Member for West Bay.

**The Speaker:** Never let it be said I did not give everyone an opportunity to speak.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** I am only asking for equal opportunity, Madam Speaker.

**The Speaker:** Mm-hmm.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** That's all.

Madam Speaker, the document to which I was referring when we had the brief break is dated November 30, 2007. It is addressed to the Hon. Minister of Communications, Works and Infrastructure who, at the time, was my colleague, the Member for East End.

It is from Mr. Phillip Thomas, who was the Secretary of the Cayman Islands Government's CUC negotiating team.

**The Speaker:** That is this one, the 16<sup>th</sup> of June 2004?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** No, Madam Speaker. That is the Heads of Agreement which was signed by the now Deputy Premier, back in 2004.

**The Speaker:** So, which document are you quoting from that I don't have?

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** I am quoting from the Memorandum, Madam Speaker, which I thought had been copied and you were given a copy of.

**The Speaker:** No.

Oh, sorry. Go ahead please.

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

Madam Speaker, it reads: "Minister, further to our conversation earlier this week where you requested a schedule of the differences between the previous Agreement, the Heads of Agreement" (That is, Madam Speaker, the Heads of Agreement of which you now have a copy which was signed by the now Deputy Premier on behalf of the UDP Administration back in 2004.) "reached with CUC just prior to Hurricane Ivan in September 2004. The Agreement reached now I tabled below—

**The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly:** Madam Speaker.

**The Speaker:** Yes, Honourable Minister.

#### POINT OF CLARIFICATION

**The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly:** Madam Speaker, on a point of clarification as to the source of this Memorandum. It is addressed to the Honourable Minister from Phil Thomas, both of whom would have been at the time Government officials. It is not a public document.

I am just wondering the source of this document and how it is arriving here by a Member of the Opposition who is no longer in the Government.

*[Inaudible interjections]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam, I am sure that is a rhetorical question because the Memorandum is addressed to the Honourable Minister of Communications, Works and Infrastructure, who was at the time . . . who is seated behind me. So I believe that its provenance should be fairly obvious.

**The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly:** But, Madam Speaker, with the greatest of respect, and I bow to your ruling, this isn't written to any Member here in their private capacity; it is a Government official document written to him solely in the capacity as the Minister.

He is no longer "Minister," and in all of my years in government, when you leave the Glass House, you leave your documents because you are trustee only for the duration of the tenure.

*[Inaudible interjections]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I am not debating this in my private capacity. This is an important issue for the country. And if the Government is not afraid of the facts they would have no objection to this. But the problem is, they have come down here and told things which are not quite the case. And, therefore, they have difficulty in my reading what is in this memorandum.

*[Inaudible interjections]*

#### POINT OF ORDER

**The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly:** Madam Speaker, on a separate point of order. The Member is now imputing impure motives. I am merely asking on a fundamental tenet of the democracy which he so heralds. It is an official document. Can he explain how it got from the Glass House to his hands since he is no longer a Minister?

**Hon. Cline A. Glidden, Jr.:** Charles Clifford.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, the Member for East End has already spoken, and I indicated the source of this. I suggest, Madam Speaker, with the greatest of respect . . . I understand the qualms that the current Minister has—

**The Speaker:** Please do not repeat that statement. It is not becoming of you. Either . . . go ahead and quote from the document, but leave the personal statements out.

*[Inaudible interjections]*

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

**The Deputy Premier, Hon. Juliana Y. O'Connor-Conolly:** Madam Speaker, I beg your indulgence one more time, and get a ruling on this. This will set a precedent which is unprecedented in this Parliament. This is a government document. None of us own government . . . it is a memorandum. It is not a public document. None of us has the authority to take with us when demitting office, documents that came in our possession by the pure fact that it is a public document.

If the Member can show proof that he did an FOI, or can show authenticity of him being in possession, I have no problem with it, Madam Speaker. But I am saying that it is a private memorandum at the time. And I would like a ruling on that.

*[Inaudible interjections]*

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

**The Speaker:** Yes.

How did the document get in your possession sir?

*[Inaudible interjections]*

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

**The Speaker:** Wait. Just let me do the talking, please.

It is addressed to the Honourable Minister. And it is from Phillip Thomas, Secretary of the CUC Negotiating Team. So it is a document that belonged to a Ministry.

I just . . . the Minister has raised a question. How did it get into your possession? Did you get an FOI? How did it arrive in your possession as a public document? That is all we need to know and then we can proceed from there.

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

**The Speaker:** Other than that the document cannot be allowed on the floor of the House.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I did indicate . . . the memorandum is addressed to the former Minister who is seated behind me. He just handed me a copy of it.

*[Inaudible interjections]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** But, but, but . . . I said the former Minister.

But the Government's problem is not with the source of it; the Government's problem is with—

**The Speaker:** No! Now you are imputing improper motives. Do not go there.

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

**The Speaker:** Do not go there.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Well, Madam Speaker, may I say this? As I have said before in more than one context, this place, called the Legislative Assembly of the Cayman Islands, is increasingly becoming irrelevant because Members are being prevented from debating matters that are important—

#### POINT OF ORDER

**The Premier, Hon. W. McKeeva Bush:** On a point of order, Madam Speaker!

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** —and we are—

**The Speaker:** Now—

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, on a point of order!

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I am on my feet!

**The Speaker:** Now—

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, on a point—

**The Speaker:** As I said before, now you are imputing improper motives to me.

**The Premier, Hon. W. McKeeva Bush:** No. I am actually rising on a point of order.

**The Speaker:** Now you are imputing improper motives to me.

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

**The Speaker:** I have a right—

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:**—for the right of the Opposition to say what it has to say in this House!

**The Premier, Hon. W. McKeewa Bush:** Madam Speaker, on a point of order.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** I am tired of being shut up.

**The Premier, Hon. W. McKeewa Bush:** I am on a point of order, Madam Speaker, the Member should really sit down and hear the point of order.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** The Premier must sit down. I am on my feet.

**The Premier, Hon. W. McKeewa Bush:** Well, I called a point of order.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** If the Speaker tells me to resume my seat I will—not you!

