



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2012/13 SESSION

31 August 2012

Seventh Sitting of the First Meeting

(pages 231–262)

**Hon Mary J Lawrence, MBE, JP
Speaker**

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PRESENT WERE:

THE SPEAKER

Hon Mary J Lawrence, MBE, JP.
Speaker of the Legislative Assembly

MINISTERS OF THE CABINET

Hon W McKeeva Bush, OBE, JP, MLA	<i>The Premier</i> , Minister of Finance, Tourism and Development
Hon Rolston M Anglin, JP, MLA	Minister of Education, Training and Employment
Hon Michael T Adam, MBE, JP, MLA	Minister of Community Affairs, Gender and Housing
Hon J Mark P Scotland, JP, MLA	Minister of Health, Environment, Youth, Sports and Culture

OFFICIAL MEMBERS OF THE CABINET

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

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Hon Cline A Glidden, Jr, MLA	<i>Deputy Speaker</i> , Third Elected Member for West Bay
Capt A Eugene Ebanks, JP, MLA	Fourth Elected Member for West Bay
Mr Ellio A Solomon, MLA	Fourth Elected Member for George Town
Mr Dwayne S Seymour, MLA	Third Elected Member for Bodden Town

OPPOSITION MEMBERS

Hon D Kurt Tibbetts, OBE, JP, MLA	First Elected Member for George Town
Mr Anthony S Eden, OBE, JP, MLA	Second Elected Member for Bodden Town
Mr V Arden McLean, JP, MLA	Elected Member for East End

INDEPENDENT MEMBER

Mr D Ezzard Miller, JP, MLA	Elected Member for North Side
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APOLOGIES

Hon Juliana Y O'Connor-Connolly, JP, MLA	<i>The Deputy Premier</i> , Minister of District Administration, Works, Lands and Agriculture
Mr Moses I Kirkconnell, JP, MLA	First Elected Member for Cayman Brac and Little Cayman

ABSENT

Hon Alden M McLaughlin, MBE, JP, MLA	<i>Leader of the Opposition</i> , Third Elected Member for George Town
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OFFICIAL HANSARD REPORT
STATE OPENING 2012/13 SESSION
FRIDAY
31 AUGUST 2012
12.15 PM
Seventh Sitting

The Speaker: I call on the Second Elected Member for Bodden Town to read Prayers this [afternoon].

PRAYERS

Mr. Anthony S. Eden, Second Elected Member for Bodden Town: Let us pray: *Almighty God, from whom all wisdom and power are derived: We beseech Thee so to direct and prosper the deliberations of the Legislative Assembly now assembled, that all things may be ordered upon the best and surest foundations for the glory of Thy Name and for the safety, honour and welfare of the people of these Islands.*

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

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

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

The Speaker: Please be seated. Proceedings are resumed.

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

Apologies

The Speaker: I have apologies for the [absence of] the Deputy Premier, who is engaged in official business, and from the First Elected Member for Cayman Brac [and Little Cayman], and for the late arrival of the Member for East End.

**PRESENTATION OF PAPERS
AND OF REPORTS**

**Seventh Annual Report of the Cayman Islands
Law Reform Commission—1 April 2011 through 31
March 2012**

The Speaker: Honourable Attorney General.

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

I beg to lay on the Table of this House the [Seventh Annual Report of the Law Reform Commission](#) for the period 1 April 2011 through 31 March 2012.

The Speaker: So ordered.

Does the Member wish to speak thereto?

Hon. Samuel W. Bulgin: Madam Speaker, only simply to say thanks to the Commissioner, the Chairman of the Commission, Mr. Ian Paget-Brown, and the Commissioners for their continued hard work in reviewing, revising and updating our laws to ensure that they remain contemporary and that the jurisdiction remains competitive.

**National Roads Authority Annual Report for the
2010/11 Financial Year**

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeever Bush: Thank you, Madam Speaker. I beg to lay on the Table of this honourable House the [Annual Report for National Roads Authority](#) for the 2010/11 Financial Year.

The Speaker: So ordered.

Does the Honourable Premier wish to speak thereto?

[No audible reply]

**Report of the Standing Business Committee on
the Fourth Meeting of the 2011/12 Session of the
Legislative Assembly**

The Speaker: Honourable Premier.

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

I beg to lay on the Table of this honourable House, [Report of the Standing Business Committee](#) on the Fourth Meeting of the 2011/12 Session of the Legislative Assembly

The Speaker: So ordered.

Does the Honourable Premier wish to speak thereto?

[No audible reply]

Report of the Standing Business Committee on the Fifth Meeting of the 2011/12 Session of the Legislative Assembly

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeever Bush: Thank you, Madam Speaker, I beg to lay on the Table of this honourable House the [Report of the Standing Business Committee](#) on the Fifth Meeting of the 2011/12 Session of the Legislative Assembly.

The Speaker: So ordered.

Annual Report of the Office of the Complaints Commissioner for the 2009/10 Financial Year

The Speaker: Honourable Third Elected Member for West Bay.

Hon. Cline A. Glidden, Jr.: I beg to lay on the Table of this honourable House the [Annual Report of the Office of the Complaints Commissioner](#) for the 2009/10 Financial Year.

The Speaker: So ordered.

Does the honourable Member wish to speak thereon?

[No audible reply]

“Mental Health and Place of Safety: Investigation into the unreasonable or unjust operation of the Mental Health Law (1997 Revision) section 15 (1) (a) (b)”—an Own Motion Investigation by the Office of the Complaints Commissioner

The Speaker: Honourable Third Elected Member for West Bay.

Hon. Cline A. Glidden, Jr.: I beg to lay on the Table of this honourable House the Special Report re: [Mental Health and Place of Safety: Investigation into the unreasonable or unjust operation of the Mental Health Law \(1997 Revision\) section 15 \(1\) \(a\) \(b\)](#)” An Own Motion Investigation by the Office of the Complaints Commissioner.

The Speaker: So ordered.

Does the honourable Member wish to speak thereon?

[No audible reply]

“Danger: Construction at Work” Own Motion Investigation by the Office of the Complaints Commissioner June 2012

The Speaker: Honourable Third Elected Member for West Bay.

Hon. Cline A. Glidden, Jr.: I beg to lay on the Table of this honourable House an Own Motion investigation by the Office of the Complaints Commissioner entitled, [“Danger: Construction at Work.”](#)

The Speaker: So ordered.

Does the honourable Member wish to speak thereon?

[No audible reply]

The Speaker: I need audible “noes” because the machine doesn’t pick up—

Hon. Cline A. Glidden, Jr.: No thank you, Ma’am.

The Speaker: Thank you,

Port Authority of the Cayman Islands Financial Statements – 30 June 2010 and Ownership Agreement Annual Report for the Port Authority of the Cayman Islands for the 2010 Financial Year

The Speaker: Honourable Premier.

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

I beg to lay on the Table of this honourable House the [Ownership Agreement](#) Annual Report and [Financial Statements](#) 30th June 2010 of the Port Authority of the Cayman Islands.

The Speaker: So ordered.

Does the honourable Minister wish to speak thereto?

The Premier, Hon. W. McKeever Bush: No thank you, Madam Speaker.

Financial Statements - The Cayman Islands Stock Exchange Ltd. 30 June 2010

The Speaker: Honourable Premier.

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

I beg to lay on the Table of this honourable House the [Financial Statements for the Cayman Islands Stock Exchange](#) Ltd. 30 June, 2010.

The Speaker: So ordered.

Does the honourable Minister wish to speak thereto?

The Premier, Hon. W. McKeeva Bush: No thank you, Madam Speaker.

Fourth Report of the Commission for Standards in Public Life 17th February 2012

The Speaker: Honourable [Acting] Deputy Governor.

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I wish to lay upon the Table of this honourable House the [Fourth Report of the Commission for Standards in Public Life](#), dated 17 February 2012.

The Speaker: So ordered.

Does the Honourable Member wish to speak thereon?

Hon. Jennifer Ahearn, Acting Deputy Governor: Yes, thank you, Madam Speaker.

I wish to lay before this honourable House today the Fourth Report of the Commission for Standards in Public Life. This report covers the period from 20 August 2011 to 17 February 2012 in line with its constitutional mandate found in section 117(9)(g) of the Cayman Islands Constitution Order 2009.

I would like to go on record to say that we appreciate the Commission's continued adherence to these deadlines and that the delay in it being laid in this honourable House is not the fault of the Commission. The House may wish to note that during the reporting period the Commission has continued its review on the current procurement system in the Cayman Islands, including meetings with various stakeholders, which commenced its review of the existing procedures for appointing members to public authorities and the terms of such appointment as mandated under section 117(e) of the 2009 Constitution Order.

The Commission has also continued to assist with the creation of the underlying statutory framework that is fundamental to its ability to effectively perform its functions under the 2009 Constitution Order. I encourage Members of the House and of the public to familiarise themselves with the content of the report which will be available at the Commission's website, www.standardsinpubliclifecommission.ky.

Thank you, Madam Speaker.

The Speaker: Thank you, honourable Member.

Cayman Islands Human Rights Commission Annual Report 2011

The Speaker: Honourable [Acting] Deputy Governor.

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I wish to lay upon the Table of this honourable House the [Cayman Islands Human Rights Commission Annual Report 2011](#).

The Speaker: So ordered.

Does the Honourable Member wish to speak thereon?

Hon. Jennifer Ahearn, Acting Deputy Governor: Yes, thank you, Madam Speaker.

I wish to lay before the honourable House today the second report of the Human Rights Commission. The report covers the period from 1 January 2011 through the 31 December 2011 in line with its constitutional mandate found in section 116(8) of the Cayman Islands Constitution Order 2009.

I appreciate the Commission's continued adherence to these deadlines and the delay in it being laid in this honourable House is not the fault of the Commission. The House may wish to note that during the reporting period the Commission has continued its work to promote, protect and preserve the integration of human rights values into everyday life through the monitoring of human rights in legislation policy and practice, investigation of reported alleged breaches or infringements of human rights by public officials, encouraging of government accountability to national and international human rights standards and empowering all persons to understand and exercise their human rights freedoms and responsibilities.

The Commission continues to highlight the historic milestone implementation day on 6 November 2012 and encourages all public officers to take an active role by incorporating the values, principles and accountabilities into their public service duty.

I encourage Members of the House and of the public to familiarize themselves with the content of the report which will be available at the Commission's website, www.humanrightscommission.ky.

Thank you, Madam Speaker.

The Speaker: Thank you.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: I have given permission to the Honourable Premier to make a statement.

HSBC Mexico

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

Having followed the press releases and the Senate report, I am well aware of the issues surrounding the HSBC Mexico, which also has a Class B banking licence here in Cayman. Needless to say, as a Government we are extremely concerned about the potential impact this could have on our jurisdiction.

The actions, or lack thereof, by the bank's officials, and alleged misuse of the Cayman entity can undermine the jurisdiction's hard work and accomplishments in the anti-money laundering regime. However, I am aware that the Monetary Authority is still in the process of conducting their investigations. When those investigations are complete, a more comprehensive statement will be made by myself on this matter.

The Speaker: Thank you, Honourable Premier.

