

OFFICIAL HANSARD REPORT
MONDAY
10 JANUARY 2011
10.55 AM
Tenth Sitting

The Speaker: I call on the Honourable Minister of Education to say Prayers this morning.

PRAYERS

Hon. Rolston M. Anglin: Let us all bow our heads and hearts. 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: Good morning everyone. Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I have only one message. I have apologies from the First Elected Member for Cayman Brac and Little Cayman who will not be here today.

**PRESENTATION OF PAPERS
AND OF REPORTS**

Ownership Agreements / Annual Reports for Cayman Islands Health Services Authority for the years ended 30 June 2004, 2005, 2006, 2007

The Speaker: Honourable Minister for Health.

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

I beg to lay on the Table of this honourable House the Ownership Agreement Annual Reports for the Cayman Islands Health Services Authority for the year ended 30 June 2004, for the year ended 30 June 2005, for the year ended 30 June 2006, for the year ended 30 June 2007.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereto?

Hon. J. Mark P. Scotland: Yes, Madam Speaker, very briefly.

Madam Speaker, in accordance with section 52(5) of the Public Management and Finance Law (2005 Revision) (PMFL), it pleases me today to place before this honourable House the Annual Reports for the Cayman Islands Health Services Authority for fiscal years 2003/2004, 2004/2005, 2005/2006, and 2006/2007.

Madam Speaker, the Health Services Authority was established on 1 July 2002 and has, no doubt, faced numerous challenges transforming from a Government Department to an Authority, and had very compressed time of just five months to address legal, administrative, human resource, financial and other operation issues during the establishment instead of a time span of one and a half years as was originally planned.

At the time of a change to an Authority the financial infrastructure was not fully created to handle the diverse and dynamic organisational structure which was required to support this transition. Coupled with the high turnover of key management personnel, such as the chief executive officer, chief financial officer, medical director and human resource director, meant that the organisation was at a significant disadvantage.

Madam Speaker, the reasons outlined led to the Annual Reports for years 2003/2004, 2004/2005, including no financial records, thus no audit could

have been conducted. Annual Reports presented for 2003/2004 and 2004/2005 only provide the approved budgeted allocations which were given to the Authority.

The 2005/2006 Annual Report outlines the five key strategic goals that were established to achieve financial sustainability which were part of a five-year strategic plan implemented by the Board of Directors. The five key goals were as follows:

- 1) To establish policies and procedures to ensure fiscal accountability and responsibility throughout the Health Services Authority.
- 2) To establish a competitive key structure for all services provided.
- 3) To establish effective information systems to support management decisions.
- 4) To establish procedures to ensure fees for all services are collected.
- 5) Develop programmes to enhance revenue.

The 2005/2006 Annual Report includes financial records for the fiscal year 2005/2006 which state that the Health Services Authority recorded a loss of \$15 million. Government's total investment in operations for 2005/2006 was \$11.9 million. However, the Board of Directors has subsequently implemented strategies to eliminate the need for equity injections for operating loss while establishing its financial position.

Madam Speaker, the board and management have continued to focus on improving the financial performance of the organisation during 2006/2007, and in the 2006/2007 fiscal year the Authority recorded a loss of \$14.1 million.

The Government's total injection into the HSA amounted to \$16.7 million, of which \$2.5 million related to capital purchases.

Madam Speaker, I feel I should also add that going forward the HSA has developed a financial action plan in 2010 in which four identified priorities will be undertaken which will allow them to achieve full compliance with all the requirements and remove all disclaimers from future financial statements in 2011/2012.

The four key areas are:

- 1) Revenue management to improve financial management and revenue enhancements.
- 2) Inventory controls: Implementation of an effective integrated inventory management system to manage and track the procurement, inventory and distribution of supplies.
- 3) Affix assets valuation to determine the true value of all assets owned by the HSA.
- 4) Policy establishment for retiree benefit plans to determine the true values liability

which previously was not an HSA obligation.

Madam Speaker, in closing I would like to thank the board under the chairmanship of Canover Watson and the management of the Health Services Authority, under the stewardship of Mrs. Lizzette Yearwood, for their hard work in producing these annual reports. I invite Members of this honourable House and the public to review these reports in detail.

Thank you, Madam Speaker.

The Speaker: Thank you, Honourable Minister.

Are there any questions on these reports?

If not, let us move on to the next set of reports.

Annual Report of the Office of the Auditor General for the Year ended 30 June 2010

The Speaker: Chairman of the Public Accounts Committee, the Elected Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, I beg to lay on the Table of this honourable House the Annual Report of the Office of the Auditor General for the Year ended 30 June 2010.

The Speaker: So ordered.

Does the Member wish to speak thereto?

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

Only to congratulate the Office of the Auditor General for meeting the requirements of the Public Management and Finance Law and receiving a clean bill of health from the external auditors, PriceWaterhouseCoopers.

The Speaker: Thank you.

Are there any questions on this?

Shall we proceed?

Financial and Performance Reporting—General Report of the Auditor General 2010

The Speaker: Chairman of the Public Accounts Committee, the Elected Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, I beg to lay on the Table of this honourable House the Financial and Performance Reporting – General Report of the Auditor General 2010.

The Speaker: So ordered.

Does the Member wish to speak thereto?

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

I believe it is important to take some time to highlight some of the aspects of this Report and to again remind the Government of its responsibility to ensure that proper and complete accounts are pre-

pared, audited, and reported to this House where they are made public to facilitate public scrutiny and for the public to have some comfort that the people's money is being spent wisely and effectively for the purposes for which this House has authorised it.

Madam Speaker, in the Executive Summary, the Auditor General states, and I quote, **“Financial statements and annual reports that contain them need to be timely, useful and credible in order for them to be of use to decision makers and effective as accountable documents.”**

He goes on to say, **“At this time, I conclude that some progress has been made in restoring financial accountability; however, the Government still has a significant way to go before it is fully restored. Progress has been made in clearing the backlog of financial statements and it is expected that by the end of February 2011, apart from a few exceptions, that all entity financial statements up to and including 2009/10 will have been presented and their audits completed. I am also able to conclude that, apart from a few exceptions, the reliability and quality of the statutory authority and government company's financial statements is reasonable, with visible progress being made to restore the financial accountability.”**

He goes on, Madam Speaker [to say], **“However this progress cannot hide that the usefulness of the financial statements for earlier years for most entities, but in particular for ministries and portfolios, is very limited due to their lateness and the unreliability of the information they contain. There are still significant challenges in restoring overall financial accountability, mainly (but not solely), in relation to the ministries and portfolios and the consolidated government position.”**

He says, that in his opinion **“Finance officials in the Government should have taken the opportunity since my Office's report on the State of Financial Accountability in April 2010 to provide more effective leadership and stronger strategic direction to the ministries and portfolios. A significant amount of time, effort and money has continued to be expended by ministries and portfolios in bringing their financial statements for previous years up to date. It is my view that these resources could have been more effectively deployed to provide more current financial reports that would have been more useful for Members of the Legislative Assembly and for public accountability.”**

“Government still has the opportunity to look strategically at clearing the remaining backlog of ministry and portfolio financial statements and addressing the backlog of the consolidated Government financial statements. There is also the opportunity to set out a clear strategic direction for maintaining financial accountability going forward, including:

- **establishing clear leadership at the highest level for financial reporting and accountability across the public sector;”**

Now, Madam Speaker, this is particularly concerning to me as Chairman of the Public Accounts Committee, in that some nine years after the Public Management and Finance Law was first enacted on 22 September 2001, there remain questions over leadership and responsibility. In my view, the Law is quite clear and specific who is responsible for the leadership. And my disappointment is that the relevant authorities have not held those people to account.

The second strategic thing that he raises is to:

- **“formally suspend in the requirements of the Public Management and Finance Law to report on outputs and prepare full quarterly reports as an interim measure, until financial reporting has stabilized and overall financial accountability has been restored;”**

Madam Speaker, this was agreed as early as June 2009 with the Financial Secretary at the time. It is difficult for me, as Chairman of the Public Accounts Committee, to comprehend how the Government of the day and the legislating drafting department can have time to draft extensive legislation, such as what is before this House today, but cannot seem to find the time to draft what, in my view would be, a two clause bill which would suspend the requirements from outputs and quarterly reports and make it possible to finalise the backlog of accounts. Madam Speaker, until that is done, it is impossible to finalise any year of accounts since the Public Management and Finance Law was enacted.

So, I would ask the Government once again to put some urgency on making that minor amendment to the Public Management and Finance Law that allows for the temporary suspension of output reports and quarterly reports to allow the sign off on the backlog of accounts.

He also recommends:

- **“undertaking a comprehensive review of the Public Management and Finance Law to ensure that all the provisions within it are appropriate to the needs of the Cayman Islands Government and ensuring effective accountability.”**

And, Madam Speaker, it goes without saying that I support that because I brought a Private Member's Motion last year in April to do exactly that.

Madam Speaker, the Auditor General continued in his Report to place emphasis on **“Timely, accurate and reliable financial information is a fundamental component in ensuring the effective governance and accountability of government and public entities. Without this information”** (he claims) **“the decision making of the Legislative Assembly, the Government and public bodies is compromised as legislators and officials cannot:**

make effective and robust decisions regarding the allocation of resources; and, officials cannot effectively manage the resources at their disposal. Furthermore the Government and public bodies cannot be held accountable for how they have used public money.”

Turning to the section that deals with clearing of the backlog, Madam Speaker, the Auditor General makes it clear, as he did in his Executive Summary, that while some progress has been made, there is much that leaves to be done.

In subsection 10 he says: **“In our April 2010 report,”** (which is his report) **“we highlighted that there had been no leadership to effectively deal with the backlog. Just prior to my start date as Auditor General, the Chair of the Public Accounts Committee (PAC) requested the Government’s financial officers to get their accounts up to date; however, there has been no clear central direction or action by Government to ensure that this objective has been met.”**

In 13 he says: **“None of the reports on the ministries and portfolios that have been issued in the last 8 months have been tabled in the Legislative Assembly; therefore, there is still no public accountability which is the objective of the exercise. This situation is unacceptable, in my opinion, as the accounts are still unavailable for public scrutiny.”**

In Appendix B of the Report he summarises the current the current status of financial accountability reporting in the Statutory Authorities and Government Companies (SAGCs). **“In summary, 10 of the 25 SAGCs have made progress to catch up with their reporting. While I can report there are only 5 of the 25 SAGCs fully up to date, many others have made great strides in preparing prior years’ financial statements and are much closer to being current than when we reported in April 2010. Whilst there are entities, including Cayman Airways and the Cayman Islands National Museum, that have made little visible progress in finalizing their financial statements for tabling in the Legislative Assembly, there has been significant effort and there are plans in place to move them forward.”**

He says, **“I would like to have seen more entities across the public sector taking a more strategic approach to bringing their accounts up to date. For example, while there are significant challenges for the Health Services Authority (HSA) to prepare financial reports that can be relied upon by a reader, it has taken a pragmatic approach and has decided to put in place a plan to bring the accounts up to date as quickly as possible and address the issues of reliability in more current financial statements. In taking a more strategic approach, the HSA has made significant progress in recent months to clear its backlog and is positioning itself to be in compliance with PMFL**

reporting requirements for the 2011/12 fiscal year.”

Submission of the 2009/10 Accounts: **“Only 6 of the 12 ministries and portfolios submitted their 2009-10 financial statements on time and in accordance with Public Management and Finance Law and 10 of the 25 SACGs met the 31 August deadline. . . .”**

Madam Speaker, that is after each and every one of the CFOs (Chief Financial Officers) and the COs (Chief Officers) of the public entities and the SAGCs gave a specific undertaking to the Public Accounts Committee as early as March 2010 that their accounts for the financial year ending 30 June 2010 were up to date, they were on schedule and that they would be presented in accordance with the Public Management and Finance Law before 31 August 2010.

“The requirement for submission of financial statements for audit by a due date is a key component for the financial accountability framework to ensure the timeliness of information available to Members of the Legislative Assembly and stakeholders. However, as the financial statements for 2005/06 through 2007/08 were so old to be of no use for accountability purposes, we recommended in our April 2010 report that the Government could have chosen, for example, to establish the opening balances in a more cost effective manner for recent years and brought financial reporting accountability up to date much sooner.”

“[18.] Based on commitments by Government officials, it is expected that almost all entities will be fully up to date with financial statements up to 2009/10 audited by my Office by the end of February 2011. The main exception to this is Cayman Airways which I expect to be fully up to date by the end of June 2011.”

“[19.] The Government has only tabled a few of the financial statements and annual reports that have been prepared and audited since our April 2010 report when we reported that there was a backlog of 73 reports not tabled. That number has increased to 94. In effect, by not tabling the reports in the Legislative Assembly, the information about the financial performance of these organizations remains unavailable for public scrutiny. The Government’s record of preparing and tabling of annual reports is of significant concern to me and is clearly not in compliance with the requirements of the PMFL or compatible with the principles of openness and transparency.”

Madam Speaker, in reviewing this Report, if Members look at the table on page 10, entitled “Audit opinions issued on ministries and portfolios” one will see the disappointing results of the audit. In this particular case, Madam Speaker, “A” is not a good grade; it is worse than a “D” or a “Q” and the only thing that should be acceptable by Members of this honourable House for 2011 is a “U.”

Therefore, on the basis of the opinions that the Auditor General has rendered so far, that are currently being finalised up to 2007/08, he says he can summarise the quality by saying that the majority of the reports have such significant deficiencies that they cannot be relied upon. Madam Speaker, that should be a concern for all of us sitting in this House.

Madam Speaker, the Auditor General's Report in Appendix A also takes some time to clearly define the roles and responsibilities under the Public Management and Finance Law. Appendix B clearly lays out the position of the SAGCs in terms of the backlog and the up-to-date.

But, Madam Speaker, from where I sit as Chairman of the Public Accounts Committee (and this is my opinion as Chairman) and as a Member of this House, the response from the Ministry of Finance to this Report is quite troubling. I invite Members and the public to read it. It appears to me from this response that the Ministry of Finance is more concerned with defending this position than accepting the responsibility under the Public Management and Finance Law and taking steps to get the work completed.

Section 76 of the Public Management and Finance Law creates offences and states: "**Whoever, without reasonable excuse - (a) fails, after a request in writing, to - (i) produce any information that is in that person's possession or under that person's control; . . . is guilty of an offence . . .**" under that law. And I believe that when the FS requests that information and accounts, in my view, the CFO and the CO that does not comply is committing an offence under the Law and I have sought the legal view of the Attorney General's office from October last year and, to date, I am still waiting on a response.

[Laughter]

Mr. D. Ezzard Miller: Madam Speaker, this Report is quite serious. I believe that this should be read by all Members. It should be taken seriously, and members of the public should take the time to review it as well.

Thank you, Madam Speaker.

The Speaker: Thank you, Member for North Side.

Does any Member wish to ask questions for clarification or anything?

If not, let us proceed with the Presentation of Reports.

2009 Annual Report of the Central Planning Authority and Development Control Board

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

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

I beg to lay on the Table of this House the 2009 Annual Report of the Central Planning Authority and Development Control Board.

Madam Speaker, after that long dissertation on opinions that was just given, I am happy to lay this one on the Table—

The Speaker: So ordered.

The Premier, Hon. W. McKeeva Bush: —and I would say, Madam Speaker—

The Speaker: Does the Honourable Premier wish to say something on the Report?

The Premier, Hon. W. McKeeva Bush: Madam Speaker, you will find in this Meeting a number of reports being tabled. I hope that I will be able to say the same of accounts since the Chairman of the Public Accounts Committee, as I said, was giving his opinions on, that a lot of it had to do with accounts and various procedures. But, anybody congratulating him, particularly from the other side that just did so, ought to realise that a lot of that was on his own record.

Madam Speaker, as we are aware, the economic activity in the Cayman Islands continued to decline in 2009. It is most evident in the development industry and is reflected in the number and value of projects. The number of projects granted Planning permission in 2009 for Grand Cayman fell by 14.4 per cent compared to 2008, decreasing from 1189 to 1018.

The value applications did not fare much better, Madam Speaker, decreasing from \$471.3 million in 2008 to \$410.4 million in 2009, or by 12.9 per cent.

Madam Speaker, when Planning permission is granted by the Development Control Board and the Sister Islands are included, the picture is generally worse. The number of Planning permissions granted decreased from 1,298 to 1,221, or by 14 per cent, whereas the value fell by 16 per cent or from \$499.2 million in 2008 to \$420.8 million in 2009.

This downturn in the development industry was and is still reflected in the unemployment figures and prospects for Caymanians. While I do not have the total number of persons who are genuinely engaged in the construction sector or any one of its related fields, it is safe to say that when construction activity declines so do many other sectors of the economy. Hence, my reasons for trying so assiduously to get the development industry back on a safe footing so to speak. It is so that the unemployment rate decreases when business activity increases.

I am optimistic, however, that some of the changes made to the Planning Law and Regulations last year and the work of my Ministry to get this economy up and running is starting to bear fruit. But, of course, it may not be fully evident in the Commonwealth Parliamentary Association's (CPA's) 2010 Annual Report.

The Speaker: Thank you, Honourable Premier.
Are there any questions?
If not, let us go to the next report.

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

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

Congratulatory Remarks to the Honourable Speaker on MBE Award

The Premier, Hon. W. McKeever Bush: Madam Speaker, before laying this Report on the Table of this honourable House, I think it is in order to extend on behalf of all Members and their families, congratulations to the Honourable Speaker on the award of the MBE (Member of the British Empire) by Her Majesty the Queen.

No doubt it is a worthwhile recognition of your many years of hard work and contributions to these Islands as a teacher, a member of the press corps of high integrity, a Justice of the Peace in good standing, work in the Moravian and other churches in these Islands, and, of course, the Speaker's work as advocate in politics over many years. As I said, it is a worthwhile award.

I do extend congratulations on behalf of all Members of this honourable House.

Information Commissioner's Half Year Report – (January – June 2010) Opening Doors to Information - Cayman Islands

The Premier, Hon. W. McKeever Bush: Having said that, I beg to lay on the Table the Information Commissioner's Half Year Report – (January – June 2010) Opening Doors to Information - Cayman Islands.

The Speaker: So ordered.

If there are no questions on the Report we will proceed with Question Time.

The Premier, Hon. W. McKeever Bush: Sorry.

The Speaker: I'm sorry.
Honourable Premier.

The Premier, Hon. W. McKeever Bush: Madam Speaker, just to say on the Report that this honourable House set up a committee dealing with the work and to review, as is required by Law, to look at the work of the Information Commissioner's Office on the Freedom of Information Law. I would hope that that work would soon get underway.

It is worthwhile to note that a few weeks ago in a message to the honourable House the Speaker did say that that committee would be able to call wit-

nesses. And anyone required to address the committee on matters would be able to do that.

I trust that work will soon get underway with that committee, Madam Speaker.

The Speaker: Thank you, Honourable Premier.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

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

The Premier, Hon. W. McKeever Bush: I beg to move the suspension of Standing Order 23 (7) and (8) in order for questions to be taken after 11.00.

The Speaker: The question is that Standing Order 23 (7) and (8) be suspended in order for questions to be taken after 11.00.

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

Ayes.

The Speaker: The Ayes have it.

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

Question No. 11

Mr. D. Ezzard Miller asked the Deputy Premier, the Honourable Minister of District Administration, Works, Lands and Agriculture to state –

- (a) what level of mould was found in the North Side Civic Centre;
- (b) what was the cost of the mould remediation;
- (c) how was the tender process handled; and
- (d) what was the amount of the bid of the unsuccessful bidder(s).

The Speaker: Honourable Deputy Premier, Minister of District Administration, Works, Lands and Agriculture.

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

In response to the questions the answers are:

(a) The Report on Indoor Air Quality produced by the Environmental Health Laboratory of the Department of Environmental Health (DEH) found "very high levels of mould spores in the women's changing room" and "significant" amounts of mould on other surfaces;

(b) The cost of the mould remediation was \$14,872.00;

(c) On behalf of the client, Lands and Survey Department, Public Works Department invited quotations from three firms to provide the remediation ser-

vices that were specified in the Department of Environmental Health report on indoor air quality. The invitation required that these firms submit copies of their credentials in mould abatement for employees and supervisors who would be employed on the project. The contract was awarded to the lowest bid meeting the qualification requirements; and

(d) Three quotations were received. One quotation was not considered as the firm did not possess the necessary mould abatement credentials for employees. The two quotations received which met the qualification requirement were:

- \$14,872.00
- \$14,920.00

The contract was awarded to the lowest [bidder] of these two quotations.

Thank you, Madam Speaker.

The Speaker: Thank you, Minister.

Are there any supplementary questions?

Are there any supplementary questions?

If not, we will move on to the next question.

Question No. 12

[Deferred]

Mr. Alden M. McLaughlin, Jr. asked the Deputy Governor, the Honourable First Official Member responsible for Internal and External Affairs and the Civil Service, What steps have the Government taken to prepare for the implementation in November 2012 and November 2013 of the Bill of Rights, Freedoms and Responsibilities contained in the Cayman Islands Constitution Order 2009.

The Speaker: First Official Member.

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

I would beg the indulgence of the House to defer the answer to question number 12 and also number 13 to a later sitting of the current meeting, hopefully the next sitting on Wednesday.

The Speaker: Please supply the First Official Member with your document.

[inaudible interjection]

The Premier, Hon. W. McKeever Bush: He has it.
[Replying to the Speaker]

[Addressing the First Official Member] You have the questions? The ones you're deferring?

The Speaker: Would you please supply the First Official Member with the question, the paper that has been circulated?

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, my issue is simply one of procedure. If the Member

wishes the questions to be deferred, then a motion must be made for the questions to be deferred. The questions are on the Order Paper and, unless a proper motion is made to have them deferred, they must be answered.

I am not taking any issue. If, for one reason or another it is not the Deputy Governor's wish to answer the question today, but he will answer it sometime later, that's fine by me. I am just asking that we deal with this properly.

The Speaker: I am just trying to ascertain whether the First Official Member has the question and the answer that has been provided to the House in his . . .

[Inaudible interjections]

The Speaker: Please, let us find out whether he has a copy of this in his possession.

The Deputy Governor, Hon. Donovan W. F. Ebanks: Madam Speaker, I now have a copy of that in my possession. However, that is not the answer which I wish to provide to this honourable House. And I guess my statement earlier, that I was craving the indulgence, should perhaps have been put more formally simply saying that I am moving a motion that the answers to these two questions, 12 and 13, be deferred to a later sitting of this current meeting, hopefully on Wednesday.

Thank you.

The Speaker: The question is that the answers to these two questions be deferred until a later sitting, hopefully by Wednesday.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Questions Numbers 12 and 13 deferred until later in the current Meeting.

Question No. 13

[Deferred]

The Third Elected Member for George Town to ask the Deputy Governor, the Honourable First Official Member responsible for Internal and External Affairs and the Civil Service to ask What is the Government's timetable to address the outstanding matters currently preventing the implementation of all sections of the Cayman Islands Constitution Order 2009.

STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: I have had no notice of Statements by Honourable Ministers and Members of the Cabinet. No notice thereof.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

Advisory District Councils Bill, 2010

The Clerk: The Advisory District Councils Bill, 2010.

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

Water Production and Supply Bill, 2010

The Clerk: The Water Production and Supply Bill, 2010.

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

Wastewater Collection and Treatment Bill, 2010

The Clerk: The Wastewater Collection and Treatment Bill, 2010.

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

Water Authority (Amendment) Bill, 2010

The Clerk: The Water Authority (Amendment) Bill, 2010.

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

Health Practice (Amendment) Bill, 2010

The Clerk: The Health Practice (Amendment) Bill, 2010.

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

Prisons (Amendment) Bill, 2010

The Clerk: The Prisons (Amendment) Bill, 2010.

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

Criminal Procedure Code (Amendment) (No. 2) Bill, 2010

The Clerk: The Criminal Procedure Code (Amendment) (No. 2) Bill, 2010.

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

SECOND READING

Advisory District Councils Bill, 2010

The Clerk: The Advisory District Councils Bill, 2010, Second Reading.

The Speaker: Honourable Premier.

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

Before I introduce the Bill, I said awhile ago on the tabling of the Report from the Freedom of Information Commissioner's Office that I would want the committee's work completed as quickly as possible. I should say that the subcommittee is in process. I would hope that we will soon get a report was what I was trying to say.

The Speaker: Second reading of the Advisory District Councils Bill.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, in my recently broadcast New Year's greetings, I made note that while the Cayman Islands is not a Theocracy, it has drawn quite heavily on the Christian heritage of its people in the making of public policy. In my opinion, we will continue to draw on this heritage because here as elsewhere in the Western world, the Christian heritage is integral to the values that enable acceptance—

The Speaker: Honourable Premier—

The Premier, Hon. W. McKeeva Bush: —of the rule of Law.

The Speaker: Honourable Premier, you need to move the Second Reading of the Bill.

The Premier, Hon. W. McKeeva Bush: I thought I had done that, Madam Speaker, but . . . and since I had not—

The Speaker: You need to move—

The Premier, Hon. W. McKeeva Bush: —I'd better at this point move the Second Reading of a Bill for a Law to provide for the establishment of Advisory District Councils to operate as advisory bodies to the Elected Members of the Legislative Assembly; and for incidental and connected purposes.

The Speaker: Thank you.

The Bill has been duly moved. Does the mover wish to speak thereto?

The Premier, Hon. W. McKeeva Bush: I will continue, Madam Speaker.

As I said, the Christian heritage is integral to the values that enable acceptance of the rule of law.

The very nature of democratic systems of governance owes much to the Christian heritage of the west. The notions of equality and of freedom have drawn from several sources, but certainly, they have deep roots in Christian understandings of the value of the individual person and the individual soul. The Advisory District Councils Bill, which I am proud to be moving, and the new dynamics in our regime of governance which it anticipates provides illustration of this.

This is a small Bill with large implications for our style of governance. The Advisory District Councils Bill will grant legitimacy to a structure that has existed off and on in various forms in these Islands.

In our early years, let's say the 1950s, the National Democratic Party, which was an original political party in the Cayman Islands in the 1950s formed district councils as part of its structure. In the years since they left the scene, every political candidate and every political team had district committees. And now the two current political parties both have district committees. District level bodies have played active parts with a number of voluntary organisations in these Islands. Our bigger churches have established congregations within individual districts.

I believe it is true to say that the motive for this approach is to facilitate broad participation in the affairs of these varied organisations. This is a testimony for the Caymanian style of popular governance, our belief in government of the people by the people as far as it is practicable.