**The Premier, Hon. W. McKeewa Bush:** I called . . . well, she asked you and you haven't sat yet!

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** She never asked me to sit.

**The Premier, Hon. W. McKeewa Bush:** Madam Speaker, on a point of order.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Sit down, Mr. Premier.

**The Speaker:** Ah, would you please both sit down?

**The Premier, Hon. W. McKeewa Bush:** You're not that big!

#### SPEAKER'S RULING

**The Speaker:** I listened to you imputing improper motives to me. I rule in this Chair. You might not like my rulings, you might not appreciate my rulings, but that is why I am in this Chair. And whether you respect it in the House or out of the House that is a fact. I am the Speaker.

Now, I am going to rule the document out of order until I find out the source of that document and how it arrived in this House. If it is through an FOI or however it came here, then I will be able to say it is legally and effectively on the floor of this Parliament.

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

**The Speaker:** I do not have any investigations to make. I have made a ruling.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, may I ask, what is the basis of preventing a document from being read in this Parliament, a place where Members have the privilege of debating matters without fear of prosecution, without fear of being sued? It is part of parliamentary privilege. It is fundamental to democracy that Members of this House have the opportunity to deal with matters which are relevant.

Now, the Third Elected Member for West Bay went down a road, took a certain position, cited things that are facts which, quite frankly, are not the case.

*[Inaudible interjections]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** I have a document which refutes what he says and I am being prevented by the Chair from dealing with it.

**The Premier, Hon. W. McKeewa Bush:** No you are not. You are not being prevented. You just need to tell us where you got the document.

**The Speaker:** Ah—

**The Premier, Hon. W. McKeewa Bush:** And talk. We want to find out where he got it from.

**The Speaker:** We can move on with this debate, or we can sit here all afternoon. I have ruled and I want it to be made unmistakably clear to every Member of this House. I have heard the comments; I have heard the imputation that I am not being fair in this Chair. When I have ruled I have ruled! If you want to take it up with some other source, you may do so; or you may come to my office to discuss it.

Please continue with the debate.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, under the previous licence, the licence which was replaced by the licence which was signed under the administration of which I was a part, CUC was entitled to a 15 per cent return on its rate base. There was no upper limit on CUC's return because the rate base was not controlled by any regulation.

The Heads of Agreement which were signed by the now Deputy Premier would have accepted a range of 10 per cent to 24 per cent return on equity.

*[Loud electronic interference]*

**The Speaker:** Excuse me please, Honourable Leader of the Opposition.

Would you please find the source of that phone? It has been disturbing the proceedings all morning.

Please continue, sir.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** The Heads of Agreement which were signed on behalf of the UDP Administration in 2004 by the now Deputy Premier and Minister with responsibility for Communications, would have accepted a range of 10 per cent to 24 per cent return on equity over three years.

Madam Speaker, the agreement which was reached under the administration of which I was a part, put the rate of return as fixed at between 9 per cent and 11 per cent. Yet the Third Elected Member for West Bay will stand here in this House and say with sincerity that the arrangement which his Government was prepared to enter into back in 2004 would have placed the rate payer in this country in a better position than the arrangement which we reached.

He condemned the efforts made by the Government of which I was a part, but in particular, the efforts of the Member for East End who was then the Minister. And, not suggested, but sought to convince all who hear what he says, that this was a most diabolical arrangement; that the administration of which I was a part must have been guilty of negligence or worse. He went so far, Madam Speaker, as to leave the possibility dangling out there that there was something untoward.

*[Inaudible interjection]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** We didn't say anything.

**The Speaker:** Member for East End, I am not going to speak about it again. Please do not impute improper motives to this Chair. Whether you like me or you do not like me, please do not make statements like that while I am in this Chair.

Please continue Leader of the Opposition.

*[Inaudible interjections]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, the Third Elected Member for West Bay denigrated our efforts in reducing the significant import duty on fuel for the purposes of electricity generation [by] saying that we were forced to do that because the arrangement we made was just so disadvantageous to the poor consumer. But of course, out of sympathy, I am sure, and compassion, within three months of his Government taking office they re-introduced the duty and inflicted even more pain on the consumers of this country in the middle of the

worst recession the world has seen since the Great Depression of the 1930s.

*[inaudible interjection]*

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** And yet, Madam Speaker, they claim that they are doing all they can to assist the people of this country; that they are doing all they can to lower the cost of the production of electricity, and they carry on about the Datalink.

I noted, Madam Speaker, that the Member also spoke at length about their plans in relation to this dark fibre infrastructure. But in the few minutes I have had to consider this matter, I cannot find any reference to that in the Heads of Agreement which they signed in 2004. The reality is, I believe, Madam Speaker, that they never considered the issue at all.

Hindsight is 20/20.

So, Madam Speaker, the Government of which I was a part actually managed to achieve many things which had been talked about in this country for years and years but [were] never done. There was always some reason why the UDP Administration could not get things done. I guess that is the same reason why, Madam Speaker, almost two years into their term they are still talking about all the things they are going to do.

The difference between that administration and this one is that we actually got on with the job and we can actually point with confidence to what we achieved. We took licks, we are still taking licks. Today is one of the most extraordinary incidents of this that I have seen in my time. To use this as an opportunity to beat up on the former administration when we were actually trying to agree with them going forward in this respect, is not only pointless, Madam Speaker, but results in the kind of altercations that we have had here this evening.

Credit must be given where credit is due. And the Elected Member for East End worked very, very hard and actually got an agreement signed which was a vast improvement on the arrangements which had existed in this country for more than 25 years—a significant reduction in the cost of electricity to the consumer—and the Government which came along and caused a 33 per cent reduction in essentially what is the guaranteed rate of return. And the Government which came along and by its actions has jacked up the cost of electricity to the consumer of this country, has the audacity to come here to this House and say to Members of this House and to the broader public that the last administration did such a terrible thing.

Madam Speaker, they should be ashamed of themselves. And, Madam Speaker, they can make as much noise as they want about the truth; but facts are stubborn things. And whether it is on the Floor of this House or to the place where debate is generally adjourned these days, these facts will be made public.