GOVERNMENT BUSINESS**BILLS****Suspension of Standing Order 46(1) and (2)**

The Speaker: Honourable Premier.

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

I move the suspension of Standing Order 46(1) and (2) to enable the Bills to be given a first reading.

The Speaker: The question is that Standing Order 46(1) and (2) be suspended to enable the Bills to be given a first reading. I presume these are the Bills listed on the Order Paper, The Customs Tariff (Amendment) Bill, 2012; The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012; The Companies (Amendment) (No. 2) Bill, 2012; The Partnership (Amendment) Bill, 2012; Public Service Management (Amendment) Bill, 2012; and the Public Service Pensions (Amendment) Bill, 2012.

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

Ayes.

The Speaker: The Ayes have it.

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

FIRST READINGS**Customs Tariff (Amendment) Bill, 2012**

The Clerk: The Customs Tariff (Amendment) Bill, 2012.

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

Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012

The Clerk: The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012

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

Companies (Amendment) (No. 2) Bill, 2012

The Clerk: The Companies (Amendment) (No. 2) Bill, 2012.

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

Partnership (Amendment) Bill, 2012

The Clerk: The Partnership (Amendment) Bill, 2012.

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

Public Service Management (Amendment) Bill, 2012

The Clerk: The Public Service Management (Amendment) Bill, 2012.

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

Public Service Pensions (Amendment) Bill, 2012

The Clerk: The Public Service Pensions (Amendment) Bill, 2012.

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

Suspension of Standing Order 46(4)

The Speaker: Honourable Premier.

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

I move the suspension of Standing Order 46(4) to enable the Bills to be given a Second Reading.

The Speaker: The question is that Standing Order 46(4) be suspended to enable the Bills [The Customs Tariff (Amendment) Bill, 2012 and the Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012] to be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(4) suspended.

SECOND READINGS

Customs Tariff (Amendment) Bill, 2012

The Clerk: The Customs Tariff (Amendment) Bill, 2012.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I want to thank the House for a suspension of [Standing] Orders to allow these revenue measure Bills to be taken at this point in time. I consider it an emergency, as they are part of the budgetary process and, therefore, must be taken today.

So, Madam Speaker, I beg to move the Second Reading of a Bill entitled, the Customs Tariff (Amendment) Bill, 2012.

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

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I rise to present the Customs Tariff (Amendment) Bill, 2012, on behalf of the Government, a Bill to amend the Customs Tariff Law (2011 Revision). This Bill seeks to repeal and replace certain sections of the Customs Tariff Law (2011 Revision) in order to effect the new revenue measures on alcohol and cigarettes, the inspection fees on cargo, containers, loose cargo and packages that are being imported and exported from the Islands, and to make provisions for incidental and connected purposes.

Included in the new revenue measures for the 2012/13 fiscal year is \$3.1 million for the increase in import duty on cigarettes and alcohol. Currently, the import duty rate on cigarettes is \$105 per 1,000. The new rates will increase to \$210 per 1,000 for an estimated operating revenue increase of \$1.5 million in the 2012/13 fiscal year.

The import duty on alcohol will increase by 30 cents per litre of all alcohol, including ale, beer, wines, champagnes and spirits, for an estimated operating revenue increase of \$1,571,000 in the 2012/13 year.

Madam Speaker, as the public may well know, the Government purchased four X-ray machines and one mobile X-ray scanner that are capable of scanning all cargo containers and packages entering and exiting the Islands. Ever since the scanners became operational in February 2012, it has been proven that they are a crime-preventative measure and have deterred the importation and exportation of illegal drugs and firearms to and from these Islands. In order to recover the purchase and maintenance costs of the five extra scanners, the Government is imposing a \$100 inspection fee on all cargo containers or a \$2.00 per 100 pounds, a part thereof fee, on loose cargo and packages that are imported or exported through the Islands.

Madam Speaker, I must point out that the inspection fees are also included in the Customs Tariff Bill, 2012, that was passed in the Legislative Assembly on 5 April, 2012. That Bill, however, has not been passed into law as yet. As this honourable House may recall, the Customs Tariff Bill, 2012, encompassed the Harmonized Commodity Description and Coding System for the classification of imports and exports. The Harmonized system, which comprises of about 5,000 commodity groups, would allow the Government to keep abreast of the latest internationally accepted nomenclature in classification of goods and to make better informed economic decisions and national statistics.

The Government anticipated bringing the Customs Bill, 2012, in law on 3 July 2012, Madam Speaker. However, there have been technical problems with the implementation of the Total Revenue Integrated Processing System, or TRIPS, computer system. This is a computer system that is required to accommodate the 5,000 Harmonized commodity groups and tariff codes. Once the TRIPS computer system is operational—and we hope that the issues will be sorted out, Madam Speaker, in the upcoming weeks—the Government will then be able to pass the Customs Tariff Bill, 2012, into law. In the meantime, the inspection fees will be included in the Customs Tariff (Amendment) Bill, 2012, which will allow for the Government to start collecting the inspection fees immediately.

Madam Speaker, the detailed clauses of the Customs Tariff (Amendment) Bill, 2012, are as follows: Clause 1 provides the short title. Clause 2 amends section 3 of the Law and refers to the inspection fees. Clause 3 amends Schedule 1 of the Law to provide the new duty rates that will be charged on alcohol and cigarettes; and clause 4 inserts a Schedule 6 to the Law to prescribe the \$100 inspection fee on all cargo containers, and the \$2.00 per 100 pounds, or part thereof, fee on loose cargo and packages being imported or exported through the ports of the Cayman Islands.

In conclusion, Madam Speaker, I thank Members for their time. I thank the Finance Department

and the Customs Department for their work on these items.

The Speaker: Thank you, Honourable Minister.

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 ask the Honourable Minister to conclude his debate.

The Premier, Hon. W. McKeever Bush: Just to thank Members, Madam Speaker.

The Speaker: Thank you.

The question is that a Bill shortly entitled, the Customs Tariff (Amendment) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Customs Tariff (Amendment) Bill, 2012, given a second reading.

¹Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012

The Clerk: The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeever Bush: Madam Speaker, I beg to move the Second Reading of a Bill entitled the Partnership (Amendment) Bill, 2012.

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

The Premier, Hon. W. McKeever Bush: Madam Speaker, this Bill seeks to amend the Partnership Law 2011 (Revision) to update the penalty provisions and to provide for incidental and connected purposes.

The amendments that are before the House today are to address the remaining recommendations in the Phase 1 Peer Review Report by the Global Forum on Transparency and Exchange of Information for Tax Purposes, including the introduction of effective sanctions against partnerships that fail to comply with the requirements to maintain ownership and identity information.

Madam Speaker, to ensure availability of information for tax purposes, the Bill also makes it a requirement for a partnership to maintain its registered office at a location in our Islands.

The clauses of the Bill are as follows: Clause 1 is the short title. Clause 2 amends of section 49(1)(c) of the principal Law to provide for a partnership to have a registered office located here. Clause 3 amends section 50 of the principal Law to increase the penalty for failure to pay the annual fee by a due date from \$200 and a further fine of \$20 for each day the default continues to \$1,000 and to a further fine of \$100 for each day during which the default continues. And clause 4 amends section 51 of the principal Law to increase the penalty for failure to file a declaration of a change in a limited partnership from \$500 and a further fine of \$50 for each day during which the default continues, to [\$3,000] and a further fine of \$300 for each day during which the default continues.

Madam Speaker, I commend the Partnership (Amendment) Bill, 2012, to this honourable House and respectfully ask honourable Members to support the Bill.

The Speaker: Thank you, Honourable Minister.

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 Honourable Minister to conclude his debate.

The Premier, Hon. W. McKeever Bush: Just to thank the House, Madam Speaker.

The Speaker: Thank you.

The question is that a Bill shortly entitled the Exempted Limited Partnership (No. 2) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012 given a second reading.

Companies (Amendment) (No. 2) Bill, 2012

The Clerk: The Companies (Amendment) (No. 2) Bill, 2012.

The Speaker: Honourable Premier.

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

¹ See the Hon. Premier's *[clarification](#) regarding the Second Reading of the Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012, at page 238.

I beg to move the Second Reading of a Bill entitled the Companies (Amendment) (No. 2) Bill, 2012.

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

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

I rise to present the Bill. The Bill seeks to increase various fees payable under the Law. These fee increases are a part of the package of revenue measures agreed with the Foreign Office for the 2012/13 Budget.

The clauses in the Bill are as follows: Clause 1 provides the short title.

Clause 2 amends section 156 of the principal Law to increase from \$50 to \$75 the fee relating to a request on behalf of a company to strike the company off the Register.

Clause 3 amends section 200 of the principal Law to prescribe an express fee of \$400 for application for registration in the case of a merger. The clause would also increase from \$75 to \$100 the fee relating to an application for the registration of a change of name.

And clause 4 amends Schedule 5 of the principal Law to increase by \$100 the annual fee payable by an exempted company.

That clause also increases by \$25 certain other fees for which no fees are elsewhere prescribed; for example, the fee payable when the Registrar provides a copy of a document.

Madam Speaker, I commend the Companies (Amendment) (No. 2) Bill, 2012, to this honourable House. I hope that Members will support it.

The Speaker: Thank you, honourable Minister.

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 Honourable Minister to conclude his debate.

The Premier, Hon. W. McKeever Bush: Just to thank the House, Madam Speaker.

The Speaker: Thank you.

The question is that a Bill shortly entitled the Companies (Amendment) (No. 2) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Companies (Amendment) (No. 2) Bill, 2012, given a second reading.

Partnership (Amendment) Bill, 2012

The Clerk: The Partnership (Amendment) Bill, 2012.

The Premier, Hon. W. McKeever Bush: Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Partnership (Amendment) Bill, 2012.

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

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

The Premier, Hon. W. McKeever Bush: Madam Speaker, this Bill seeks to amend the Partnership Law 2011 (Revision) to update the penalty provisions and to provide for incidental and connected purposes.

The amendments set before us, Madam Speaker, are to address the remaining recommendations in the Phase 1 Peer Review Report by the Global Forum on Transparency and Exchange of Information for Tax Purposes, including the introduction of effective sanctions against partnerships that fail to comply with the requirements to maintain ownership and identity information.

Madam Speaker, to ensure availability of information for tax purposes, the Bill also makes it a requirement for a partnership to maintain its registered office at a location in the Islands.

The clauses of the Bill are as follows: Clause 1 is the short title.

Clause 2 of the Bill amends of section 49(1)(c) of the principal Law to provide for a partnership to have a registered office located in the Islands.

Clause 3 amends section 50 of the principal Law to increase the penalty for failure to pay the annual fee by a due date from \$200 and a further fine of \$20 for each day during which the default continues to \$1,000 and to a further fine of \$100 for each day during which the default continues.

And clause 4 of the Bill amends section 51 of the principal Law to increase the penalty for failure to file a declaration of a change in a limited partnership from \$500 and a further fine of \$50 for each day during which the default continues, to [\$3,000] and a further fine of \$300 for each day during which the default continues.

Madam Speaker, I ask Members for their support the Bill.

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

If not, I will call on the honourable Minister to conclude his debate.

