



CAYMAN ISLANDS

2018/2019 Session of the

LEGISLATIVE ASSEMBLY

REPORT

of the

STANDING

PUBLIC ACCOUNTS COMMITTEE

on the Report of the
Office of the Auditor General on the
Financial Reporting Of the Cayman Islands Government
General Report 2015 and 2016 Financial Audits / Entire Public
Sector (EPS) 2016 - February 2018

Laid on the Table of Legislative Assembly on this 6 day of Sept 2018

*by the Chairman of the Public Accounts Committee
Hon D. Ezzard Miller*

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**REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE
ON THE REPORT OF THE OFFICE OF THE AUDITOR GENERAL
ON FINANCIAL REPORTING OF THE CAYMAN ISLANDS
GOVERNMENT GENERAL REPORT 2015 AND 2016 FINANCIAL
AUDITS – DECEMBER 2017**

SUMMARY REPORT

1. REFERENCE

The Standing Public Accounts Committee of the Cayman Islands Legislative Assembly, established under Standing Order 77(1), met to consider the following Report prepared and submitted by the Auditor General:

*Financial Reporting Of the Cayman Islands Government
General Report 2015 and 2016 Financial Audits – December 2017*

2. DOCUMENT CONSIDERED

In accordance with the provision of Standing Order 77(3), the Committee considered the following Auditor General Report which was referred in the House of the Legislative Assembly:

- Report of the Office of the Auditor General on Financial Reporting Of The Cayman Islands Government General Report 2015 and 2016 Financial Audits December 2017

3. CHAIRMAN AND MEMBERS OF THE COMMITTEE

The following Members of the Legislative Assembly are the present Members of the Standing Public Accounts Committee: –

Hon. D Ezzard Miller, MLA – Chairman

Mr. Christopher S. Saunders, MLA – Member

Mr. Austin O. Harris, Jr, MLA – Member

Hon. Bernie A. Bush, MLA – Member

Ms. Barbara E. Conolly, MLA – Member

4. MEETINGS OF THE COMMITTEE

The Committee held five (5) meetings to consider the Report:

- (i) Tuesday, 12th December 2017
- (ii) Wednesday, 24th January 2018
- (iii) Wednesday, 21st February 2018 (*hearing*)
- (iv) Thursday, 22nd February 2018 (*hearing*)
- (v) Friday, 23rd February 2018 (*hearing*)

5. ATTENDANCE OF MEMBERS

The attendance of Members at the meetings is recorded in the Minutes of Proceedings which are attached to and form part of this Report.

6. PERSONS IN ATTENDANCE

In accordance with Standing Order 77(8), the following persons were in attendance at the meeting held with witnesses on **Wednesday, 21st February 2018**:

- Ms. Sue Winspear - Auditor General, Office of the Auditor General
- Mr. Garnet Harrison– Deputy Auditor General, Office of the Auditor General
- Mr. Winston Sobers - Audit Manager, Office of the Auditor General
- Mr. Ruel Huet - Audit Project Leader, Office of the Auditor General
- Mr. Kenneth Jefferson - Financial Secretary/Chief Officer- Ministry of Finance and Economic Development (FED)
- Mr. Matthew Tibbetts - Accountant General Ministry of Finance and Economic Development (FED)

The following persons were in attendance at the meeting held with witnesses on **Thursday, 22nd February 2018**:

- Ms. Sue Winspear - Auditor General, Office of the Auditor General
- Mr. Garnet Harrison– Deputy Auditor General, Office of the Auditor General
- Mr. Julius Aurelio- Audit Manager, Office of the Auditor General
- Mr. Kenneth Jefferson - Financial Secretary/Chief Officer- Ministry of Finance and Economic Development (FED)
- Mr. Matthew Tibbetts - Accountant General Ministry of Finance and Economic Development (FED)
- Ms. Anne Owens - Senior Assistant Financial Secretary, Ministry of Finance and Economic Development (FED)