Thank you, Madam Speaker.

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

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

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeever Bush:** —we would have been finished with this now, because this is something that both sides are supposed to agree on. But you see, Madam Speaker, when something good is being done, the other side will surely jump up, throw in the negatives, and even sweetly criticise the Government, as I heard the Member for East End doing.

I was prepared to let him continue as he did, because all he did was to put his foot in hot water. The Member just finishing tried to save him. But he could not say where the document came from so he can't save him.

Madam Speaker, to try to take any Head of Agreement and say that that was a *fait accompli*, that is where the wrong is in here today. And the two of them know that, but they have been doing that ever since they signed that Agreement with CUC. They have been using that tactic of that Agreement he tried to introduce awhile ago.

What is a Head of Agreement? A Heads of Agreement is an agreement to discuss something; it is not something that is finalised. It is not something that is finalised. So, when he comes here and says that they got a better deal than us and we were going to do this and we were going to do that, they cannot say that, Madam Speaker.

The truth is that that was set out, a heads of agreement was set out, and I was not the Minister, but I do remember what took place. The truth is that Caribbean Utilities Company was well relieved that the United Democratic Party Government lost the elections. They were so relieved that they put their whole picture on a manifesto and advertisements of the PPM. They were so relieved that they helped to fight us, and are still helping to fight us.

Now, he talked about electricity rates and dared to bring in why the economy is bad. Madam Speaker, he can get up and walk out as much as he wants, but I can tell him that he ought to listen because this Government, or the next Government, or the next one thereafter until 25 years cannot do anything much about the situation. We cannot do anything much about the rates. We cannot do anything much about electricity cost reduction. We cannot do anything much even about the blackouts that we are now having because of the sweetheart deal that the Member for East End signed as the then Minister, and the Third Elected Member for George Town, the now Leader of the Opposition, obviously supported it.

Madam Speaker, we should not be here debating this at this time of day except for the rancour that the two of them introduced and then, of course,

from this side had to clear up the issue. I hope that that is what is pointed out since people seem to like that sort of thing. But they kept referring to some percentage, Madam Speaker, which would have come out of that Heads of Agreement. But the 10 per cent to 21 per cent was simply agreement to agree to a range. That is what that was, as I understood it—which had to be negotiated. And that is all that that document he was trying to introduce says. It was a head of agreement.

**The Speaker:** Um, can you—

**The Premier, Hon. W. McKeever Bush:** To be negotiated.

**The Speaker:** Yes.

Let's . . . can we just move on to the Bill, because the hour is getting late.

**The Premier, Hon. W. McKeever Bush:** The hour is getting late, Madam Speaker, but this Member has a right to reply to what that Member said. That is what the debate is.

**The Speaker:** I am aware of that.

**The Premier, Hon. W. McKeever Bush:** And I crave your indulgence to make a few points—

**The Speaker:** [inaudible]

**The Premier, Hon. W. McKeever Bush:** —because the economy was introduced and how bad this Government is doing. And that is what I want to get onto next.

I am not going to get into that document that we do not know where it came from. I guess that came from the moon or someplace above.

**The Speaker:** Please continue, Mr. Premier.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, that Member has the audacity to talk about accomplishments? They have the audacity to talk about the economy and why we cannot get anything done?

The reason why we had to introduce fees at the level that we did was because of the debt that was left and is left by him going out there starting schools with no money, but committing the Government! No money to finish buildings, the one that we had to finish, the so-called Administration Building, with no money to finish it! We had to introduce . . . and the people of this country ought to understand that there was no money to pay for those things, and on top of their being no money and the large projects started and committed by them, there was also, Madam Speaker, a huge deficit of over \$80 million.

We should not have to go over this but, of course, the Member raises it to blame us to say why we put on the fees.

I wonder how they were going to do it, Madam Speaker. That is what he has not said. And what they will not say. They are not talking either, Madam Speaker, about the huge amounts of probably between \$30 million to \$40 million, if not \$50 million that is still outstanding in the payment for roads that they went and pushed through and gazetted. Now we have to pay for that.

And he has the audacity . . . See him walk out? That's his tactic, Madam Speaker. Get up there and shout you down, and then get out there and say McKeeva Bush is a dictator, and then walk out when you try to sensibly show him the right way that he should be on.

And, of course, their modus operandi and long suit has always been to spend money which they do not have! And—

*[Inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** Of course. And walk away from that too.

So, Madam Speaker, yes, the economy is in terrible shape. Thank God that some things are peeping the way up. He did such a poor job in the economics of the country because he took the financial industry away from the Financial Secretary and he and someone else was running it. Nothing was done, people ran out of the country, business ran out, we were blacklisted by the OECD; the international world was beating down on us. I had to travel, sit around the table and still try to calm things down for this country. Get cussed, get talked about, and get blamed for spending money because I had to be at the table outside of this country to defend and to keep calm and to try and bring business in this country.

No—

*[Inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** Yes, they say.

Getting us blacklisted was an accomplishment. Starting a school that I don't know what they were thinking about is an accomplishment. Building roads through the bushes, never paid for it, gazetted it, that's an accomplishment. The country has to pay for these things. And it was at the worst time on top of that. On top of that when it was so glaring, Madam Speaker, and the television was screaming at you that the economy of the world was going down, their leader said when Lehman Brothers was going down, "Oh, that only cost us \$200,000." I reckon it did!

Madam Speaker, when they come to talk about the economy which I have some responsibility or most responsibility to get things done. Yes the economy is in bad shape but don't get up there and

talk about they had it good. What good, when we were pointing out all these things that I am now talking about? You know what? You know what he said? "Not on the kindest of mornings would I listen to you." Mm-hmm.

Thank God tourism is moving in the right direction. The financial industry is turning around, and if I got nothing else done and if the elections were called tomorrow and I was kicked out, shot out or whatever, Madam Speaker, I can look back and say that I have stabilised the finances of Government and that is one of the biggest triumphs for me because I am dead scared of devaluation of our currency. And when you have mounting debt and mounting loans like we have had, and no revenue to pay for it, and other bills to pay and other commitments to make, what is going to happen to your dollar? What else is going to happen to your dollar? I have stabilised that. As of this month I can say we have. We have a surplus!