The approach in this Bill is to bring into play a formal role for appointed bodies at the individual district level, to act to advise honourable Members of this House, both with regard to matters before the House and with matters which may not be before the House, but which have been deemed to be of concern to the community served by the committee in question.

This promises a different quality of involvement from anything we have seen before. This is a structure, a mechanism, a way of organising our handling of public policy that, once properly managed, will ensure a closer involvement in the affairs of government that has been in evidence since our earliest days of the justices and vestrymen. And it will improve, I believe, upon those days several fold.

There is no question now, for instance, about men having rights, but not women. There is no question about property owners or whole taxpayers having rights, but not others. We also had the advantage of vastly easier and quicker means of sharing information, of consulting public opinion, of mobilising groups for meetings as necessary. In other words, Madam Speaker, this is admirably an increase in the depth and breadth of public participation in governance, whose time I believe has come.

We have the basic tools to make good use of the Advisory District Councils. What remains to be proven is whether we are adequately mature in our capacity to be tolerant of opinions which may differ from ours. Because it is true that democratic government cannot succeed without compromise. This may, in turn, rely heavily on our ethical foundation.

I would argue that our most reliable, most robust frame of ethical behaviour lies in the two great commandments: "Love the Lord with all your heart"; and "Love your neighbour as yourself." And some may be more familiar with the latter commandment in the form of the Golden Rule: "Do unto others as you would have them do unto you." I cannot think of a singular utterance that could better breathe the right spirit into the operations of this Bill.

Madam Speaker, the clauses set out that pursuant to section 119 of the Constitution, the councils specified in the first column of Schedule 1 are established to operate as advisory bodies to the Elected Members of the Legislative Assembly respectively specified in the second column of that Schedule.

The Councils have such functions, duties and powers as are conferred by this Law or regulations made under this Law. And Schedule 2 shall have effect with respect to the councils.

Without limiting the scope of subsection (2) the Council for an electoral district may advise in relation to finance, tourism, tourism development, immigration related matters, district administration, works, gender affairs, education, training, employment, community affairs, housing, health, environment, youth, sports, culture and any other matters affecting the district.

Each Council shall be subject to the direction of the relevant Member. A Council shall consist of the following members, who shall be appointed by the Governor in Cabinet: Chairman, Vice Chairman, Secretary, Treasurer, and not exceeding six other members, at least two of whom, subject to subsection (2) shall be recommended by the Leader of the Opposition appointed under section 68 of the Constitution.

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

Where the representation in the Legislative Assembly for any given electoral district is split between two or more political parties, each party may make recommendations for appointments to the Council for the district. But where the recommendations for the party in opposition are accepted, subsection (1)(e) shall not have effect.

A member of a Council shall be a person who lives in the relevant electoral district and who is by reason of his special qualification, training, experience or knowledge of the district [be] suitable for appointment to a council. Where an electoral district does not have a member who belongs to the party whose leader has been appointed Premier under section 49(2) of the Constitution, the party shall be entitled to nominate up to three members to the relevant council.

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

A person appointed to be a member shall be appointed for a term of one year and on such terms and conditions as may be determined by the Governor in Cabinet at the time of the appointment and in considering re-appointments, the Governor in Cabinet shall take into account the need to ensure continuity on the Council by ensuring that more than two-thirds of the members are replaced at any given instance.

At the expiration of their term of office, the members of each Council shall be eligible for re-appointment. The Governor in Cabinet may give such directions as he may consider necessary or expedient with respect to the content of proposals for appointment under this section, including the manner in which nominations may be made from the communities involved for consideration by the Governor in Cabinet.

The functions of a Council are to advise on policies and develop programmes intended for the more effective discharge of the relevant Member's duties in relation to the electoral district, after consultation with such persons or organisations, or both, as the Council considers appropriate; to advise the Member on policies and programmes intended for the more effective discharge of the Member's responsibilities; and to establish, maintain and operate information systems and facilities, and to encourage and support among residents the informal exchange of information of all kinds in respect of policies and programmes proposed by the Member.

The relevant Member shall consider the advice given by a Council and determine what to recommend to the relevant Minister. In the performance of its functions a Council may consider any proposals which may be referred to it by any person; prepare and submit to the relevant Member from time to time recommendations for the more effective discharge of

the Member's responsibilities and initiate and carry out or direct the initiation and carrying out of studies and research necessary for the more effective discharge of the Member's responsibilities. In the operation of this section, regard should be had to section 47 of the Constitution.

In the funding and remuneration of Members, the funds available for the purpose of enabling the councils to perform their functions under this Law shall consist of sums such as may be provided for those purposes and estimates of revenue and expenditure of the Islands for the purpose and approved by the Legislative Assembly in such years as the Legislative Assembly may under recommendation of the Minister responsible for Finance chose to do so. The councils may receive as donations and raise [funds] through community and other activities.

Councils, Madam Speaker, shall have no power to charge any of their expenditure to the general revenues of the Islands. Members who are not public officers as described in the Constitution shall be paid such allowances as the Governor in Cabinet may determine. The payment of such allowances shall be paid out of the revenue of the Islands and Council shall keep proper records of their accounts and comply with such regulations as the Governor in Cabinet may make in relation thereto.

Madam Speaker, a Council shall meet as often as it considers necessary, but not less than once every three months.

Subject to the provisions of this Schedule, the quorum of each Council shall be five and the procedure of each Council shall be determined by such Council but, notwithstanding a quorum, no decision shall be carried if it is supported by less than four members.

The Chairman of a Council shall call a meeting of the Council if so directed by the relevant Member or if requested to do so in writing by two members—

[loud electronic interference]

The Premier, Hon. W. McKeewa Bush: —and such a direction or request shall include a statement of the agenda proposed for the meeting.

The Speaker: Can we pause? I need to find out if the recording is taking place.

The Premier, Hon. W. McKeewa Bush: I think it is safe to go on, Madam Speaker.

The Speaker: Proceed.

The Premier, Hon. W. McKeewa Bush: Except as provided in subsection (2), each of the Councils shall reach its decision by a majority of the votes of the members present and voting at the meeting, and

where there is a tie, the Chairman shall have a casting vote.

Minutes of each meeting shall be kept in a proper form and shall be confirmed by the Chairman as soon as practicable at a subsequent meeting; and a copy of the minutes as confirmed by the Chairman shall be sent to the Governor in Cabinet and to the relevant Member on a timely basis.

Meetings of Councils shall be open to the public but the Chairman may determine that a particular meeting or matter shall be discussed in camera.

All documents issued by a Council and all decisions of the Council shall be signed by the Chairman.

Each Council shall provide the relevant Member with such information as he may from time to time require with respect to the activities or proposed activities of the Council, but a requirement imposed under this paragraph shall not impose upon a Council the duty of providing the Member with information the Council does not possess and cannot reasonably be expected to obtain.

A Council may, subject to this Law, make such non-statutory rules as it thinks fit to regulate its own internal management.

Madam Speaker, a Bill such as this, as all Members are aware, is effectively required by our Constitution for legislation to establish and regulate Advisory District Councils. As legislators, we are all fully aware that mere passage of a law means little unless the law is clearly suited to purpose.

In the consultation process, I have already encountered some probing questions. Are there not already enough advisory bodies, and is this not simply an additional and, therefore, surplus layer? Will this not bring further cost without any greater effectiveness? Will these councils not become mere extensions of the political parties? Is it not hasty to bring this Bill at this time?

These questions came from the Constitutional Commission. And while I shall answer them directly, these are the kinds of questions that ought to be aired publicly as well.

Regarding the question of haste, I doubt the public will agree. We believe that more than likely the people will see the urgency of having in place more effective tools to influence policy and assess performance in relation to matters affecting the wellbeing of their communities. The Bill allows the councils no power to create a charge on the public purse. If there should arise any imbalance between cost and benefit I would think the councils themselves will provide a more effective means to call for explanation and, if necessary, cutbacks, than the current centralised system facilitates.

But it may be said how much accountability, how much genuinely broad-based participation these councils can add to our system if they are merely working as part of the party's machinery. It has been famously said that the price of liberty is eternal vigi-

lance. The Bill seeks to ensure balance in representation between the governing party and the opposition of the day. It also provides that councils' proceedings shall be open to the public except in certain special circumstances.

Madam Speaker, this all pre-supposes, however, that people must participate to guarantee effective participation. If the councils are to work to the highly principled terms of reference set out for them in the Bill, the people of each district must closely examine the workings and performance of the Government sincerely appreciates that this is not a measure to be taken lightly. There are certain instances of statutory instruments that may significantly alter our whole ecology of governance. And these may set entrain any combination of a range of evolutionary changes which may alter the mutual understanding between the governed and those governing or what grants legitimacy to sovereign power.

It is well known that without such mutual understanding there would be an utter breakdown of the vital organs that I should say pump the breath and blood of the sovereignty of State. This Bill, though apparently slight, is of the sort that may cause such a shakeup in the organs of the State. So, in our view, it must be scrutinised with special rigour.

I trust, however, that this introduction to the Bill provides the assurance that it is worthy of broad support, that it is needed, that it will significantly enhance the public life of the people of these Islands.

Before I sit down, Madam Speaker, I do want to thank the Legal and Legislative Drafting Department for their work here. I would like to thank members of the public who gave their input while the Bill was out for consultation. And, certainly, I would like to thank Mr. Leonard Dilbert in my Ministry for his overseeing of this particular matter.

Madam Speaker, I commend the Bill to all honourable Members.

The Speaker: Thank you, Honourable Premier.

Does any other Member wish to speak?
[pause]

Third Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

I wish to express our gratitude to the Premier for his detailed explanation provided in the explanation of the Bill, and to congratulate him and the Government for having brought this Bill in furtherance of their obligation to implement the provisions of the Cayman Islands Constitution Order 2009. But, Madam Speaker, I think that is where my congratulations stop.

Madam Speaker, section 119 of the Constitution, which is quite deliberately placed under the section headed up "Institutions Supporting Democracy," makes provision for the establishment of Advisory Councils to operate in each electoral district and to provide guidance and advice to the elected Members

of the Legislative Assembly from the respective districts.

I say that to say that the objective, as I understood it when it was put forward on this particular entity, of the Advisory Councils is something that was advocated by the then Opposition (which is now the Government). The objective was to provide advice to the elected Members for each district to help them crystallise their ideas and understand the concerns and issues that affected their constituents. So, that would equip the members of the respective electoral districts to be able to posit positions, to be able to put forward the views and concerns and representations of their constituency.

Its objective was not to become simply a creature of the Government bound to carry out the Government's will. Because I am afraid, Madam Speaker, that that is what this Bill, in my view, is seeking to do—to create another Government controlled entity, to be able to tell each Representative of the districts what it is the Government wants them to advise the Members elected from that constituency so that they can then tell the Government what the Government wanted to know in the first place.

I say that, Madam Speaker, and make that criticism because of the way this Bill has structured the establishment of the Councils and the appointment of its members. It is so heavily weighted in favour of the Government that, essentially, the views and representations and concerns of the elected Members who are not members of the Government are almost meaningless.

Madam Speaker, clause 4(1) of the Bill says, "Composition of the Councils": **"A Council shall consist of the following members, all of whom shall be appointed by the Governor in Cabinet."**

Again, Madam Speaker, regrettably, the Government, and in particular the Honourable Attorney General, is continuing this constitutional fiction of "Governor in Cabinet." Now, I am not going to spend the time I have this morning rehearsing the arguments I made in a number of my debates before Christmas. But I had hoped that, having had the opportunity of reflection over the Christmas Holidays, that the learned Attorney General would have come to the view, having done the research both on the constitutional law, but in particular on the long discussions and debate which are recorded, which, in fact, continuing this whole concept of Cabinet simply being an advisory body to the Governor is simply (and I can't put it any more diplomatically, Madam Speaker) wrong!

But, Madam Speaker, I believe I have given the learned Attorney General every opportunity to address this issue.

I am not going to say any more than to say to the House that I am now absolutely committed to taking this issue up formally, and I shall very shortly be writing to the Honourable Attorney General and to the Foreign and Commonwealth Office (FCO) on this very

important issue, because it has serious implications for the Cayman Islands constitutionally. If no one in the Government is prepared to take up the issue, then as one of Her Majesty's duly elected Members of the Cayman Islands Legislature, it is my sworn duty to do so. And I shall.

But to the matter at hand and the Bill that is before the House, clause 4(1), **"Composition of the Councils": "A Council shall consist of the following members, all of whom shall be appointed by the Governor in Cabinet -**

- (a) a Chairman;**
- (b) a Vice Chairman;**
- (c) a Secretary;**
- (d) a Treasurer;"**

So, these four members are all appointed by the Cabinet, that is, appointed by the sitting Government, ". . . and (e) not exceeding six other members at least two of whom shall, subject to subsection (2), be recommended by the Leader of the Opposition . . ."

So, Madam Speaker, you have a 10-member Council (as far as this clause is concerned), 8 of which are appointed by the sitting Government, 2 shall be *recommended* by the Leader of the Opposition. So the Leader of the Opposition is only in a position where he or she can *recommend*. It is not the usual language one would expect, which is, *shall be appointed under advice of the Leader of the Opposition* which would indicate that the choices of the Leader of the Opposition are the choices of those who would be appointed.

So, we have a situation, as far as this clause is concerned, where, essentially, the Government is in complete control of every member who is appointed to a 10-member advisory council. So, all we have, essentially, is an extension of the functions and the authority and the policy positions of the Government into the respective electoral districts. That cannot be what is intended, Madam Speaker. It should be the other way around.

What we want is a situation where the Members of the respective electoral districts are getting advice from their constituents to help inform and influence and create government policy. This kind of overreaching, this kind of autocratic legislation is not within the spirit and intendment of this section of the Constitution, which speaks about institutions supporting democracy.

Madam Speaker, we then go on to clause 4(2), a very curious provision in my respectful submission. It provides, **"Where the representation in the Legislative Assembly for any given electoral district is split between two or more political parties, each party may make recommendations for appointments to the Council for the district but where the recommendations for the party in opposition are accepted, subsection (1)(e) shall have no effect."**

I struggled to understand what that meant because subsection (1)(e) is the bit that says, “**A Council shall consist of the following members, all of whom shall be appointed by the Governor in Cabinet . . . (e) not exceeding six other members at least two of whom shall, subject to subsection (2), be recommended by the Leader of the Opposition [appointed] under section 68 of the Constitution, . . .**”

So, Madam Speaker, if subsection (1)(e) has no effect, does that mean that the provision which creates the ability for six other members to be appointed . . . does that have no effect as well? Because it is all part of the same sub-clause. That may simply be a drafting point, and I presume that is what that is. I will leave it to the Honourable Attorney General to assure us that that can be resolved by some changes to the drafting.

But the substantive point is that we have now introduced this issue of where representation in this Legislative Assembly is split between two or more political parties . . . why are we introducing political parties into this regime?

This is not about speculation. We have a situation in North Side where we have an elected Member who is not a member of any political party. We do not need to complicate this issue by the introduction of the term “political parties” into the legislation. The objective of section 119 of the Constitution is to create advisory bodies to the elected Member or Members of the respective electoral districts. It does not matter what party they come from. It does not matter if they belong to a party or not. It is an advisory body to the Member or Members.

That is what we need to focus on and that is what the legislation ought to have provided for. Not complicating the issue by introducing this concept of split between two or more political parties, excluding from any consideration the very real—not just a possibility, the reality that we have an independent Member in one district. And we may very well have more following the next elections.

Madam Speaker, we really need to sort that bit out as well. We need the legislation to be amended so that we recognise what the objective of the Constitutional provision in section 119 is about. It is about creating bodies which are capable of advising elected Members of this House. These are not organs of the Cabinet. These are not creatures of the Cabinet. These are not slaves to whatever policy or position the Government has taken. They are there to give advice and guidance to the elected Members.

Madam Speaker, [chuckle] clause 4(4), is an even more curious provision. It provides, “**Where an electoral district does not have a Member who belongs to the party whose leader has been appointed Premier . . .**” Again, Madam Speaker, I do not know why we complicate it in that way because we could very well wind up with a premier who is not a member of any party. But there you have it. But that is

not even my biggest issue with this. It is, “. . . **the party shall be entitled to nominate up to three members to the relevant Council.**”

[Inaudible interjection]

Mr. Alden M. McLaughlin, Jr.: “Where an electoral district does not have a Member who belongs to the party whose leader has been appointed Premier . . . **the party shall be entitled to nominate up to three members to the relevant Council.**”

I presume that “the party” there means that the party whose leader has been appointed premier.

[Sigh] I really cannot get my head quite around that, Madam Speaker.

[inaudible interjection]

The Premier, Hon. W. McKeever Bush: *[Replying to the Member interjecting]* Read it again.

Mr. Alden M. McLaughlin, Jr.: *[Replying to the Premier]* I have read it twice.

The Premier, Hon. W. McKeever Bush: *[Replying to the Member]* Read it again! *[inaudible]*

The Speaker: Please, through the Chair.

Third Elected Member for George Town, please continue.

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

Mr. Alden M. McLaughlin, Jr.: But, Madam Speaker—

The Speaker: These issues can be cleared up in reply. Please proceed.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

So, Madam Speaker, I come back to my fundamental concern, which is the way the legislation is drafted (or I should say the Bill, which is to become legislation, is drafted). We have a situation where the Government remains in almost complete control of who the members of the Advisory Council to the elected Member or Members of the respective electoral districts are, and, therefore, the Councils are unlikely to provide the kind of added value to this exercise in democracy that the Constitution contemplated and, indeed, Madam Speaker, intended.

All we are going to end up with are functionaries of the Government sitting now in a constitutionally appointed role telling the Members what it is the Government wants them to hear. That could never be an improvement on democracy.

Madam Speaker, if you take a district like George Town where there are four elected Members,

what is it that that Council, which is to advise me as well as the Second and Fourth Elected Members for George Town and, obviously, the Leader of the Opposition as well . . . but why is it that they, by virtue of being Members of the Government in either a ministerial or backbench position, are entitled to be involved in the appointment of eight members of that Council but the Leader of the Opposition, or myself, and I only through him, can recommend two?

That's the way the legislation is drafted, because the Government is in control of the appointment of eight members—complete and total control—and only has to consider the recommendations of the Leader of the Opposition in relation to the other two. How is that democratic? How is that representative? How is that fair?

How does that advance all of the wonderful principles and theories, and so forth, that the Premier waxed eloquent this morning? He even invoked Theocracy in aid of this! This has its basis, he said, in Theocracy.

But the Devil can quote scripture too!

[Inaudible interjection]

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I urge the Government to withdraw—

The Premier, Hon. W. McKeever Bush: Oh no!

Mr. Alden M. McLaughlin, Jr.: —this Bill; at least briefly, so that we can reconsider these key features.

This is fundamental, Madam Speaker, to how this works or does not work. And I can tell you, Madam Speaker, that if it is going to be the way it is set out here, all the Government is asking for is a rubber stamp on whatever it is that they want done in which they can say, *Well the Opposition was involved, because, after all, there is an Advisory Council. And the Advisory Council said 'Yes, we should build the Port in East End' and, of course I can't understand why the elected Member for East End or the elected Member for North Side won't go along with what their councils tell them.*

What do you think this is all about, Madam Speaker? What do you think is at its core?

[inaudible interjections]

Mr. Alden M. McLaughlin, Jr.: Madam Speaker, I have been around this business, this ugly business called politics, long enough to see through these sorts of exercises, dressed up, though it is, in the form of a new democratic institution, it's going to give much greater opportunity for involvement of the people of the country.

Madam Speaker, it is tragic. It is tragic that we could seek to use something like section 119 of the Constitution to create something as undemocratic, something as unworthy as what is being proposed in

this Bill. So, Madam Speaker, I again invite . . . we are in full support—always have been—of Advisory District Councils. I beg the Government, I implore them, I plead with them, let us look again at how these councils are being structured. Please, let us not have to wind up with the Government bringing something as important as this and the Opposition unable to support it because of the way the Government has structured the appointment of the advisory councils themselves.

Let us defer, adjourn discussion or further debate on this for another couple of days. It will not take a great deal of work to redraft those provisions so that they are more equitable, they are more democratic, they are more representative, they are more in keeping with the spirit and intent of the constitutional provision. Let us try to reach some level of bipartisanship on this critically important issue. I can only ask the Government to do so—and I do so, Madam Speaker, with utmost sincerity.

I thank you, Madam Speaker, for the opportunity to debate this important Bill.

The Speaker: Thank you Third Elected Member for George Town.

I think we will take the lunch break at this time so that the next speaker is not interrupted. The House is accordingly suspended until 2.00.

Proceedings suspended at 12.20 pm

Proceedings resumed at 2.35 pm

The Speaker: Proceedings are resumed, please be seated.

We were in the process of debating the Advisory District Councils Bill, 2010. The Third Elected Member for George Town had just completed his contribution.

Does any other Member wish to speak?
[pause]

Member for North Side.

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

Madam Speaker, I believe that it is fair to say that everyone in this House and in this country knows that I support Advisory District Councils that facilitate participative democracy, of which I am an even greater supporter, promoter and practitioner.

All [through] my political career I have practiced and encouraged participation [by] the people who I have been privileged and honoured to represent. During the period 1984 to 1992, I held public meetings in the North Side district before every meeting of this honourable House to discuss with the people that I represented the matters that were coming before the Assembly and to get their views on those issues. And I represented their views in my contributions to the debate on the business before the House.

Madam Speaker, I also had a public meeting after every meeting of parliament during that period to

report back to the people of North Side what had transpired with the business before the House. And any matter that I promoted, any programmes, policies or changes that took place in the North Side district during that period of time, were done with open discussion and input with the people that I represented.

During the period 1988 to 1992, when I was a Member of ExCo, I held meetings in every electoral district of this country concerning all of the national policies that I promoted at that time. And, Madam Speaker, those included things like the National AIDS Plan, the National Drug Plan, the Health Plan, the Solid Waste Plan, many of which, I would admit today, would have been a lot easier to have done behind closed doors at the Glass House.

But, Madam Speaker, one of the cardinal principles that underpins my political philosophy is my belief and commitment that the people I represent have the right and responsibility to be informed to discuss and to contribute to all decisions made by Government and, in particular, those national policies, laws programmes that affect them directly or indirectly, and, in particular, those that deal with the electoral district in which they live and vote.

Madam Speaker, since being elected in May 2009, on a manifesto that included the establishment of a District Council to advise me on matters related to national issues and to the North Side district, I made this one of my priorities. Even equal to the setting up of an office in the district that is open, staffed and equipped to meet the needs of the constituents that I represent.

The North Side District Council was established on sound democratic principles with a constitution. It held its first Council meeting in October 2009. The North Side District Council has performed beyond my expectations, achieved much for the North Side community. However, our Council differs in several substantial and important ways from the District Advisory Council proposed in this Bill before this House today.

Madam Speaker, a fundamental difference I have with the Bill is that, unlike what I support—that is, district councils that are democratically elected by and from the community they represent which provides a sense of involvement, ownership and participation—this Bill proposes to create district councils that are unilaterally selected and appointed, controlled by the Governor in Cabinet, a body that is often alien to the districts in which these councils are to be established. Therefore, Madam Speaker, the fundamental difference does not allow me to support the Advisory District Council Bill 2010 in the form it has been presented to this House.

Madam Speaker, as is usual, and in keeping with my normal modus operandi, I will not simply criticise the Bill as presented and vote against it, but I will offer constructive criticisms—although in this short Bill there will be many—and offer amendments that, if accepted, will allow me to vote yes for the Bill.

Madam Speaker, let me deal with the Bill clause by clause and suggest with appropriate justification what changes I would like to see made, which would allow me to vote for this Bill.

Now, Madam Speaker, clause 2 of the Bill (which is interpretations) defined “Chairman” as **“‘Chairman’ means the Chairman of the Council appointed under section 4(1)(a).”** I would like to see that changed to “elected” because I will also circulate an amendment which leads to the councilors being elected rather than appointed. I would recommend that that word “appointed” be deleted and replaced with the word “elected.”

Madam Speaker, also I believe that if my amendments are accepted the “member” (with a common “m”) would be replaced with “officer” and the definition would read **“‘officer’ means an officer elected under clause 4(2) and includes the Chairman, Vice Chairman, Secretary, Treasurer, and up to six directors.”**

Now, Madam Speaker, clause 3(1) . . . I think there is a typo, but I am sure the Attorney General will pick that up. I think that “member” in that clause should be with a [capital] “M” because it is referring to the Members of this House.

Clause 3(2) establishes Schedule 2 which establishes the functions, duties and powers of the Council. I have some concerns with the provisions of this Schedule, Madam Speaker, and will deal with them later in my contribution.

The North Side District Council deals with this in a constitution that was voted for and approved by the members of the District Council and which can be changed by those members if it is necessary to adjust it. In other words, these changes can be made if and when appropriate, by the membership who are affected at the district level.

In this Bill, the functions, duties and powers are unilaterally and undemocratically imposed by the Governor in Cabinet, and can be changed unilaterally, either in Cabinet or by amendment to the law in this House. I find this uncomfortable and unacceptable if the intention of the Bill is to create district councils to foster and develop greater democracy or facilitate more participation and involvement by the electorate in the governance of the country.

Madam Speaker, clause 3(4) reads: **“Each Council shall be subject to the directions of the relevant Member.”** I find that a little disconcerting because the Council members can only advise the Member, but the Member can, in turn, direct the councilors what he wants them to do. I would recommend to this House that that clause 3(4) be deleted in its entirety, Madam Speaker.

Clause 4: The marginal note says, “Composition of the Councils.” This for me is the most troubling clause in the Bill. It is so troubling, that if it is not changed I will be compelled by my political principles and philosophy to vote against the Bill.

Madam Speaker, I was not privileged or invited to be a part of any of the teams that comprised the framers of the Cayman Islands Constitutional Order 2009. However, I would find it difficult to conclude that this is the type of District Council that was intended by either the framers of the Constitution or by the large percentage of electors who voted for the Constitution. I believe they had in mind a much more democratic and community, or electoral district based council than what [clause] 4 promotes.

Clause 4 creates a District Advisory Council that is severely limited in numbers, who, as I said earlier, are in my view, unilaterally appointed, not democratically elected. The process does not allow any participation, involvement or ownership by the community or the Member representing that community in this House unless he happens to be a Member belonging to one of the parties that exists in this House.

In a case such as mine, as an independent Member, I have no opportunity whatsoever in the Bill as it is proposed to recommend any of the people that would be appointed by the Governor in Cabinet.