[Pause]

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I just want to make it absolutely *clear that I have two Bills on the Order Paper dealing with the Partnership (Amendment) Bill and the Exempted Limited Partnership (Amendment) Bill. I want to make clear that the Exempted Limited Partnership (Amendment) Bill seeks to increase from \$25 to \$100 the express fee payable under the Law for expediting an application for any certificate other than a certificate of registration of an exempted limited partnership. We've agreed to them, I just want to make absolutely clear that's what it is doing.

The Speaker: I think we need to clarify that a bit further. The presentation you made in the . . .

[Inaudible interjection]

The Speaker: The presentation you made in the Second Reading was to the . . .

[Pause and inaudible interjections]

The Speaker: The question is that a Bill shortly entitled the Partnership (Amendment) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Partnership (Amendment) Bill, 2012 given a Second Reading.

Public Service Management (Amendment) Bill, 2012

The Clerk: The Public Service Management (Amendment) Bill, 2012.

The Speaker: Acting Deputy Governor.

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I beg to move the second reading of a Bill entitled the, Public Service Management (Amendment) Bill, 2012.

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

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I stand to commend to this honourable House the passage of the Public Service Management (Amendment) Bill, 2012. This legislation sets new annual deadlines for having performance agreements in place across the Civil Service.

Madam Speaker, the Public Service Management Law provides the legal framework that governs human resource matters within the Civil Service. This Law works in tandem with the Public Management and Finance Law by incorporating outputs inclusive of financial and quality targets as an integral part of the performance metrics. Under this amendment the new deadline for chief officers to have agreed their annual performance agreement is no more than 30 days following the Legislative Assembly's approval of an annual budget. And for all remaining staff the deadline is no more than 60 days after the annual budget is approved.

In contrast, under the current Law performance agreements, inclusive of output targets, are required to be in place prior to the commencement of each financial year, which is prior to 1 July. This is always an ambitious target as budgets are typically approved just weeks before this deadline. In a year when an interim budget is approved, as occurred this year, Madam Speaker, compliance with the Law is impeded because the underpinning data has not been finalised.

When only a draft budget exists which is under active consideration during the budget review phase or in Finance Committee, staff are reluctant to sign performance agreements and managers are reluctant to undertake the process given the uncertainty which still applies to the budgetary numbers. By setting the clock to run only after the annual budget is approved, a more logical approach is adopted which will benefit performance management systems in the Civil Service.

Madam Speaker, this is not to provide an excuse for the relatively low levels of compliance with performance management requirements, however, the current system does create disincentives as once managers are late in completing such agreements, it is not possible to subsequently achieve a high compliance score. The amending legislation sets more realistic timelines for the process to yield meaningful results.

The Portfolio of the Civil Service has also made significant strides this year in developing an in-house Excel-based system that automates the cycle from development of performance agreements at the start of the year to both parties executing the agreement and finally to completing the performance assessment at the end of the year.

The new system allows those managers and staff who are both on the government email system to complete this cycle online without the need to print a

single piece of paper. Many performance indicators are pre-loaded into packs [SOUNDS LIKE] specifically designed for each ministry and once the performance assessment is completed the scoring is automated.

Another feature of the new system is a common platform for storing performance related documents. By accessing the centralised storage platform, managers will have a new tool for monitoring compliance within their agencies. Even where managers still use a paper-based performance tool to create the agreement and perform the assessment, the hard copies can be scanned onto the same platform to allow for integrated compliance reporting.

Madam Speaker, the revised deadlines are important in a normal financial year. However, in an atypical financial year, such as the year when only an interim budget is initially approved, the revised deadline preserves a clear window for performance management to take place. Interim budgets by their very nature typically lack the specificity required to produce meaningful performance targets. Rather than frustrate managers during this period, the Law envisions the deadline always falls only after the annual budget is approved. Managers can commence the process as early as they feel possible, but statutory compliance deadlines are not triggered until a detailed budget is available.

We envisage a similar scenario next year, Madam Speaker, when following the elections in May, an interim budget is typically approved to allow Cabinet to again contemplate the subjects that will comprise each ministry. So this amendment is not reactionary; but it rather seeks to regularise our deadlines in those years where delays are part of our planned budgetary cycle.

Finally, Madam Speaker, I wish to acknowledge that the Office of the Deputy Governor has taken very seriously the need to build a more robust performance culture within the Civil Service. Following the analysis of empirical data, and having conducted informal research with chief officers and HR managers, it is understood that our challenges in performance management exists not only because of onerous systems and unrealistic statutory deadlines, both of which will be addressed through this Bill, but equally because of a prevailing culture that formal performance evaluations do not matter. Nothing can be further from the truth. Not only will this system enable managers to better identify low performers, but it will also give them another way to acknowledge and reward the high performers.

In 2012 our ability to reward the high performers is limited. However, the Deputy Governor's Award, which was launched this month, will link annual performance as a factor in the penultimate Deputy Governor's Award to be issued at the end of the year. In future years, once we have reestablished a reliable pervasive performance management system, the Deputy Governor's Office aims to activate the provi-

sions for performance related pay which are currently contained in the Public Service and Management Law.

Overall, Madam Speaker, we have a highly professional, efficient, and high performing Civil Service. Performance management is required to help us address those persons who do not perform to this description and equally to reward those who exceeded their agreed performance objectives.

Madam Speaker, I commend the Public Service Management (Amendment) Bill, 2012, to this honourable House for approval.

The Speaker: Thank you, honourable Member.

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 honourable Member, [Acting] Deputy Governor, to give her reply.

Hon. Jennifer Ahearn, Acting Deputy Governor: Just to thank Members, Madam Speaker.

The Speaker: The question is that a Bill shortly entitled The Public Service Management (Amendment) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Public Service Management (Amendment) Bill, 2012, given a second reading.

Public Service Pensions (Amendment) Bill, 2012

The Clerk: The Public Service Pensions (Amendment) Bill, 2012.

The Speaker: Acting Deputy Governor.

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I beg to move the second reading of a Bill entitled the, Public Service Pensions (Amendment) Bill, 2012.

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

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I stand to commend to this honourable House the passage of the Public Service Pensions (Amendment) Bill, 2012. This legislation preserves pensions

during the period where salaries and wages within the Civil Service are temporarily reduced.

Madam Speaker, clause 2 provides that where pursuant to the Public Service Management Law (2011 Revision), there has been a temporary reduction in a participant's salary or wages, the pension of the participant shall be calculated on the salary or wages earnings that would, but for the temporary reduction, have been payable to that participant.

Without this protection, defined benefit participants who seek to retire while the salary cut is in effect, may earn less in retirement as their pension calculation is largely based on the employees' final average pensionable earnings on the date the employee reaches retirement age.

Another tool for preserving pension benefits during a salary reduction is by an adjustment to the employee and employer pension contribution rate. This rate has been increased from 6 per cent for each, to 6.192 per cent for each, thereby ensuring that the amount of payment made into the individual's pension account is unaltered during this salary reduction.

This protection is particularly important for defined contribution participants whose pensions are largely determined by the amount of funds contributed to their pension plans. This protection is not set out in this amendment but is rather contained in amendments that have been made to the Personnel Regulations underpinning the Public Service Management Law (2011 Revision).

Madam Speaker, I commend the Public Service Pensions (Amendment) Bill, 2012, for the approval of this honourable House.

The Speaker: Thank you, honourable Member.

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 put the question.

[Inaudible interjection]

The Speaker: Oh, I'm sorry. Honourable [Acting] Deputy Governor, your reply.

Hon. Jennifer Ahearn, Acting Deputy Governor: Just to thank Members, Madam Speaker.

The Speaker: The question is that a Bill shortly entitled The Public Service Pensions (Amendment) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Public Service Pensions (Amendment) Bill, 2012, given a second reading.

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

House in Committee at 1.17 pm

COMMITTEE ON BILLS

[Hon. Mary J. Lawrence, Speaker, Chairman]

The Chairman: Please be seated.

The House is now in Committee. With the leave of the House, may I assume that, as usual, we should authorise the Honourable Attorney General to correct minor errors and suchlike in these Bills?

Would the Clerk please state the Bill and read the Clauses.

Customs Tariff (Amendment) Bill, 2012

The Clerk: The Customs Tariff (Amendment) Bill, 2012.

Clause 1	Short title
Clause 2	Amendment of section 3 of the Customs Tariff Law (2011 Revision)—duties of Customs charged
Clause 3	Amendment of Schedule 1—duties of Customs on imports
Clause 4	Insertion of Schedule 6—inspection fees

The Chairman: The question is that clauses 1 through 4 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 4 passed.

The Clerk: A Bill for a Law to amend the Customs Tariff Law (2011 Revision) to prescribe an inspection fee; to increase duties payable in respect of certain types of alcohol and cigarettes; and for incidental and connected purposes

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012

The Clerk: The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012.

Clause 1 Short title
 Clause 2 Amendment of section 22 of the Exempted Limited Partnership Law (2011 Revision)— express fees

The Chairman: The question is that clauses 1 and 2 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk: A Bill for a Law to amend the Exempted Limited Partnership Law (2011 Revision) to increase certain express fees that are payable under the law; and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

Companies (Amendment) (No. 2) Bill, 2012

The Clerk: The Companies (Amendment) (No. 2) Bill, 2012.

Clause 1 Short title
 Clause 2 Amendment of section 156 of the Companies Law (2011 Revision) – company not operating may be struck off register
 Clause 3 Amendment of section 200—express fees
 Clause 4 Amendment of Schedule 5—fees

The Chairman: The question is that clauses 1 through 4 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 4 passed.

The Clerk: A Bill for a Law to amend the Companies Law (2011 Revision) to increase miscellaneous fees payable under the Law; and for incidental and connected purposes.

The Chairman: The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

Partnership (Amendment) Bill, 2012

The Clerk: [The Partnership \(Amendment\) Bill, 2012.](#)

Clause 1 Short title
 Clause 2 Amendment of section 49 of the Partnership Law—

Hon. Samuel W. Bulgin, Attorney General: Just a minute. I think there is a Committee stage amendment for clause 1.

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

[Inaudible comments off microphone]

The Clerk:

Clause 1 Short title
 Clause 2 Amendment of section 49 of the Partnership Law (2011 Revision)—details required for registration
 Clause 3 Amendment of section 50—annual fee
 Clause 4 Amendment of section 51—changes in limited partnership

The Chairman: The question is that clauses 1 through 4 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 4 passed.

Insertion of new clause 1A

The Chairman: Honourable Premier.

The Premier, Hon. W. McKeever Bush: Madam Speaker, in accordance with the provisions of Standing Order 52(1) and (2), I, the Honourable W. McKeever Bush, OBE, JP, Premier and Minister of Finance, Tourism and Development, give notice to

move the following amendment to the Partnership (Amendment) Bill, 2012.

That the Bill be amended as follows, by inserting after clause 1 the following: "Clause 1A. The Partnership Law (2011 Revision), in this Law the Partnership Law (2011 Revision) referred to as the 'principal Law' is amended by inserting after section 5, the following section-: "Registered office" 5A. Every firm shall have a registered office situate in the Islands for the service of process and to which all notices and communications may be addressed."

And by inserting in the long title, after the words "penalty provisions;", the words "to provide for a partnership to have a registered office located in the Cayman Islands;".