Anyone can say anything they like; but that is an accomplishment that this country should be glad for in this economic environment that we have. So, when they come to talk about the economy, let them tell the truth, Madam Speaker, and tell the country. Admit the role that they played in the destruction of the economy by turning away business, by running people away, closing down the industry virtually, letting the business go to Canada, letting it go to Luxemburg, letting it go to Ireland. And so it went, and revenue dollars went out of the country, and on top of that, unemployment rising. They did not seem to understand that. I have to deal with it and, by God, no one can say that I am not trying to deal with it. But every step of the way, while he gets up here and screams about the economy, they get on the radio show and say that what I am doing is wrong.

They are like that person that I like to give this analogy, Madam Speaker. The people that burned down the fire station are the people who sit on the sidewalk and say, *What in the world is Government doing about that?*

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

Minister for Education.

*[inaudible interjection]*

**Hon. Rolston M. Anglin:** Madam Speaker, thank you.

*[inaudible interjection]*

**Hon. Rolston M. Anglin:** This Bill that stands before the House for debate is one that is important to the country, important for us as we move forward in holistically trying to stabilise our economy, our communities, because we know that public safety, or lack thereof, poses real risks to the Cayman Islands.

As Government, we must do everything that we possibly can to make our community as safe as

possible and to ensure that our law enforcement officers have as many tools as possible to be able to carry out their duties. So, I believe that the Honourable Deputy Premier has done a very good job ensuring that the public understands, the House understands, clearly why this amendment is needed to facilitate a much bigger initiative and concern.

Madam Speaker, I have been very careful over the last few years about how much I get into the debate surrounding energy policy. And obviously, tied into that is how we go about producing electricity for the consumers of this country and trying to license entities to do it in a way that provides the greatest protection for consumers, but also being fair to anyone who is going to be involved in that business to ensure that they have a framework in which they can operate and obviously make a profit, for the private sector must have the opportunity to do that, otherwise, why would they be in business.

But, Madam Speaker, as I listened carefully to the debate as it unfolded today, and I reflected on the fact that I was a part of the original negotiating team that was established to have dialogue with CUC and eventually led to a Heads of Agreement being signed, I am forced to offer my perspective as to what happened and where that was leading, versus the outcome, the ultimate outcome, that is, the Agreement that was eventually signed by the previous administration.

Madam Speaker, much patting on the back has occurred on the part of the previous administration and their accomplishment. But a number of things have been carefully omitted. First of all, Madam Speaker, it needs to be clearly put on record that one of the most painful processes in the negotiation was for us to drive home the point and get agreement that a guaranteed rate of return on capital investment would no longer be the order of the day, and that we were going to have a new paradigm exist as it relates to how the electricity generation business would be regulated.

Now, Madam Speaker, as we all would know, reaching a Heads of Agreement is an important milestone in any process because it sets in place the framework around which we will seek to establish the final agreement. However, Madam Speaker, to make the bold leap that the Heads of Agreement, or any heads of agreement, automatically means that any point not covered is not going to be covered, or when a specific position is stated, that that is the final position that is going to rule in the final agreement, we all know this is simply not the case.

Very material things can happen between signing a heads of agreement and the final agreement which could cause either side to change their view, introduce something new, or delete an idea in their heads of agreement as a concept and, therefore, having a material impact on where the final heads of agreement arrives at.

Madam Speaker, after signing their Heads of Agreement we wind up in a scenario . . . or, sorry, in between the Heads of Agreements being signed and we getting to a final agreement, we wind up in a scenario where we have a massive storm hit the country, Hurricane Ivan. How that impacts your final agreement, naturally, [there] is going to be material.

Madam Speaker, a point that was raised by my colleague, the Third Elected Member for West Bay, and one that cannot be lost as we debate this topic, is the fact that ultimately when we are going to go to the new model in which the rate of return would become the order of the day. How we negotiate and agree what the base would be from which all future increases, et cetera, would be calculated is very, very important.

I clearly remember being in the committee of which the Third Elected Member for West Bay was the chairman. Certainly, he took the lead and led the negotiations and participated, certainly in a lot more of the final details than others who served on the group would have done. But I clearly remember us having many, many difficult discussions with CUC about what would be permissible in the final rate base, because we knew that over the years with the old agreement they had an incentive to expend as much money as possible on capital expenditure items. But not only the actual acquisition costs, but also the labour costs associated with the acquisition costs.

So, for example, when they were going to capitalise the dollar amount for the cable under question, not only would they have been allowed under the old paradigm, Madam Speaker, to include the actual purchased price, but they would also be allowed to capitalise certain labour and other direct related costs that under the old agreement would have been allowable as capitalised items and a formula for how you capitalise.

So, Madam Speaker, to make a long story short, you are allowed to not only capitalise the purchase price, but what it takes to actually bring an asset to a ready and useable state. So you cannot just capitalise, for example, the cable or a generator, because the generator in and of itself cannot do anything; it must be installed. It must be tested, and then it is brought on stream. So, under the old regime there were a lot of games that could be played at the monopoly with labour and other ancillary materials and items and how they would be capitalised.

So, we clearly knew we had our work cut out for us, as it related to how you would pick the ultimate true and come to the ultimate true rate base that CUC should have started from in a new rate of return model. Lots of discussion surrounded things like, *Well, have these assets been depreciated?* Do we have . . . were there still certain assets that would have been a part of that rate base that, at this point in time, should be excluded, and what should be the dollar value of that exclusion?

Madam Speaker, I say all of that quite simply. But the fact of the matter is that in changing the paradigms that should have been the key point of negotiation and where work and energy went in, because the point the Government has made, even from 2006 and 2007, as the former Minister negotiated with CUC, was what work was being done to ensure that you do not just follow the model that we as a negotiating team had gone down, but what work was actually being undertaken to ensure that that base rate was appropriate in the first instance.