Madam Speaker, in the 2009 Constitution which came into effect on 6 November, on which this Bill is based (and I think it is section 119), "Governor in Cabinet," in my view, really means the elected Members of the party that holds the majority in this House who are appointed by the leader of the party as Ministers of the Cabinet. The three ex-officio Members, the Governor, the Deputy Governor and the Attorney General, may advise Cabinet, but are not part of the decision-making as they do not have a vote in Cabinet.

In my view, Madam Speaker, this should read Cabinet, not Governor. But I believe that Governor is included to lend a bit of respectability and maybe try to indicate some non-political aspect to this clause in this undemocratic process as proposed by clause 4.

Madam Speaker, let us look at the numbers in a hypothetical case where in an electoral district the electors in a general election send equal numbers to the Legislative Assembly from both parties. And, under this section, of the 10 people appointed, the party with the majority in parliament would appoint 10 and the other party would have the opportunity to recommend who may be appointed or not appointed . . . only two people.

Now, Madam Speaker, it is difficult for me to understand how that can be described as being fair or democratic to the electors who decided to send two people from each party to the House. But those who voted for one party are being severely outnumbered simply because the majority governing party would appoint 8 of the 10 people, in fact all 10 people would be appointed by the governing party to this Council.

Clause 4 also carries what I think is a curious proviso which says, ". . . **in making the appointments, the Governor in Cabinet shall be cognizant of recommendations made to him from within the electoral districts.**" But I found it difficult to find the

sections of the Bill that would enable the electoral districts and the constituents of the electoral districts to make such recommendations.

And, Madam Speaker, clause 4(2) is confusing because in my view it negates the whole of clause 4(1)(c). I do not see the necessity for that.

Clause 4(3) attempts to place a definition on who and what qualifications are necessary to qualify one to be appointed to the Advisory District Council. But in my view, Madam Speaker, this is so broad that it would allow for large scale political cronyism, appointment of also-ran party candidates who were rejected at the polls by the electors of the district, and also intend-to-run party candidates, which is a recipe for disaster because of the inherent political conflicts such an appointment system would foster within close-knit communities in this Island.

The distinct opportunity and temptation and, in fact, Madam Speaker, in some quarters of the political arenas in this country, the expectation to appoint as chairman of the District Council the candidate of the party with the majority in this House who was defeated in that district by a candidate of the party in opposition, would make it extremely difficult for the elected Member to effectively represent the constituents. Or even worse, in a case like myself, if an independent Member won and the party in power, along with the Opposition who makes two recommendations, could really cripple the ability of an independent party Member to function.

Now, Madam Speaker, in my view this is a wholly unworkable, almost unthinkable conflicted proposition that is totally unnecessary.

Clause 4 also seems unnecessary given the provisions of clause 1 where the Premier is intimately involved in the appointment by Governor in Cabinet and seems to be designed to offer advantage to the majority party in this House in some peculiar circumstance where they are allowed to appoint three Members.

Clauses 4, 5, 6 and 7 are, in my view, of no real significance, while clause 4(8) is intended, in my view, to provide some guidelines on how nomination can be made from the communities to the Governor in Cabinet. Again, Madam Speaker, I am not sure there is any real significance in the need for clause 4(8) other than to place the Governor squarely in the middle of a political process that, in my view, the Constitution Order 2009 does not intend.

The Governor himself, if he wishes to remain above and outside of the political battlefield may be well advised to insist that the Governor in Cabinet used in this legislation is replaced and changed to Cabinet. Because, Madam Speaker, I believe it was the great Senator Tip O'Neill who claimed all politics are local and Advisory District Councils, in my view, are as local as it gets. The Governor cannot be seen at the district level to be dabbling in local politics and expect to retain his Statesman halo.

Madam Speaker, I have given notice of a committee stage amendment that will replace the unilaterally appointed Council with a democratically elected one. So, Madam Speaker, I am recommending to this House that the entire clause 4 as it appears in the Bill be deleted [by] a new clause 4 (1) and (2) which allows for a much more democratic and simpler process to establish the members of the advisory council.

And this is what the proposed amendment would say, Madam Speaker: **“4 (1) The Council membership shall include all residents of the relevant District but only registered electors for that District may vote and hold office.**

“(2) The Council shall elect by secret ballot the following officers to manage the affairs of the Council -

- a) a Chairman**
- b) a Vice Chairman**
- c) a Secretary**
- d) a Treasurer; and**

e) not more than six Directors” (with the caveat that all officers shall be elected for a period of one year).

Madam Speaker, if the House is minded to accept that amendment, I believe it will move this Bill in the direction that I need to see it move in order for me to vote for it when it comes time to pass the Bill.

Madam Speaker, I believe that the electorate of the Cayman Islands is becoming much more sophisticated, educated and learned on a daily basis. And I believe that as Members of this House we need to enable their participation, their contribution, and show greater respect for their participation than to simply unilaterally appoint 10 people from North Side with no input from the Member to form a District Council to advise the Member.

The legislation does not facilitate or indicate that this Council should ever meet with the electors or the constituents at large to get their input. Supposedly the qualifications outlined in the Bill are going to be people of such calibre that they would not need to consult with the wider community on matters affecting the district. But I also believe that that is a big mistake, Madam Speaker, I think that somewhere in the legislation we need to address the fact that this Council needs to seek input from the electors and residents in the constituency in which they are appointed.

Madam Speaker, I do not have too many problems or concerns with the provisions of clause 5, except that in clause 5[(1)](a),(b),(c) I wonder who sets the agenda of the Advisory District Council and is . . . or, it should be related into the manifesto of which the Member representing the district was elected, whether any reference should be paid to what the voters expected to get by electing a particular representative based on his promises and the manifesto that he committed to represent them on. There is no requirement here to do any of that.

Madam Speaker, clause 6(2) and (5) can be tolerated by me, and supported if my concerns with the earlier clauses are accepted by the House. However, clause 6(3) and (4) which say, **“Members who are not public officers as defined in the Constitution shall be paid such allowances as the Governor in Cabinet may determine.”** And **“(4) The payment of such allowances shall be paid out of the revenue of the Islands.”**

I do not see why we need to discriminate against public officers who get involved at the community level and why they should not receive equal compensation as any other citizen in this. And, Madam Speaker, this Bill allows for as many as 60 councilors to be appointed. If we are going to pay these people and we are going to provide funds for the District Council in other ways, it could be substantial amounts of money. So, Madam Speaker, I am recommending that clauses 6(3) and (4) be deleted, and [clause 6](5) be numbered as [clause 6](3).

I do not have any issues with clauses 7 or 8 or Schedule 1. I do, however, have some concerns and recommendations on Schedule 2.

Madam Speaker clause 1 of the Schedule largely concerns how and under what conditions the Governor in Cabinet may terminate the appointment of a councilor and includes the Governor in Cabinet doing so in his discretion even if none of the conditions in 3(a), (b), (c) and (d) had been breached by the councilor. The Governor in Cabinet can, in his discretion, terminate the appointment of a councilor.

Madam Speaker, I recommend the deletion of clause (1) in Schedule 2 because it would become unnecessary if we went to the democratic process as I proposed to make the changes in clause 4, and that would be the duty of the people who elected the officers to the Council and the Governor in Cabinet need not concern himself with it.

I support clause (2) in the Schedule. It talks about members' interests and stuff like that. I have some problems with clause 3(2) of the Schedule which says, **“Subject to the provisions of this Schedule the quorum of each Council shall be five and the procedure of each Council shall be determined by such council but, notwithstanding a quorum, no decision shall be carried if it is supported by less than four members.”** I am not clear whether the quorum of five includes the Chairman or not. And I think that needs to be spelled out. And I am not sure that we need to add the requirement, which I believe is undemocratic, to require the majority plus one to make a decision.

And, Madam Speaker, in the amendment that I have given notice of with your permission, in section 3(6) of Schedule 2, **“Meetings of Councils shall be open to the public but the Chairman may determine that a particular meeting or matter shall be discussed in camera.”** I am proposing an amendment to add a full stop or a period after the word “public” so that all meetings of the Council are held in pub-

lic and not give the Chairman the ability to decide that the meeting must be in camera. Even if you are going to add that caveat, it should be the Council that decides that and not the Chairman. I think that is putting far too much authority in the hands of the Chairman for whatever reason.

Now, Madam Speaker, in conclusion, let me repeat that I support Advisory District Councils that are democratic district councils that are of the people, by the people and for the people.

The existing North Side District Council is more than a year old. It is serving the district of North Side well. The people have accepted it, they support it, they own it, [and] they give freely of their time. Average attendance at monthly meetings is 40-plus and has been as high as 100-plus if controversial issues, such as a port in East End, are being discussed by the District Council. Its success, I believe, is worthy of repeating in the other districts. And any district that wishes a copy of the constitution that works can have it free of cost. And the greatest success of the North Side District Council is, I believe, the unity and the unification of the community (particularly after an election) that it has managed to foster in the community.

Madam Speaker, can you imagine the horror if this Bill remains unchanged and is passed into law as presented, and, if at some time in the future, the majority party of this House decides to use the provisions—in what would then be a law—to appoint a Council whose chairman is their also-intends-to-run candidate for the next general election, utilises the provisions of the Bill that allows him and his election committee, vice chairman, secretary, treasurer and six directors to be paid salaries from the Government Treasury—taxpayer's money? The majority party can also fund their projects and programmes while the democratically elected District Council or member is denied any funding for its programmes and the duly elected Member for the district is undermined and denied help for his deserving constituents and districts.

This scenario is entirely and easily orchestrated under the provisions of this Bill, as I have tried to demonstrate in my contribution to this debate on the proposed Advisory District Council Bill 2010, Madam Speaker. If the Governor is comfortable to have himself imposed into these possible political battles, this is one Member that while I would not relish nor welcome it, I will certainly not shrink from the confrontation.

Madam Speaker, from the political rumblings over the festive season just passed, I have reason to believe that such a scenario is quite real, once this Bill is passed into Law in the form that has been presented. But I trust that the good people of North Side can and will determine quite easily who established a democratic District Council of the people, for the people and by the people, and allows it to function under their control and guidance for the benefit of North Side and all North Siders, and who are the opportunistic Johnny-come-latelies who will be controlled [by] out-

side forces for their own preservation and advancement before the interests of North Siders.

Madam Speaker, Advisory District Councils established for the right reasons in a democratic consultative way with the people they are expected to govern, and make recommendations on how they should be governed, make recommendations for the programmes, make recommendations for legislation that will affect the people that are being governed, is a good thing.

Madam Speaker, I trust that this honourable House will accept my suggested amendments for the spirit and purpose for which they are intended and allow me to vote yes on this legislation.

Thank you, Madam Speaker.

The Speaker: Thank you, Member for North Side.

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 will call on the mover—

Member for East End.

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

The Speaker: You almost did not make that call.

[inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, I rise to make a short contribution to the Bill before us for the establishment of Advisory District Councils. But it appears that only this side of the House has anything to say about this. Obviously, that means the other side is not going to let the people of this country know what their position is, they are just going to vote. Or, maybe they have a gag order on. But I am sure they will come as soon as I am finished.

Madam Speaker, when discussions were underway on Constitutional Modernisation there was much discussion surrounding this. I believe that it would be fair to say that advocating for district councils at the time quite strongly were the then Members of the Opposition, and, in particular, the now Premier. Madam Speaker, as I recall, we were all in tune with the provisions, or we all agreed with the provisions for district advisory councils. However, there were some differences on positions on how they should be established.

As a result, the provision in the Constitution was made quite generally. It says, and I will read section 119 of the 2009 Constitutional Order, “**Subject to this Constitution, a law enacted by the Legislature shall provide for the establishment, functions and jurisdiction of Councils for each electoral district to operate as advisory bodies to the elected members of the Legislative Assembly.**” Therefore, the responsibility was left up to this body to establish by law district councils.

Madam Speaker, I must tell you that I did not envisage the district councils to be established in this manner. I really did not. That is, the manner this Government is proposing. And I may go contrary to some of those who have spoken thus far, but I would like the people to know how I saw this thing coming about.

I saw district councils as a means for greater participation by the people in the governance of themselves. There is no maybe or perhaps about that, that is what I saw it as. Coming from a single-member constituency I saw three people in that small constituency being elected by the people to take information and assist that Member to take information from the general populous, and assist that Member that they chose to represent them in the Legislative Assembly, such as, on the national level, with the governance of that single-member constituency.

Madam Speaker, some may say that what I am proposing is added expense. Well, initially I saw it as a mid-term election.

[Loud electronic interference]

The Speaker: Member for East End, I do not like to interrupt you, but that humming noise . . . when you read the Hansards, the transcripts of this House, it means that a huge piece of the Member's speech is missing. Please turn those cell phones off. Thank you.

I do not want to have to imagine what the Member for East End said when the Hansards are done. Thank you.

Mr. V. Arden McLean: Thank you, Madam Speaker. So many people have done that nowadays, I thank you for not wanting to join that force.

[laughter]

Mr. V. Arden McLean: But, Madam Speaker, if I may, I must say on that issue that you just spoke on with the telephone . . . I do not know, Madam Speaker. That is what we have claimed this interference to be. But I do not . . . somehow some . . . I know I did not do electronics. I did hard electricity. But with my little knowledge I say I do not think it is. It is something to do with the system we have here, Madam Speaker. And I would implore the staff technicians or whatever to look into it because something is going on wrong with our system in here and I agree with you, Madam Speaker, it takes something away.

Anyway, Madam Speaker, back to the issue at hand: I was saying initially [that] I was thinking that we could have a mid-term election in the constituencies and allow the members of that constituency to elect three people. We really do not need any more than three people to assist any representative from the constituency. I have since changed my mind because of the advent of the last election and those detractors who said that the people of this country to some extent were not going to be able to deal with

electing a representative (or representatives) and at the same time voting on whether or not they wanted the new Constitution.

I always held out that Caymanians are smart enough to make their own decisions. And if they can go in to vote for four and five people, they can also go across the hall and vote for one document. So, Madam Speaker, I have changed my mind. I believe why I thought of it initially in that way, where it would be mid-term—mid-term meaning mid-term the national elections—it would be two years after a general election but it would be held every four years. So it would still be in the middle. What that would do is for whatever reason whoever is elected in the national elections would have to put up with those people for at least two years before the next general election. However, because of how small the place is, and I agree it would be an added expense, I do not think to the extent of a national election, but certainly it would be added expense.

Madam Speaker, I also saw that as a means of a training ground for someone who wants to move on to the national arena, (i.e., run in the national general election as a representative of that constituency). I believe that having an elective process for district councils would allow other people who are interested in getting into politics to step up a little later on. Certainly, it would be two completely independent bodies, one the representative and the other body that would be elected as well. And then later on, if they want, it would be good training ground, they would get the understanding of government and how government works and then by the time they get here, if that is their wish and that is the wish of the people of that community, then they would have a better understanding of how parliament works, how the processes work.

Madam Speaker, I have now come to the point where I believe it should be done at general elections. You vote for your representative and you go next door. There might be six people vying for three positions and you vote for three people whom you know to have your district councils.

Of course, some people will view that as a different type of system.

[inaudible interjections]

Mr. V. Arden McLean: I hear the new ones out there saying bicameral. But that is not bicameral, Madam Speaker. They need to understand what bicameral is about. This is called local government; it is not called bicameral. Understand that difference.

[inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, here is where I part company with the Government on how they are proposing this.

Madam Speaker, I do not know why we need 10 people to be appointed to a Council in a district, particularly when this Bill makes provisions. Right now in the six electoral districts we will have 60 people if . . . But maybe this provision in there, if we reach single-member constituencies, was only thrown in there just to have it to say that it was. If we reach single-member constituencies, and we follow what this Government is proposing, we are talking about 180 people. That's how many people we are talking about, Madam Speaker. And that's a lot of people! That's a lot of people for any government to manage.

Now, I understand, Madam Speaker, that in the large constituencies 10 people are a drop in the bucket for any government to draw from. However, when you look at single-member constituencies where you have 800 or 900 people, and there are certain boundaries, then there is no need to have 10 people there. Not only that, Madam Speaker, you put the quorum threshold high, four or five people, then people are busy, they never turn up and you cannot get a quorum. But if you have three people who are duly elected as local government then you know they are going to turn up. You know they are going to support what their constituents request of them, or they are going to make recommendations. That is the basis for the position I have taken. There is no need, in my view, to have 10 people.

More importantly, Madam Speaker . . . and I know the other two Members who have spoken on this have gone into some detail about how and when and who will appoint the Council members. And I agree with most of what they said. But I believe it is necessary for me to point out some areas that I have some concerns with as well.

Madam Speaker, something is . . . I don't know if it's poor drafting or what, but [clause] 5(2) says: "**The relevant Member . . .**" meaning Member of that constituency, or Members ". . . **shall consider the advice given by a Council and determine what to recommend to the relevant Minister.**" So that means, for instance, the Council in East End says you need to build a new clinic, then I would consider that and decide whether to really carry that to the Minister of Health.

[inaudible interjection]

Mr. V. Arden McLean: However, [in clause 5(1)] "**The functions of a Council are- [(a)] to advise on policies and develop programmes intended for more effective discharge of the relevant Member's duties in relation to the relevant electoral district . . .**"

Then, when you look at Schedule 2, section 3(5), "**Minutes of each meeting shall be kept in a proper form and shall be confirmed by the Chairman as soon as practicable at a subsequent meeting; and a copy of the minutes as confirmed by the Chairman shall be sent to the Governor in**

Cabinet and to the relevant Member on a timely basis."

Now, I thought it was the responsibility of the Minister, or it should be the responsibility of the Minister, to transmit such to Cabinet since the responsibility lies with that Member and that Minister to decide what the Minister is going to propose to Cabinet to be done in that constituency. There is, obviously, a conflict between the councils. If the councils are to advise the Member then they have to send minutes of their decisions to Cabinet also. And the Member has to express responsibility to consider it all and decide what is recommended to that particular Minister.

There is some conflict with that, as I see it. We are taking away the responsibility from the Member then, and giving it to the chairman to send directly to Cabinet. And, more importantly, we are taking it away from the Minister who has constitutional responsibility for that particular subject.

So, that really says to me that someone needs to determine the transmission of any decisions, be it made by the council, and advice to the Member who in turn must advise the Minister who in turn must advise Cabinet when Cabinet is getting it direct from the chairman of a Council that was appointed—not elected.

[inaudible interjection]

Mr. V. Arden McLean: Not elected. So, it negates all 15 of us as elected Members of this honourable House.

I thought the country had reposed a trust and responsibility in the Members of this honourable House, 15 (or 18 whenever that comes), not in the chairman of a Council that is appointed.

That is my concern. Who is responsible? Who is constitutionally responsible? And when we determine that, we can decide the transmission of those decisions and where they have to go to.

The Constitution also makes provisions for people such as myself and the Elected Member for North Side, where those constituencies are not represented in Cabinet to make representation to Cabinet. Where is the conflict, Madam Speaker? We need to . . . I would assume that that would be to enforce the position of those constituencies that are not members of Cabinet after representation has been made to the Ministers.

Then you go to Cabinet [and] you have the right to request an audience in Cabinet to confirm the request needed for that district. And I would assume those requests would also come from whatever council in consultation with the Members responsible for those constituencies, duly elected within that constituency. So, there are some gray areas that need to be streamlined.

Madam Speaker, I see some puzzled looks on some people's faces, but I am sure we will all get to where I am talking about.

Madam Speaker, this Bill also makes provisions for parties to advise and to make recommendations. I believe we are in the infancy of party systems in this country. I really see no need for us to have parties appointing people on these councils. If we go back to what I previously said, we only need about three people to do this job. There should really be no provisions for parties to be involved.

If we don't want to do it during the election process, we appoint someone to do a town hall election process and people nominated earlier, months, weeks in advance by the community or something, and then they go to the town hall and they vote by raise of hands or secret ballot and they appoint some of their peers to be on the Council once it is properly explained to them.

Madam Speaker, any government in power . . . do we really believe that this is not going to facilitate the furtherance of their policies? Of course! That is what this is designed to do. It was not intended for that. It was intended to give the people a choice of greater participation wherein they make the choice of how that participation should be managed.

And, Madam Speaker, personally I would not want to get involved in it, whether it was government or not. I have always maintained that. I certainly would want to sit down and justify with a Council and get them to justify the reason . . . and in most instances, Madam Speaker, the Council and the members are going to be fairly much in line with what needs to be done. It then depends on what the Government can afford to do.

It will always be like that, I believe, because those people are from that constituency and what is the priority for that constituency. But, certainly, Madam Speaker, we will see conflicts and it would be in all of our interests, the elected representatives, the Council members and members of the constituency, to engage in dialogue to ensure that we can justify doing such as was mentioned by the Third Elected Member for George Town—the dock in East End.

If the Government loads this up with eight people in East End . . . Madam Speaker, you really think I have a chance? You think that is fair to those who elected me and gave me a mandate? Do you think it is fair to those who elected me who, I should say . . . Madam Speaker, I have more mandate than either one of them out there, you know, because I got 69 per cent of the vote and there were only two of us. There were only two of us, so I have the mandate.

And then, they load up on me and the Council says they want the dock. Do you think everybody in East End will oppose that dock? No, Madam Speaker, that is not true. I would like to think that the majority will oppose it. But load it up and those people say they want the dock. What [will] happen with the majority of the people? And then they will say that the Council decided that this was the best thing for East End.

Whereas, you have an expressed position by the majority of the people who say they do not want it.

That is what you are looking at. If you are elected by the people to sit on that Council you are hard pressed to go there and recommend something that you did not get a mandate from them for, *ya nah!*

Madam Speaker, therein lies the departure I have with the Government. I do not think anybody thinks about this. Certainly, Madam Speaker, the Member for North Side and I, having operated in small single-member constituencies all our lives, understand how these things work. Not everybody supports us. Of course not! It would really be something if everybody supported any Member of this honourable House. But certainly we need to make provisions.

Those who oppose me, Madam Speaker, or who do not support me (let me put it that way) have to support someone else. And do you see what the Government just did to him? They gave him *carte blanche* with the Christmas cleanup and the stimulus. So, here we are. I was not consulted. Here we are. The Government then put him or her in charge of a district council, thankfully. . .

I hope they did not put him there to get the dock because he already signed that petition against it!

[laughter]

Mr. V. Arden McLean: I can tell them that!

So, Madam Speaker . . .

Oh, he specifically came. We took pictures of that. Oh yes. If there is one thing that John McLean, Jr., and I are on the same page with, it is the way . . .

But, Madam Speaker, the Government makes a deliberate effort to keep me out of things, so it would be loaded up with people who do not support me. And, Madam Speaker, it is an uphill battle then for me to represent the people who elected me *en masse* as the majority. I would not be surprised if they do not already have the committee formed.

[inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, these are the things that there must be some transparency in. There has to be.

The people must feel like they are being represented properly. The people must feel like their representative can work with these people, and they must be given the choice to elect people. And I am sure, I have every confidence in the people of East End and their thought process, that they would elect people who they know in the community are activists, whether they are with me or against me. But it would be their choice. It would not be the Government's choice. It would not be my choice, nor would it be the Leader of the Opposition's choice. It would be their choice. Let them do it. The same way they elected each of us and made their choices then in the democratic process, they should be given that choice to decide who their local government is.

I support local government, Madam Speaker. I have always publicly stated that. I believe it is a good thing because whoever gets elected on the national level must understand that they are in for a l-o-n-g haul. Someone is going to come up from local government and they are going to be held into account. And I support local government.

But, Madam Speaker, when they are appointed in the majority by the ruling party, whether that is PPM, UDP, it matters not to me, or whomever it is, you are taking the right away from the people to say who they should be governed by in a democratic society. Give them that extra opportunity.

I hear the Premier talk about the Christian element of this and the likes, and I applaud him. But there comes a time when we as legislators and legislating provisions for governance need to go that step further to ensure that justice must not only be done, it must be seen to be done in the eyes of the people who are governed.

Madam Speaker, do you not think that those people would love—especially those who, for instance, would oppose me at a general election—to have someone (if they know they cannot remove me or suspect that I have won) in local government that they could hold accountable to keep me accountable? Of course! And that is what democracy is about, Madam Speaker. That is my plea. That is what democracy is about. Give them that choice. Do not force upon them someone that the Leader of the Opposition sits down somewhere in a meeting and decides, *Well Arden, who do you think we should put on that committee in East End? Who do you think we should recommend?* No, no, no, no, no, no, no.

[inaudible interjections]

Mr. V. Arden McLean: No, no, no, no, Madam Speaker. No way! That is not how this works. Thank God, if it does go through, it is the residents of East End. Thank God.

Madam Speaker, what I am trying to explain here is the fact that the democratic process goes much further than handouts. I have always said that politics can be defined . . . By “handout,” Madam Speaker, I mean handing out an appointment, and the likes.

[Inaudible interjection]

Mr. V. Arden McLean: Oh, Madam Speaker, did you hear Mr. Ellio about turkeys? I knew that for nine years. You tell him that is not going to stop. Any year I can afford it I will hand turkeys out. And do you know what it says to the people of East End? Thank you very much and Merry Christmas. And I was doing it before I was elected. Oh-oh!

Madam Speaker, it goes much further than handouts in giving people the opportunity to sit on a committee. It also says it is tangibility, measurability

and visibility. I have always said that those three words can define politics, Madam Speaker. And once people see all three of those words being manifested in the actions of any government, that government, or those representatives, will be re-elected because it says something to those people—that you respect them. Give them the opportunities to make their own decisions. Do not force it upon them.

Madam Speaker, I understand to manage government here or in the Government House, to govern, the government needs advice from outside. So there are statutory authorities and boards and what have you that they appoint people to. And that’s fine. I do not have a problem with that because we want to facilitate their policies and the carrying out of their policies. That is natural in any society. You do not expect to appoint somebody to the board that just ran in an election against you. Absolutely not! You want to effect your policies that you made the promises on.

I never get involved in who has to be on the boards. Except when I was Minister, the Third Elected Member for West Bay and I got in a little tussle about it. But, you know, that’s what it is about. They must know how they are going to get their policies in effect. The Government of the day has to demand it. But when it comes to the constituencies, they cannot decide who the constituents elect. And, in so doing, we must show them that we should not appoint someone to assist in their governance either. That is all I am saying, Madam Speaker, and I think that is fair, at least to the people of East End.

Now, I do not know how it works in the multi-member constituencies, but I am sure . . . I have discussed this with a number of people and they do not necessarily feel comfortable with even me appointing someone, because, of course, Madam Speaker, I am going to be biased towards me! Do you really think I am going to pick someone who opposed me? Oh, come on now. Let’s be real.