The Clerk: New Clause 1A—Insertion of section 5A in the Partnership Law (2011 Revision) - Registered office.

The Chairman: The question is that clause 1A be read a second time.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: New Clause 1A be read a second time.

The Chairman: The question now is that this new clause stands part of the Bill, and the subsequent clauses be renumbered accordingly.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: New Clause 1A stands part of the Bill.

The Clerk: A Bill for a law to amend the Partnership Law (2011 Revision) to update the penalty provisions; and to provide for incidental and connected purposes

The Chairman: The question is that the Title stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

Public Service Management (Amendment) Bill, 2012

The Clerk: [The Public Service Management \(Amendment\) Bill, 2012.](#)

Clause 1 Short title

Clause 2 Amendment of section 30 of the Public Service Management Law (2011 Revision)—annual performance agreements for chief officers of ministries and portfolios

Clause 3 Amendment of section 49 of the Public Service Management Law (2011 Revision)—annual performance agreements with staff

The Chairman: The question is that clauses 1 through 3 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 1 through 3 passed.

The Clerk: A Bill for a Law to amend the Public Service Management Law (2011 Revision) to change the deadline for entering into performance agreements; and for incidental and connected purposes.

The Chairman: The question is that the Title stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

Public Service Pensions (Amendment) Bill, 2012

The Clerk: [The Public Service Pensions \(Amendment\) Bill, 2012.](#)

Clause 1 Short title

Clause 2 Repeal and substitution of section 67 of the Public Service Pensions Law (2011 Revision)—calculation of pension in cases of temporary reduction of salary or wages

The Chairman: The question is that clauses 1 and 2 stand part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 1 and 2 passed.

The Clerk: A Bill for a Law to amend the Public Service Pensions Law (2011 Revision) to make provision in respect of the calculation of the pension payable to a person whose salary or wages were unilaterally reduced in the public interest; and for incidental and connected purposes.

The Chairman: The question is that the Title stands part of the Bill. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: The Bills to be reported to the House.

House resumed at 1.25 pm

The Speaker: Proceedings are resumed, please be seated.

REPORT ON BILLS

Customs Tariff (Amendment) Bill, 2012

The Speaker: Honourable Premier.

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

I have to report that the Bill entitled The Customs Tariff (Amendment) Bill, 2012, was examined by a Committee of the whole House.

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

Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012

The Speaker: Honourable Premier.

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

I have to report that the Bill entitled, The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012, was examined by a Committee of the whole House without amendment.

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

Companies (Amendment) (No. 2) Bill, 2012

The Speaker: Honourable Premier.

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

I have to report that the Bill entitled, The Companies (Amendment) (No. 2) Bill, 2012, was examined by a Committee of the whole House without amendment.

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

Partnership (Amendment) Bill, 2012

The Speaker: Honourable Premier.

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

I have to report that the Bill entitled The Partnership (Amendment) Bill, 2012, was examined by a Committee of the whole House with one amendment.

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

Public Service Management (Amendment) Bill, 2012

The Speaker: Honourable [Acting] Deputy Governor.

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I have to report that the Bill entitled, The Public Service Management (Amendment) Bill, 2012, was examined by a Committee of the whole House without amendment.

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

Public Service Pensions (Amendment) Bill, 2012

The Speaker: Honourable [Acting] Deputy Governor.

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I have to report that the Bill entitled, The Public Service Management (Amendment) Bill, 2012, was

examined by a Committee of the whole House without amendment.

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

Suspension of Standing Order 47

The Speaker: Honourable Premier.

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

I move for the suspension of Standing Order 47 to enable the Bills to be read a third time.

The Speaker: The question is that Standing Order 47 be suspended to enable the Bills to be read a third time.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended.

THIRD READINGS

Customs Tariff (Amendment) Bill, 2012

The Clerk: The Customs Tariff (Amendment) Bill, 2012.

The Speaker: Honourable Premier.

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

I move that the Bill entitled The Customs Tariff (Amendment) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that the Bill entitled The Customs Tariff (Amendment) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Customs Tariff (Amendment) Bill, 2012, given a third reading and passed.

Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012

The Clerk: The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012.

The Speaker: Honourable Premier.

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

I move that the Bill entitled The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that the Bill entitled The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Exempted Limited Partnership (Amendment) (No. 2) Bill, 2012, given a third reading and passed.

Companies (Amendment) (No. 2) Bill, 2012

The Clerk: The Companies (Amendment) (No. 2) Bill, 2012.

The Speaker: Honourable Premier.

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

I move that the Bill entitled The Companies (Amendment) (No. 2) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that the Bill entitled The Companies (Amendment) (No. 2) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Companies (Amendment) (No. 2) Bill, 2012, given a third reading and passed.

Partnership (Amendment) Bill, 2012

The Clerk: The Partnership (Amendment) Bill, 2012.

The Speaker: Honourable Premier.

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

I move that the Bill entitled The Partnership (Amendment) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that the Bill entitled The Partnership (Amendment) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Partnership (Amendment) Bill, 2012, given a third reading and passed.

Public Service Management (Amendment) Bill, 2012

The Clerk: The Public Service Management (Amendment) Bill, 2012.

The Speaker: Honourable Acting Deputy Governor.

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I move that the Bill entitled The Public Service Management (Amendment) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that the Bill entitled The Public Service Management (Amendment) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Public Service Management (Amendment) Bill, 2012, given a third reading and passed.

Public Service Pensions (Amendment) Bill, 2012

The Clerk: The Public Service Pensions (Amendment) Bill, 2012.

The Speaker: Honourable Acting Deputy Governor.

Hon. Jennifer Ahearn, Acting Deputy Governor: Thank you, Madam Speaker.

I move that the Bill entitled The Public Service Pensions (Amendment) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that the Bill entitled The Public Service Pensions (Amendment) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Public Service Pension (Amendment) Bill, 2012, given a third reading and passed.

The Speaker: I think we'll take a suspension now, and I would like it to be for as short as possible, one hour.

Hon. Rolston M. Anglin: That's the lunch?

The Premier, Hon. W. McKeeva Bush: Yep!

The Speaker: It's now 25 to 2.00; at 25 to 3.00 I expect all Members back in the House.

Proceedings suspended at 1.35 pm

Proceedings resumed at 2.45 pm

The Speaker: Proceedings are resumed. Please be seated.

Mr. D. Ezzard Miller: Madam Speaker, can I bring to your attention that there is not a quorum present in the Chamber?

The Speaker: Thank you, Member for North Side.

[Long pause]

The Speaker: I will read section 13 of the Standing Orders.

"13. (1) The quorum of the House and of a Committee of the whole House shall consist of eight Members in addition to the person presiding.

"(2) If objection is taken by any Member that a quorum is not present the Presiding Officer shall direct that Members be summoned, the Member taking objection having to remain within the Chamber and if, after five minutes, the Presiding Officer is satisfied that a quorum is not present he shall adjourn the House without question put."

We do not have a quorum in this House.

[Long pause]

The Speaker: The House is quorate. Can we please begin the proceedings? We have a lot of work to get through.

SECOND READINGS

National Pensions Bill, 2012

[Deferred]

The Clerk: The National Pensions Bill, 2012.

The Speaker: Honourable Minister of Education.

Hon. Rolston M. Anglin: Madam Speaker, I beg the leave of the House and therefore move a motion to defer this matter to another Order Paper as I am not ready to present the Bill. And it is my understanding that there are other Members who wanted to debate and are not ready as well.

The Speaker: The question is that The National Pensions Bill, 2012, be deferred to another Order Paper.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The National Pensions Bill, 2012, deferred.

Judicature (Amendment) Bill, 2012

The Clerk: The Judicature (Amendment) Bill, 2012.

The Speaker: Honourable Attorney General.

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

I beg to move the Second Reading of a Bill entitled, A Bill for a Law to amend the Judicature Law (2007 Revision) to improve the administration of justice as it relates to jury services; and for incidental and connected purposes.

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

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

It is a short Bill, as it says. The Bill seeks to amend section 8 of the Judicature Law to expand the list of persons who would be eligible as jurors to include every person whose name appears upon the last register of electors compiled under the Elections Law, and who has not attained the age of 70 years. The Bill would change the current age limit of 60 up to 70 years. So, persons who are 70 years and under can serve as jurors.

It would retain some of the exemptions that currently exist in the Law whilst at the same time disposing of some. There would still be exemptions for

the Governor . . . Madam Speaker. I am not so sure why that was put there, because I don't know if it was contemplated that we would have a Caymanian Governor whose name would appear on the voters' list one day.

[Inaudible interjection]

Hon. Samuel W. Bulgin: Futuristic, I am told!

And then it would also apply to the Deputy Governor, Members of the Legislative Assembly, a judge or magistrate, and it would also apply to the spouse, offspring, step-child or legally adopted child of the Governor, Deputy Governor, Members of the Legislative Assembly, judges or magistrates. And it would also now exclude public officers employed in the Cabinet Office as well as attorneys-at-law actively engaged in litigation practice.

Madam Speaker, may I just pause to explain that whereas currently JPs are excluded from jury service, the amendment would now allow justices of the peace to serve as jurors. Also, in respect to attorneys-at-law, the Law currently says that persons on the rolls of advocates and officers of the court of competent jurisdiction . . . what this Bill is doing is seeking to break that up, Madam Speaker, and explicitly provide that only attorneys that are actively engaged in litigation practice, criminal or civil litigation, would be exempted.

The Law would also continue to exempt registered medical practitioners or persons registered as practicing medicine under the Health Practice Law. It would also provide exemption for officers of the court, as well as constables. It would provide exemption for persons appointed as prison officers under the Prisons Law. And, of course, probably for most of us it would still provide that persons who are mentally disordered would be exempted.

[Inaudible interjection and laughter]

Hon. Samuel W. Bulgin: Madam Speaker, a further disqualification of jury duty would be applicable to persons who have been charged for an offence and are currently before any court of the Islands pending trial for that offence, or persons convicted before any court of the Islands of an offence for which he was sentenced to a term of imprisonment and who has not received a free pardon in respect of that offence.

Madam Speaker, in addition to that, the Bill, in clause 3, seeks to amend section 10 of the Law to increase the number of persons who can be summoned to appear for a session of the Grand Court to not less than 100, nor more than 160. The Law currently says not less than 72 or more than 100. So "72" is now changed to "100" and "100" is now changed to "160."

So those are the proposed amendments, Madam Speaker. The reason for the latter increase,

which is sometimes they are instances where you have several different [matters] being tried, five or so, and sometimes the court runs out of persons to serve as jurors—as a result of objections and persons being excused and all of that, and have to go across the street to get what they call talesmen to serve. So we seek to increase the numbers to take care of that eventuality and have more persons being summoned for any session.

Madam Speaker, those are the main provisions of the Bill. As I said it is a very short Bill and I would certainly seek the support of honourable Members of this House for the proposed amendment, especially, as it relates to increasing the age from 60 up to 70 for persons who can serve. Thank you.

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

If not, I call on the mover to make his reply.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker. And I would like to thank honourable Members for their support of the amendments as proposed in the Bill.

The Speaker: The question is that a Bill shortly entitled the Judicature (Amendment) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Judicature (Amendment) Bill, 2012, given a second reading.

Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012

The Clerk: The Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012.

The Speaker: Honourable Attorney General.

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

I beg to move the Second Reading of a Bill entitled, A Bill for a Law to amend laws so as to transfer from the Attorney General to the Director of Public Prosecutions (DPP) statutory duties that relate to prosecutorial functions; and for incidental and connected purposes.

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

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

This is really a sort of tidying up exercise. Honourable Members will be aware that with the advent of the 2009 Constitution Order, prosecutorial functions have been transferred from the Attorney General to that of the Director of Public Prosecutions. And although there was a transitional period where there was no DPP and the AG was allowed to carry out those functions, since May of 2011 a DPP has been appointed and has been performing that role. The Constitution itself expressly provides that even if the relevant laws were not amended, because of the provisions in the Constitution, all laws which would have been affected have to be read and construed as if the reference to the AG (Attorney General) as of then would be reference to the DPP.

There are a number of pieces of legislation, Madam Speaker, as set out in the Schedule to this Bill which makes references to Attorney General where it should properly be the DPP. What this Bill seeks to do is to formalise the transfer of these functions and responsibilities as they arise under the various pieces of legislation listed in Schedule 1 to the Bill to the Director of Public Prosecutions.

So, Madam Speaker, the Bill sets out in the Schedule all of these Laws that will be affected, probably about 38 of them or so, which this would cover. In all these instances where the Law now where the expression “Attorney General” appears, with the passage of this Bill into Law, those would now say “Director of Public Prosecutions.” And the Law Revision Commission would be able to go through and carry out this law revision exercise to make the necessary changes as reflected in this Bill.

So, I seek the support of this honourable House in carrying through this constitutional exercise or sort of . . . not constitutional exercise . . . carrying out this exercise, Madam Speaker, to give effect to the constitutional provisions as contemplated, rather, by the Constitution 2009. Thank you.

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

If not, I call on the mover to make his reply.

Hon. Samuel W. Bulgin: Thank you, Madam Speaker. Just to say thanks to honourable Members for their support.

The Speaker: The question is that a Bill shortly entitled The Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012, given a second reading.

Animals (Amendment) Bill, 2012
[Deferred]

The Clerk: The Animals (Amendment) Bill, 2012.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeever Bush: Madam Speaker, I am going to beg leave of the House to defer this to another Order Paper.

The Speaker: The question is that The Animals (Amendment) Bill, 2012, be deferred to another Order Paper.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Animals (Amendment) Bill, 2012, deferred.

Attorney General's Reference of Questions Bill, 2012

The Clerk: The Attorney General's Reference of Questions Bill, 2012.

The Speaker: Honourable Attorney General.

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

I beg to move the Second Reading of a Bill entitled, A Bill for a Law to empower the Attorney General to refer constitutional and other questions to the Court of Appeal; and for incidental and connected purposes.

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

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

This Bill seeks to make provision for Constitutional and other questions to be referred to the Court of Appeal, by the Attorney General with the approval of the Governor in Cabinet.

Madam Speaker, the procedure as contemplated under this Bill, if it becomes Law, is to clarify the Law. It simply contemplates asking the Court of

Appeal for an advisory opinion on a major legal issue, for example, the constitutionality of a piece of legislation, in instances where there is no issues joined between litigants as such. This is a separate stream and persons who wish to challenge legislation, constitutionally or otherwise, that avenue is still preserved.

Madam Speaker, the Privy Council, I think some years ago, held in a similar matter (from Canada) that the roll of the courts in references is not strictly judicial, as such, but one of a drives [SOUNDS LIKE] in the Executive Branch of Government. So, it is a very popular piece of legislation that can be found in a number of countries.

I read recently where, for example, there was an issue in St. Lucia (I think it was), where there was a dispute about how a judge's pension was to be calculated in instances where he has not served a certain amount of years as a judge on the bench. And of course it would have been a very uncomfortable situation to have all of that being litigated out in court. So the Court of Appeal was asked to give an advisory opinion as to how the judge's pension should be calculated without the government and the judge having to join the issue in court in a sort of an adversarial way. Those are some of the matters that can be referred to the court for clarification.

So, Madam Speaker, clause 1 of the Bill provides the short title of the legislation.

Clause 2 defines various terms for the purposes of the legislation.

Clause 3 empowers the Attorney General, with the approval of the Governor in Cabinet, to refer constitutional and other questions of law or fact to the Court of Appeal for its opinion.

Clause 4 empowers the Court, in considering referred questions, to hear arguments from the Attorney General as well as from interested persons and then to certify to the Attorney General its opinion on each question, giving reasons for each answer provided.

Clause 5 enables interested persons to be notified of the hearing on a reference made under the Law.

Clause 6 enables the appointment of counsel to argue the case of a referred question with respect to any interest that might be affected, and if no other counsel appears otherwise.

Importantly, Madam Speaker, clause 7 provides for the making of rules of procedure for the purposes of a referral of a question. In other words, the Court of Appeal Rules Committee would draft rules as to how the issue should be dealt with.

Clause 8 is a savings provision and makes it clear that the powers conferred by this legislation do not limit the powers exercisable by the Court of Appeal under any other Laws. So I think it was important to make that quite clear.

Madam Speaker, I have proposed a Committee stage amendment which would basically allow in

clause 1, if approved, for the commencement date of the Law to be deferred until such time as Cabinet agrees and the necessary rules are in place. Thank you.

Having said that, Madam Speaker, I certainly would commend the Bill to honourable Members of this House. Thank you.

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

Member for North Side.

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

Just to clarify two matters. The mover of the Bill just said that he is going to amend clause 1 for a commencement date to be determined by the Governor in Cabinet?

[No audible reply]

Mr. D. Ezzard Miller: That even makes my concern about the Bill that much greater, Madam Speaker.

I support the legislation because I think it is a move in the right direction, because we certainly have enough constitutional issues with the 2009 Constitution that need to have legal authority in their interpretation, particularly clause 92. I can assure the Attorney General that the reason I would not like to see this Law brought into force almost as fast as the Budget, is that I would like to get the Court of Appeals to give an interpretation of clause 92 of the Constitution. And just for Members' information, clause 92 of the Constitution talks about a right to vote at elections. Clause 92(1) says, "**92 (1) Any person who is registered as an elector in an electoral district shall, while so registered, be entitled to vote at any election in that district for an** [emphasis added] **elector member of the Legislative Assembly, unless he or she is prohibited from so voting by any law in force in the Cayman Islands.**"

And, Madam Speaker, I am still unable to find an English dictionary that interprets "an" to mean any more than one. I also have great difficulty that the "an" as it appears in that clause the first three times can be singular, but in the final time it can be four, three, two or one, depending on which elector wants it interpreted and the constituency in which they live.

Secondly, Madam Speaker, I have some concern that the Attorney General is being limited to making reference to these matters for interpretation by the Court to with the approval of the Governor in Cabinet. I would much prefer it if the words after "may, with the approval of the Governor in Cabinet" were deleted, because we know that the Attorney General does not have a vote in Cabinet and a very serious legal issue could, in fact, be delayed in getting this very important Appeal Court definition, or interpretation (I should

say), because he cannot get the support of the elected Members of Cabinet to question it.

I would seek during the Committee stage of the Bill to move an amendment to delete the words "with the approval of the Governor in Cabinet" as they appear in clause 3; and to delete the comma after "may" and the comma after "Cabinet" so that the amendment would read: "The Attorney General may refer to the Court for hearing and consideration any question of law or fact concerning the matters." I really don't think that that should be something that the decision is made by the political arm in Cabinet and it may be that 99 times out of 100 the elected arm of Cabinet would agree, but the one time that they wouldn't agree for it to go might be very important to the citizens that we represent. I can see no need for a legal matter such as this to need the approval of Cabinet to go to the Court.

Thank you.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeever Bush: Madam Speaker, I certainly don't agree with all that the last speaker had to say. It is a fact that the Constitution of this country is what it is. I agree with him that there were a number of areas that perhaps greater clarity is needed. And there will be times throughout periods that the Honourable Attorney General would need to seek to do just exactly what the Bill is saying. And no one knows it any better than me, having served this term in Cabinet. There could be a number of reasons why the Attorney General would want to have what the Bill is seeking.

What I don't support in what the Member is saying is the part where he talks about the right of the Cabinet of the country to be able to have a say. Regardless of which Cabinet, or who is in Cabinet, the Cabinet ought to have that kind of ability. One, it could be a matter that [is] going to cost the country money, and so . . . just on the question alone that as an elected body the Cabinet has responsibility. I am sure that Members of this House who have been in Cabinet before, while they would want to support their AG, they would want to be able to do exactly that, if something is going to happen that requires Cabinet's say so, that they should have that ability.

That is where I see this. If you take it out, well, what's the sense of bringing it to Cabinet? I wait to hear what the Member has to say in Committee, or any person. But I am not so convinced. I think the way it is, is the way it should be.

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

If not, I call on the mover of the Bill to give his reply.

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

I thank honourable Members for their contributions. Let me just point out that the reference to “with the approval of the Governor in Cabinet” is not unique to what we are trying to do here. I just made a quick check and noticed that it is also contained, for example, in the British Virgin Islands legislation, and it is also contained in the Antigua and Barbuda legislation speaks to “with the approval of the Cabinet” by way of case stated and so. Of course, there are other instances where it is the other way as well. So, it is not unprecedented in that sense of the word.

I certainly cannot imagine an instance where an Attorney General would be taking such a step without first getting Cabinet’s imprimatur in any event. So, while I take onboard the honourable Member’s observation . . . of course, in fairness he did say the 99.9 per cent of the time it’s possible that Cabinet will agree, which I suspect will be the case. But I just thought it was in order to point out that it is really not a unique situation that we are proposing here.

So, I do thank honourable Members for their support. Thank you.

The Speaker: The question is—

Hon. Samuel W. Bulgin: Madam Speaker, with your leave, may I just clarify too that the only reason why we are proposing this target, the deferred date is, as the Bill points out, that there are rules to be drawn up by the Court of Appeals and we would, as a matter of tidiness, like to have those rules in place before the Law is actually rolled out; hence the reason to putting in clause 1 to delay the commencement date.

The Speaker: The question is that a Bill shortly entitled The Attorney General’s Reference of Questions Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Attorney General’s Reference of Questions Bill, 2012, given a second reading.

Penal Code (Amendment) Bill, 2012

The Clerk: The Penal Code (Amendment) Bill, 2012.

The Speaker: Honourable Attorney General.

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

I beg to move the Second Reading of a Bill, the long title of which is, a Bill for a Law to amend the Penal Code (2010 Revision) to penalize activities relating to child pornography; to re-state the penalty for the offence of theft; and to make provision for incidental and connected matters.

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

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

The intention of the Bill is to amend the Penal Code (2010 Revision), as I said, by inserting into the Penal Code specific prohibitions against child pornography, with a view to curtailing the sexual exploitation of children.