The following persons were in attendance at the meeting held with witnesses on **Friday, 23rd February 2018:**

- Ms. Sue Winspear - Auditor General, Office of the Auditor General
- Mr. Patrick Smith – Director of Financial Audit, Office of the Auditor General
- Mr. Julius Aurelio- Audit Manager, Office of the Auditor General
- Mr. Ruel Huet- Audit Project Leader, Office of the Auditor General
- Mr. Michael Nixon - Senior Assistant Financial Secretary, Ministry of Finance and Economic Development (FED)
- Ms. Anne Owens - Senior Assistant Financial Secretary, Ministry of Finance and Economic Development (FED)

7. WITNESSES CALLED BEFORE THE COMMITTEE

In accordance with the provisions of Standing Order 77(4), the Committee invited public officers and a former Minister of Government to give information and explanation to assist the Committee in the performance of its duties. The following persons appeared before the Committee to give evidence on **Wednesday, 21st February 2018:**

- Mr. Kenneth Jefferson - Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (FED)
- Mr. Matthew Tibbetts - Accountant General Ministry of Finance and Economic Development (FED)
- Mrs. Suzanne Bothwell- Court Administrator /Chief Officer- Judicial Administration
- Mrs. Tiffany Ebanks - Chief Financial Officer - Judicial Administration

The following persons appeared before the Committee to give evidence on **Thursday, 22nd February 2018:**

- Mrs. Peggy Leshikar-Denton-Director- Cayman Islands National Museum
- Mr. Ronnie Dunn – Managing Partner – FINCOR (outsourced accountant for Cayman Islands National Museum)
- Mrs. Marcia Muttou- Managing Director – Cayman National Cultural Foundation
- Mrs. Natalie Urquhart - Director - National Gallery of the Cayman Islands
- Ms. Lauren Christie - Accountant - Berman Fisher (outsourced accountant for National Gallery of the Cayman Islands)

The following persons appeared before the Committee to give evidence on **Friday, 23rd February 2018:**

- Mr. Joel Walton -Chief Executive Officer – Maritime Authority of the Cayman Islands
- Mr. Osbert Francis: Global Director of Operations – Maritime Authority of the Cayman Islands
- Mr. Phillip Barnes: Chairman of the Board– Maritime Authority of the Cayman Islands

8. PRACTICE AND PROCEDURE OF THE COMMITTEE (S.O 77(6))

The Committee agreed that in accordance with the provisions of Standing Order 77(6), all meetings at which witnesses were invited to provide information should be held in an open forum. This decision was taken to promote openness and accountability in Government.

9. INTRODUCTION AND PAC COMMENTS

9.01 The objective of the audits were to determine if the annual reports, which contained financial statements of the Government were presented fairly in accordance with the applicable financial reporting frameworks. Annual reports are the key documents that enable the Legislative Assembly and the residents of the Cayman Islands to hold public sector entities and the Government accountable for their use of the public money.

SESSIONS ON THE REVIEW OF THE 2015/16 FINANCIAL STATEMENTS & AUDITS

9.02 On 24th January 2018, the Committee had a special meeting to award certificates to the CEO (or equivalent post holder) of the following 30 entities that had so far received unqualified audit opinions for their financial statements for the year 2015/16:

1. Ministry of Community Affairs,
2. Ministry of District Administration, Tourism & Transport,
3. Ministry of Finance & Economic Development
4. Ministry of Home Affairs
5. Ministry of Financial Services, Commerce & Environment
6. Ministry of Planning, Lands, Agriculture, Housing & Infrastructure
7. Portfolio of the Civil Service
8. Portfolio of Legal Affairs
9. Director of Public Prosecutions
10. Information Commissioner's Office
11. Office of the Complaints Commissioner
12. Audit Oversight Authority
13. Cayman Airways Limited
14. Cayman Islands Development Bank
15. Cayman Islands Monetary Authority
16. Cayman Islands Stock Exchange
17. Cayman Turtle Centre
18. Children & Youth Services Foundation
19. Civil Aviation Authority
20. Electricity Regulatory Authority
21. Information & Communications Technology Authority