You see, Madam Speaker, in simple terms, if CUC said the rate base should have been \$100 and, therefore, all increases in the future would be based off \$100 and what that \$100 translated into in an actual rate, if that was their claim, but the true position should have been \$75, naturally, whatever future percentage increases that the company was satisfied with would change.

So, if you did a sloppy job or an incomplete job at ensuring that the correct rate base was established, then, naturally, CUC would be agreeable to a very different increase mechanism and rates. Hence, the reason the Honourable Leader of the Opposition has said in one section, for example, when they supposedly had a comparative study done of the old heads of agreements versus their final agreement; that in our Heads of Agreement there was a range and the range was in there, Madam Speaker. Because we clearly understood that depending on what negotiating happened around the rate base, that would greatly determine and drive the ultimate model and percentage increases that we would have been agreeable to.

So, let's draw it back to the very simplistic \$100 example. If on \$100 CUC agrees that in the future they would accept with certain triggers and mechanisms kicking in 5 per cent, now, that 5 per cent two years down the road plus the \$100 rate base means now \$105.

If we as a negotiating team negotiated differently on the rate base and got them to agree that the rate base was \$75, naturally, a 10 per cent increase (if you are going to compare just the percentages) would look as though it was a worse deal. But the fact of the matter is, you put everything else being equal, 10 per cent on the \$75 means you are only going to see a \$7.50 increase, which only takes you up to [\$]82.5 three or four years out. And that is still a vast superior rate to be able to charge customers, than the \$105.

So you see, Madam Speaker, this whole game that the Opposition is playing with trying to compare percentages without clearly explaining to the public, how they did negotiate and what ultimately was the rate base that they agreed versus where we, as a committee were heading. And I can say that that is ultimately . . . for us, we knew that that was where the rubber was going to meet the road.

There are loads of other important aspects to negotiations, but when it came to what ultimately the

end price to the consumer would be, what was allowed to be, as they say in the industry, gold plated, would be what was most important to us.

The point that the Third Elected Member for West Bay has continually made is that we believe the final rate base that was agreed by the previous administration was flawed and faulty. So, if that is accurate, once you start trying to apply the percentages that they got CUC to agree to, those become really irrelevant and you are no longer now comparing apples with apples. So, Madam Speaker, that is a crucially important point in this negotiation.

The other point is this whole issue as it relates right now to what we are debating in terms of this entity and this fibre network that was laid. As I understand it, Madam Speaker, that too was included in the rate base that ultimately our consumers would have to pay for. So, Madam Speaker, it is about that type of detail. What would have been included or not included that ultimately is our cause for criticism or one of the main points of our cause for criticism as it relates to the final agreement that was reached with CUC by the previous administration.

Madam Speaker, I must say that it would be remiss of me if I did not comment very briefly on the state of play in our Legislative Assembly. Madam Speaker, I have been here over a decade now. I have never, ever, in my 10 years seen the Chair challenged, insulted, improper motives . . . and let me be clear, the ultimate improper motive for the Chair to ever be accused of is to not allow Members of the House to have the opportunity to have full and frank debate, because, ultimately, that is the key duty of the Chair in any legislature—to protect the rights of all Members of the House, and ensure that within the confines of the rules of debate, and the rules of the House and the Standing Orders, that those rights get protected so that Members can have as much latitude and freedom.

The Honourable Leader of the Opposition, in very typical PPM style, is now going down the road of repeating something over and over and over in his hope that it will be like 2005, that if they say it enough, and say it long enough, the people will believe it. In my mind, Madam Speaker, this point . . . he said it about three times in this House; he said it at the opening of the Parliamentary seminar recently for Speakers, Presiding Officers and Clerks; he said it at the Youth Parliament; he said it on the radio, so I have listened to it carefully. He keeps chomping on at the bit about the House becoming irrelevant.

Madam Speaker, that Member well knows that Houses of Assembly, Parliaments and Legislatures have become more and more irrelevant in many countries, not just the Cayman Islands, from the standpoint that a lot of us have failed to do things in certain ways to engage the community in ways in which the community wants to be engaged.

For example, right now we do not carry our debate live. It is tape delayed and carried just on ra-

dio. From 2001 we moved a motion seeking to have the proceedings in this House carried on television. That, from then, was an acknowledgment that what was happening in this House had become less relevant than we wanted it to be. But, obviously, this is one of his campaign underpinnings. So this is one of the strategies that we are seeing unfolded before our very eyes.

So, the Honourable Leader of the Opposition is going to say time and time again that the House is irrelevant, the House is irrelevant, the House is irrelevant. And then he is going to challenge the Speaker time and time again because I saw him and the former Leader of the Opposition do this to perfection in 2001 and 2002 to the point where the current Deputy Premier (who was Speaker at the time) was forced to name them so that they could get public sympathy.

Madam Speaker, you and the Clerk need to continue to study Standing Orders to ensure that Members not only have their rights, but execute their responsibilities that come with those rights. We do not have unfettered rights in this House. That is why we have Standing Orders. None of us has the right to do and say anything as we please as the Leader of the Opposition seems to have implied a few minutes ago.

We have rights, yes; but we also have serious responsibilities as Members of this House. I say, from where I have sat and observed for the last few weeks in this House, the point that I would like to introduce and interject at this point is that perhaps you and the Clerk are too lenient on some Members of this House and they get too far down the road and then when you have to stop them they start crying foul and saying that they are being abridged. I have not seen any Member of this House unfairly abridged in terms of their rights under the Standing Orders.

Madam Speaker, I am also saying that this House needs to get back to another practice where we expunge certain materials from the permanent records of the House if they are inaccurate and historically will skew anyone who comes along and then reads them. Because, Madam Speaker, on this day 10, 15, 20 years from now, we do not know who is going to be reading the *Hansards*. They would not have been here to observe; they would not have been here to be informed Members of the House to know how the current set of Standing Orders under which we operate was meant to operate, because by then the Standing Orders might be very different.

Any reader of one of the most important pieces of history in this country—our *Hansards*—is going to be led . . . could potentially (I should say, Madam Speaker) be led to believe that you, as Chair—the Chair, and in this instance you are the presiding officer who resides in the Chair—in some way was systematically not allowing the Opposition to have their rights under the Standing Orders.