Clause 2 of the Bill amends section 224 of the Penal Code to define various terms (including the term “child pornography”) for the purposes of the legislation. And let me just point out here, Madam Speaker, that the Bill states: “‘**child pornography**’ includes material that visually depicts - (a) a child engaged in sexually explicit conduct; (b) a person who appears to be a child engaged in sexually explicit conduct; . . .” I am sure Members of this honourable House would have heard (and I say “heard”) of instances where very lewd, graphic pictures of children have been circulated by electronic means. And persons, for some reason which I find difficult to understand, would have these photographs stored on their computer or wherever by some other means. It certainly defies logic as to why people would want to get involved with that kind of conduct. But nevertheless, Madam Speaker, it is happening and we need to address it by way of legislation. It is true that there are passing references in the Law currently that deals with pornography, but nothing as explicit and specific that addresses this issue.

The Optional Protocol on the Sale of Children, Child Prostitution and Pornography 2002, Article 2, defines “child pornography” as: “. . . **any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.**” And the Protocol mandate states, Article 3, to criminalise producing, distributing, dissemination, importing/exporting, offering, selling, or possessing for the above purposes child pornography as defined in Article 2 of that Protocol.

The Protocol makes the observation that pornography can, among other forms, be represented in live performances, in photographs, in motion pictures, video recordings, recording or broadcasting of digital images. And there are concerns about the widespread distribution and accessibility of child pornography throughout the Internet. It was strongly and consistently recommended that States parties and the international community urgently tackle this issue. Specific

recommendations have been made regarding adoption of legislation and the obligation of Internet service providers in relation to child pornography.

So, Madam Speaker, the Bill in its current form, if it becomes Law, will seek to take account of all of those concerns and requirements as well under the protocol. Section 228A makes it an offence to be in possession of an indecent photograph of a child.

Section 228B makes it an offence to make or to be in possession of, publishes or prints child pornography for the purposes of publication. A defence can be raised in certain specific circumstances involving legitimate research.

The publication or production of child pornography through a computer system, as well as the possession of child pornography in a computer system and the accessing of child pornography through a computer system, is criminalised in section 228C [clause 3] of the Bill. Again, I must point out that a defence may be raised in certain specific circumstances involving legitimate research and, Madam Speaker, in circumstances where it poses no undue risk of harm to persons under the age of 17.

The insertion of section 228D empowers a court of summary jurisdiction to conduct proceedings with a view to ordering the deletion from a computer system of material that is child pornography. The person who posted the material would have a right of appearance in the proceedings in order to oppose or make representation in respect of any such order that the court is being asked to make.

So, Madam Speaker, if honourable Members agree and these amendments are passed, it would address, in my view, a long and widely-held concern about how some of our children are being exploited by unscrupulous members of our society.

Madam Speaker, there is one other provision in the Bill which deals with clause 4, not related to child pornography, but deals with a tidying up exercise in relation to the offence of theft and makes a distinction between the penalties where the value of the goods stolen does not exceed \$5,000, or a penalty of imprisonment for seven years; and where the value of the goods exceed \$5,000, there is a penalty of imprisonment for 10 years.

And clause 5 contains savings and transitional provisions.

Madam Speaker, I would certainly commend the Bill to honourable Members of this House and to seek their support.

The Speaker: First Elected Member for George Town.

Hon. D. Kurt Tibbetts, First Elected Member for George Town: Thank you.

Madam Speaker, I am very sorry, but I cannot commend this Bill. But before I make judgment, as I am not used to doing so rashly, perhaps I will ask questions rather than say “not” commend the Bill.

Madam Speaker, I would dare say that every one of us in here would very much like to have in law as much protection as is possible for our children. And in listening to the honourable Attorney General’s presentation, and in reading the proposed amendment, and looking at the definition of child pornography, and in certain instances, Madam Speaker, I am sure you will appreciate that there is need for repetition in order to make sure that emphasis is achieved.

Madam Speaker, in [sections] 228A through 228C, “**child pornography**’ includes material that visually depicts - (a) a child engaged in sexually explicit conduct; (b) a person who appears to be a child engaged in sexually explicit conduct; or (c) realistic images representing a child engaged in sexually explicit conduct . . .” That’s what I read that it says. So, Madam Speaker, unless my imagination is not vivid enough, I can’t imagine any circumstance where there would be any exception. I don’t know what kind of research it could be that would fall under this definition that anybody could tell me would make it an exception!

If it is “research,” then certainly it could not fall under this definition. I don’t know whose law says it otherwise, or where they got it from, but somebody has to explain it much better than that for me to say yes to this! Think of what I am saying. I am not trying to be difficult, but think of what I am saying. If there is an exception then it cannot be under this definition, because for it to be an exception it could not be child pornography. What kind of research could show pictures with a child, or someone under the age of 17, in explicit sexual positions or acts that could be research?

Now, maybe the Attorney General will be able to give me a very valid explanation at which point in time I do the usual and won’t say another word. But I have tried very hard, and I can’t grab this one at all. And it leads me to my quick second point, Madam Speaker.

In section in 228D (3), it says, “**(3) The person who posted the child pornographic material may appear and be represented in the proceedings in order to oppose the making of an order under subsection (5).**” The order, as I understand it, would be for that material to be removed from wherever it is. Now, if that material falls under child pornography, why is someone going to be allowed to make representation as to why child pornography must remain? I don’t understand that.

And, Madam Speaker, I am not standing here to make a case, I am standing to say that as this thing reads, for the love of me, those two things I cannot understand why any exception could be made where somebody can make representation to say that it should remain where it is, that is the pictures or whatever it is, whether it be moving pictures or still pictures.

And then the other one, again, just to state my original point: if something falls under the category of child pornography as defined in the law, I cannot, for the love of me, understand how there can be any exception made for research. I don't know of anybody who we would readily agree, to researching child pornography.

Madam Speaker, I rest my case.

The Speaker: Second Elected Member for Bodden Town.

Mr. Anthony S. Eden, Second Elected Member for Bodden Town: Thank you, Madam Speaker. I rise to make a few comments on this proposed legislation.

I agree in the area where my colleague, the First Elected Member for George Town, identified. And I will also wait to hear from the Honourable Attorney General.

Madam Speaker, this type of legislation is very timely. As we look to the north of us with the left wing liberal agenda over there—

[Loud electronic interference]

Mr. Anthony S. Eden: Sorry about that, Madam Speaker.

The Speaker: That's all right.

Mr. Anthony S. Eden: As I indicated, with what is happening to the north of us with much of the left wing liberal agenda, also in the Mother Country, it is time that we put some teeth into this legislation; the scars that would be upon those young people up to the age of 17. But we have seen here in these Islands what has happened in some of these areas with our literal babies. I am pleased that this legislation has come in, but the other thing that I would say is that these Sunday School sentences are not sufficient. And I would urge the Honourable Attorney General that when it comes to Committee stage that this could be increased to 15 to 20 years. We must send a deterrent because too many times I have seen where certain things have happened and people get a slap on the wrist.

We must send a message in this area. There is no more important area in the development of these Islands than when we trespass on the sanctity of our babies and our children. Thank you.

The Speaker: Third Elected Member for Bodden Town.

Mr. Dwayne S. Seymour, Third Elected Member for Bodden Town: Madam Speaker, thank you very much.

I just want to add some comments and support some of the other speakers. I too would like to

have some of the questions that the First Elected Member for George Town asked answered. I await to hear the response from the Honourable Attorney General. But I too, like the Second Elected Member for Bodden Town mentioned, have no tolerance for this kind of behaviour. In fact, my punishment would be something off the Richter scale if I were to come up with a method of punishment.

I have some young children, boys and girls, and I definitely would not like to know they were subjected to this. I don't know how I would react personally, but I support that this Bill needs some teeth. I think it is very timely, and I await to hear the response from the honourable Attorney General, but just to say that I support this Bill and I have no tolerance for child pornographer or otherwise.

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

If not, I will call on the Honourable Attorney General to make his reply.

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

Understandably, I wish to thank Members for their passionate contribution on the Bill and I would love to be able to do more justice to the issue raised by the honourable First Elected Member for George Town, but, Madam Speaker, it is not unusual, and certainly when we were looking at this, for persons who work in medical labs, I am told, to have graphic photographs or pictures or simulations on their machines, their computers, for research purposes. That is really what the Bill has in mind, legitimate research. So the burden would be on the person who is asserting that it is being used for research purposes.

But the one that really comes to mind is where it is being used for sort of medical/clinical research, and that can be genuinely verified. That is what we have in mind. I certainly would undertake at a later stage to give honourable Members a more fulsome sort of response—

Hon. D. Kurt Tibbetts: Take it all out of the Bill and then when you find out bring it back.

Hon. Samuel W. Bulgin: —in dialogue to Members at the Committee stage.

The same to do with making representation as to whether it should be removed or not; one follows from the other.

[Inaudible interjection]

Hon. Samuel W. Bulgin: Well, those are the circumstances, Madam Speaker. It is one that can be contemplated that it is there for research purposes. And,

two, if that is the case and it can be established wherein a certain circumstance representation can be made for it not to be removed from the computer for that matter.

In respect of the penalty, Madam Speaker, I will certainly take on board the position of the honourable Members for Bodden Town. It is certainly something that this House can look at in Committee as to the suggested increase in penalty if the Bill is approved. Thank you.

The Speaker: The question is that a Bill entitled the Penal Code (Amendment) Bill, 2012, be given a second reading.

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

Ayes and Noes

The Speaker: The Ayes have it.

Hon. D. Kurt Tibbetts: Madam Speaker, could we have a division please?

The Speaker: Madam Clerk.

The Clerk:

Division No. 3

Ayes: 7

Hon. Michael T. Adam
Hon. J. Mark P. Scotland
Hon. Cline A. Glidden, Jr.
Capt. A. Eugene Ebanks
Mr. Ellio A. Solomon
Mr. Dwayne S. Seymour
*Mr. Anthony S. Eden

Noes: 2

Hon. D. Kurt Tibbetts
Mr. D. Ezzard Miller

Absent: 6

Hon. W. McKeeva Bush
Hon. Juliana Y. O'Connor-Connolly
Hon. Rolston M. Anglin
Hon. Alden M. McLaughlin
Mr. Moses I. Kirkconnell
Mr. V. Arden McLean

***Mr. Anthony S. Eden:** "Aye," till we get better.

The Speaker: The result of the Division: 7 Ayes; 2 Noes; and 6 Absent.

Agreed by majority on division: The Penal Code (Amendment) Bill, 2012, given a second reading.

Criminal Procedure Code (Amendment) Bill, 2012

The Clerk: The Criminal Procedure Code (Amendment) Bill, 2012.

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: Madam Speaker, I beg to move the Second Reading of a Bill entitled, The Criminal Procedure Code (Amendment) Bill, 2012.

The Speaker: The Bill has been duly moved. Does the mover wish to speak thereon?

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

Madam Speaker, this Bill is a companion Bill to the Penal Code (Amendment) Bill, where if these offences are created, the Criminal Procedure Code Bill would establish the mode of trial for these offences. It certainly has no existence on its own. So the situation would be whether they would be A or B offences, as the case may be, and how they would be tried.

For example, Madam Speaker, section 224 of the Code is amended to define the various terms including "child pornography" for the purpose of legislation. And it goes on to point out that the offences shall be classified into three categories, namely, A offences, triable on indictment and not otherwise; C offences or B offences.