Do you think that the Government is going to pick someone who supports me? Come on, Madam Speaker. This is life. This is life at its best. Let’s be real. Let’s get down to the real hard tacks. They are not going to find someone in East End who supports me. No! Their eight [persons] are going to be persons that they know can effect their policies in East End. And, in particular, I believe it would be the cargo dock. That will be one.

Why do you think they are trying to get it so quickly for? Of course!

Madam Speaker, this is the real world and if we don’t recognise that then we have our heads in the sand. This is what the real world is about. This is what effecting mandates and policies and ensuring the implementation of the policies that they promised the country is about—getting them effected. They are not going to appoint anybody who supported me. Oh no! Oh no, Madam Speaker.

Madam Speaker, I believe that the Government needs to . . . what do they call it? Go back to the

drawing board and come back again. This is not good. I cannot support it. Madam Speaker, it is obvious, based on what I see it as, that I could not support this. I will not support this in this form. I will vote no against it in every stage thereof.

I cannot support this Bill in the way it is presented. This is not about openness and transparency and open to difference in opinion. That is not what this Bill was designed to do, Madam Speaker. But that is what it should be designed to do in order that we as a people have that participation, the people of East End have that participation and it is their ideas. I mean, you know, the Governor can move the people too.

“Governor in Cabinet”, that’s another thing. The Cabinet does not want to take the responsibility; everything is “Governor.” We must take responsibility. We must start taking responsibility for our actions. That is what we must do in our country. How do we expect to promote the furtherance of democracy and for the young people of this country to follow in our footsteps if we do not take on the responsibility and stand up and be counted and stop hiding behind people? That is what we need to do. Open our minds and allow the constituents to decide who they are going to put on that council.

Madam Speaker, I do not have a problem with waiting until the next general election. [It] is another ballot. That is all it is. You just go through the same election process, make some little amendments to it that advisory councils, or whatever, can be done on that basis during the general election and everybody will know. We will prepare people for it. Let’s advance our country in a transparent and democratic manner where people really feel like they are participating.

When they go out there to elect someone for the national level they also pick someone who has put themselves up that they can report to, or they can go and make recommendations to other than the representative. Madam Speaker, many times we are not available, but there are people in our constituencies that other people go to. They are more comfortable with them. Why can we not do that, Madam Speaker? That is all I am asking the Governor. Let us do it that way.

The other thing is under [clause] 6(3) of the Bill, **“Members who are not public officers as defined in the Constitution shall be paid such allowances as the Governor in Cabinet may determine.”** Madam Speaker, that tells me now that they are going to appoint public officers on it too. I never in my life heard anything like this! Now, if it does not mean that, then somebody is going to have to tell me so. But that is what it says to me. So we can get three or four civil servants on it too. Oh Lord!

Madam Speaker, I have no beef against civil servants, understand me. I have none. As a matter of fact, I think they should have more participation in what they are doing. Yes. And I understand . . . but how are you going to get the civil servants doing their work during the day and then they have to do the

other stuff too? That is where I have the participation that I am talking about.

Look at the petition I am going through with now. They can’t even sign it. Nevertheless, it is a private developer who is going to build the dock in East End, but the civil servants in East End are curtailed from signing that petition. And I am not encouraging them to sign it either, Madam Speaker, I must tell you.

But the fact is, that is the kind of participation, if it affects their constituency in the way they live then they should be able to deal with that. But in this case, if it were local government, it would be local government. Then the civil servants can go and make their own representation there too. We need to empower our people.

This is about empowering people. And we are not empowering people through this. We are going to appoint everybody and there is no need for that. There is none. When those same people, those same civil servants will go to the polls at the next general election and elect a representative . . . and they cannot go next store and elect their local government? Of course they can. That is how it should be. And then they concentrate on their work as civil servants. That is how it should be. That is how it is done anywhere else in the world, anywhere else in the Caribbean.

Madam Speaker, your good self and I were just in Trinidad, and the Clerk and the Member for North Side. The day after we arrived they had the local elections. They had had the general election about two weeks before we arrived. They had their local election; it had been years then that they did not have any local elections. The ruling government won the majority of those constituencies too, the people they had put up to run in the local elections. Who is to say that is not going to happen here?

So, the mandate was given to the newly elected government from the national level and also from the local level. Who is to say that will not happen now here too? But at least the people will have made that choice instead of appointing people.

Madam Speaker, I know this Government, every Member . . . well, at least two of the Ministers have had previous experience in Cabinet, and now the other three know as well how difficult it is to get people to go on boards. Many of the boards are not even formed for months—some not for years—because you cannot get people to go on them. People are afraid of the responsibility. Some cannot go on it. You call them, they are too busy, they cannot deal with it or their terms of employment do not allow them to get involved in those things. There is a raft of different reasons why people cannot go on these boards. And that is the Government trying to get people to assist them in governance.

Madam Speaker, if this gets passage through this honourable House I wish them luck. I wish them luck because they will be finding 180 people soon if we go to single member constituencies. That’s a lot of

people. A lot of them will have to be doubling up on their contribution to this country on boards.

Madam Speaker—

[inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, I do not know if the Government will listen to us. I do not see it necessary for me to go all through what other Members went through. But certainly, they made valuable contributions to this Bill. I hope that the Government takes a look at our contribution to it and let's see if we can come up with something that is in the best interests of the people of this country where they feel like they are participating and it is not forced upon them, so to speak, because this is about democracy, Madam Speaker, and not about total control. We cannot afford to control the masses. We will be walking a thin line then. Certainly then our people will feel disenfranchised.

They will not feel like they participated in a democratic process and will be having to look for favours from the ruling government to be appointed to these boards. That should never be. That should never be, Madam Speaker. Let them manage their affairs. Let them decide who participates in their governance.

Thank you very much, Madam Speaker.

The Speaker: Thank you, Member for East End.

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

I will call on the Honourable Premier to wind up the debate, please.

[pause]

The Premier, Hon. W. McKeever Bush: Thank you, Madam Speaker. I am sorry, I was just discussing with some of the officers that are here who are responsible for the Bill.

Madam Speaker, I have listened to what Members, at least some of what they were saying. I can say that listening to the other side . . . they started off pretty good. Of course the Third Elected Member for George Town is like what Mr. Benson had told me about a lady in a campaign meeting who got up to pray, but it wasn't too long after she prayed that they had thrown God out of the window.

Madam Speaker, I have listened intently to, as I said, quite a bit of what was said. None of them can say that they are genuine in what has gone on here this afternoon. That is my opinion. I heard about tangibility and visibility. Firstly, Madam Speaker, I am not blind. Nor am I deaf.

I listened to what the Member for North Side said and I have seen his amendments. Madam Speaker, let me clearly outline to the Member for

North Side and to this honourable House, since the political game that is being played is very evident to me There is nothing in this Bill that would leave the district of North Side—and any district for that matter, but let's deal with the district of North Side—in an untenable situation or position. This Bill gives the Member for North Side the ability to appoint 3 members, recommend 3 members to be appointed out of 10. All you have to do is read the Bill. That is what it says.

[inaudible interjection]

The Premier, Hon. W. McKeever Bush: I will come to them and their fairness, Madam Speaker.

The Third Elected Member for George Town just needs to wait his turn. I will deal with him too.

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: In clause 4[(4)], “**Where an electoral district does not have a Member who belongs to the party whose leader has been appointed Premier**” (in the case of this Government) “**under section 49(2) of the Constitution,**” (in the case of this Government) “**the party shall be entitled to nominate up to three members to the relevant Council.**”

The party that the Member for North Side sits on by himself—

[laughter and inaudible interjections]

The Premier, Hon. W. McKeever Bush: Madam Speaker, the same is said for the district of East End because they are single districts—only one Member. And therefore, we were fair enough—

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: Yes. Probably you could get it done. After listening to you, you could get anything done.

The Member for East End is in the same position. What they are not accepting is that they are the minority. And that is the crux of the matter, with everything that has been done since May of 2009 by this administration. Not one blessed thing have we brought to this honourable House that they did not find good enough reason to get up and say, *I can't support this, and if I don't get this I am not going to vote for it*—including my friend, the Member for North Side. He is the biggest culprit of it.

Once, heh, heh, heh, heh . . . Madam Speaker, like I said. I am not deaf, nor am I dumb, nor am I blind. I am under no illusion that the Member's work is one of an independent legislator. I would be stupid to believe that! In fact, everything that is being done is calculated to say, *See? I am trying to be an independent, but the Government won't agree with me.*

Right now I do not believe there is any independence in the moves in what is being done, and more so in what is being said, inside and outside of this honourable House. The district of North Side can work better for all in that district if the Council is given a chance to work as it is proposed. They can put the man in the moon on it, they can say anything. They can talk about docks, and any other kind of works. This Bill has not been pre-supposed on any of those positions. This is a position that I have held, and my party took it up and we pushed it. I have held this from my first time in my political career.

If the council is given a chance to work as it is proposed, Madam Speaker, it will work!

The Member for North Side gave a scenario of their thinking. This Bill for an Advisory Council is for the reasons I have pushed for it the whole of my political career. It is there to advise the elected Member of a district to help him understand, to help him get a better feel of what the people of that district desire for their community.

[inaudible interjection]

The Premier, Hon. W. McKeever Bush: Well, why should the Government not want something? Why should the Opposition get what they want and the Government get nothing?

What kind of Government would that be? Maybe it would be the right kind in the thinking of the Member for George Town, because he cannot get over the fact that the people of George Town whipped him soundly and sent him back over there where he is at. And that is his problem.

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: Of course! Getting paid, doing nothing but talking rubbish! It is the best life he's ever had. There is no work being done. There is a lot of confusion being thrown in, so he can call it the best life he's ever had.

[inaudible interjections]

The Premier, Hon. W. McKeever Bush: Madam Speaker, it is there to advise the elected Member of a district. It says what it is—"an Advisory Council for the elected Member."

The Elected Member for North Side says he has a council. Well, if all that they are talking about—I am bunching them together because they are one . . . what is that, if he has a council? Does it have other people from both sides or on all sides? Or is it made up of just his supporters? What is that council?

I am not crying down the council. I think the Council has done a good job since he formed it. But do not come here holding an argument trying to tell the Government that what the Government is doing is bad because the Government is proposing to add

some members, [is giving] him the right to appoint three and to have some others, and that's bad. Because now we are going to have people that are going to say they want this, they want the next thing; yet, he has a council.

Who is it made up of? Some very good people! Excellent people, in fact, but [they are] his supporters. That is not politics, I guess. I wonder what it is.

Madam Speaker, this constitutional provision is a good start at getting people more involved and extending the democratic reach.

One thing for certain; if the Third Elected Member for George Town speaks, the Member for East End has to speak. If the Member for East End speaks, and the Third Member for George Town has not told him what to do or what to say you can believe the Member for George Town is going to speak, as they are both looking to be leader right now. Hear the two of them, Madam Speaker! The Member for East End, the Council shall have people on it that aim to or want to be elected.

Now, Madam Speaker, the Member for George Town (who is in the same party), wants no party or politics to be involved. Yet, as I said, his colleague's proposal cannot be any more political! So where do the two of them go? That is how they operated Government; each going a different direction, all spending money.

[laughter and inaudible interjection]

The Premier, Hon. W. McKeever Bush: But anything to complain and try to sound credible.

Not spending nearly half as much as Government now? Madam Speaker, they spent! They think nobody knows. That's their problem! And nobody asks about them because Freedom of Information was not put in place. That was put far enough back until this Government got elected so it would not apply to them. And you do not hear anybody asking about what they did—uh-uh!—what this Government is doing, what civil servants now are doing. You do not hear anything about what they did. Even to the reports this morning when you listened to the Chairman of the Public Accounts Committee. He made it sound like this was the Government now that those reports were for. He never once really said "last Government," or "the other administration."

Listen, Madam Speaker, I am 55 years old. I will be 56 in a couple of day's time. They have not begun to understand [the] politics that I know about, that I have seen operated here!

Madam Speaker, the Member for George Town keeps grumbling, but he is in the minority and he shall stay there until such time as the people chose to put him back on this side of the House.

[Inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Oh?

There is a democracy. But it is not the one you think will operate at all times. The ball is round. I have known that all through my political career. You do not seem to understand it.

Madam Speaker, anything! They will say anything. They will complain about anything and then try to sound credible as all three of them did today. I know their shenanigans. They are not fooling me. They are not fooling me with their actions.

They did not want this. When? Since they came up with this. They spent millions of the Government's money, the country's money, and we never heard *quehey* about an advisory district council. They fought me when it came to democratic participation, as far as I am concerned, in regard to a bicameral system in putting in people, appointing people. I made it absolutely clear that what I thought the Council would be, since I could not get a senate—would be, Madam Speaker—to have a Council where people who did not get involved into the electoral process would be able to get involved in their districts. But they ought to have been living in that district. I did not hide that. I went from one length of the end of this Island to the next.

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Well, Madam Speaker, if they call me 'sir' that might be just something good that they call me because they have called me everything bad since my political career.

Madam Speaker, that is the problem they have. While they get up and beat their gums about wanting to see Caymanians move ahead, they really do not want to see Caymanians move ahead—particularly this one. Only if it is going to benefit them, you heard them say that. *One day you might be the Premier too, so I want this. He should get this.* He should get it, only if they can get it! And that is what is wrong with them. Madam Speaker, let them beat up their gums. I am in a good mood this afternoon for their remarks.

I went to England. I did not get one red cent, as a party, to promote anything. We asked and we begged and we pleaded. Not one thing, [not] one dime to help promote any democratic institutions that we sought. And they certainly did not support district councils. They did not support it until the very last minute. They realised that I had support on it, then they put it in their document.

When they went to London, Madam Speaker, they did not say anything. They told me, this is your baby, you talk on it. I talked on it. And you see about three lines they put in the Constitution. It happened so that what they put in the Constitution was this advisory—not elected. And if you wanted it elected, why did you sit in that place in London and keep your yabber shut when you should have been talking then?

You come here talking now about you want to see it elected?

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Madam Speaker, we went to London. We fought for this because we believed that people in their communities really want a chance to say where roads go. They want to say what affects their being.

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: They want to say . . .

Madam Speaker, I really can deal with the Opposition, but sometimes I would like a little peace when I am trying to speak.

Madam Speaker, I do not believe that the people of this country wanted an elected body in the district councils, because that would be a formal local government institution.

[inaudible interjection]

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

The Speaker: Member for East End, please . . . and turn the microphone off too, please. Thank you.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I do not believe that the people want a full-fledged form of local government being elected and all that goes with that because that really sets in motion a huge bureaucracy. You have to set up virtually mini-legislatures throughout every . . . not district, but when you get constituencies going it will be constituencies too. When you go to single-members you are going to have a local government council for each constituency.

So, Madam Speaker, the people, I thought made a good choice in supporting that aspect of our proposal. If we set up . . . I see this committee stage amendment, which is not going to get our support. If you went by them the district council would have to be elected. We have no support for that. The people voted for an advisory council. And only registered electors may vote and hold office in that instance. This means that many residents, Madam Speaker, many of whom have valuable expertise and whose interests should not be overlooked would have an opportunity to be a part of this supposedly more democratic set up.

That is why I wanted a bicameral system, Madam Speaker. As I said, there are a tremendous amount of good people that will not get involved in the electoral politics and the cut and thrust of debate and all that we now have to put up with in politics. But if you appointed people who have expertise in the vari-

ous sciences, who have education and knowledge background in various issues—environment, finance, tourism—but they do not want to get involved politically to that extent . . . some will, of course. We have had candidates that can make a contribution. But if you went by what they said, you would not be able to do that.

And so, when it came to the matter about who is being paid, there is no good reason why public officers should be excluded from the district councils. And [clause] 6(3) in the [Bill] only provides that allowances may—*may*—be paid to District Council members, except for public officers. I think if we are going to do that, then of course you need 6(4) to authorise any such payments.

The deletion of section 1 of Schedule 2 would only be necessary if the idea of direct elections of district councils was accepted. If the district councils are appointed the section would be needed.

Madam Speaker, I cannot understand what all this hullabaloo is about [clause] 3(6) and why that should be taken out. You see, they have to try to read everything bad into something. It needs to stand as it is written because even this honourable legislature, Madam Speaker—whose proceedings are meant to be quite transparent—is given the power to hold proceedings in camera. What happens the day that the District Council has an extremely serious matter that cannot go public at that moment, but they want to discuss it formally? What happens? They can request it to go in camera.

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: What that does, Madam Speaker, is one always knows where [one] stands. If you left it completely open, all you are going to have is complete deals made in the dark. Then you don't know what happened until it happened. No. We cannot support that, Madam Speaker.

Madam Speaker, contrary to this position which seems to be the stand that they have taken, that the Government will control all 10 members of the council, the proviso is that at least two members recommended by the Leader of the Opposition shall be appointed.

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: *[Addressing the interjection]* It doesn't?

[Inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Well, Madam Speaker, the Member for George Town can twist it any way. He is supposed to be some kind of lawyer.

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: But not exceeding six other members, at least two of whom shall—*shall*—subject to subsection (2) be recommended by the Leader of the Opposition, appointed under section 68 of the Constitution.

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Oh! That, to me, says that they shall be appointed. Now, you can twist it around, because the English language can do many things.

[Inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Well, why can't you accept what we put there?

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Because it does not fit what they want to say.

[inaudible interjection]

The Premier, Hon. W. McKeeva Bush: They want to say what they said, so they have to twist it around.

[Inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Practicing, yes.

Madam Speaker, contrary to the view that the councils as set up by the Bill are undemocratic because they are not directly elected, Cabinet is required to take cognisance of recommendations from the public from within their districts. Read the Bill. Cabinet is required to take cognisance of recommendations from the public from within their districts.

Unlike the position taken, that 4(2) negates 4(1), 4(2) actually anticipates and provides for a different scenario. [Clause] 4(1) is based on one party taking all the seats; 4(2) is based on split representation and simply allows that if that route is used to place nominees on a council, then the proviso in 4(1) would not be necessary.

In cause 4(4), allowance again is made, as I said, for a situation (such as that which obtains in North Side) where an independent occupies the single MLA seat. In that instance the expectation is that the MLA's nominations will take precedence. Accordingly, the point of 4(4) is to limit the nominations of the ruling party, hence it stipulates up to three members being named by that party; meaning, Madam Speaker, no more than three.

Madam Speaker, I have heard it said that "Governor in Cabinet" is used merely to put a good face on what is, in fact, a system set up—

Moment of interruption—4.30 pm

The Speaker: Honourable Member, I need to interrupt you.

It is the hour of 4.30. Are we going to continue beyond this hour? We need a . . .

Suspension of Standing Order 10(2)

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

I move the suspension of Standing Order 10(2) to allow business to take place after 4.30.

The Speaker: The question is Standing Order 10(2) be suspended to allow business to take place after 4.30

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

Ayes and one audible No.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: Mr. Premier, please continue.

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

As I was saying, they have said that the Governor in Cabinet is used just to put a good face on what is, in fact, a system set up to unilaterally appoint and control the Council which, Madam Speaker, is a serious stretch of their imagination, because on the other hand the Governor is strongly warned not to dabble in local politics if he wants to retain his statesman's halo.

So, what is their position? What is the reality? What is their position?

Madam Speaker, much was made of the undesirable aspect of appointing the District Council rather than having them directly elected. I think I have mentioned that, but as I speak I would say that most of the arguments here react to the charge that the Government of the day will totally control the councils by appointing political people, or people who are simply put there to tell the Government what it wants to hear. As I said, I have already noted that clause 4 achieves a much greater balance than this. And there are safeguards to include MLAs whether they are of the ruling party, the Opposition, [or] Independent MLAs.

Madam Speaker, one of the arguments put forward by them is that there is a conflict between the requirement for the councils to advise MLAs and also to submit the minutes to Cabinet which appointed them. There is actually no conflict between this advice to MLAs and providing routine reports to Cabinet. This way, whether the MLA can be a member of the ruling party or not, acts on the advice of the Council or not,

Cabinet's attention is drawn directly to their concerns and that is what they want.

Madam Speaker, the [Third Elected] Member for George Town, the Member for East End, [and] the Member for North Side talked about politics. But all they have done here today is to play a mean little game of politics. You saw that they had to throw in what they think is a big thing for them to fight, that is, the issue of this proposed dock in East End. So, Madam Speaker, anything they do now is going to be tied to that.

I wonder, Madam Speaker, which government it was that did the rezoning for it and who had a hand in it.

[Inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Madam Speaker, their usual thing is that we should withdraw the Bill. That is their thing, because they want to have their input on it. How long was this Bill out there for public consultation? And if they had any sensible recommendations each one of them from the PPM—the Member for East End and the Third Elected Member for George Town—have two hours each, four hours that they could put forward any proposal instead of getting up in here and talking the rot that I heard the Member for East End trying to sell here today.

The Speaker: Your choice of words is not very good.

The Premier, Hon. W. McKeeva Bush: Well, Madam Speaker, if it was not rot, it was rotten!

[Inaudible interjection]

The Premier, Hon. W. McKeeva Bush: Yes.

Madam Speaker, I will bow to your ruling since . . . I am not saying anything that is unparliamentary, but, Madam Speaker—

The Speaker: It just sounds [inaudible]

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I know you don't want it said, so I want to agree with you. But what they said was pure bad; it was not good!

[Laughter]

The Premier, Hon. W. McKeeva Bush: They had two hours each and not one of them could come here and give a sound recommendation or proposal that is better than what the Government has proposed.

The Member for North Side tried, but if we were to take up what he proposes it would throw the whole scheme out of whack. And, really, as I said, some of the Member's argument, all of it, does not hold water simply because the one big issue is who are you going to put on it, the Government's support-

ers? There's one now. Who does that have on it? His supporters!

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: Balance? You would not know balance if you got balanced. And that is a hard job to do.

Madam Speaker—

[inaudible interjection]

The Premier, Hon. W. McKeever Bush: The last thing, Madam Speaker, because . . . I am not going to take any longer on this matter because the truth is that none of them put forward any valid arguments as to why we should withdraw the Bill. They had two hours each that they could have used to outline and add, take away, and make a situation better if they could. The simple fact is they have no better alternative. And that, Madam Speaker, is the whole matter with the Opposition and anybody that sits with them. They have no better alternative, but to tear down everything in this country that is trying to be done for the betterment of the people of this country.

I hope that the good people of this country recognise what is being attempted. I hope that every time that they open their mouths that the people recognise what they did and how much grief they have caused this country, and how much money was wasted, and how much money they did not make that they could have made for the country, and how little effort was put in to make things better on this Island. And they come back here now wanting the world to believe that they know it all, that they can do it all, and that they have every answer to everything that is brought.

Madam Speaker, I will not waste another breath on them.

This Bill is a good one. It is needed. It is a good start. We have not gone into full-fledged local government, which would cost a lot of money for the country. We are giving people, and we appoint people, and the balance that they talk about is there for people of all sides, the Opposition, the so-called Independent (if that is what [he is]), and for Government. And, of course, Madam Speaker, for other people that normally do not get a chance to put forward good positions will now have an opportunity.

We could not make it three members. Can you imagine, Madam Speaker, having to put up now with three members that the Member for East End would appoint by himself? Humph.

[inaudible interjection]

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

Madam Speaker, the Member for George Town said that the Devil quotes Scripture. And he says that he was sincere. Madam Speaker, if there is

anybody that can make billions and hundreds of millions of people believe that they are sincere, it is the Devil.

The Speaker: The question is that a Bill shortly entitled the Advisory District Councils Bill, 2010, be given a second reading.

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

Ayes and Noes.

Hon. D. Kurt Tibbetts (Leader of the Opposition): Madam Speaker.

The Speaker: Honourable Leader of the Opposition.

Hon. D. Kurt Tibbetts (Leader of the Opposition): Can we have a division please, Ma'am?

The Speaker: Madam Clerk.

The Deputy Clerk:

Division No. 28/2010-11

Ayes: 8

Hon. W. McKeever Bush
Hon. Rolston M. Anglin
Hon. J. Y. O'Connor-Connolly
Hon. Michael T. Adam
Hon. J. Mark P. Scotland
Hon. Cline A. Glidden, Jr.
Capt. A. Eugene Ebanks
Mr. Ellio A. Solomon

Noes: 5

Hon. D. Kurt Tibbetts
Mr. A. M. McLaughlin, Jr.
Mr. Anthony S. Eden
Mr. V. Arden McLean
Mr. D. Ezzard Miller

The Speaker: The result of the Division—Ayes: 8 and Noes: 5. The Advisory District Councils Bill, 2010, has been given a second reading.

Agreed by majority: The Advisory District Councils Bill, 2010, given a second reading.

The Speaker: If we are going to go beyond this hour, I would like to call a recess of 15 minutes please.

The House will be suspended for 15 minutes.

Proceedings suspended at 4.44 pm

Proceedings resumed at 5.35 pm

The Speaker: Proceedings are resumed.

Please be seated.

SECOND READING

Water Production and Supply Bill, 2010

The Deputy Clerk: The Water Production and Supply Bill, 2010, second reading.

The Speaker: Deputy Premier.

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

Madam Speaker, I beg to move the Second Reading of a Bill for a Law to repeal and substitute the Water Production and Supply Law (1996 Revision) to improve the concession granting process and for incidental and connected purposes.

The Speaker: 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, the Bill that is currently before this honourable House seeks to do a number of things, including, but not limited to:

[Clause] 2 sets out a number of definitions that are relevant to the full cognisance and understanding of the said draft Bill.

Clause 3, Madam Speaker, provides for the power of the Governor in Cabinet to specify that the Law will apply to the Islands as a whole or to such portions as he may specify.

Clause 4 empowers the Governor in Cabinet to grant concessions after seeking the advice of the Water Authority. The concessions shall be subject to the terms and conditions contained in a licence issued by the Authority.

Clause 5, Madam Speaker, provides that once a concession is granted, the concessionaire will be deemed to hold a franchise under the Local Companies (Control) Law (2007 Revision) and will not therefore need a licence under the Trade and Business Licensing Law (2007 Revision).

Clause 6 provides that where a tenant becomes liable to a landlord's remedy or court process, such remedy or court process shall not attach to any works placed on the rented premises by a concessionaire.

Clause 7 goes on to specify the general rights of a concessionaire in relation to the supply of water.

Clause 8 provides for the circumstances in which water may be cut off and restored.

Clause 9 provides for the power of a concessionaire to appoint inspectors who may enter the supplied premises (of course, at reasonable times) in order to examine, remove, repair or adjust works of the concessionaire. All inspectors will be required to carry means of identification.