So, Madam Speaker, I believe that we need to be very careful about how history is going to record

these today, but in particular what I see unfolding now as a real pattern of behaviour.

Madam Speaker, this House, anyone who has listened to me over my decade here, I may disagree with what Members say; I may go at it hard in debate. But, Madam Speaker, if there is one thing that I have been very, very careful to do over my years here, it is not to impugn the Chair in any way. When we do that as Members of the Assembly, we should come the next day with a motion for a new presiding officer. If the Leader of the Opposition truly believes what he said earlier today, he should come to this House with a seconder to have you as Chair, to have you as Speaker and presiding officer, changed.

He has said it time and time again. I have listened to the Member very carefully. I have been around here 10 years. I think I have a very good idea—as the old people would say in Cayman, “a notion”—as to the motives of the Honourable Leader of the Opposition. And in this instance it is not serving this House any good whatsoever.

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

**The Speaker:** Minister for Education, I need to have a motion to continue.

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

**Hon. Rolston M. Anglin:** Madam Speaker, pursuant to the relevant Standing Order, I move that the House be allowed to continue to sit beyond the normal hour of interruption of 4.30

Madam Speaker, pursuant to Standing Order 10(2), I move that the House be allowed to continue to sit beyond the ordinary hour of interruption of 4.30 pm.

**The Speaker:** The question is that the House be allowed to continue under Standing Order 10(2) beyond the hour of 4.30 pm.

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

#### **Ayes and one audible No.**

**The Speaker:** The Ayes have it. The House will continue.

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

**Hon. Rolston M. Anglin:** Thank you, Madam Speaker.

So, Madam Speaker, I know that my latter comments have not been on the subject matter, and I admit that. But, Madam Speaker, as a Member of this House, I believe that at all material times we are duty bound to ensure that everything that happens during the course of debate is properly dealt with so that we as a House can continue.

### Motion to Expunge

**Hon. Rolston M. Anglin:** Madam Speaker, while I am on my feet, I need a bit of guidance from you and the Clerk because I move, under the relevant Standing Order, that the comments made by the Honourable Leader of the Opposition as it relates to his rights being abridged in this House, his rights to have free and fair debate, be expunged from the record of this sitting of this Legislative Assembly.

**The Speaker:** Madam Clerk, can you find the relevant Standing Order please?

*[Pause]*

**The Speaker:** I will suspend the House for five minutes. I would prefer if Members would stay in the Chamber please.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, is the House suspended?

**The Speaker:** I am suspending the House for five minutes so that we can find the proper Standing Order; the Clerk can have time to find it.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** I wish, Madam Speaker, for you to consider another Standing Order in connection with that, that's why I asked whether the House was already suspended. It is, Madam Speaker—

**The Speaker:** The House is suspended for five minutes. I don't know whether you want to wait until after the suspension is over.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** That's fine. I would like you to consider this during the suspension, Madam Speaker. It is Standing Order 24(5): “(5) **Subject to the exceptions specified in paragraph (9), no Member shall make a motion unless he has given notice in writing of that motion either at some previous sitting of the House, or to the Clerk, not less than five clear days prior to the commencement of the meeting of the House at which such motion is to be made.**”

*[inaudible interjection]*

**Hon. Rolston M. Anglin:** Madam Speaker, let me repeat what I said, because I do not think the Honourable Leader of the Opposition may have been seated when I made it.

*[inaudible interjection]*

**Hon. Rolston M. Anglin:** I said—

Well, if he was, then his hearing may not be as good as it used to be.

I made it very clear that I wanted guidance from you and the Clerk because I was moving a motion which I knew I could not without getting the relevant clearance.

[Standing Order] 24(5) deals with notice but also there is another issue as to what specific motion you use to have certain items expunged from the permanent record of this House, hence the reason I took my seat quietly, Madam Speaker, because I would rather have yourself and the Clerk given every opportunity to consider it.

**Proceedings suspended at 4.35 pm**

**Proceedings resumed at 4.55 pm**

**The Speaker:** Proceedings are resumed.

**Hon. Rolston M. Anglin:** Madam Speaker, just prior to you taking the suspension I craved your indulgence as Chair and I made a request that you and Madam Clerk research the Standing Orders to find the relevant section to which I could move a motion. However, Madam Speaker, the Clerk has reliably informed me from her research that the last such occurrence in this honourable legislature was in 2003.

At the time the Member requesting did not move a motion, as such, and simply brought the matter to the attention of the Chair and that the Chair was allowed in his judgment as to whether or not the words spoken would be expunged from the permanent record of the House.

Madam Speaker, certainly I believe, as I said, that the words spoken earlier, if allowed to be a part of the permanent record of the House, will certainly give the distinct impression and leave as a point that you, as the person presiding at this point in the Chair of this Legislative Assembly, were not adequately protecting Members of the House, or in some way [you were] directly infringing upon the rights of Members so that Members could not fully and frankly debate matters in this House.

Madam Speaker, I have observed the proceedings over the last several meetings, and certainly in particular in this meeting, the last few sittings. And this seems to be a constant theme and rallying cry now of some Members of the House. And, Madam Speaker, unless a Member can prove and show that his rights are being infringed and, indeed, if that is the case, he should be moving a vote of no confidence in the Chair, because that is ultimately the greatest duty of the Chair—to protect the rights of all Members of this Legislative Assembly, whether they be Government, Opposition, Official or Independent Members.

Madam Speaker, I am therefore bringing to your attention what was said earlier. And I am certainly, as a Member of this House, requesting that you, by order, expunge the references made earlier by the Honourable Leader of the Opposition that his rights in this House were being curtailed and the rights of the

Opposition were being curtailed in such a way that they could not fully and frankly debate, including debate on matters that they ought to be included.

Madam Speaker, I would like to also bring to the attention of the Chair that in your research . . . because as I understand it, you are going to research and ask and request the Members of the Opposition to be able to provide you with evidence, as it relates to a memorandum that has been circulated in this House and the Heads of Agreement that were formulated in 2004. But, Madam Speaker, I would draw your attention to the fact that this memorandum—the one that is in my possession, that has been circulated—is an unsigned memorandum.