Madam Speaker, the Schedule to the CPC [Criminal Procedure Code] is amended by inserting the respective columns after section 223, the new sections 228A, 228B and 228C, which would deal with the mode of trial, among other things, for such offences. I don't think there is much more I need to say about this, Madam Speaker. It is an accompanying Bill, and I would certainly commend it to honourable Members for their support. Thanks.

The Speaker: First Elected Member for George Town.

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

Obviously, the three categories, A, B, and C, as mentioned by the honourable mover of the Bill, would speak to various degrees of extremities which means either in the order of A, B, C, or C, B, A, one would attract on conviction a heavier sentence.

Madam Speaker, the honourable and learned Attorney General will certainly have more experience than I do in this field, but I do believe that whenever you encounter situations like this and the rules of English Common Law trip in, or even if it's not rules, it's convention and precedent that we deal with in English Common Law, when you have varying degrees of severity. I believe that a maximum sentence of 12 years for how strong a position that we as a Legislative Assembly take with these situations is not enough. I believe, Madam Speaker, that the minimum maximum should be 15 years. And then the judges can have a better scope for appropriate convictions. And when this is made into Law and precedents are set in the future, what they will be looking at that happened in the past in order to be able to have a guide for the length or severity of convictions, it would probably have a more appropriate sentencing if it were 15

[years] instead of 12. I hope that the presenter and the Government would see it fit to move a Committee stage amendment to change that from 12, consistently throughout as we see, to 15. Thank you.

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

If not, I call on the mover of the Bill to make his reply.

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

I certainly would need the support of my colleagues, but I don't see much difficulty in taking on board the suggestion from the honourable Member in terms of the level of penalty that should be inserted here starting at . . . well, substituting 15 for 12 where applicable.

I certainly thank Members for their support.

The Speaker: The question is that a Bill entitled the Criminal Procedure Code (Amendment) Bill, 2012, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Criminal Procedure Code (Amendment) Bill, 2012, given a second reading.

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

House in Committee at 4.04 pm

[Hon. Mary J. Lawrence, Speaker, Chairman]

COMMITTEE ON BILLS

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

With the leave of the House, may I assume that, as usual, we should authorise the Honourable Attorney General to correct minor errors and suchlike in these Bills?

Would the Clerk please state the Bill and read the Clauses.

Judicature (Amendment) Bill, 2012

The Clerk: The [Judicature \(Amendment\) Bill, 2012](#).

Clause 1 Short title

Clause 2 Repeal and substitution of section 8 of the Judicature Law (2007 Revision) - composition of juries

Clause 3 Amendment of section 10 of the Judicature Law (2007 Revision) - panel of jurors for court sessions

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 1 through 3 passed.

The Clerk: A Bill for a Law to amend the Judicature Law (2007 Revision) to improve the administration of justice as it relates to jury service; and for incidental and connected purposes.

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012

The Clerk: The [Director of Public Prosecutions \(Miscellaneous Amendments\) Bill, 2012](#).

Clause 1 Short title

Clause 2 General amendments to laws

The Chairman: The question is that clauses 1 and 2 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk: A Bill for a Law to amend laws so as to transfer from the Attorney General to the Director of Public Prosecutions statutory duties that relate to prosecutorial functions; and for incidental and connected purposes.

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

**Attorney General's Reference of Questions Bill,
2012**

The Clerk: The Attorney General's Reference of Questions Bill, 2012.

Clause 1 Short title

Amendment to clause 1

The Chairman: Honourable Attorney General.

Hon. Samuel W. Bulgin: Madam Chair, in accordance with the provisions of Standing Order 50(1) and (2), I beg to move the following amendment to the Attorney General's Reference of Questions Bill, 2012: That the Bill be amended in clause 1 as follows: by renumbering the clause as clause 1(1); and by inserting after clause 1(1), as re-numbered, the following subclause: "(2) This Law shall come into force on such date as may be appointed by Order made by the Governor in Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters."

The Chairman: The amendment has been duly moved. Does the mover wish to speak thereto?

Hon. Samuel W. Bulgin: No, Madam Chair.

The Chairman: If not, I shall put the question that the amendment stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 1 passed.

The Chairman: The question now is that the clause as amended stands part of the Bill.

No Member wishes to speak?

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Clause 1 as amended passed.

The Clerk:

Clause 2	Interpretation
Clause 3	Reference to Court of Appeal
Clause 4	Opinion of Court
Clause 5	Notice to interested persons
Clause 6	Appointment of counsel by Court
Clause 7	Rules
Clause 8	Savings

Hon. Samuel W. Bulgin: Madam Chair, may I just confirm that there was a Committee stage amendment by the Elected Member for North Side.

The Chairman: He's not here.

Hon. Samuel W. Bulgin: Sorry? He's abandoned it?

The Chairman: He's not here.

Hon. Samuel W. Bulgin: He is not here. Okay. Thank you.

Hon. D. Kurt Tibbetts: Madam Chair?

The Chairman: Yes.

Hon. D. Kurt Tibbetts: I don't know the rules, but the fact that he is not here means that no one else could bring it forward? I don't know; I'm asking. And I do believe the Attorney General is quite aware of the Member's point. If the Government is so minded to reject the amendment, then that is fine, but if there is any possible way of having it aired then we would beseech you to do so. If there is no way, if he is not here, then so be it.

Hon. Samuel W. Bulgin: Well, Madam Chair, the usual protocol is that under [Standing Order] 52, whoever is moving the Committee stage amendment would, in fact, move a motion to that effect at this stage. He not being here . . . I am not so sure we can take account of it. But since it was circulated and I thought it only appropriate that at least the record shows that it was done, and we took account of it.

[pause]

The Chairman: I have just seen this amendment. The Member for North Side, I understand, gave it to the Clerk. I have no instructions from him on the amendment, whether he had given anybody else, or asked somebody else to present it. I don't see how we can handle it at this point.

Hon. Samuel W. Bulgin: I will certainly be guided by the Chair. It might well be that in his absence from moving it that it falls away. But I will certainly be guided by you, really. But it was circulated as a proposed amendment. It is correct that the Government had indicated in the Second Reading that it was not minded to accede to the suggestion really.

The Chairman: Well, the usual thing is that when a Member wants to move a motion or an amendment, they usually get the permission of the Chair to do so. I don't know how this got circulated without the permission of the Chair. But he's not here to present the amendment himself, and I don't know that he has asked anyone else to present the amendment. Nobody else's name is on the amendment.

The Premier, Hon. W. McKeever Bush: It falls away. If it is not presented, it falls away then. That's all. No big argument. At least I am putting it where I think it should go.

The Chairman: First Elected Member for George Town, did the Member ask you to deputise—

Hon. D. Kurt Tibbetts: Madam Chair, I am not going to lie; he did not.

The Chairman: The amendment falls away. He is . . . well, I have to abide by the rules. The Member should have notified the Chair what his intentions were. That is the correct way. And he knows that.

[Inaudible interjection]

The Chairman: The question is that clauses 2 through 8 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 2 through 8 passed.

The Clerk: A Bill for a Law to empower the Attorney General to refer constitutional and other questions to the Court of Appeal; and for incidental and connected purposes.

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

Penal Code (Amendment) Bill, 2012

The Clerk: The [Penal Code \(Amendment\) Bill, 2012](#).

Clause 1 Short title

Clause 2 Amendment of section 224 of the Penal Code (2010 Revision)—definitions

Clause 3 Insertion of sections 228A to 228D—indecent photographs of children; child pornography; child pornography stored on a computer system; destruction of child pornographic material

Clause 4—

Hon. Samuel W. Bulgin: No, no. Just a minute.

Madam Chair, I think the issue to be resolved is whether the Committee is minded . . . if I understand it, the honourable Member for George Town, to delete [section] 228A (2)? On the top of page 7, “**(2) Where a person is charged with an offence under subsection (1)(a) or (c), it shall be a defence for him to prove – (a) that he had a legitimate reason for having the photograph or pseudo-photograph in his possession or, as the case may be, for distributing or showing it.**” That is one provision suggested to be deleted.

The Chairman: Can I have that number again please?

Hon. Samuel W. Bulgin: Sorry, Madam Chair.

It would be clause 3, and the relevant section would be 228A(2). And the section starts: “**Where a person is charged with an offence under subsection (1)(a) or (c), it shall be a defence for him to prove – (a) that he had a legitimate reason for having the photograph or pseudo-photograph in his possession or, as the case may be, for distributing or showing it.**”

Are you with me, Madam Chair?

The Chairman: I see where you're reading.

Hon. Samuel W. Bulgin: Thanks.

The Chairman: Are we asking for an amendment for this? Or is somebody making an amendment to—

Hon. Samuel W. Bulgin: My understanding, Madam Speaker, is that the honourable Member would wish to propose an amendment in Committee.

Hon. D. Kurt Tibbetts: Madam Chair, when I got up to speak to quickly explain, and made my point and asked the mover if he would consult with the Government to find out whether it could be done, I recognise

at that point in time that I could not have it typed and could not get your permission for a written proposed Committee stage amendment to be passed around. I considered it, and I still do, to be important enough. Maybe others see it differently from me because the Government already voted “Aye” for it. But I still raise the issue and if they are not minded then they can feel free to do so, but I am not supporting it as it comes.

[Inaudible interjections]

Hon. Samuel W. Bulgin: Thank you.

Madam Chair, with your permission, the same would also go for section 228B(4) . . . Mr. Tibbetts, right?

Hon. D. Kurt Tibbetts: Yes.

Hon. Samuel W. Bulgin: Okay.

I heard you articulate your constraint about not being able to have a written request, but I understand Standing Order 52 does provide for notice to be given orally with the leave of the Chairman.

Hon. D. Kurt Tibbetts: Well you see because I know you know all those things, when I got up and spoke I left it for you to do because there is no sense bringing it unless Government supports it. And I am not going to get into a battle about it because I have stated my position. If the Government feels it should stay in, it can stay in; but not with me. They can do it without me.

[Inaudible interjections]

Hon. D. Kurt Tibbetts: They understand it; he understands it.

[Inaudible interjections]

Hon. D. Kurt Tibbetts: No, and that’s what I told him; I didn’t have time to do that.

[Inaudible interjections]

Hon. Samuel W. Bulgin: Madam Chair, we are just seeking your leave for two seconds to just confirm.

Hon. D. Kurt Tibbetts: Madam Chair, while they have sought leave, and while they are talking, let me just say that the (b) and (c) under subsection 228A would then become (a) and (b), and that would still leave enough reason for someone who didn’t deserve to be convicted not to be convicted if we read (b) and (c). To me, (a) says that at some point in time somebody will have a legitimate reason for having this thing up displaying it all over the place. I just can’t see any point in time where there would be a legitimate reason.

And I hear the business about research and all that kind of stuff. When the police are doing that kind of stuff, that’s a whole different matter. If there is an investigation going on and they are using photographs to try and find out how a crime has been committed or whatever, that’s a whole different piece of thing. But this is not needed in the legislation to cover that; is all I am saying. What this is doing is giving, in my view, somebody an outlet to legitimise at some point in time, an activity that is illegal, if they are smart enough. And I don’t think we should give them any chance. That’s my view.

[long pause and discussions off microphone.]

Hon. Samuel W. Bulgin: Well, if I might just assist, Madam Chair.