Clause 10 provides for a concessionaire's power of entry on the premises for purposes of installing, improving or maintaining works. This may be done upon giving seven days' notice or, in the case of an emergency, without notice.

Clause 11 provides for cases where private installations or works interfere or appear calculated to interfere with a water system. In such a case, Madam Speaker, a summary court may, on the application of

a concessionaire, allow the concessionaire to make any alteration or adjustment to the private installation or works, but this can be done only after hearing any private party who may be affected.

Clause 12 provides for the establishment of the Compensation Assessment Tribunal. Its function, Madam Speaker, is to make awards in relation to any claims for compensation which may become necessary due to the production or supply of water under the legislation.

Clause 13 empowers the Honourable Attorney General to claim damages for pollution or any other injury to public amenities arising from the production or supply of water.

Clause 14 gives the Governor in Cabinet both general and specific powers to make regulations for the better carrying out of the provisions of the Law.

Clause 15 provides for penalties for violation or contravention of this said draft Bill when it becomes Law, provided we get the support of this honourable House.

Clause 16 provides for the repeal of the current Water Production and Supply Law (1996 Revision) and makes transitional provisions which are necessary as well.

Madam Speaker, I thought perhaps I would specifically draw Members' attention to clause 2, as it relates to the definition of a "concession," which means any instrument by which the Governor in Cabinet grants a right or a privilege under the Law enabling a person to produce or supply water or both under this Law.

Madam Speaker, the Law, in my respectful submission, has been crafted with care. Of course, as any other law, it is open to transparent and full and frank disclosure. The Government is open to reasonable logical and sound recommendations if the Opposition or any Member of the Government at this stage wishes to so put on this honourable floor.

I wait to hear them, and will respond accordingly, Madam Speaker.

I thank you.

The Speaker: Thank you Honourable Minister.

Does any other Member wish to speak?
Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, I have a couple of concerns and questions.

In clause 3 I do not understand why it says, "**This Law shall apply to the whole of the Islands or to such part or parts thereof as the Governor in Cabinet may by order declare.**" I would have thought that the Law needs to apply to all of the Islands and the concessions that are granted can be for specific areas. But I have some difficulties if this is Law is not going to apply to North Side.

I also have some concerns that in [clause] 5 all of the concessionaires—and the mover just read how wide the definition of "concessionaire" is—are

going to be treated as a franchise and therefore not subject to the provisions of the Trade and Business Licensing Law.

Madam Speaker, I believe the Government may be giving up some revenue here. And I, for one, would like to see in these concessionaires the full application of the Trade and Business Licensing Law, in particular, the 60/40 ownership by Caymanians. I think it is time for us to enable some investment by Caymanians in these kinds of utilities, and not simply let them hide behind this franchise definition on the Company's Law and be exempted from the other provisions of the Trade and Business Licensing [Law].

As I understand it, this will also apply to some of the condo complexes and hotel complexes that may be making their own water, or even in the case of them on-selling water that the concessionaire who . . . I can understand, the big franchisee, but certainly, in that case where people are simply putting water meters to pass through, [they] should not be exempted from the [Trade] and Business Licensing Law.

I also have some concerns that where these private individuals set up works on private land, that the landowner is not compensated. I understand from the mover that [clause] 7 sets up some tribunal, but I think that [clause] 6, I believe, eliminates the private landowner from the opportunity to get lease for these facilities that might have to be placed on private land.

Particularly, in the district that I represent, the road reserve is fairly narrow and some of these works would probably definitely have to be put on what is existing private land, whether it was purchased or at minimum I think the private landowner should be able to require leaseholds and other fees from these concessionaires.

I know there is an existing problem where I understand, particularly from Cayman renters who have to put their meters in their name as a landlord, and then their kind, gentle, loving tenants decide that they are going to leave so they leave the hose running outside in the backyard for the whole month that they are giving notice and then the landlord is stuck with that bill, because if he does not pay that bill the Water Authority, who would have disconnected it for lack of payment, will not reconnect it so he can get another renter on the premises.

I would like to see some protection built in here for people like that, particularly, if we are now going—which I don't support, by the way—[to put] this water production and distribution in the hands of private individuals when the Government has struggled for so long to put in the capital investment and been satisfied with minimum returns. And now that we are meeting the other side of the curve where it is a cash flow and a cash cow situation over the next 10, 15, 20 years for the Government, we're suddenly deciding to liquidate the asset. But, in particular, if they are going to be private individuals I think we need to build in some protections for the people that we represent.

So, Madam Speaker, if I can have those couple of things cleared up I would feel better about the Bill.

And one other point is in [clause] 13, where it says, "**The Attorney General may on behalf of the public claim damages for pollution or other injury to public amenities arising from the production of supply of water, or both.**" I do not understand why that is not simply an offence under the Law [if] these private individuals who are now concessionaires and franchisees create this pollution. It should simply be an offence punishable in a court of law by a substantial fine instead of the Government having to find the resources to try to get the Attorney General to take legal action to recover these damages.

Thank you, Ma'am.

The Speaker: Thank you, Member for North Side.

Does any other Member wish to speak?

[pause]

Member for East End.

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

Madam Speaker, I rise to make a short contribution to the Bill currently before us, the Water Production and Supply Bill, 2010.

Madam Speaker, I have known from being in Cabinet that we have had nothing but problems with this particular Bill and trying to regulate concessionaires who make water. Some did not even apply to Government, and we had to get the Water Authority to enforce it. Then all the lawyers got their fingers in it. And then there was the interpretation that if you are doing it for specific purposes, using it on your own compound, you shouldn't be charged fees and royalties and the likes. I know on at least one occasion I had to concede because the Law did not have anything specific in it.

I was hoping that this one would have given us a little more teeth. However, I recognise that the Government's intent here (and that is expressed also) is for the purposes of selling the Water Authority to someone. And that is to facilitate that.

For instance, Madam Speaker, under [clause] 15 . . . And by the way, Madam Speaker, I have the same concerns the Member for North Side have, but I think I would be repeating everything he said if I said those too. But just to add to his concerns: Under [clause] 15, which is currently under the 1996 Revision, section 12, it makes provisions for those who were in operation prior to the 6 May 1991, the creation of the Water Authority.

This amendment goes further to say—that is, Madam Speaker, the provisions in here shall not affect those who are in operation prior to 1991—" . . . **and if a concession has been obtained within twenty-four months after the commencement of this Law.**"

So, what we are doing is, we are trying to grandfather in someone else—which I suspect will be

the Water Authority, if that is completed within 24 months by whomever does that, or gets that. I hope that is not the intent, but that is what it looks like to me.

Now, there are a number of people, a number of businesses, and I can name a few: Tortuga Club, the Ritz, Dart Nursery, Treasure Island—a few of them that are producing their own water on site. But they were not there before 1991. Now, my concern is what is going to happen to them. Will they now be required to make an application under this new Law that is repealing the previous Law? And what will be the conditions? Because Cabinet has to grant it after consultation with the Water Authority. Will fees and royalties now be applied? Many of those, Madam Speaker, were allowed to produce their own water because the Water Authority . . . I think one is in Cayman Kai someplace as well. Somewhere in North Side.

Mr. D. Ezzard Miller: Retreat [*replying to the Member for East End*].

Mr. V. Arden McLean: But . . .

The Retreat? [*replying to the Member for North Side*]

Mr. D. Ezzard Miller: I think it is the Retreat [*replying to the Member for East End*].

Mr. V. Arden McLean: But I know in the instances of those in East End, there are at least two. They were allowed to produce their own water because the Water Authority did not yet have their infrastructure in that area. So, I just do not understand why those two years have been added in there, whether it is to grandfather them in or to grandfather or grandmother in whoever buys the Water Authority. So, if the Minister can explain that one.

If it is not to grandfather those in, then what is the position of the Government on now requiring royalties and the levying of fees for concession, which only Government will be able to award upon application, I suspect?

Certainly, Madam Speaker, there are many instances in agricultural perspectives where I think it will help those who are in the agricultural business. It will promote also other areas of business, such as other commercial businesses where a lot of water is needed. However, Madam Speaker, we must respect that all residential properties are going to have to connect where the Water Authority is available. And, Madam Speaker, we know that there are very few places that the Water Authority's infrastructure is not available today. If it is not, then it does not take very long to effect a connection.

I know for sure all of the main pipelines throughout this country have been installed with the exception of a very short distance.

[*inaudible interjection*]

Mr. V. Arden McLean: Well, Madam Speaker, I hear the Members out there saying "West Bay." The Water Authority is not responsible for West Bay.

Cayman Brac and Little Cayman, I totally agree, Madam Speaker. The Minister is saying . . . and I agree that Cayman Brac . . . I was specifically talking about Grand Cayman at the time. But, yes, in the Islands the Water Authority still has a lot of work to do in Cayman Brac. It is only the West End that currently enjoys . . . and probably only 5 per cent to 10 per cent of Cayman Brac has received piped water at this time; thus my reason for transferring a piece of land off the Government to the Water Authority on the Bluff during my time, to ensure that the Water Authority had some.

Now, I don't know how far it has reached at this stage, but certainly, Madam Speaker, that was my objective as well.

I see the Minister is now paving Cayman Brac. One of my objectives was to put in the water and then pave Cayman Brac too. But, of course, sometimes because of the lack of resources she might not be able to do it like that. But that was one of my dreams as well.

So, Madam Speaker, I know that having said that, I believe that [for] anyone who is granted a concession we have to consider that the Water Authority is in most places in this country, with the exception of the two Islands, the Sister Islands; Little Cayman and Cayman Brac, with piped water. So, we have to consider that quite strongly, particularly with those existing. Those concessions have to be reviewed again. And I would ask the Minister to address those whenever she responds to this debate.

So, Madam Speaker, that is my contribution to this with the concerns also that the Member for North Side had about the exemption from the Local Companies (Control) Law (LCCL) and the exemption under the Trade and Business [Licensing] Law (2007 Revision), because it says, "[5.] A concessionaire under this Law is deemed to be the holder of a franchise for the purpose of section 4(1)(d) of the Local Companies (Control) Law (2007 Revision), and is exempt from obtaining a trade . . ."

I don't know who would have an LCCL. Some of them obviously do not have an LCCL. So, Madam Speaker, I certainly would like some explanation to that as well.

Thank you very much.

The Speaker: Thank you, Member for East End.

Does any other Member wish to speak?

Third Elected Member for George Town.

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker; very briefly.

Madam Speaker, this Bill is part of a raft of bills we have received all relating to the Water Authority in one way or the other. And, Madam Speaker, the purpose of this exercise, as we understand it, really, is

to enable Government to proceed with its policy announcement that it intends to divest significant assets of the Water Authority to private entities.

Madam Speaker, I had hoped that when the Minister rose to introduce the first of these Bills she would have set out in some detail what the Government's proposal is, what the details of that policy are, and to explain to us and to the broader community how, exactly, all of this is intended to proceed and, indeed, the extent to which the divestiture will occur.

My colleagues have spoken about technical aspects of the Bill, and I am not going to attempt to go there. But I really regret that we are seemingly debating these important Bills in something of a vacuum, or under the pretext that this is just technical amendments to the Bill. What the country and what Members of this House ought to be concerned about, really, is an examination—a careful examination and scrutiny—of what it is, exactly, that the Government is proposing to do with this important asset of the Water Authority.

The Member for North Side did note very briefly his concerns and objections to the divesting of this important asset at this particular stage. And I believe others of us would like to hear the Government's rationale and thinking about this whole exercise and what it is actually going to do in terms of improving Government's revenue stream, whether this is a measure which it is hoped will be a short-term fix to a revenue problem, but which may actually result in significantly increased costs of the provision of these services to the general population, creating another whole set of issues.

Those are the kinds of matters that really ought to be on the table to be debated to be discussed in this honourable House. The technical aspects of the Bill are important, I agree. But I believe those can be easily resolved and, generally speaking, the public is not too concerned about that. They believe that the technocrats will eventually sort out those issues. It is the big policy issue that needs to be squarely on the Floor of this House for debate. And I would invite the Minister, either when she winds up this Bill or when she introduces the next, to let's put the issues on the table so that this House can debate them properly.

Thank you, Madam Speaker.

The Speaker: Thank you, Member for George Town.

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

If not, I am going to call on the mover of the Bill to present her windup debate.

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

Madam Speaker, the Government has on numerous occasions announced its policy as a part of its recovery plan and as an integral part of its nation building. Simply put, the Government has embarked

on divesting the wastewater assets and leasing the water utility assets in an effort to assist in resolving the country's financial situation. All of this is a part of the Government's economic stimulus plan, as was ably put out by our Honourable Premier on several public occasions as well.

The Government believes this divestment is a critical element in invigorating and expanding the relatively small industry. And, we believe that it will serve as a positive impetus in the creation of new jobs for our Islands. I am sure all and sundry will agree that paying relevant attention to the creation of jobs is an important part of any government's mandate.

Madam Speaker, if I could perhaps refer to the comments from the honourable Member for North Side, I believe his first issue dealt with clause 3. As a concern, he felt that the Law should apply to all Islands. And, Madam Speaker, clause 3 reads as follows: It says, "**This Law shall apply to the whole of the Islands or to such part or parts thereof as the Governor in Cabinet may by Order declare.**"

I am reliably informed, and indeed I do concur with the advice, that this not only allows the three Islands to fall under the ambit of the Water Authority Production and Supply Law—if it comes into force as a law, and I trust it will—but it also gives the inherit and necessary discretion to the Governor in Cabinet to do it in incremental phases, for economic reasons or otherwise.

The other inquiry was as it relates to the concessionaires. I believe he said that they should be subject to the Trade and Business Licensing Law, and they should not be exempted. It is the position of the Government that in this particular case this would be double jeopardy, that there would be fees evoked from the licence, as is done in other cases, and that they should not be subjected also to fees in the Trade and Business Licensing [Law].

Madam Speaker, it is difficult sometimes to get clear direction, because on the one hand, the Government is being advised publicly that the economy is down. We are in an economic meltdown and we need to do whatever we can do from an economic perspective to ensure that the economy is jumpstarted again. And, in addition to that, the condition precedent often is that we should assist businesses wherever we can with not putting unnecessary or onerous fees on them.

Perhaps the Government in this case has taken that advice to the extent that there will be no extra fees as far as the Trade and Business. And this is not a unique position. In fact, I am advised that this is what currently obtains.

As it relates to compensation, there is a tribunal which I believe is set up under clause 12 of the said Law. So, there was a considerable amount of forethought to ensure that this piece of legislation would adhere to the human rights expectation and that no rights would be taken away. And if, in the interest of the public, it was necessary for the wider in-

terest that there would be compensation after the democratic process of a tribunal was undertaken.

Reference was made to clause 6 to the extent that the Member felt that it did not allow for private persons to get claims. As I understand it, Madam Speaker, clause 6 is as follows: It says, **“Where a concessionaire places or installs works upon any private premises, such works are not subject to distress or any other landlord’s remedy for non-payment of any rent nor are they liable to be taken in execution by any process of any court against any person other than the concessionaire.”**

Simply put, if there was a dispute, Madam Speaker, arising between the tenant and the landlord, the landlord could not utilise the private arrangement between the tenant and the concessionaire where the water is being supplied as one of their remedies. In fact, the Member, I believe recognises that, in that he said there were some tenants that would, perhaps when there was a dispute and rent was being paid, would leave water running or leave an excessively high water bill and it would be the landlord who was left to pay this bill. Madam Speaker, this is in no way preventing the private person from not getting their damages. In fact, it has a complete different interpretation, as I have been reliably advised.

And then, Madam Speaker, the Member in his own and absolute discretion indicated that he did not support the sewage being divested, and that is a matter of policy. I appreciate the platform from which he comes. I believe that, as in other things, he has given it due and adequate consideration. Unfortunately, in this particular instance it does not appear to be on the level playing field or seeing eye-to-eye with the Government. So the most I can do [is] to appreciate his considered opinion.

[Clause] 13, Madam Speaker, was referred also by the honourable Member for North Side, in that clause 13 sets out that the Honourable Attorney General may, on behalf of the public, claim damages for pollution or other injury to public amenities arising from the production or the supply of water or both. And, Madam Speaker, as I read this clause, the operative words here are “public amenities,” hence, the reason for the Attorney General. It is not just talking, as the [Member] suggested, that it should be an offence.

The Attorney General has the ambit and the jurisprudence to deal with assets that are public assets, hence the reason and the necessity for the inclusion of clause 13.

There is a general offence where there are penalties. And those are set out, Madam Speaker, in clause 15 subsection (1). Members have had an opportunity, I’m sure, to read it. But, for example, it says: **“Any person who- [(a)] subject to subsection (2) – [(i)] produces water with the intention of supplying it, except under a concession granted under this Law; or [(ii)] supplies water, except under a concession granted under this Law; [(b)] contravenes**

any provision of this Law or the terms and conditions of the licence; or (c) for any purpose connected with this Law makes any statement or representation in the truth of which he does not believe, proof of his belief being [upon him], commits an offence and is liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for one year, . . .” and it goes on setting out other offences.

Madam Speaker, I trust that I have brought some sense of clarity and comfort to my friend from North Side as I attempted to make these various explanations.

Madam Speaker, there were other concerns about perhaps the increase or adverse effect it could have with businesses, for example, in the agriculture spectrum that utilises a lot of water. I was not convinced that that is the case, but I would invite the honourable Member, if he so desires, at some other stage to add other reasons to attempt to convince my Government that that is the need. As it currently stands, I have not been so convinced and cannot add any more comment to that, Madam Speaker.

Existing concessions will have to be renewed. And there is a necessity to concessions. There was a query about that, but the requirement to obtain a concession is to have a record of all water producers. It is to ensure that all comply with quality standards. I am sure we would concur that this is a very important regulatory stipulation. It is not, Madam Speaker, intended to be onerous to the management of condominiums or apartments or other such complexes.

Madam Speaker, I was invited by my learned friend, the Third [Elected] Member for George Town, to respond to a number of questions as to how divestiture will occur, how far it has reached and how the Government will receive revenue; is it a temporary revenue measure or is it a long time. And he invited the Government to so engage as he felt it was a policy issue that needed to be fully debated, and put the issues on the table.

Madam Speaker, in response to that, suffice for me to say that the Bill is before the House, the general policy has been made public in more than one forum. I have every bit of confidence that if the Member, in his usual able way, could dissect and discern through the process of analytical and non-tautological reason that these were the important issues, then I have no doubt that he himself could have put forward the position of the Opposition as to why not.

Madam Speaker, I will make no mistake. The country is phasing from very difficult economic times where hard decisions have to be taken. It is not a decision that is taken lightly. The Water Authority is to be commended for the way that they have conducted their affairs over the years and have been able, even in this economic meltdown, to still not be in the red. And there’s no pun intended, Madam Speaker.

No one wants to buy a business that is not making a profit unless it is a very high-risk investor

with lots of money to roll. And those are few and far between, Madam Speaker. So, we are faced with this most difficult decision. The Premier has diligently and arduously and assiduously worked over the past tenure since us coming into Government, with the support of his Cabinet and Backbench, to ensure that the country fully recovers as far as practical from this economic downfall.

And it is a worldwide economic downfall. There have been domestic things that, perhaps, could have been done, and hindsight is always better than foresight. But it is what it is. We are the Government. And the general public, Madam Speaker, expects us to find realistic, affordable and positive solutions to the problems that are at hand, and this is what the Government is attempting to do.

So, I would beg the indulgence of the honourable Members to understand where the Government is. And if, in fact, they are of the considered opinion that this is not the best way forward, then offer better solutions. And that is not just a mere political statement, but indeed if there is an offering that can take this country out of the financial straits that it is [in], I am certainly open to discussion. And I am sure my Premier would be open to such discussions. But they have to be reasonable. They just cannot be in theory.

Madam Speaker, I would ask Members to consider where we are and the fragility of our economic situation. And that it is just being used as a tool at this current time to assist these Islands that we all love and we call home with the fervent hope that it will be part of the full package that will bring us to a full recovery.

I thank you for your indulgence, Madam Speaker.

The Speaker: Thank you, Honourable Minister.

The question is that a Bill shortly entitled the Water Production and Supply Bill, 2010, be given a second reading.

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

Ayes and Noes.

The Speaker: Leader of the Opposition.

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

Could we have a division, please?

The Speaker: Yes.
Madam Clerk.

[inaudible interjections]

The Speaker: Please don't start an exchange across the floor.

Madam Clerk.

The Deputy Clerk:

Division No. 29/2010-11

Ayes: 8

Hon. W. McKeever Bush
Hon. Rolston M. Anglin
Hon. Juliana Y. O'Connor-Connolly
Hon. Michael T. Adam
Hon. J. Mark P. Scotland
Hon. Cline A. Glidden, Jr.
Capt. Eugene A. Ebanks
Mr. Dwayne S. Seymour

Noes: 5

Mr. D. Ezzard Miller
Hon. D. Kurt Tibbetts
Mr. A. M. McLaughlin, Jr.
Mr. Anthony S. Eden
Mr. V. Arden McLean

The Speaker: The result of the division, 8 Ayes, 5 Noes. The Ayes have it.

The Water Production and Supply Bill, 2010, has been given a second reading.

Agreed by majority: The Water Production and Supply Bill, 2010, given a second reading.

SECOND READING

Wastewater Collection and Treatment Bill, 2010

The Deputy Clerk: The Wastewater Collection and Treatment Bill, 2010.

The Speaker: Honourable Minister.

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

Madam Speaker I beg to move the Second Reading of a Bill for a Law to provide a regime for the privatisation of wastewater collection conveyance and treatment and for incidental and connected purposes.

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

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

Madam Speaker, this Draft Bill, as the previous one and the one to come, are all interconnected with the general policy that I stated with the current status of our economic situation, and in an attempt to utilise assets to best put us in a recovery mode. And indeed, Members would see as way of housekeeping that in clauses 2 and 3 there are scrivener's errors, and that when you check the substantive part of the Draft Bill, clause 2 does not, in fact, specify the Islands as a whole; it is clause 3. So, we will, at the appropriate time in committee stage ask (as the chairman would say) that consequential numerical changes would be made. But I would just wish to draw it to Members' attention at this time, Madam Speaker.

Madam Speaker, clause 2 then would set out the definitions, and clause 3 would specify that the Law applies to the Islands as a whole or to only such parts as the Governor in Cabinet might declare by notice in the *Gazette*.

Clause 4 empowers that the Governor in Cabinet [may] issue concessions for the purpose of wastewater collection, conveyance and treatment. In so doing, the Governor in Cabinet, Madam Speaker, shall seek the advice of the Water Authority, and concessionaires will have to obtain a licence to deal with the details of exercising the rights under “concession.”

Clause 5 provides that once a concession is granted, the concessionaire will be deemed to hold a franchise under the Local Companies (Control) Law (2007 Revision) (LCCL). And again, as was in the previous case, will not need a Trade and Business Licence under the Trade and Business Licensing Law (2007 Revision).

Clause 6, Madam Speaker, protects works installed on private premises from being subject to distress or any other landlord’s remedies for nonpayment of rent, as I explained in my rebuttal to the previous draft.

Clause 7 provides, among other things, that a concessionaire may interrupt the collection, conveyance or treatment of wastewater by reason of unusual or unforeseen circumstances.

Clause 8 provides for cases where a consumer defaults in payment, Madam Speaker, or does anything that is harmful to the said works. This clause specifies what the concessionaire may do, which includes cutting off the service and recovering any expenses that may have occurred as a result thereto.

Clause 9 provides for the appointment by the concessionaire of inspectors for related matters.

Clause 10 provides for the concessionaire’s powers and limits those powers in relation to entry on the premises for specific purposes of installing, improving or maintaining works.

Clause 11, Madam Speaker, provides for the right of the concessionaire to apply to a summary court for an order allowing him to make such adjustments to private installations as may be necessary to ensure that those private installations do not interfere with the wastewater systems.

Clause 12, Madam Speaker, provides for the establishment, again, of a Compensation Assessment Tribunal, which is a very necessary part of the reasonableness test. And its function, Madam Speaker, is to make awards in relation to any claims for compensation which may become necessary due to the collection, conveyance and treatment of wastewater under the Law.

Again, Madam Speaker, we will see that it says clause 13 and 14. But when one checks with the substantive part of the Bill, in fact it is clause 14 that gives the power to the Attorney General to seek damages in case of injury to public amenities, and not clause 13 as it is stated in the Memorandum. In fact, clause 13 makes it mandatory for all buildings to be connected to a wastewater system.

Clause 15 empowers the Governor in Cabinet to make regulations as to normal occasions.

Clause 16 provides for offences and penalties.

And, Madam Speaker, I want to speak somewhat as it relates to clause 12.

[pause]

The Deputy Premier, Hon. Juliana Y. O’Connor-Connolly: I beg you pardon, Madam Speaker—clause 13, where all buildings within. . . **“Subject to subsection (2), all buildings within the area to which the concessionaire’s wastewater system extends shall be connected to it.”** And to draw Members attention that that is not an unusual section. In fact, it exists in other utility provisions. And Subsection (2) that: **“On failure or neglect by the owner of any new or reconstructed . . .”** And those are the operative words, not existing, Madam Speaker. **“. . . building to connect it to the concessionaire’s wastewater system, the concessionaire may enter into the building at any reasonable time and connect the same, and the expense thereof shall become a debt due from the owner to the concessionaire and a charge upon the building and, in addition, the owner commits an offence and is liable on summary conviction to a fine of one thousand five hundred dollars and to imprisonment for six months.”**

And again, reference is made to the Attorney General who, again, it is just for public amenities on behalf of the public, not private individuals, [may] claim damages for pollution or other injury to public amenities arising from the collection, conveyance and treatment of wastewater.

There are, as far as the regulations are concerned, Madam Speaker, conditions that are laid out within this Draft Bill and is set out in clause [15] whereby: **“The Governor in Cabinet may make regulations for the carrying out of the Law into effect [and], without prejudice so that the generality of this provision, prescribing –**

- a) **the health and safety standards and precautions in relation to the collection, conveyance and treatment of wastewater;**
- b) **the rates of compensation for damage to members of the public arising from the collection, conveyance and treatment of wastewater;**
- c) **the establishment, management and payment of compensation for wayleaves;**” (I believe this is one of the areas the Member for North Side alluded to earlier in the break).
- d) **the procedure for applications for, and granting of, concessions;**
- e) **the terms and conditions upon and subject to which a concession shall or may be granted;**

- f) **penalties for contravention of such regulations;**
- g) **fees to be paid for anything done under this Law; and**
- h) **any matters required by this Law to be prescribed.”**

There are other offences and penalties that are straightforward which are set out in clause 17 that Members may want, if they have not hitherto, to peruse to ensure that there is a full cognisance of what the proposed Bill is intending to do.