22. National Drug Council
23. National Housing Development Trust
24. National Roads Authority
25. Port Authority of the Cayman Islands
26. Public Service Pensions Board
27. Segregated Insurance Fund
28. Sister Islands Affordable Housing Development Corporation
29. University College of the Cayman Islands
30. Water Authority of the Cayman Islands

ENTIRE PUBLIC SECTOR OR EPS (DISCLAIMED OPINION)
21ST FEBRUARY 2018

9.03 The Committee noted the numerous issues that contributed to the disclaimed opinion and thought that several of these matters required a policy discussion which needed to take place in another forum. The Committee endorsed all the recommendations of the Auditor General contained in the report entitled “Financial Reporting of the Cayman Islands Government: General Report 2015 & 2016” and additionally recommended that:

1. A national debate be held, started first in the Legislative Assembly, about retirement including the age of retirement, post-retirement health care, pension and other benefits for Caymanians and especially Civil Servants (to address the issue of the ongoing liability for post-retirement benefits and pension obligations for Civil Servants and the underfunded position on the public sector pension funds) and whether a national health insurance scheme should be considered and / or changes made to the way CINICO charges its premiums to different groups to better spread the risks and costs.
2. For those SAGCS incurring losses that the Government reconsiders its policy position on the nature of their business noting that in many cases the level of losses incurred were growing faster than the increase in revenues and so the financial outlook continued to be bleak.
3. The Government consider legislative changes that separate the pension fund assets out from the general PSPB accounts and that legislation puts these assets beyond the direct control or influence of the Government (to remove the qualification point on the non-consolidation of PSPB).
4. The Government re-consider the reintroduction of the Preliminary Inquiry process as a potential to improve efficiency in Judicial Administration.

5. The Cayman National Cultural Foundation should think about whether they need to employ a qualified book keeper like the National Gallery and National Museum have done.

JUDICIAL ADMINISTRATION (QUALIFIED OPINION)

21ST FEBRUARY 2018

9.04 It was noted that the entity now believes it had a fully complete fixed asset register which they believe will mean that the opening and closing fixed asset balances will be capable of being relied upon by the auditors during their 2016/17 audit which should result in a clean opinion.

The PAC recommends that the Government re-consider the reintroduction of the Preliminary Inquiry process as a potential measure to improve efficiency, and as a cost saving measure.

CAYMAN ISLANDS NATIONAL MUSEUM (QUALIFIED OPINION)

22ND FEBRUARY 2018

- Cayman Islands National Museum (Qualified opinion)

CAYMAN NATIONAL CULTURAL FOUNDATION (QUALIFIED OPINION) 22ND FEBRUARY 2018

- Cayman National Cultural Foundation (Qualified opinion)

NATIONAL GALLERY OF THE CAYMAN ISLANDS (QUALIFIED OPINION) 22ND FEBRUARY 2018

- National Gallery of the Cayman Islands (Qualified opinion)

The PAC supports the OAG recommendation that the Cayman National Cultural Foundation should think about whether they need to employ a qualified book keeper like the other two entities have done.

CINM, CNCF and NGCI were all qualified for the same reason; the PAC supports the recommendations of the OAG and is happy to report that all three entities are on the right track to implement the OAG recommendation.

MARITIME AUTHORITY OF THE CAYMAN ISLANDS (QUALIFIED OPINION) 23RD FEBRUARY 2018

▪ Maritime Authority of the Cayman Islands (Qualified opinion)

It was noted that the entity was taking steps to remove their qualification on the post-retirement medical liability by having a valuation done to make a provision for the liability in its 2016/17 financial statements.

The PAC is concerned that under the Global Director of Operations, Mr. Osbert Francis who is responsible for the accounts that there is no professionally qualified accountant to prepare and/or sign off on the financial statements; and recommends that this be rectified urgently.