So, Madam Speaker, with this memorandum—which is supposedly a cornerstone piece of evidence that the Opposition needed to be allowed to present to this House to prove their case—I would ask that in your consideration of this matter you pay close attention to the fact that there is no signature. Anyone could have typed up what I see here—anyone. This is a simple document that is on Word, no initials on the pages, no signature; it simply has someone's name on it.

Madam Speaker, the last thing I would like to add before taking my seat is the fact that in the process that led up to the Heads of Agreement, I clearly remember much discussion around what is called OTEC (I think it stands for Ocean Thermal Energy Conversion); solar and wind energy.

Now, Madam Speaker, I certainly cannot explain why apparently. Certainly, if you read this memo that was purportedly prepared by the Secretary to the negotiating team—

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, on a point of order.

**The Speaker:** Leader of the Opposition?

#### POINT OF ORDER

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, I was expressly stopped from referring to the memorandum to which the Minister of Education is now consistently referring. And I would just bring that to your attention, with the observation that the same rules or principles which prevented me from referring to it must, I believe, apply to him as well.

**The Speaker:** I asked you for the source of that because you were quoting directly from the document.

Minister of Education, I think we can leave that memorandum, though, and move ahead with whatever else you have on your mind this afternoon.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, this matter of documents in the House needs a little clarity to it.

My understanding is that when a Minister rises with a document he has a right to have that document. That is a Government document. When someone else rises with it, they should be able to say what that document is. They should be able to provide the Speaker with a copy of the document, [and] they should be able to say where the document comes from.

That, Madam Speaker, I know is a fact. That is in Erskine May. While our Standing Orders are silent on a lot of things, Erskine May deals with Government records, Government documents.

**The Speaker:** Mr. Premier, that is why I did not allow the document. Nobody could tell me where it had come from.

**The Premier, Hon. W. McKeever Bush:** That's right.

**Hon. Rolston M. Anglin:** Madam Speaker, obviously, as it relates to the matter of this memorandum, I certainly have every right to inquire of any Minister for any matter that they have in their possession for which I want information. I am bound collectively by the same oath of secrecy that they have taken.

But, Madam Speaker, I think the House ought to be very clear now, certainly at the interjections thus far about the MO (modus operandi) in which this purported memorandum was going to be used, and the way in which it was used and started to be used.

I will clearly say here, Madam Speaker, that at the end of the day I know of a number of important pieces of negotiation like renewable energy, et cetera, that were discussed at our committee level, some of which were not as expressly put in the final Heads of Agreement, as some may say should have been there, if you take a look back. But that is not to say that those were not clearly put on the table as key points for future policy.

We even had clear debate and discussion in the committee about waste-to-energy, because a lot of research had been going on around that, and the same Third Elected Member for West Bay, my colleague, was also intimately involved with that process from back then. So, I know that there was deep discussion around those topics.

Now, Madam Speaker, just because some of them do not wind up in the Heads of Agreement does not mean that we as a Government were not pursuing those areas.

Madam Speaker, I say all of that to say that at the end of the day what the previous minister and his colleagues, I believe, have not fully appreciated about the criticisms that have been laid at their feet in terms of negotiations is whether or not the bottom line base rate negotiated was a good deal or not, and what flowed from that will naturally impact what sort of percentages CUC would have accepted.

Madam Speaker, I believe my colleagues have done a good job of clearly pointing out why we

ought to not be thumping our chests today about this particular item and the fact that it was included in the rate base and it ought not to have been because it was not surrounding the principal activity of Caribbean Utilities Company, that is the provision of fibre optic cabling.

But, Madam Speaker, if the Opposition believes that that was the best route and way to go and the way in which a rate base should have been calculated then that is their view. I say that this Bill needs the support of all of us as Members of this Honourable House because it is going to lay the groundwork for very important national security matters.

Thank you, Madam Speaker.

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

If not, I am going to call on the mover of the Motion to reply.

**The Deputy Premier, Hon. Juliana Y. O'Connor-Conolly:** Thank you, Madam Speaker.

When I first started, several hours ago now, it was a Bill for a Law to amend the Information and Communications Technology Authority Law and I am happy to now reply that I believe we are still on the same Bill. And in light of the fact that time is of the essence and this Bill is most important in the prevention of crime and with the establishment of law and order in the jurisdiction, I will only thank Members for their contribution. And may the administrators who have been anxiously awaiting to put the CCTV cameras in place, but only can do so after the passing of this legislation, may we now proceed with the business of the House?

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

The question is that the Information and Communications Technology Authority (Amendment) Bill, 2011, be given a second reading.

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

**Ayes.**

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

**Agreed: The Information and Communications Technology Authority (Amendment) Bill, 2011, given a second reading.**

**The Speaker:** The House will now go into committee to consider the Bill.

#### House in Committee at 5.12 pm

**The Chairman:** The House is now in Committee. Please be seated.

With the leave of the House, may I assume that, as usual, we should authorise the Honourable Second Official Member to correct minor errors and suchlike in this Bill?

Will the Clerk please state the Bill and read the clauses?

### COMMITTEE ON BILL

#### Information and Communications Technology Authority (Amendment) Bill, 2011

**The Clerk:** The Information and Communications Technology Authority (Amendment) Bill, 2011.

Clause 1 Short title

Clause 2 Amendment of section 2 of Information and Communications Technology Authority Law (2010 Revision)—definitions

Clause 3 Amendment of section 23 Information and Communications Technology Authority Law (2010 Revision)—licences

**The Chairman:** The question is that clauses 1 through 3 do stand part of the Bill.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 1 through 3 passed.**

**The Clerk:** A Bill for a Law to amend the Information and Communications Technology Authority Law (2010 Revision) so as to grant limited power to the Governor in Cabinet to exempt companies from certain licence provisions of the Law; and for incidental and connected purposes.