Madam Speaker, I once again await comments from Members from either side of this honourable House.

The Speaker: Thank you, Honourable Minister.
Member for North Side.

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

Madam Speaker, I have a similar concern about this Bill as I had before, and while I accept my learned friend's explanation about the fees and the business licensing, there are some other components of the business licence legislation that I believe are even more important where it concerns ownership and opportunities for Caymanians of the 60/40 requirement than the fees.

I wonder, Madam Speaker, if I am reading this correctly. Are we here licensing these new people who are going to get this concession and we are giving them a Local Companies (Control) Law licence without them having to go through the normal process of advertising for local participation?

And if we are, Madam Speaker, I think that's unfair to local people who may wish to participate in this, because I think the reason that the Local Companies (Control) licence—which, by the way, Madam Speaker, I think should be repealed, from my position. I don't think there should be any opportunity to get Local Companies (Control) licence in this country any more. I think anyone coming here to invest should have to take along a Caymanian partner with them.

Madam Speaker, the Member asked if I could recommend another source of revenue other than selling the Water Authority, or leasing the Water Authority and selling the sewage system. I would recommend that the Government take the four cents on the exchange control that the banks make on the US dollar. The revenue per annum would be greater than you can get from both of these conform. And it would not affect the cost of living. [It would] only affect the bottom line at the bank, because we are all paying it now.

Madam Speaker, I think it is important for the listening public, Caymanians in particular, to understand that what this legislation is going to do irrespective of the economic situation, or the benefit the Government believes it is going to get from selling the stuff, it is going to create another utility bill that every

Caymanian within the range that this sewage system is extended to shall pay.

While the explanation given by the Minister on section 13, where it says, “**Subject to subsection (2), all buildings within the area to which the concessionaire's wastewater system extends shall be connected to it.**” And subsection (2) puts in the caveat of new or constructed building. [Clause] 16, I believe, Madam Speaker, negates that provision of it being new construction because [clause] 16(2) says, “**but paragraphs] (b) and (c) shall not apply where a concessionaire's wastewater system is readily accessible for connection thereto, and the concessionaire has required, by notice in writing, the owner or occupier to connect the premises to the concessionaire's wastewater system.**”

Madam Speaker, I believe that that says if the concessionaire has the pipe on the government highway in front of my house, and he writes me a letter to say that I must connect to this, that means I must connect and I shall pay his charges on a monthly basis.

An hon. Member: That's right!

Mr. D. Ezzard Miller: And, Madam Speaker, I don't know, because it is not in this legislation. It is up to the Governor in Cabinet to make the regulations as to standards and other things. But certainly, in existing houses, particularly in places like the district that I represent, or even here in George Town where individual homes have sewer systems that are, in fact, pumping the effluent after some aeration into the ground. They, in my view, Madam Speaker, should be allowed to continue to use that without having to hook up to this unless these people are going to use something that is a substantial and marked improvement in the environmental treatment and standards of the effluent that they disposed.

Because what we are doing here is . . . right now the effluent that is disposed by an individual household is a couple of hundred gallons a day, maybe. But here we are going to hook up to pipes that are going to be pumped to one sewer system which is going to be pumping thousands of gallons of equal effluent into the same soil.

[inaudible interjection]

Mr. D. Ezzard Miller: Well, in the absence of it being in this I do not know. I am asking the question.

The Premier, Hon. W. McKeever Bush: No, you stated a fact; you did not ask the question.

Mr. D. Ezzard Miller: But, Madam Speaker, the pipes are going to lead to a treatment plant. The Government is telling me that these people are not going to be allowed to pump that effluent into the ground under any conditions, and the Premier is saying that this effluent is going to be treated, collected, redistributed,

and not pumped into the ground. But the legislation does not require that.

Mr. V. Arden McLean: They're pumping it into the ground right now.

Mr. D. Ezzard Miller: As far as I know, the sewer system that the Government is selling pumps it into the ground now. I could be wrong. And unless . . . if the Government is saying to me that the new licensee—right—is going to not dispose of effluent into the ground water level at all, but is going to collect this wastewater, treat it and sell it as grey water for other uses, that's good! But the legislation does not say that.

[inaudible interjection]

Mr. D. Ezzard Miller: Okay?

The other point of it, Madam Speaker, is that when the Water Authority crossed my gate, I not only had to hook up, I had to pay the expenses of putting the pipe from the street to my house, several hundred feet of pipe (and there are many people in my constituency with that) at my own expense of which the Water Authority gave me no rebate. And I am wondering, Madam Speaker, if a similar concession is going to be passed on to these concessionaires where I'm going to have to pay for the trench and the four inch or the six inch pipe to take it to their mains and then they are going to be able to charge me per gallon that flows through the pipe that I invested.

I just would like it recorded by the Government if that is going to be the position or not be the position.

[inaudible interjections]

Mr. D. Ezzard Miller: So, Madam Speaker, I think the operative thing here is that . . . and I am not arguing. I am not in the position because I do not know what the numbers are of whether the Government is going to receive revenue and it is going to be the economic benefit to the Treasury by selling the sewer system. But what I do know is that every Caymanian within an area that this sewage system is put into in this economic time is going to have to discontinue the use of his individual septic tank and pay an additional utility bill for the discharge of sewage. I think that that needs to be weighed against the Government's so-called economic gain, if the rest of the population is going to have to have pay it, because most of these sewer rates are not cheap anywhere in the world.

So, Madam Speaker, if the Government can address those issues, I'll be happy.

[inaudible interjection]

The Speaker: Thank you, Member for North Side. Leader of the Opposition has the floor now.

Hon. D. Kurt Tibbetts, Leader of the Opposition: Thank you, Madam Speaker.

Madam Speaker, I am sure that the Member for North Side will allow me to regurgitate some of his thoughts that he has expressed, because those two concerns are the primary concerns which we also have.

Madam Speaker, the Member asked the question, and unless I am not reading this Bill correctly there is no question as [to] who is going to pay the bill [for] any hookup fees. It is obviously the owner of the premises. Perhaps the answer may be forthcoming from the Honourable Minister and Deputy Premier that this is standard procedure. Perhaps. But it is immediately a recognised cost increase that we have to look at.

Madam Speaker, the point that the Member for North Side raised about everyone now who has their own premises, whether it be residential or commercial or otherwise, who has received Planning permission, having provided whatever the requirements of the laws and/or the regulations are with regard to the treatment of effluent and to proper sewage by way of either, what I call a ready-made sewage treatment system, or whether it be the old-fashion concrete way along with a deep well that we know.

Madam Speaker, even now with water, if I have a cistern and during the rainy season my cistern overflows, I can switch off my city water and turn my cistern water on and I can use that until I deem that I should switch back over again to city water. I do not get the impression that when these concessionaires come and hook you up that you can say to them, *Well, I am going to turn you off this week because the weather is dry enough and I have a lot of space in my septic tank that I can use my own for a while, then I will hook back up to you.* So that is an inherent difference in the operation. That tells me that is a total difference in the cost of the operation.

I have to agree, [the way] the Bill is worded, Madam Speaker, that section 16 clearly outlines that the owner of any premises, once that person is notified of their need to connect to the pipes of the concessionaire, then, if that person does not connect, that person is liable to an offence. And, Madam Speaker, the final word on that is that everybody has to connect.

Now, perhaps one might well say, *Well, we've all complained about ground water contamination and this is the only environmentally sensible answer.* And perhaps one really cannot in the true sense argue against that. But, Madam Speaker, I wish to reiterate the point from the Member for North Side: This certainly and immediately means a recurring additional cost to the consumers and, in my view, there should at least have been some consideration.

New Planning approvals, yes. Existing premises should at least be a staged effort. Do not forget, even someone who has a building that is less than a year old, let us say it is an apartment complex, for in-

stance. Let us not use a commercial building, let us say it is an apartment complex; a relatively small apartment complex, but one which required a wastewater treatment system that is a commercial wastewater system because the size of the complex was beyond a certain number of units. That is a fairly or relatively large capital expenditure that the developer has incurred immediately. And the way this is crafted says to me that once this business is done and my man put the lines through, he says, *Okay, you shut that unit off now, you forget about that when you hook up to me now and that's the end of the story.* There has to be some consideration given—and I see none in this legislation. And I use that as an example, but it is all relative.

You also have the individual homeowner who is struggling, but who has been made to do what Planning has called for them to do (and rightly so, no one argues that point), and [they] are now just simply saying all that expense has gone to you-know-where because that is the end of the story.

Now, one could say there is a price for everything. Sure! One could easily say that. But, Madam Speaker, my view is that there should be some consideration that it is not just a slam-bam-finish-with-engine process with regard to this because they might come back and say, *Well all the pipes are not going to be laid overnight* and that kind of stuff.

Now, Madam Speaker, let us consider if, when the whole sequence of events is charted—

[inaudible interjection]

Hon. D. Kurt Tibbetts Leader of the Opposition: *[Addressing the interjection]* Just let me finish this one.

If, when the whole sequence of events is charted, Madam Speaker, and there is a planned development for the East/West Arterial, the way the plans are for the laying of the pipes and for the sewage treatment operation to become operational, there is going to be a two-year lag before residents or occupants in that area will actually be hooked up. If somebody wants to develop now, what is Planning going to say during that interim?

I do not see Planning changing their requirements for what they will have to do during that time period. And then the developer will say, But this \$30,000 or \$40,000—and in some instance more—depending on the size of the development. Maybe it is \$100,000, or sometimes more than that again. But they will have to then make the decision to say, *Well, should I leave this development alone until it is time for me to hook up? Or, is it worth my while? Or, Who am I going to pass that expense on to?*

All I am saying, Madam Speaker, as I draw references, is that when we look at all of these possible scenarios I do not believe that it is a situation that can be as simple as is put out in this Bill that is before us. And I believe enough points have been put across

for the Government to reconsider that situation. And, Madam Speaker, in all good conscience, I do not see the Opposition being able to support the Bill as it is. And . . .

Forgive me, Madam Speaker, just one second.

[pause]

Hon. D. Kurt Tibbetts. Leader of the Opposition: Thank you for your indulgence, Madam Speaker.

Madam Speaker, my colleague found in the Law the point that I was raising. This is the Water Authority Law (1996 Revision), the existing Water Authority Law. It is under Part VII—Sewage and Sewage Disposal. Section 43(1) reads, Madam Speaker, **“Subject to section 44(2) . . .”** and let me quickly read what that is—44(2) says, **“No person shall discharge any trade effluent into the sewage system owned or operated by the Authority without a permit from the Authority and subject to such terms and conditions as it deems fit, including standards of effluent quality.”**

So, subject to section 44(2) (which I just read), **“. . . the Authority may, by notice in writing, require the owner of occupier of any existing building found by the Authority to be disposing of sewage into ground waters or into or onto the ground to connect the building at his own expense to the public sewage system, within such period as the Authority may allow: Provided that such a system shall be readily accessible.”**

Madam Speaker, it would appear to me (and I can only say that because this is first glance) that any potential concessionaire (as it is termed in the proposed Bill) would not want such a condition whereby a government-owned entity, such as the Water Authority of the Cayman Islands, could allow for such a condition and have the latitude to work with individual circumstances.

Madam Speaker, regardless of which direction the Government is going with this, I do not believe that it should be the way it is proposed here whereby that's it, end of story, no possible scenarios which would allow for any other workable situation to establish itself. And there is nothing I see which allows for any movement with this. I just believe that it is a matter that needs to be reconsidered unless there is something in the Bill that I missed.

But, Madam Speaker, I believe that that is a very serious consideration and I would urge the Government to look very carefully at it. Because you do not want to have a law and find these circumstances where your hands are more than tied and there really is no sensible solution to those situations. So, I just hope that the Government will be in a position to address those points that I raised, Madam Speaker. Thank you.

The Speaker: Thank you, Honourable Leader of the Opposition.

Does any other Member have a wish to speak? [pause] Does any other Member wish to speak? [pause] Does any other Member wish to speak?

If not, I call on the Mover of the Bill to present her closing remarks.

The Deputy Premier, Hon. Juliana Y. O'Connor-Connelly: Thank you, Madam Speaker, and I wish to thank the Members that chose to debate for their contribution. I would respond as follows:

Madam Speaker, clause 4(3) indicates that all concessions shall be exercised in accordance with the terms and conditions contained in the licence issued by the Authority which includes means of treatment and hygiene, et cetera, and, therefore, Madam Speaker, will not approve dumping of untreated sewage into the ground because there will be specified conditions to ensure that that is not the case.

The Authority currently operates a more limited specification now, but I can assure Members, based on information that I received and visits to the treatment plant, that it is treated before being disposed. And I have confidence that this will continue to be so as any concessionaire will be under the watchful eye of the new Authority which will be responsible for regulating thereto.

Madam Speaker, as it relates to existing properties, the Bill envisions that they will not have to pay for the cost of hook-up because consideration was given to the fact that investments would have been made for various periods of time. But, certainly, once they are hooked up one would expect that they would pay for the cost of services. And the Water Authority Law already, as Members, I am sure, would be familiar with (it has been in existence for some time now), has a mandate with provisions for hook-up.

Madam Speaker, it does not necessarily take a rocket scientist to understand why you would have to put a mandate with provisions in, because with a market pool as small as the demographics of the Cayman Islands, and to a large part, Grand Cayman, would be setting up whichever utility company to fail if the numbers were not there. And, I believe that the environmental concerns are far more important to the other concerns that have been leveled.

For many years persons have talked about the necessity of having adequate sewage within our country. No Government, including my Government, has the financial wherewithal to move that at a pace that is necessary to do, integrated together with the necessity to provide the economic stimulus that we need for the country as we stand.

Madam Speaker, I do not particularly want at this late hour to engage honourable parliamentarians into the debate from whence we came, because that is almost a broken record now. But suffice to say, everything is relative. And if we were taking these three

pieces of proposed legislation in isolation, then perhaps I could give some weight to some of the arguments, and perhaps even be so lenient as to say that there was an element of unreasonableness. But, Madam Speaker, that is far from the situation that this country now finds itself in.

I believe it is all relative. Perhaps I could illustrate that, Madam Speaker, by an email I got recently where the daughter wrote home to the father saying a whole bunch of things. I do not recall all of them, but suffice to say that she had gotten into an accident, she dropped out of school, she was pregnant—all of those things that would give any reasonable parent a heart attack. At the end, basically, all that she wanted to say was that she had failed a course. And by the time he got to that the father was so glad that she hadn't done all of these other things that it was in a relevant balance.

Madam Speaker, this Government had a choice with the financial situation that we are faced, to put property tax, income tax and all other sorts of unreasonable things that would have gone to the very root of our economic success story in Cayman. And our Honourable Premier and our Government took the decision that that was indeed not a way that we wanted to take this country. As a result, we still had to find ways and means of balancing our budget, meeting the conditions set down by the Mother country, because we are not an independent country—and the last time I checked the mandate, that was not a part of the mandate of any Government. And yet, we still have to run the country. That's why people elected us.

They elected us to take hard decisions. You know, these decisions cause many restless hours at night, both within the Civil Service and from the political arms. But, at the end of the day, taking it from a holistic perspective, it is the general consensus that this is a bitter pill but it is still not as bitter as property tax or income tax. And I would ask Members to take it into the perspective that it is.

Indeed, we signed an environmental charter and [with] every project that this Government and previous governments have embarked upon there is a huge outcry from existing environmentalists and want-to-be environmentalists that cause delays—some reasonable, some unreasonable. And, Madam Speaker, if every project that the Government puts forward is put down, not only will the country go in a very quick tailspin that none of us would like to see it go into because we do love this country despite the fights we have here . . . I'm persuaded, I'm confident, Madam Speaker, that every honourable Member here has a deep founded love for Cayman.

It is easy, Madam Speaker, to have hypothetical arguments. It is even good to have eloquent and articulate arguments. But, at the end of the day, it is what we are going to deliver to the Caymanian people. And at the end of our tenure, whether it is the next term or another term, we would like to have left the

Caymanian stage much better, economically and otherwise, than we found it, Madam Speaker.

I thank you.

The Speaker: Thank you, Honourable Minister.

The question is that the Bill shortly entitled The Wastewater Collection and Treatment Bill, 2010, be given a second reading. All those in favour, please say Aye. Those against, No.

Ayes and Noes.

The Speaker: The Ayes have it.

[inaudible interjection]

The Speaker: The Honourable Leader of the Opposition has asked for a division.

Division No. 30/2010-11

Ayes: 8

Hon. W. McKeever Bush
Hon. Rolston M. Anglin
Hon. J. Y. O'Connor-Connolly
Hon. Michael T. Adam
Hon. J. Mark P. Scotland
Hon. Cline A. Glidden, Jr.
Mr. Ellio Solomon
Mr. Dwayne S. Seymour

Noes: 5

Hon. D. Kurt Tibbetts
Mr. A. M. McLaughlin, Jr.
Mr. Anthony S. Eden
Mr. V. Arden McLean
Mr. D. Ezzard Miller

The Speaker: The result of the Division – Ayes: 8 and Noes: 5.

Agreed by majority: The Wastewater Collection and Treatment Bill, 2010, given a second reading.

SECOND READING

Water Authority (Amendment) Bill, 2010

The Deputy Clerk: The Water Authority (Amendment) Bill, 2010, Second Reading.

The Speaker: Honourable Minister.

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

I beg, once again, to move one of the connected draft Bills, being the Second Reading of a Bill for a Law to amend the Water Authority Law (1996 Revision) so as to allow for the divestment of the Water Authority's waste water assets and operation; to provide for the regulation of concessionaires; and for incidental and connected purposes.

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

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

Madam Speaker, as referred to earlier, these are three connected pieces of legislation to allow the Government to move to the implementation mode of its wider policy for divestment of these assets.

Madam Speaker, by way of introduction, clause 2 inserts a number of definitions which have become relevant due to the changes being made to the substantive Law.

Clause 3 amends section 6 of the principal Law so as to give the Water Authority general and specific powers to do things that are necessary or convenient to be done for or in connection with regulating concessionaires.

Clause 4 amends section 7 of the principal Law to further define and circumscribe the functions and powers of the Authority.

It is of significance to note the definition, as set out in clause 2, of "capital investment plan." That means those additions to its assets that a concessionaire intends to make, that, when added, will form part of its rate base as approved by the Authority. And that then springboards us quite nicely into the connotation of "rate cap and adjustment mechanism" which means the mechanism for determining and modifying prices for services rendered by a concessionaire to consumers, as approved by the Authority and specified in that said concessionaire's licence.

Madam Speaker, there are a number of duties that will fall under the amendment to section 6. I will not go through all of them, but suffice it to say that [clause 3 (e) says "**by inserting after paragraph (c) the following paragraph (d) have the power to do all things necessary or convenient to be done for or in connection with regulating concessionaires, which shall include –**

"(i) monitoring and regulating the tariffs, rate structures, and terms and conditions for water supply and wastewater services charged to consumers by concessionaires in accordance with the respective rate cap and adjustment mechanism;

"(ii) reviewing and approving other rates offered by concessionaires outside of the respective rate cap and adjustment mechanism and available at the option of the consumer;

"(iii) recommending to the Governor" (and, Madam Speaker, for the avoidance of doubt, the substantive Law already defines who "Governor" is in this case—Governor in Cabinet) the making of regulations under this Law and any law for the time being in force relating to water and wastewater;

"(iv) establishing and enforcing regulations, as well as processes and licence standards regarding the granting of licences under the Water (Production and Supply) Law (1996 Revision) and any law for the time being in force relating to wastewater;

“(v) granting, modifying or renewing a licence issued under the Water (Production and Supply) Law (1996 Revision) and any law for the time being in force relating to wastewater;

It goes on, Madam Speaker, but I would also wish to make note that clause 4[(e) new section] (5), **“The Authority shall carry out the functions and exercise its powers under section 6(d) in a manner which -**

- (a) is reasonable;**
- (b) does not discriminate unfairly between applicants for licences or concessionaires;**
- (c) protects the interests of consumers; and**
- (d) protects the security and public interest of the Islands.”**

And, [clause 4(e) new section (6)] **“... the Authority shall have regard to- (a) the need to regulate and supervise concessionaires in such a manner as to ensure that all reasonable demands by consumers for water supply or wastewater service, or both, are satisfied.”**

So you see, Madam Speaker, the Government did duly consider the public, despite what may be perceived.

Madam Speaker, it is also set out that [clause 4(e) new section (7)] **“Without prejudice to subsection (6), the Authority shall have the power to establish environmental standards”** Very important! **“and to ensure that concessionaires - (a) comply with planning standards; and (b) take effective measures to comply with safety and environmental standards.”**

And [clause 4[(e) new section (9)]: **“Before granting a licence under section 7(1)(i), the Authority shall-”** It is mandatory that they **“(a) ensure that the applicant possesses the financial capacity, industry experience and technical qualifications necessary to perform fully the obligations attached to the licence for which the applicant is applying; (b) ensure that the applicant intends to commence performance of those obligations within a reasonable period of time.”**

Madam Speaker, it was also very important for my Government to ensure under [clause 4(e) new section (10)], that in determining whether a person is fit and proper, that regard shall be had to all circumstances, including evidence of the person’s honesty, integrity, and reputation; experience, reliability, competence and capability; and their financial capacity and soundness.

So, Madam Speaker, although the combination is a bitter pill, the Government has taken all reasonable and practical steps to ensure that the public’s interest was duly considered and protected as best as we can, given the economic framework and the social framework that we found ourselves in.

I thank you, Madam Speaker, and I look forward to Members’ contributions.

The Speaker: Thank you, Honourable Minister.
Does any Member wish to speak?
Elected Member for East End.

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

I was not as forceful in my debate on my position on the other two Bills as most would expect of me, however, I think it is time that this honourable House and the public know that I do not support the divestment of the Water Authority.

I had the privilege of having constitutional responsibility for the Water Authority for four years. Four very good years, I should add. Madam Speaker, I do not know why we get rid of stuff that is good. It reminds me so much of an old mechanic that I know who loved to meddle with his engine, even when it was running good.

The Water Authority has been operated over the many years quite efficiently, albeit, that many years the Water Authority made money, but none was put into Government. Why? Because of the stated objective of successive governments, starting in the 1990s when it was established, which was that the Water Authority’s objective must be to have piped water throughout the country, thus all revenues, profits made, were re-invested in the people, in the health of the people of this country.

Now that the people’s money has put the Water Authority in the position where it can in the future make some money back for the Government, we are getting rid of it. We are getting rid of it because there is obviously somebody out there who likes the idea and the Government likes them.

Madam Speaker, at 30 June 2008 the net book value of the Water Authority was \$61.7 million. That included land, buildings, water supply, sewerage, other assets and construction in progress—\$61.7 million. Now, I want to know if the country’s money is going to be used to make someone else money, or are we getting that \$61 million back right now. Because the people invested that, you know, Madam Speaker.

By virtue of the Government starting this (whichever government that was at the time, in 1982), and successive governments, we (the government then and successive governments) invested the people’s money in the Water Authority. Yes, successive governments. There were years we made \$8 million in profit. Successive—\$5 million, \$3 million and the likes. Successive governments could have taken that money and used it on something else. The decision was made to reinvest it in the Water Authority so that it could be self sufficient and we would know that the health of our people was priority.

All of a sudden, the Johnny-come-latelies are going to ride in on their white horses, and they are going to use the country’s money to make their own profit. Now, somebody needs to tell me how that works. The Minister now says give her some idea of what to do. Madam Speaker, during the Throne

Speech I gave the Government a number of proposals—give away Turtle Farm! That's \$10 million a year we are putting into it! Give it away! That's \$10 million we can use elsewhere.

I see the qualified CPA making notes!

Madam Speaker, sell the Stock Exchange! Get some returns from that. There is no longer a need for Government to be involved in the Stock Exchange. It established it, now it's time to get rid of it. Give it to the private sector, let them operate it. Cut back on expenditure! Stop spending \$400,000 in one year on travelling!

We are going to sell one of the best entities that we have. Are we going to give it away? Are we going to lease it? I don't know. What are we going to get back?

We just had the Second Reading on the [Wastewater Collection and Treatment Bill, 2010], \$19 million investment net. We have cross-subsidised this all our life for the benefit of our people. It will no longer benefit our people. It will be for the bottom line of the investors! And I am going to stand here and support it? No way! Absolutely not! I will not support it.

This is the Government that said they have this country back on financial track. They just made big statements. And we are still talking about divestment of the people's assets that they paid. I myself, Madam Speaker, increased the rates by 6 per cent during my tenure to ensure that the Water Authority could get capitalisation. The Director and the deputies there, Madam Speaker . . . so much so that the Board of Directors, the Chairman, other members and the Managing Director came to Cabinet and made their presentation and convinced all of Cabinet to support a 6 per cent increase.

Madam Speaker, if there is one entity that successive Governments and Ministers and Members of Cabinet (whatever we called them in those days) supported and ensured that the people's money was invested, it was the Water Authority. I am not saying we do not have our problems with it, Madam Speaker. Of course we do. But, Madam Speaker, it has done well. It is on the brink of making money for this country. But we cannot be satisfied with that. We are going to sell it, or we are going to give it away, or we are going to lease it; one of the three. Let the Government explain which one they are going to do.

I wonder if the same persons who get the sewerage will be getting the water company, the production side of water. Either way it goes we hear they are going to connect you up whether you want it or not.

Madam Speaker, what is going to happen to the little old woman? Then, all of a sudden Government is going to get back involved and say you cannot hook that one up or that other one up when we have that opportunity now. When I was Minister there were many times when other Members of Parliament came to me concerning an issue and I had to go to the Chairman or the Director to try to get it resolved. We

will not have that control any longer. We will not have that ability—not control; the ability to dialogue, discuss it with board members and the Director.

Are these people going to Cayman Brac also and through Cayman Brac and Little Cayman? I hope so, because they are part of these Cayman Islands too.

Madam Speaker, I don't know what has happened to it, but we had a 15-year plan laid out for the Water Authority which included Cayman Brac and Little Cayman. I don't know if the Government has amended that. They may have! I don't know. I don't have a copy of it readily available.

Madam Speaker, I keep repeating this: Every Government's mandate since 1982 was to ensure this Water Authority was run efficiently, above board, and the objective was achieved. I would like to hope that the current Minister in her 18 months has done the same thing. And I am sure she has. But all of a sudden we need to sell it.

I ain't going to support it! And anyone who wants to come after me . . .