You have two scenarios here; you have possession of indecent photographs of children, but you also have child pornography. So, if you look at the Bill you will see there are two definitions there. There is one that deals with child pornography which includes material that visually depicts a child engaged in sexually explicit conduct; or a person who appears to be a child engaged in such a conduct. But you also have a definition overleaf which deals with private photograph I think . . . clause [3] of the Bill, “**The principal Law is amended in Part VII by inserting after section 228 the following sections - A person who - (a) has in his possession an indecent photograph or pseudo-photograph of a child . . .**” So you have two issues.

[Inaudible interjections]

Hon. D. Kurt Tibbetts: [Inaudible-not speaking into the microphone]

Hon. Samuel W. Bulgin: The research is on page 9 of the Bill, 228B . . . you have it?

Hon. D. Kurt Tibbetts: Two twenty-eight D?

Hon. Samuel W. Bulgin: No, “B” as in . . . 228B(4): “**It shall be a sufficient defence to a charge under subsection (1), if it shall be made to appear to the court or jury before whom the charge is brought that the act that is alleged to constitute the . . .**”—

Hon. D. Kurt Tibbetts: Before you go any further.

Hon. Samuel W. Bulgin: Yes.

Hon. D. Kurt Tibbetts: [INAUDIBLE] That is not the one I am talking about. Forget about that, this is the one we are talking about—B, subsection (4): “**It shall be a sufficient defence to a charge under subsection (1), if it shall be made to appear to the court or jury before whom the charge is brought that the**

act that is alleged to constitute the offence (a) had a legitimate research purpose; . . . ”—

[Inaudible interjections and discussions]

Hon. Samuel W. Bulgin: Okay. So, do we take that one out then? Just . . . okay.

[Inaudible interjection and laughter]

Hon. D. Kurt Tibbetts: [INAUDIBLE]

Hon. Samuel W. Bulgin: Okay. All right.

All right, thank you very much. That's helpful.

So, Madam Chair, if I understand it, I beg to move on the floor that you provide leave for a Committee stage amendment without notice.

The Chairman: Granted.

Hon. Samuel W. Bulgin: Thank you, Madam Chair.

Amendment to clause 3

Hon. Samuel W. Bulgin: Having done so, I now move that the Bill be amended in clause 3, where it reads 228B(4), the words “It shall be a sufficient defence to a charge under subsection (1), if it shall be made to appear to the court or jury before whom the charge is brought that the act that is alleged to constitute the offence—(a) had a legitimate research purpose; and (b) does not pose an undue risk of harm to any persons under the age of seventeen” be deleted from the Bill.

Hon. D. Kurt Tibbetts: Subsection 4 of 228B is deleted.

Hon. Samuel W. Bulgin: Thanks. Subsection 4 in its entirety.

The Chairman: Okay.

Can we proceed, because we have run out of time and I would like to finish this before we move back to the House?

Hon. Samuel W. Bulgin: Thank you.

The Chairman: We have a few minutes I can grant to finish off.

Hon. Samuel W. Bulgin: So you can put the question that clause . . .

[pause]

The Chairman: The question is that clause 3 be amended by deleting subsection (4) of 228B.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: That section 228B(4) under clause 3 be deleted.

The Chairman: The question now is that the clause as amended stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: clause 3 as amended passed.

The Clerk:

Clause 1	Short title
Clause 2	Amendment of section 224 of the Penal Code (2010 Revision)—definitions

The Chairman: We are going to take the vote on clauses 1 and 2. The question is that clauses 1 and 2 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk:

Clause 4	Repeal and substitution of section 241 - theft
Clause 5	Savings and transitional provisions

The Chairman: The question is that clauses 4 and 5 do stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 4 and 5 passed.

The Clerk: A Bill for a Law to amend the Penal Code (2010 Revision) to penalize activities relating to child pornography; to re-state the penalty for the offence of theft; and to make provision for incidental and connected matters.

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

Criminal Procedure Code (Amendment) Bill, 2012

The Clerk: The Criminal Procedure Code (Amendment) Bill, 2012.

Clause 1 Short title.

The Chairman: The question is that clause 1 stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 1 passed.

The Clerk: Clause 2—Amendment of Schedule 1 to the Criminal Procedure Code (2011 Revision) - mode of trial and arrestable offences.

The Chairman: Honourable Attorney General.

Hon. Samuel W. Bulgin: Thank you.

As I understand on the Second Reading of this Bill is that honourable Members wished to see the penalty provision enhanced. It is proposed that where the word “twelve” appears, that it be changed to “fifteen” for the sentences.

So, if I am correct, pursuant to Standing Order 52, I seek your leave to move a Committee stage amendment without the requisite notice.

The Chairman: Granted.

Mr. D. Ezzard Miller: Madam Chair, I also would like the Government to consider whether somebody who is doing this for profit should not be given a more severe sentence than somebody who just happens to have it on their own computer, because as I read the Bill, the people there who are convicted of doing this for profit, the sentence is the same. I would recommend that it be at least 25 years for somebody who is actually doing it for profit and selling it. Amendment to clause 2

The Chairman: The Criminal Procedure Code.

Mr. D. Ezzard Miller: [INAUDIBLE]

Hon. Samuel W. Bulgin: That is clause 228B(1)(a) [of the Penal Code (Amendment) Bill, 2012], “**A person who - (a) makes, prints, publishes, or possesses for the purpose of publication, any child pornography; (b) transmits, makes available, distributes, sells, advertises, imports, exports, or possesses for the purpose of transmission, making available, distribution, sale, advertising or exportation, any child pornography; (c) possesses any child pornography; or (d) accesses any child pornography . . .**” the suggestion is that the “twelve” be changed to ‘twenty-five’?

Madam Chair—

Mr. D. Ezzard Miller: [INAUDIBLE]

Amendment to clause 2

Hon. Samuel W. Bulgin: Yes, it is maximum, Right.

Madam Chair, the proposed amendment is, I beg to move that the Criminal Procedure (Amendment) Bill, 2012, be amended in clause 2, Schedule 1, by deleting where it appears in the column “maximum punishment” the words “twelve” wherever it appears and substitute therefor the word “fifteen.” So it would read “fifteen years,” save and except, Madam Chair, in respect of 228B(1)(b), where the wording should be, instead of “twelve years” the language substituted, be “twenty-five years.”

Did I get that right?

Madam Chair, do you want me to repeat that again?

The Chairman: That the Criminal Procedure Code be amended in Schedule 1 where it appears in the column—

Hon. Samuel W. Bulgin: Yes, under the caption “maximum punishment”

The Chairman: “Maximum punishment” that the word “twelve” be substituted for . . . that “fifteen be substituted for “twelve”

Hon. Samuel W. Bulgin: Yes.

The Chairman: And except in 228B(1)(b), where “twelve” would be substituted by “twenty-five years”?

Hon. Samuel W. Bulgin: Thank you, Madam Chair.

The Chairman: The amendment has been duly moved. Does any other Member wish to speak? [pause]

If not, I will put the question that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 2 passed.

The Chairman: The question is that the clause [as amended] stand part of the Bill.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Clause 2 as amended passed.

The Clerk: A Bill for a Law to amend the Criminal Procedure Code (2011 Revision) to prescribe the mode of trial for offences relating to child pornography; and for incidental and connected purposes.

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Title passed.

The Chairman: The question is that the Bills be reported to the House.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Bills to be reported to the House.

House resumed at 4.54 pm

The Speaker: Proceedings are resumed. Please be seated.

I need a motion for the business of the House to be continued after 4.30.

Suspension of Standing Order 10(2)

Hon. J. Mark P. Scotland: Madam Speaker, I move the suspension of Standing Order 10(2) be suspended

to enable the proceedings of the House to continue beyond the hour of 4.30 pm.

The Speaker: The question is that Standing Order 10(2) be suspended to enable the proceedings of the House to continue beyond the hour of 4.30 pm.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

REPORT ON BILLS

Judicature (Amendment) Bill, 2012

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to report that a Bill entitled The Judicature (Amendment) Bill, 2012, was considered by a Committee of the whole House and passed.

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

Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to report that a Bill entitled The Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012, was considered by a Committee of the whole House and passed without amendment.

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

Attorney General's Reference of Questions Bill, 2012

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to report that a Bill entitled The Attorney General's Reference of Questions Bill, 2012, was considered by a Committee of the whole House and passed with one amendment.

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

Penal Code (Amendment) Bill, 2012

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to report that a Bill entitled The Penal Code (Amendment) Bill, 2012, was considered by a Committee of the whole House and passed with amendments.

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

Criminal Procedure Code (Amendment) Bill, 2012

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to report that a Bill entitled The Criminal Procedure Code (Amendment) Bill, 2012, was considered by a Committee of the whole House and passed with amendments.

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

THIRD READINGS

Judicature (Amendment) Bill, 2012

The Clerk: The Judicature (Amendment) Bill, 2012.

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to move that The Judicature (Amendment) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that a bill entitled, The Judicature (Amendment) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Judicature (Amendment) Bill, 2012 given a third reading and passed.

Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012

The Clerk: The Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012.

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to move that The Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that a bill entitled, The Director of Public Prosecutions (Miscellaneous Amendments) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Director of Public Prosecutions Miscellaneous Amendments) Bill, 2012 given a third reading and passed.

Attorney General's Reference of Questions Bill, 2012

The Clerk: The Attorney General's Reference of Questions Bill, 2012.

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to move that The Attorney General's Reference of Questions Bill, 2012, be given a third reading and passed.

The Speaker: The question is that a bill entitled, The Attorney General's Reference of Questions Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Attorney General's Reference of Questions Bill, 2012 given a third reading and passed.

Penal Code (Amendment) Bill, 2012

The Clerk: The Penal Code (Amendment) Bill, 2012.

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to move that The Penal Code (Amendment) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that a bill entitled, The Penal Code (Amendment) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

The Speaker: The Ayes have it.

Agreed: The Penal Code (Amendment) Bill, 2012, given a third reading and passed.

At 5.03 pm the House adjourned until a date to be fixed.

Criminal Procedure Code (Amendment) Bill, 2012

The Clerk: The Criminal Procedure Code (Amendment) Bill, 2012.

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin: I beg to move that The Criminal Procedure Code (Amendment) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that a bill entitled, The Criminal Procedure Code (Amendment) Bill, 2012, be given a third reading and passed.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Criminal Procedure Code (Amendment) Bill, 2012 given a third reading and passed.

The Speaker: This brings us to the end of the Order Paper, and I ask for a motion for adjournment.

ADJOURNMENT

The Premier, Hon. W. McKeever Bush: Thank you, Madam Speaker. And I want to thank all Members of the House and the Chair and members of staff for this marathon session—not so much in terms of time, because we have gotten through a tremendous amount of work in a very short time. And so it shows, and I think it could have been shorter if we all stick to the time, and I am going to brave the weather and say that we need to pay attention to our timing.

[Inaudible interjection]

The Premier, Hon. W. McKeever Bush: So, Madam Speaker, I just want to put on record our appreciation to all for getting us through a lot of work relatively quickly. Therefore, we ask that the House be now adjourned to a date to be fixed.

The Speaker: The question is that the House do adjourn to a date to be fixed.

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

Ayes.