**The Chairman:** The question is that the Title now stand part of the Bill.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Title passed.**

**The Chairman:** The question now is that the Bill be reported to the House.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Bill to be reported to the House.**

**The Chairman:** The House will now resume.

**House resumed at 5.15 pm**

**The Speaker:** Proceedings are resumed, please be seated.

## REPORT

### Information and Communications Technology Authority (Amendment) Bill, 2011

**The Clerk:** The Information and Communications Technology Authority (Amendment) Bill, 2011.

**The Speaker:** Honourable Deputy Premier.

**The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly:** Thank you, Madam Speaker.

I have to report that a Bill shortly entitled the Information and Communications Technology Authority (Amendment) Bill, 2011, was considered by a Committee of the whole House and passed without amendment.

**The Speaker:** The Bill has been duly reported and is set down for Third Reading.

### Suspension of Standing Order 47

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, I move the suspension of Standing Order 47 to enable the Bill on the Order Paper to be read a third time.

**The Speaker:** The question that Standing Order 47 be suspended to enable the Bill on the Order Paper to be read a third time.

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

**Ayes.**

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

**Agreed: Standing Order 47 suspended.**

## THIRD READING

### Information and Communications Technology Authority (Amendment) Bill, 2011

**The Clerk:** The Information and Communications Technology Authority (Amendment) Bill, 2011.

**The Speaker:** Honourable Deputy Premier.

**The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly:** Thank you, Madam Speaker.

I move that a Bill shortly entitled the Information and Communications Technology Authority (Amendment) Bill, 2011, be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled the Information and Communications Technology Authority (Amendment) Bill, 2011, be given a third reading and passed.

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

**Ayes.**

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

**Agreed: The Information and Communications Technology Authority (Amendment) Bill, 2011, given a third reading and passed.**

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

*[Inaudible interjections]*

**The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly:** Madam Speaker, while we are waiting, with your indulgence, I just wish to thank my staff from the Legal Department for assisting with this very simple piece of amendment.

*[laughter]*

**The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly:** And the Statutory Authority as well, and also for the cooperation and partnership of the Deputy Governor and Mr. Eric Bush in this regard.

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

## GOVERNMENT MOTIONS

### Government Motion No. 10/2010-11—Amendment to the Legislative Assembly Standing Orders (2006 Revision)

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

I beg to move Government Motion No. 10/2010-11—Amendment to the Legislative Assembly Standing Orders (2006 Revision), standing in my name.

**The Speaker:** Honourable Premier?

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

Government Motion No. 10 reads as follows:

**WHEREAS the Standing Orders are in need of Modernization;**

**AND WHEREAS the Government is desirous of revamping and augmenting the Public Account Committee;**

**BE IT THEREFORE RESOLVED THAT the attached proposed changes be referred to the Standing Orders Committee of the whole House.**

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

No, sorry, there is no debate.

The question is that the attached proposed changes be referred to the Standing Orders Committee of the whole House.

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

**Ayes.**

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

**Agreed: The amendment to the Legislative Assembly Standing Orders was referred to the Standing Orders Committee of the whole House.**

**The Speaker:** Honourable Premier.

**Government Motion No 11/2010-11—Draft Order to Effect Recommendations of the Electoral Boundaries Commission  
(Deferred)**

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

Earlier this morning I had indicated that we would deal with this matter on Monday, and that is what we propose to do, Madam Speaker. Therefore, I would ask that this be carried over for the next Order Paper for Monday, 11 April 2011.

**The Speaker:** There is no further business on the Order Paper. Can I have a motion for the adjournment please?

**Hon. Aiden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, if I could just inquire of the Premier, in relation to the motion which was just moved, that referred the question of an increase in the membership of the Public Accounts Committee to the Standing Orders Committee, a standing select committee of the whole House, I wonder if the Premier could indicate when—

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I had intended to do that when I was going to move the adjournment.

**The Speaker:** Mmm.

We need to address each other by titles, please.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I guess out of an abundance of caution I had better move that item 2, Government Motion No. 11, be carried over to the next Order Paper which, as I said, stands for Monday, the 11<sup>th</sup> at 10.00 am, God willing.

**The Speaker:** The question is that [item] number 2 be carried forward to the Order Paper on Monday, April 11<sup>th</sup>.

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

**Ayes.**

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

**Agreed: Government Motion No. 11/2010-11 (item 2 on today's Order Paper) carried forward to the Order Paper of Monday, 11 April 11, 2011.**

**The Speaker:** I call for the motion for the adjournment now.

## ADJOURNMENT

**The Premier, Hon. W. McKeever Bush:** Thank you, Madam Speaker. I am glad to move the adjournment of this honourable House until 10.00 am, Monday next, God willing.

Madam Speaker, what I would ask is if Members would agree to come to a meeting of the Standing Orders Committee of the whole House at 9.00 so that we can deal with the matter just referred to it; that is 9.00 Monday morning, we would deal with that matter.

**The Speaker:** The question is that this House do now adjourn until 10.00 am, Monday, 11 April 2011. And I will add a reminder into that adjournment motion that the House meets at 9.00 Monday morning to consider Motion number 1, the amendment to the Legislative Assembly Standing Orders.

**The Premier, Hon. W. McKeever Bush:** No, no.

**Hon. Rolston M. Anglin:** No.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, no, the House meets at 10.00 am.

**The Speaker:** The House meets at 10.00 am?

**The Premier, Hon. W. McKeever Bush:** Yes.

**The Speaker:** But you have asked that all Members of the House meet as a committee—

**The Premier, Hon. W. McKeever Bush:** Yes.

**The Speaker:** —at 9.00.

**The Premier, Hon. W. McKeever Bush:** Yes. A committee of the whole House.

**The Speaker:** At 9.00.

**The Premier, Hon. W. McKeever Bush:** At 9.00. That meets in the committee room, Madam Speaker, to deal with the Standing Orders.

**The Speaker:** Revision.

Thank you.

All those in favour of adjourning the House please say Aye. Those against, No.

**Ayes.**

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

**At 5.25 pm the House stood adjourned until 10.00 am, Monday, 11 April 2011.**