Maybe I have a soft spot for the Water Authority. Maybe I do. So be it. But I know it does not make sense to get rid of it. I am convinced of that, because it is not going to employ any more people. How is it going to employ more people if the provisions are that all staff [members] come with it? How? It may be that we reduce because we don't need to put in all of this infrastructure now. That may be the end result. The majority of the infrastructure in Grand Cayman is in place—at least the main infrastructure. The main infrastructure to provide piped water for Cayman Brac and Little Cayman needs to go in as well.

Madam Speaker, it just bothers me. Sell the Turtle Farm! Give it away! And then you don't have \$10 million that you have to make provision for each year—Boatswain's Beach, whichever side it is—give it away! Give it to the passenger liners. Make them operate it. You won't have to go through all of this. You won't have to put the stress on the staff at the Water Authority who have been operating it efficiently and now, of course, their concerns are, *You mean, this is the thanks I get for working so hard all these many years? That the Government is going to undermine us and sell it out to someone else and we come under a new regime?*

Madam Speaker, you will hear a resounding "No" from me when the vote is taken.

The Speaker: Thank you Member for East End.
Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, I have a few questions as well.

I wonder if the Minister . . . I noticed that under [clause] 3[(e) new section (d)](vi): "**conducting the tender process for applicants for any new concessions to be issued under the Water Production and Supply Law (1996 Revision) and any law**

for the time being in force relating to wastewater, and to select the successful tender;” Does that mean that the Water Authority is going to be the agency that selects the successful tenders and not the Central Tenders Committee?

I also heard the Minister in moving it give the definition of the “annual capital investment plan.” And as I understand that the Water Authority is reviewing that similar to CUC’s submission of their accounts to the Electrical Authority to determine whether they can get a rate increase. However, since this is going to be a new franchisee, I wonder if the Government envisages any timeframe in terms of the capital investment to put this sewer system in place and what impact that is going to have on this formula.

I am not sure whether this is the piece of legislation that is intended to facilitate the Government’s policy of leasing the Water Authority to Consolidated Water for a number of years at some agreed cash-up-front and . . . I speak subject to correction, but I seem to recall numbers like \$30 million up front, and \$5 million a year over 25 years. So that represents something like over \$200 million over the 25-year period.

I know, if I were in Consolidated Water’s position, I would be very concerned right now about ensuring that I had a customer for the next 25 years considering the Government’s stated policy of waste-to-energy. I do not know what format the Government has licensed for the company that has just been awarded the waste-to-energy and the handling and collection of garbage, but several of them, or most of them, have water as a by-product.

I recall being part of a group that made projections for a similar company in 2003, I think it was. And if I recall some of the numbers there, he was proposing to invest somewhere in the region of \$48 million. He expected to recover the investment in the first three years and in the fourth year he expected to make \$21 million profit. If those numbers are realistic, then I wonder why the Government is putting this out to private enterprise.

If I recall too, I think he was projecting to sell electricity to CUC at 7 cents a kilowatt and they were currently charging 14 [cents] at that time, I think. [It] was either 12 cents or 14 cents per kilowatt, so it represented again the possibility of reducing the cost of electricity and, therefore, the impact on the cost of living.

Water was going to be as a waste product. Basically, they could give that to the Water Authority. So, I wonder if the desire by Consolidated Water, which I now understand is the company [that] sells all of the water that the Water Authority sells . . . they produce it, and they produce it at a fairly substantial price. And the likelihood of the Government making a policy decision that would make large quantities of water available really cheap, would be of some concern to that company if they were going to lose the Water Authority, which is probably one, if not their largest consumer of the water they produce, certainly

in the Cayman Islands, and maybe even in the four or five countries that they do in fact produce and distribute water.

So, I just wonder whether the Government should not take the opportunity here to place in this legislation or these regulations a requirement that whoever buys this water distribution system from the Government, or leases it (I think is the terminology the Government is now using), shall or must buy water from this cheap source as a waste product from the waste-to-energy at the dump and, therefore, meet the criteria in the law here that talks about keeping the cost of water to a minimum. And then maybe the leasing of the water company by Consolidated Water might not be so attractive.

Madam Speaker, I know some of the people in Consolidated Water, and they are hard-nosed business people. They would not be offering to pay the Government \$30 million (or whatever the figure is) up front, and \$5 million a year, unless they were absolutely certain that they were going to make back the \$30 million, plus the financing or whatever it costs them. They might have it in cash. Could very well be!

But certainly, they know that they could make enough profit from the Water Authority’s distribution network to more than double the \$5 million they are offering to give Government. We just heard from the Member who spoke before me that in 2008 the Water Authority had a net position of \$8 million. So, they are already \$3 million ahead, and that was three years ago. Several customers have been added to their network since that.

Madam Speaker, I am trying to appreciate the economic situation that the Government finds itself in. But I do not know that we are helping our people by going this route, because if we are going to create by legislation an additional sewage bill, the treatment and handling of sewage and effluent is not a cheap proposition. So I would guess that the average three- or four-bedroom household in Cayman is going to be looking at several hundred dollars a month in addition to the cost of this as a utility bill. And, taking that money from people who hardly have it as disposable income I believe is going to have a worse effect on the economy on a whole in the country because the people have less to spend.

I am not an economist, Madam Speaker. I do not claim to be one. But my simple view is that Government having money does not really affect the economy. The economy grows by money circulating in the economy outside of Government. And, yes, Government may be spending some money on civil servants who have some disposable income and are spending money. But the large portion of the GDP is circulated and created outside and totally independent of what position the Government Treasury is in.

So, Madam Speaker, I make those few comments from the stated position that I do not believe . . . and I do not support the sale of these two assets by the Government at this time. I believe that the added

cost we are going to place on every citizen and resident of this country is going to be an increase in the cost of living and it is going to negate any gain that the Government might get that can be put into Social Services to help people pay these bills, because that is what is going to happen. We are spending millions of dollars a year now through Social Services to help people pay their CUC bill; another social cost.

I am not comfortable that this is the right thing to do or the right time to do it, Madam Speaker, particularly with the Water Authority. I believe that the Water Authority is set to take in cash for Government and profit for 15 to 20 years ahead because they just built a huge plant in the eastern districts that is brand new. Certainly, the life of that plant should be an expectation of \$20 million to \$25 million.

You know, Madam Speaker, I took the time this weekend to talk to a very good friend of mine who has considerable experience, probably the most knowledgeable Caymanian when it comes to financing of utility companies and what they should be sold for. He said that [in the] selling of the Water Authority and the sewer system as a franchise for the whole Island, the Government should really involve some investment bankers because we are talking about substantial cost. He talks about anything from four to eight times the net value, depending on how new the plant is. And in both of these situations the sewer plant and the additional water plant in Frank Sound are brand new, or just a couple of years old.

So, I do not think that Government is getting the maximum return [in] selling these for what is reported. His guesstimate [is] that if we were giving out the sewer system as a franchise for the three Islands, we should be asking somewhere between \$100 million to \$180 million for the franchise, even if that was to be paid over a period of time, and that the Water Authority, with an asset base of \$60 million to \$70 million, should be at least \$350 million.

The idea that we are somehow selling it for these nominal amounts because the Government is short of money . . . I am not convinced that we are going to have the kind of economic spin-offs and the kind of economic growth that we are hoping to get in the community.

Thank you, Madam Speaker.

The Speaker: Thank you Member for North Side.

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 . . .
Minister of Education.

Hon. Rolston M. Anglin: Thank you, very much, Madam Speaker.

Madam Speaker, I must say that I have listened very carefully to the positions put forward by the Elected Members for the districts of East End and

North Side. I cannot quite follow the logic or where some of these numbers come from and where they have taken them to.

Where they have taken the numbers to in regard to values is quite astonishing. I think they have missed their calling. I think they need to become financial advisors for companies that wish to dispose of their assets, because if you use their valuation methodologies and assumptions it would seem to me that all you have to have is an old pump well, as we used to have in Cayman, and we could all probably get a couple of hundred thousand for those if we were to franchise them.

Madam Speaker, I had the privilege and benefit of sitting on the Water Authority Board from 2000 up until 2005. So I can relate to some of the feelings put forward by the Elected Member for East End. Now, Madam Speaker, in his debate he talked about all of the hardworking staff and, yes, I believe the country has benefitted tremendously over the years from a hardworking team at the Water Authority who take the business of water distribution very, very seriously and try to ensure that a comprehensive network is built and provided to the country, save for the franchise area that is occupied by Consolidated Water.

Now, Madam Speaker, I found it quite ironic that the Member for East End could quickly identify some assets that he has put up for disposition, but that his view would be that under no circumstances or terms would he accept a disposition of the Water Authority.

Madam Speaker, in life we have to be very, very careful about what we call white elephants and conversely what we set up as sacred cows. So, the white elephant would have been by his colleague (the Third Elected Member for George Town) [saying] off microphone as he described the Turtle Farm. So, let's clarify that for the benefit of the Member for East End.

[inaudible interjection]

Hon. Rolston M. Anglin: Now, there are hardworking people at all of these institutions; persons who toil and do their endeavour best to ensure that the country is indeed given an honest day's work for an honest day's pay. However, it was interesting that the Member for East End quickly floated the idea of the Stock Exchange being a matter for disposition.

As he said it I really had to query in my mind, though, that if the Government was coming to dispose of . . . or not dispose of, to put in place a framework that makes it possible to dispose of the Stock Exchange, whether, indeed, the Member and his colleagues would have followed through with the stated promise, that it would have been supported.

I believe that any possibility like this will be met with opposition from those across the Floor. I believe that they will certainly find an excuse and a way in which to maneuver and position themselves politically to not accept any form of divestiture within the

country. But that is my personal opinion, Madam Speaker.

Now, Madam Speaker, I say that based on history, though. Certainly when we talked about varying forms of disposing the Government Office Accommodation Project's (GOAP) principal asset (that is the Government Administration Building), we see all of the fuss and furor that surrounded that. Madam Speaker, we find ourselves in a very interesting and dangerously peculiar position as a country. We have a level of debt that the country finds it very difficult to support from the sense that whilst we pay our debt comfortably, I think all of us on this side, certainly, have come to the realisation that if we look at the continuation of the projects that we inherited and where the final debt number is going to wind up at, add on just some of the basic amounts that the country needs to expend by way of necessary capital expenditure even for the next two years, that we wind up in a position where we are spending too much of our resources on the repayment of principal and interest.

In other words, Madam Speaker, whilst the country is, by no stretch of the imagination, in any position to not honour its obligations, we have the money to honour. But when we look at our budget and we look at the dollars that we ought to be spending to be what is considered prudent, the amount of money that we should be spending on debt repayment to be considered prudent, we certainly have gone too far.

That should not surprise us because in 2005, the PPM Administration announced to the country that they were going to take the country on an unprecedented capital expansion programme. And that they did. So, it has left us in this position that is one that all and sundry in the country should be very, very concerned about. We ought to be very prudent about how we are going to manage our entire balance sheet.

To simply say that the country is not willing to engage in discussion about the assets that we own to make our overall position stronger, is not an argument that I support. I believe, just as we manage our own individual households, as we look at this business of managing the country on behalf of the people, we need to exercise the same level of rational thought, prudence, planning and financial strategy. We must, Madam Speaker, do so. As a natural consequence of doing that, we have to look at our overall position and make determinations and calls about what we think and believe could make the whole stronger. What can make the entire public sector in this county stronger? What can make our financial position stronger and more sustainable going forward?

Madam Speaker, the Member for East End seems to have made certain pre-determinations about this exercise that I do not believe are necessarily helpful. He seems to have already determined that there is some White Knight that is going to ride in, he said. No. No, Johnny-come-lately (sorry) that is going to ride in on a white horse and is going to, as it were, scoop up the Water Authority.

He spoke about whether or not Government has already put in place or has in place a "deal." And, Madam Speaker, that is the usual MO (modus operandi). The usual MO of the Opposition is to ensure that within everything that they say there is a robust element of skepticism, that there is a definitive cloud of suspicion, and then stir it all up and let's get some real good conjecture that is not grounded in any reality. So, when you put all of that together, Madam Speaker, you wind up with what I consider the combined debate so far.

The combined debate so far had some wild assumptions that spoke to things like the sewerage franchise being worth some \$100 million to \$180 million, and that the Water Authority could be sold for somewhere around \$300 million in an outright sale. Madam Speaker, if you combine what the Member for East End said, which was you had a net value of less than \$100 million and that the open market is going to attract in excess of \$300 million for the asset, if you take the two debates, what the two Members are saying is that the Government is carrying an amount on its balance sheet that is \$200 million under valued.

Now, I wonder if those Members could tell the House how much money they think the Water Authority is going to inject into central government by way of dividends and how quickly we are going to recoup this \$200 million that they seem to have identified as the difference between net book value of the Authority and what its open market value is.

Madam Speaker, the Member for East End made another very powerful statement. He said that every government's mandate was to run the Water Authority efficiently and that this has been achieved. Now, Madam Speaker, that is a statement I think all Members of this House would agree on, in that the Water Authority has not necessarily been run inefficiently. It has been run efficiently. The key for us at all points in time as legislators is to try to determine what is going to be the best use of the asset for the country as a whole.

I do not come to the table with any preconceived notions that any government ought to turn a blind eye because of any entity which the Cayman Islands Government owns. Madam Speaker, I have, since the time I entered this House, been a declared fiscal conservative. I believe in a small government that offers high quality service, namely in the areas of education, health care, policing and border control, and tries its endeavour best to stay out of business.

History has proven, and all we have to do is look at country after country after country, that government and government-run entities usually operate substantially less efficiently than their private sector counterparts. Those that do manage to be run efficiently, even when they do, often times the country to which they belong is never able to fully participate and fully realise their value.

So, whilst you can have a government-owned entity that can be run efficiently, it is often the case

that if the entity were privatised in some form or fashion it [could] return more to the ultimate owner, the Government. And if it is a full divestiture and you have an ITO [Internal Transfer of Ownership] or whatever you have to the underlying shareholders, and therefore the community, you can get a net benefit that is created in government owning the entity itself.

We are not going to be the first country to go through this sort of philosophical debate. What I can say is that we can take some very interesting and informed lessons from other countries that have had these sorts of emotive debates and see the net benefit that has been added to many of those communities.

Now, Madam Speaker, the Member for North Side made an observation in regard to waste-to-energy. Again, the Member for East End did not speak to this, but I certainly had the benefit of sitting on an advisory committee that he had (that is, the Member for East End) when he was Minister responsible for solid waste. And I think he could easily tell the Member for North Side that the capital investment cost to adequately service the Cayman market is probably going to be substantially more than the \$48 million that he quoted.

But, Madam Speaker, the bit of it that got me was the whole notion that somehow an entity would be able to recoup the capital investment in a mere three years. And, if I followed his logic, by year four [it would] be making \$21 million. Now, Madam Speaker, if those are the numbers of waste-to-energy, God bless them. But I think that the Member for East End fully knows or would agree with me, rather, that under the modeling he would have seen when he was Minister responsible for solid waste, that we would not have seen any projections that said you would have had capital recovery within three years and an almost 50 per cent return on capital by year four. That simply

...

As I said, you know, how the Member for North Side values businesses, et cetera, is interesting. I think that is a new consultancy that he ought to take up. You know, \$48 million, you can recover your money in three years, make \$21 million by year four, three times the amount for the Water Authority. Those seem to be some really, really wild and outlandish projections.

[inaudible interjection]

Hon. Rolston M. Anglin: But, Madam Speaker, the other point that was brought up was this whole issue of, *Oh well, a byproduct of waste-to-energy can be water.* And that, in some way, we ought to make sure that we inform the water company (or whoever sells water to the Water Authority now or in the future) that there would be this very cheap supply of water that we would be willing to pump through our pipes that would be coming on stream from waste-to-energy.

Again, I think the Member for East End would be well versed on this topic and clearly recall, cer-

tainly, when I was on the committee of which he was a part. And certainly, the feedback that we have gotten as Government . . . we have not had any person (that I know of) come and even express a crazy notion like a water byproduct from a waste plant being pumped through the main pumping system and sold to ultimate consumers in our public water distribution network. That whole public safety issue the Member for East End spoke about has suddenly been wiped out by the Member for North Side.

So, I think in all of this what would be beneficial is that perhaps Members should really consult more with some of the Members in this House with some of our experience and findings in these areas, because I do not think that these debates and this sort of commentary going out to the public is helpful. Here we are in 2011, and we should be progressing as a Legislative Assembly and really the level of debate and what we are saying to our constituents should not just be about thumping the chest and pure unadulterated political rhetoric and wild foolishness.

Madam Speaker, I came to this House 10 years ago. You were not here at the time. You have heard me say this before, and I will say it again. It is sad to see that the level of debate in this House has gone down. I can say that the 2005 to 2009 class . . . I do not think I would have heard anything ridiculous like that. Would not have heard it in the 2000 to 2005 class of legislators! Just would not. That type of absolute taking a paintbrush and just going wild all over the place with all sorts of paint is really, really not what a Legislative Assembly should be about.

It really just reminds me of Tuesday morning. I think we should leave for Tuesdays and Wednesdays what we really want to carry on wild about. Get that off our chests. Do some real research, come up with some robust, accurate debate, and come to the Legislative Assembly then having rid themselves of all of that. You know?

Madam Speaker, how we manage to balance what has been thrown at us as a Government thus far in this debate is going to be a real challenge. However, I have confidence in my colleagues, in particular, my colleague the Third Elected Member for West Bay who has been intimately involved with this process, and the Honourable Deputy Premier, Minister responsible for the subject, to be able to really cut through that real haze that had been laid over the Legislative Assembly in the 30 minutes before I got to my feet, and clearly show the country where the process is at and where it is headed.

Madam Speaker, I have never heard the Honourable Premier, the Deputy Premier, or any Member of the Government say to the country that under no circumstance would the country not wind up being the ultimate owner in the exact form that we have it now of the Water Authority in 2013. What we have said is let us give ourselves the potential to be able to explore all of our options.

Now, why is that such a bad thing?

Madam Speaker, it is not like we are going out on a limb that no constituency or area in this country has ever had water efficiently provided by a private non-government entity. The district from which I come is served by a private company, a company that is listed on the Stock Exchange, a company whose stock value has increased tremendously over the years it has existed. Now, are we saying that an IPO [Initial Public Offering] is a bad thing because we do have, thankfully, many Caymanians who have benefited from the Water Company being a public entity and being shareholders?

Are we saying that we should shut our eyes to any possibility because, oh (we are going to say), the Water Authority, being in a different ownership structure, is going to be the death knell of CIG [Cayman Islands Government]? I really do not think so, Madam Speaker.

I think we do need to exercise caution and limits to what we are willing to get up and say in this Legislative Assembly. Publically would be good too, but that is stretching it. So I am going to limit my wishes to the Legislative Assembly.

So, Madam Speaker, the Government has to look at all options that are available. I believe that we are duty bound to do so. I believe the public deserves the work to be carried out about how we are going to own and operate all major utilities and quasi-utility type entities. Most modern countries have long gotten out of governments being involved with utilities. And I dare say, Madam Speaker, that many that still are, are chomping at the bit to get out. But the fact of the matter is, in a lot of instances, the assets have been cared for so poorly, they have been run so inefficiently, they have such a stigma that a lot of times in a lot of countries the governments are "stuck" with them.

Because we have an entity that has a positive track record, why should we not explore whether or not there is a better deal for the people of this country, a better way forward for the people of this country?

One minute, Madam Speaker.

[pause]

Hon. Rolston M. Anglin: Madam Speaker, this whole notion that we ought to just say no, for the sake of saying no, is not really one that I think does our people justice, serves the community well. We ought to take a cold, hard look at every point in time, but in particular at points in time where you do have some real fundamental weaknesses on your balance sheet.

Madam Speaker, let us not forget our unfunded pension liability. Let us not forget escalating healthcare for indigents. The point I am making is that you think we need money now, let us look to the future and the needs we are going to have.

Now, we are confident as Government that the world economy is going to turn around, which is going to have a natural benefit for us in Cayman. We are also confident that there are a number of private

sector projects coming on stream that should assist in recovery. So, we are confident that, generally speaking, the economy is going to be stronger next year and the year after than it is today.

However, I think to be absolutely prudent, we do need to take a hard look at the entire balance sheet of the Cayman Islands Government and ensure that we are making the best use of all of our assets, that we are positioning the Government to be in the strongest possible position, and also, to be in a position to be able to "ride out" whatever is going to face us in the future.

I am confident that every member of the previous administration, the PPM Government, would get up and tell this House and the country that if they [had known] how devastating the world recession was going to be, how deep it would be, and the impact it would have on the Cayman Islands, that they would have done things differently. So, we can be as robust as we want in our thought process about recovery, and we have to be confident and we have to push forward in confidence, but we need to sprinkle some skepticism in just in case everything does not go quite as planned, how we best position ourselves.

If you take a family, and that family has a positive net worth, it has X amount of debt in terms of mortgages, personal loans, and it has certain assets, that family at all points in time should look at its entire position and make the best decisions about how it should chart the future.

There have been many people in many countries over the years who have looked at very lucrative assets and said, *We are going to sell this one because here is what we think it is going to do for us in the medium and long term. And, guess what. Yes, we will no longer be owner of this particular asset. Or, We are going to lease this particular asset for a certain period of time and here are the net benefits.* CIG has had a long history of leasing out very, very valuable land for a period of 99 years. I have always been the strong advocate to say a 99-year lease . . . let's face it, those lands are never going to become . . . the buildings built on them and everything that goes with it will never realistically become property of the people of the Cayman Islands ever again.

So, if we are willing to do that with Seven Mile Beach property, et cetera, we are saying that we should not look at the Water Authority? I do not buy that logic. I think we have to look critically at where we are and chart the best way forward.

Madam Speaker, we can say that the UK Government has told us in no uncertain terms that whichever course we chart in relation to assets they are going to have a say in. As long as we are non-compliant with the principles outlined in the Public Management and Finance Law (PMFL) they are going to have a say in what happens with those funds. And you know what that means. They are talking directly (and they have come out and said it) about our

level of central government debt and debt across the entire public sector.

We have to also recognise that not only has the Water Authority as an entity built up, but it has just built up by pure profit reinvestment. It too has debt that it has taken on board in order to build out the assets to the magnitude and level that they are.

So, Madam Speaker, I really do not think sometimes that as legislators we want to really stand together and say to our public, *Look, this is where we are at. Clearly understand that we want to be in a stronger position. And in order to be in that stronger position, here are some of the actions we might just have to take.* And we might debate those until the cows come home in terms of exactly what those actions are. What I can say is that I know that all of us would agree that we need to put ourselves in a better position for long-term success and sustainability.

Madam Speaker, what happens if we have, God forbid, another Hurricane Ivan? Where is this country going to be left? Wishing that we might have had a little more cash on hand? Wishing that we might have been able to put ourselves in a stronger position?

Madam Speaker, we need to really temper all of the politics and rhetoric that we so eagerly spew in this Legislative Assembly and on the airwaves of this country. That is really something that we need to do as a group of legislators, and stop simply saying, *Oh, we are going to pander to the crowd, because all we want to do is try to play that game of flip-flop; you win it this time, I win it that time, you win it this time.* Because at the end of the day all that is in it is the next general election.

I think we will have enough to debate and fight about. But I think the one thing that we should stand in unity on is the fact that the country, from a fiscal standpoint, needs to have itself strengthened and that we need to pay particular attention to our levels of national debt so as to put ourselves in the strongest of possible positions.

Madam Speaker, I am saddened, really, that neither of the Members who spoke thus far, have said to the country what their overall governing philosophy is. Is their overall governing philosophy one that runs in tandem with the previous administration, which is big government, high debt, assets that we cannot afford? Or, one that talks about being more conservative, being more rational in what we do? Not continuing to mortgage the future of our children and grandchildren.

Madam Speaker, let us not forget that we are not a country of hundreds of thousands. We are not a country with large amounts of resources that we have direct control over. We are a service-based economy, so much so that when one financial firm leaves, the ripple effect is felt throughout the economy.

Madam Speaker, on a point of clarity, I think we ought to also deal with this whole matter of the Turtle Farm, because when it is not the Turtle Farm,

it's Cayman Airways or something else. It seems as though all legislators have now left Cayman Airways alone, so apparently we have now all come to a consensus of wisdom that Cayman Airways is a critical national asset. But I can remember the days when you would hear them here and on the talk shows [saying], *Oh well, if we need to do something, we need to sell Cayman Airways.* Now, it is sell Turtle Farm, give Turtle Farm away.

It is funny how there are those in this House who believe, just as our valuation methodologies are way off cue in terms of the Opposition bench, that somehow an asset that is struggling within government is something that will all of a sudden be the "sellable" asset. I do not get how that makes any business sense. I do not know. But, Madam Speaker, perhaps because of how the valuation methodologies that I have listened to today have gone, perhaps then it all does kind of now make sense in regard to which asset we ought to dispose [of].

But, Madam Speaker, the Cayman Turtle Farm has a certain amount of debt. Certainly, the whole notion of let's give it away, which sounds very powerful and cute politically . . . before we can give it away we need to decide how we are going to deal with the debt because of the losses. The vast majority of that is going to service the debt. But what this Government is pursuing is a key strategic partner (the Premier has said this) who can come in and take over the tourism aspect and be able to work very closely with the cruise industry.

Madam Speaker, we need to recall that the previous Minister of Tourism never followed through on what was the holistic redevelopment of the North-west Point Corridor, which included the Turtle Farm. You see, it's easy to say that an asset is underperforming and conveniently forget the piece of history which caused and contributed to the demise of the asset.

The Third Elected Member for George Town says that it was unrealistic. And, Madam Speaker, history . . . one thing, he will never be able to prove his case. [And] we will never be able to prove our case. What I know is that the reckless approach used by his previous Minister of Tourism put us in the worst possible position.

Also, Madam Speaker, the other thing . . . and it all runs as a pattern. That same previous Minister was the same one who shut down critical investment bureaus saying that the private sector was going to take it up. And now we have to re-enter those markets.

Madam Speaker, I think history has started to prove—even though we are only about 20 months after the general election—that that previous Minister clearly stopped things for the sake of stopping them and the country is worse off for it. So, Madam Speaker, again, the Third Elected Member for George Town, the previous Minister or anyone can say, *Oh well, the projections were unrealistic, the business*

plan was unrealistic. When they can come and bring a fiscal analysis that proves it, I will be very willing to sit down and look at their analysis. Unfortunately, Madam Speaker, when an asset is struggling, it is quite easy to say it was unrealistic.

So, when we talk about Cayman Airways and some of the decisions that were taken there about discontinuation of routes, again, it's easy to say we discontinued because it was unrealistic. But they are not going to be able to prove their point of view.

What I can say is . . . and I know the Third Elected Member for George Town knows in his heart of hearts, I know the Elected Member for East End knows in his heart of hearts, that the actions of their former Minister of Tourism made the situation worse. What we are arguing now about is how much worse. That is where we are not going to be able to count.

Madam Speaker, I must say though that instead of all the doom and gloom, the one silver lining under this cloud is that the public clearly recognised that he made matters worse.

Mr. V. Arden McLean: Don't involve me in this.

An hon. Member: We're just setting you up for a shellacking.

Hon. Rolston M. Anglin: Well, I know the PPM realises it. I know that they did not put their whole weight behind him—

[inaudible interjection]

Hon. Rolston M. Anglin: —as a candidate. But that's for them to defend or say yes.

But, Madam Speaker, at the end of the day, I do not understand the position taken on the Bills. I really believe the country needs to have the benefit. And this whole business of simply scare mongering and trying to paint the Government as dishonest really is not good. It is not good for us, it is not good for them, [and] it is really not good for the country. It is not good for elected representatives, period. And, you know, we really need to rise above that. I have not heard anything, thus far by the Opposition that tells me that we should change the course that we are on.

I give this Bill my full and unequivocal support and I certainly am confident and sure that all of my colleagues will stay the course and see this through and we stand completely and unequivocally behind our Minister of Works.

Thank you, Madam Speaker.

Mr. V. Arden McLean: Thank God!

The Speaker: Thank you, Minister for Education.

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

Third Elected Member for George Town.

[inaudible interjections]

Mr. Alden M. McLaughlin, Jr.: Thank you, Madam Speaker.

Madam Speaker, I have listened keenly through the debate on this raft of Bills. At one point, Madam Speaker, I felt compelled to rise and invite the Honourable Minister who introduced these Bills to give some perspective, to present some framework, to offer some explanation in this House about the policy that underpins these three pieces of legislation. She has thus far spoken five times, and I am yet to hear anything other than generalities about what underlies these critical Bills.

I listened raptly to the eloquence of the Minister of Education who spoke for more than one hour, and who spent a great deal of his time, very ably taking potshots at my two colleagues on this side who spoke before me. Madam Speaker, despite the derision there is nothing forthcoming from the Minister of Education about the rationale, the *raison d'être* of this legislation.

Madam Speaker, he did his usual excellent job at meeting criticisms, concerns, observations, statements made by the Members for East End and North Side. He even felt compelled to defend the Turtle Farm. I guess he was compelled to do so, since at that point he was, for all intents and purposes, the chief economic advisor to the Leader of Government Business when the decision was taken to go ahead and turn a profitable entity like the Turtle Farm into a losing proposition like Boatswain Beach. But he has said nothing—nothing!—about why this legislation is really before this House.

What is it, besides the old whipping horse of “the last Government ran the country into the ground,” and “the global economy has put us in a position where the United Kingdom Government along with the incompetence of the PPM is forcing our hand to make all of these difficult decisions and take these hard decisions”?

[Hon. Cline A. Glidden, Jr., Deputy Speaker, in the Chair]

Mr. Alden M. McLaughlin, Jr.: That is all well and good. But that, Mr. Speaker, is tired. That is all tired rhetoric.

We are, as he has acknowledged, 20 months into this administration. There is a three-year plan which has been presented to the country, said to be a plan agreed by the United Kingdom Government for the recovery of Government's fiscal position.

I would never say, Mr. Speaker, that Government should never entertain the thought of selling a Government entity. Of course not! But what I need, what the country needs, is an explanation as to why.

Given the circumstances now, and given what we are capable of projecting for the future, why is it

more beneficial to sell a profitable entity which, based on the report we have I acknowledge was from the 2007/8 financial year, has debts less than \$20 million and book value of some \$62 million, is not costing Government anything in terms of subsidy, [and] is actually turning a profit year on year? Why is it believed that to divest this asset is going to magically place the country in the more beneficial financial position that the Minister of Education talks about?

The only way I or any Member of this House or anybody within the sound of my voice can come to that conclusion is if the Government has articulated in some detail what are the factors that have driven that decision. How has Government come to that conclusion? Or is Government, as it appeared from what the Minister of Education said, merely operating in the realm of speculation?

Mr. Speaker, not for one moment do I believe the spin ably given by the Minister of Education, that Government is just seeing what's out there so that it can somehow make a decision about whether the right thing to do is to sell or not sell. We have heard more than once that Government has hard proposals. None of this has been developed in a vacuum with Government looking to find the best possible arrangement just based on what it considers to be in the best interest of the country and the best interest of the company.

I have no doubt that much that is contained in these three pieces of legislation, or these three Bills, I should say, which are about to become legislation, is driven by what the proposed purchasers or leasees of the Water Authority want and have said is required for them to sign on the dotted line.

Yet, Mr. Speaker, the Government has the audacity to come to this House for the Minister of Education to deride the contributions of Members of the Opposition to talk about the low quality of debate when there is such a paucity of information and explanation provided to this House and to the country about what it is that Government is doing or proposing to do. They expect us on this side, Mr. Speaker, to accept as gospel—and not even chapter and verse, but just hand you the New Testament and say, *You know that this is true, accept it as Bible leaf and say, we hold hands with you Government. You are the saviours of the country and we know that the decisions that you are taking are right.* Because that is what they are expecting us to do!

They complain about the lack of detail and the speculation of my two colleagues. But we have listened through nearly four hours of debate now on these three Bills. Listened!

I asked for, I implored the Minister, tell us what it is you are doing so that we can make some informed decisions and take informed positions in relation to all of this. The question which must be in the mind of every person who listens or is aware of this debate is, why is the Government not saying what it is proposing to do with the Water Authority?

Who is it making the deal with? What are the terms and conditions of this proposed arrangement?

How is this going to improve Government's fiscal position? What is going to happen to the debt of the Water Authority? Are we going to take whatever we get in terms of the purchase price and have to pay off the debt? In which case whatever net income Government gets is reduced by that sum.

And, having divested this asset, what are we going to do with the revenue? For, as soon as we have spent it, both the asset and the revenue are gone. And next year we certainly will not have this asset to divest. How does this fit into Government's much-talked-about sustainable fiscal plan?

None of these questions have even come close to being answered, Mr. Speaker. And it is nothing short of dereliction of duty on the part of the Minister and the Government to come to this House on a matter as critical as this saying nothing about these important issues to the House, and getting up and deriding the Opposition for not just agreeing to whatever it is they propose.

Mr. Speaker, there is one more opportunity that the Minister responsible for the Water Authority has in this debate to set out in detail, in her winding up, what is really behind, the detail that underpins this legislation, and to tell us how it is in financial terms that this sale or lease of the Water Authority assets, the wastewater and the water production, is going to improve Government's fiscal position in the long term. That, Mr. Speaker, I believe the House and the country are owed.

Mr. Speaker, when I look at these three pieces of legislation I see how little, if any, consideration is being given to either any Caymanian individual or entity that might wish to participate in the acquisition or lease of these assets. [And] when I see how little protection there is for the consumer, that every individual, every household, every business in or on the route which the concessioner has been assigned for the wastewater production, [and that] every one of those will be compelled to hook up to this or be prosecuted for not so doing, there is little question in my mind that the principal consideration behind all of this is not the interest of Caymanians or local entities, is not the consumer, it is about protecting and making as viable as possible this asset for whoever is going to purchase it or acquire it, lease it, as the case may be. That is the principal consideration. It is an economic consideration and the Minister of Education said as much.

The Minister of Education talks about the difference in philosophies of his Government and the Government of which I was a part. And it is this: The economic considerations are important, they are critical. But the most important consideration must be that of your people. And when they will bring to this House legislation which expressly circumvents the provisions of the Trade and Business Licensing Law and the Local Companies (Control) Law . . . once you get the

franchise, you do not have to worry about any of that; there is no possibility—no possibility of any Caymanian being invited to participate in these—not by the usual requirements of advertising.

Obviously, if there is a Caymanian entity with sufficient means to bid on it, fair and good. But the usual provisions which require foreign entities who are not at least 60/40 Caymanian owned to offer an opportunity for Caymanians or Caymanian entities to participate in the acquisition of substantial assets like this, businesses like this, is taken away by this legislation.

This must be a first for legislation in this country. It must be a first! And we come in here and the Minister presents it blithely as though this is just run-of-the-mill provisions. These are huge policy decisions! Radical shifts, sea-changes in the way Government business in this country has been conducted. But they offer little by way of explanation. They horde information, they guard it like it is some national secret. And then they deride the Opposition for not simply jumping on board their happy train.

There are going to be some people happy about all of this. I have no doubt about it. I can tell you that some have already called me to try to persuade me why I should support this sort of arrangement.

[Hon. Mary Lawrence, Speaker, in the Chair]

Mr. Alden M. McLaughlin, Jr.: I know, Madam Speaker, I have been around this game long enough to see all the signs of purchaser-specific draft legislation. Someone got a checklist of all the things that needed to be contained in the legislation. And I have no doubt that that was handed to the poor, unwilling servant who was required to draft this. I have no doubt.

Madam Speaker, the Government has conveniently ignored addressing the reality that this is bound to further increase the cost of living and the cost of doing business in the country for it adds—it adds, at the risk of prosecution if you do not—the additional cost of sewerage treatment to every consumer, every householder or business who is required to hook up. And everyone is required to hook up if you are in an area in which the service is being provided.

But that should come as no surprise; and I know will come as no surprise to anyone in this country, for since the day they took office this Government has pursued a relentless policy of increasing the cost of living and the cost of doing business. One of the very first things they did was remove the subsidy that the Government of which I was a part had put in place to reduce the cost of electricity to small, domestic consumers. The first thing they did was to take that away, forcing the cost of electricity up.

[inaudible interjection]

Mr. Alden M. McLaughlin, Jr.: Fees and taxes on just about every consumable in this country on which taxes or fees are charged have been increased since they took office. And yet, they wonder why people are in such dire economic circumstances in this economy where we have the greatest unemployment that I think the country has ever had.

Now they are going to add, by virtue of this, another expenditure for businesses which are on the brink of collapse; another cost to the householder who cannot pay their current water bills. And every Member of this House knows that too well because if you are a Member of this House and you do not get a weekly request, at least a weekly request for help with paying somebody's bills, then I do not think you have much longer to be here after the next election, because that means that you are not considered relevant.

How, Madam Speaker, can they be so insensitive? How many more crash programmes do they think they are going to be able to put in place so that people have something to get through a difficult time? Madam Speaker, those are the considerations which the Minister of Education chose not to address, because I know him. And I know him well. I know how smart he is. I know how perceptive he is. It is not something that has not occurred to him. There may be a few on that side where these things might go over their heads. But not him! And he may think that I mean that as a compliment, but it is not, because it means that he has been less than forthright in his presentation to this House.

Madam Speaker, my mind is not closed. I can be brought to the point where I could be persuaded, that the sale or divestment (let me use the broader term) of the Water Authority and/or its assets is the right thing to do, but not on the basis of the evidence or the case that has been presented by the Minister and her colleagues. Absolutely not!

And the big question which will keep me awake all night is, why is the Government so closed-mouth about the reasons, the rationale behind all of this? We ought to have gotten well beyond the generalities which we have heard for at least 16 months if not more. We are hungry for the detail.

I say, with regret, that this Government's track record on procedural propriety (using a careful term) is not good. And, I hope I can be forgiven by them in being somewhat untrusting about broad statements that are made, that they are doing everything properly and they know what they are doing. I want to know, as I believe does everyone in this country, the basis for the decisions that they have taken. I want to know who is behind all of this. And I will not be satisfied by all statements that, *Oh, it's just going out to tender*. Going out to tender like the financing deal just went out to tender. I know how this Government operates.

And so, Madam Speaker, I urge my learned friend, the Minister with responsibility for this subject, in her one last speech to this House on this matter this

evening, to spend some time—however long she needs, we'll be patient—tell us what is the real deal. Tell us what is really behind all of this. Persuade us that it is something we should support.

Thank you, Madam Speaker.

The Speaker: Thank you Third Elected Member for George Town.

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

Honourable Premier.

The Premier, Hon. W. McKeever Bush: Madam Speaker, I had hoped that we would have been out of this House by now.

The truth about it is that the Opposition in this House cannot get over the fact that they are where they are because of the mess that they have created. And so, they have to try to make their case that the Government is doing something radically wrong.

I heard much, in particular from the last Member who spoke, about *tell us why we are doing this*. Tell us why we are doing this? Does that Member have the audacity and the temerity to think that he can fool people in this House and people listening as to why this country is in the mess that it is? Through pig-headedness and the belief that nobody can tell them anything!

Do they believe that, because they speak as one advertisement says, "When [E.F.] Hutton speaks the world listens?"

I am sorry for that Third Elected Member for George Town. The reason why the country is in the financial doldrums that it is in is because that Member would not listen—as he is now doing—and he thought that he would forever fool the people of this country until they slapped him good and hard in May 2009. He cannot get over that beating up that they put on him. He just has to wait to see whether he can fool them again and come back and do the same thing they did between 2005 and 2009.

He wants to know what the real deal is. The real deal, Madam Speaker, is that they spent, that they mismanaged, that they taxed us, that they gave away, and they continue to give away, and now we do not have any money. They built up the Civil Service—hundreds of them were hired. Now we have to find the money to pay for it.

You want to know why?

Are you blind?

Are they deaf? Are they that blind that they cannot know what the situation is in this country?

Well, Madam Speaker, some people in the various government authorities might listen to them and it sounds good. Obviously, they have some kind of audience. Obviously, they have been more than briefed. Those people do not care either, as far as I am concerned, because they believe that they will get paid. Even when the country does not have the

money, they will get paid. The Civil Service in the Glass House might not even realise that if some things are not done in this country they will not have the money to pay them. And so they can go tattling and telling tales around this country about what they even perceive because they ought to have enough facts by now to know it is a bunch of rubbish.

Do they believe that this Government just wants to lease the Water Authority? And they ask what we are getting the money for, when we have schools being built that we cannot pay for.

The Member for George Town started and did not even have a loan. And he wants to know the real deal [of] who we are doing this for? If I were like them, Madam Speaker, and Members on this side of the House were like him, we would call a huge investigation to find out what went on with those contracts. That is what we would do!

Oh, you hid too much. I ain't a fool. You hid too much. You would sit down there sucking your mouth like you have some candy in it. I guess it was some candy!

Madam Speaker, we believe that what we are attempting to do in paying down the loans that the Foreign Office has told us that we must do—

An Hon. Member: Bring the level of debate up.

The Premier, Hon. W. McKeever Bush: Bring the level of debate up, Madam Speaker? They don't know levels of debate.

Mr. Alden M. McLaughlin, Jr.: Talk about a financing package.

The Premier, Hon. W. McKeever Bush: A financing package, Madam Speaker, would not need to be a financing package if he had not mismanaged the money, if he had not spent the money, if they did not give way to CUC and people's telephone bills and light bills were paid—

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: And so, Madam Speaker, the Member can sit down there and question and talk across the Floor as much as he wants, but he is not going to get away with it.

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: Hear what I say, Madam Speaker, they are not going to get away with it. So, you can tell them that if they want to continue tonight they can go ahead.

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: You hear what I tell you, Madam Speaker? I am really tired of the mess!

The Speaker: Member for East End!

The Premier, Hon. W. McKeever Bush: I am tired of the mess that the country has been put in. And for 20 months we have sat down and worked and tried to work with various entities to put the country back on the right footing and they have come here to be a stumbling block and tell us not to question them.

They want us to tell them what we are going to do with the money? Where do they think the \$80-odd million of deficit would come from if we could not charge the people? Where would the money have come from? Madam Speaker, where?

He talks about relentlessly increasing the cost of living. Madam Speaker, I had hoped by God that we would not have come here and had to raise one red cent to pay for anything in this country. But how were we going to deal with the civil servants and their salaries? How are we going to pay the bills that he left with the contractors? Some we don't even know who they are.

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: No! We are trying to find out just who you left there and who you engaged, because you don't seem to know!

Madam Speaker, they talk about relentlessly increasing cost to the people, and we should take care of the people? When he sat there—over here, right where the Minister of Education is—and allowed it to happen! He was part of it! Does he believe that the \$80-odd million, the \$100 million in deficit just came so? And then, if we had not done it, what was going to happen with the United Kingdom? What were they going to tell us? They did tell us to introduce income tax and property tax. That is what the United Kingdom told us to do. And I said no! Our people will have to bear the brunt of this.

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: And so, Madam Speaker, the cost of living had to increase.

So, what did he expect was going to happen when he was spending the money and saying over his dead body was he going to listen to anybody about \$100 million, \$180 million, \$120 million for one building; \$100-odd million for another two schools. Yet, we don't know what in the world they were thinking about when they were even dreaming about building those . . . well, I don't know what kind of white it is, but you can believe it is some kind of elephant!

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: Madam Speaker, don't talk to me about valuing education.

I want that Member to know something . . . let me not get started tonight on that, because I will tell

them about valuing education in this country and who the pharos were in this country when people should have gotten an education, and what they were doing. So, let him not start with that tonight, because there has been no single Member in this House who has guaranteed more student loans than McKeever Bush! And who has paid more student loans out of my own pocket than McKeever Bush! None of them! Simply because I could not get the education or the school training that I wanted to get. I got an education good enough to know him, and steer clear of him!

So, Madam Speaker—

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: *[Replying to the interjection]* No, me and you ain't no cousins

[laughter]

The Premier, Hon. W. McKeever Bush: No, don't call me that, Madam Speaker! Far from it! Yes!

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: Probably that's false too.

[Inaudible interjection]

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

The Speaker: In Cayman you're all family. Just be quiet.

The Premier, Hon. W. McKeever Bush: They can make fun at this point in time, after he questions and tries to tell me that I do not value education. If I did not value education, I would not have been to the United Kingdom so often in these last 20 months trying to get them to agree for us to get money to pay, trying to get them to give us \$10 million more to build up our primary schools! And that is where I said the money should have been spent—on the primary schools in this system.

No! They went and got a company from Chicago. Go and look at Chicago now—a white city full of snow! We have snow down here, building all of that foolishness that we have to build? That does not educate people, Madam Speaker! That is where the cost is! That is where the money is! That is why we need the money, if you want to know. That is not where you educate children. Oh?

You get teachers and pay them well. That is what you should have done. You tell us where the money has gone. Don't come here and ask me why I want to make money now. Tell me . . . I have the bills to show that they have to pay. Tell me where the

money went, because I don't see it, except it for a few roads that Arden McLean built.

[Inaudible interjection]

The Speaker: Say the Member for East End.

The Premier, Hon. W. McKeewa Bush: Yes, that's him. Him!

[Laughter and inaudible interjections]

Mr. V. Arden McLean: Don't call me in this.

The Premier, Hon. W. McKeewa Bush: Him!

And that is another thing they never talk about. They are not telling the world that we have \$50-odd million to pay for what's left.

[Inaudible interjection]

The Premier, Hon. W. McKeewa Bush: You've been dealing with me so often now.

Madam Speaker, and they talk about generalities? Why the Minister never comes here? They do not want us to tell the world that you had left bills, that you spent four years . . . and, Madam Speaker, there was not one really substantial revenue-making machinery put in place, business put in place in the country so that the country could get revenue. When they should have been doing that, they would not listen to the financial industry. When the financial industry was giving them paper document after document saying, *Do this, do that, we're losing*, they did not pay that any mind.

[Inaudible interjection]

The Premier, Hon. W. McKeewa Bush: And so, he wants us . . . tell you what? Tell you that you mismanaged the country? Every cat and his dog knows that you did that.

The Speaker: Address your remarks to me, please.
Please, let's not—

The Premier, Hon. W. McKeewa Bush: Madam Speaker, the only deal that I know about is that I need money to run the country, and that we have to utilise our assets that we have.

The Water Authority will not be sold; it will be leased. And when you do not have money, but you have an asset, like how Caymanians have a piece of land, you utilise it. That is what they have to do.

But he can talk the way he talks, the bunch of them over there, because you have some of the Water Authority staff sitting here. So they are looking votes and painting good pictures, Madam Speaker, when they know full well the mess that they left and created in this country and now we have to pay for it!

And so they ask me to tell them? What do they want us to tell them? What do you want us to tell, that we are going to do what?

[Inaudible interjection]

The Premier, Hon. W. McKeewa Bush: The truth? You wouldn't know the truth if it looked you in the face every morning.

The Speaker: Ah, keep the remarks through the Chair please.

The Premier, Hon. W. McKeewa Bush: Madam Speaker, they do not know the truth! Ain't nobody telling more lies than the bunch of them!

If you want to call it that, Madam Speaker, untruths, fabrications, all being the same thing; a rose by any other name. And they have the audacity to come in here to tempt people tonight to talk about tell them the truth?

[Inaudible interjection]

The Premier, Hon. W. McKeewa Bush: No, we are not getting any heart attack.

[Inaudible interjection]

The Premier, Hon. W. McKeewa Bush: So, Madam Speaker—

[Inaudible interjection]

The Premier, Hon. W. McKeewa Bush: No. I have to give you a little bit more before I close here tonight.

[Laughter]

The Premier, Hon. W. McKeewa Bush: When they talk about economic consideration is important, but more important is our people, they are absolutely correct. We have no problem with that statement.

But, why are they not out there telling the people now—since our people are so important—the real cause of the situation? Why are they getting on the radio every day? Why do they come in here and take all night long to tell us what? Why are they not telling the people, *Look, if we don't have money we can't pay your salary? If we don't have money we can't pay for school supplies. If we don't have money we can't pay for your school lunches for your children that need.* And did that just happen in 20 months?

Yes, Madam Speaker, we do have a bad situation because of many different situations. And I am not going to say that my Government has done everything that we should have done. No, we have too many stumbling blocks! Some of this we should not have to be doing now, Madam Speaker. We should

have done months ago! But there is too much protection of empires in this country. That's why.

So, Madam Speaker, do not ask us about why we are doing this. There is nobody believing in protecting the people . . . And I challenge him. He had four years. Show me how much he did for the people of this country. I will match his record with mine.

You don't come in here spouting off about not valuing education.

You come in here spouting off about not valuing our people. Show me what you have done! Give me your track record, that's what I want to see! And he is talking about generalities? Humph! Why sell a profitable entity? Which profitable entity? The sewerage system in this country? That's profitable?

Well, you know, if we were fool-fool we would follow them and give out the whole shebang out here tonight, but—

An Hon. Member: You can't do that.

The Premier, Hon. W. McKeever Bush: Suffice it to say that that is not in as good a position as we might want the world to believe, and the truth has to be told. And if they had all behaved themselves I wouldn't even be saying this much. But that is in a mess too.

And, Madam Speaker, they can carry on as long as they want about why we need to have a sewerage system. And the Leader of the Opposition talked about a cistern and why the cistern is one situation and a septic tank for the other. Oh? Two completely different situations all right!

But I will tell you this: I don't know that anybody had such a big mess with their cistern in Ivan. But you can believe they had a lot of mess in this country out of septic tanks. Or have they forgotten that people stood for hours and hours in floating sewerage up to their waists. I wonder if they forgot that. People of this country have not forgotten.

If your cistern overflowed, that was clean water, but the septic [tanks] that flooded . . . that's a different story.

Madam Speaker, we should not even have to question why we need a proper sewerage system in this county. All you have to do is go out on the bay out here and see it sometimes, and you will see the raw sewage floating out in the harbour. You do not have to guess where we hid it, and what kind of environmental problem we are headed into if we don't do something about this. We have been told about this a long time ago, but people just would not take it up and recognise it for what it is.

We have 100 staff, Madam Speaker. Anything we do, whether they cuss me and talk about me up at that Water Authority as much as they want, I will still look out for their interests. I did it before. Some of them might not remember who helped them get their doctorates and who pushed for them, which Minister pushed and made sure that things like that were done. Because I chaired the boards and I took care of the

people. But that is my way of operating. I have not changed that way. I look out for people. I am looking out for the people of this country. And when I say "me", me and this administration here; that is what we are doing.

I am going to stop there, Madam Speaker. I am not going to finish my speech tonight because the truth is when I stop and look at where I left the country in May of 2005—with over \$120 million or nearly \$110 (or whatever it was) million in the bank—and I came back to find all that gone and a big deficit of close to the same thing, plus \$300 million or \$400 million in added loans, looking out and seeing people's businesses crumble, hearing the stories from parents and children and young adults . . . Madam Speaker, I feel like I could cry. I feel like I could sometimes give up when I have to come in here and they question our integrity about what we are doing for the good of the people.

They cannot see like the old Caymanians of old who had a piece of property, saved it for the rainy day and said, *I am now going to use this so that I can help take care of my family*. That is all the Cayman Islands Government is doing right now. We are trying. We are using the assets that we need that we know the country needs. We need a national sewage system, we are trying to utilise what we have.

The Water Authority, if it is leased, it is leased; if it does not lease, it means the same thing. I gave up on it a long time ago and washed my hands from it because there were far too many stumbling blocks. Twenty months and we are just getting to this stage—20 months! And do you think that just happened so, Madam Speaker? No, it did not just happen so. People put stumbling blocks in our way and stopped us every which way they could. And that is what the Opposition is doing. The Opposition is supposed to oppose. We know that.

But, by God, we live here. This is where we grew up. We are not strangers in a foreign land. No! So, Madam Speaker, sometimes I just feel like I should just leave them alone and let them go, and say, *I am 55 years old. In six or seven days, I am going to be 56 years old, and I will just take my leave*. But the truth is that the people put confidence in me this time around that I have had enough to get to this point and I am going to leave this country in a better position, even if they throw me out, because that might happen—there is enough lies are being told. If enough conjecture is being raised, if enough stuff is being said . . . all I pray is, *Do not let that bunch take over or dog eat our supper!*

I am going to stop there and come back on Wednesday, Madam Speaker, to complete my speech.

ADJOURNMENT

The Premier, Hon. W. McKeever Bush: And so, I move the adjournment of this honourable House until 11.00 am on Wednesday next.

[inaudible interjection]

The Premier, Hon. W. McKeever Bush: Eleven o'clock in the morning. I think the Grand Court is opening, and those who want to go might . . . well, there might be some people who want to go.

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: No. We are going to say 11.00 because that's when we need to start.

The Speaker: The question is . . . there is a motion for adjournment before the House, to adjourn the House until 11.00 am on Wednesday. All those in favour, please say Aye. Those against, No.

Ayes.

The Speaker: The Ayes have it.

At 9.15pm the House stood adjourned until 11.00 am, Wednesday, 12 January 2011.