The PAC recommends that more emphasis be placed on controlling expenditure as while during the last five years there is evidence of revenue growth, there appears to be an equal growth in expenditure.

The PAC is concerned with the information provided during the questioning of witness Mr. Osbert Francis, the Global Director of Operations of the October 2017 changes to the organization structure creating Global Director with higher salaries than what existed. The PAC recommends that the ministry responsible ensure that the board of MACI and the CEO clearly understand the provisions of the Public Authority Law.

10. GOVERNMENT MINUTE

10.01 The Public Accounts Committee wishes to draw Government's attention to Standing Order 77 sub-order 7 which reads;

"The Government Minute shall be laid on the Table of the House within three months of the laying of the report of the Committee and of the report of the Auditor General to which it relates."

The PAC expects the Government to honour the requirements of this Standing Order.

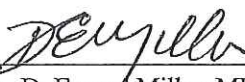
ACKNOWLEDGEMENT

The Committee is most appreciative of the efforts of the Auditor General and her staff in presenting very fair, comprehensive and informative Report and for the support, assistance and constructive advice given throughout its deliberations.

The Committee also thanks the staff of the Legislative Assembly for the assistance provided.

REPORT OF THE COMMITTEE TO THE HOUSE

The Committee agrees that this Report be the Report of the Standing Public Accounts Committee to the House on the following Report of the Office of the Auditor General:
*Financial Reporting Of the Cayman Islands Government General Report 2015 and 2016
Financial Audits – December 2017*



Hon. D. Ezzard Miller, MLA – Chairman



Hon. Bernie A. Bush, MLA – Member



Mr. Christopher S. Saunders, MLA - Member



Ms. Barbara E. Conolly, MLA – Member



Mr. Austin O. Harris, Jr, MLA – Member



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES

Meeting held

Tuesday, 12th December 2017 at 10:00 am

Minutes of proceedings of the Standing Public Accounts Committee held in the Large Committee room of the Legislative Assembly Building, Grand Cayman on **Tuesday, 12th December 2017 at 10:00 am**

Present: Hon. Ezzard Miller, MLA – Chairman
Mr. Christopher Selvin Saunders – Member
Hon. Bernie Alfredo Bush, MLA - Member
Ms. Barbara Elizabeth Conolly – Member
Mr. Austin Osmond Harris, Jr – Member

Ms. Manesa Webb, the Committee Clerk

Attendees: Ms. Sue Winspear - Auditor General, Office of the Auditor General
Ms. Angela Cullen - Director of Performance Audit, Office of the Auditor General
Mr. Patrick Smith - Director of Financial Audit, Office of the Auditor General
Mr. Winston Sobers- Audit Manager, Office of the Auditor General

1. Meeting to Order

There being a quorum present (Standing Order 77(2) refers), the Chairman called the Meeting to order at 10:13 am.

The Chairman gave a brief welcomed to the Members and thanked them for attending the Public Accounts Committee ("PAC") meeting. He also welcomed the Auditor General and thanked her team, for attending the meeting.

2. Apologies

There were no apologies.

3. **Approval of Minutes:**

- Tuesday, 10th October 2017 (*Hearing*)

The above minutes was **approved** on a motion moved by Mr. Austin Osmond Harris and seconded by Ms. Barbara Elizabeth Conolly.

- Tuesday, 24th October 2017 (*Hearing*)

The above minutes was **approved** on a motion moved by Mr. Austin Osmond Harris and seconded by Ms. Barbara Elizabeth Conolly.

- Tuesday, 24th October 2017 (*Meeting*)

The above minutes was **approved** on a motion moved by Ms. Barbara Elizabeth Conolly and seconded by Hon. Bernie Alfredo Bush.

4. **Matters arising from Minutes:**

There were no matters arising from the minutes.

5. **Approval of Auditor General Invoice(s):**

- *Invoice 207032 dated 7 December 2017 for the amount of \$211,585.00*

The above invoice was **approved** on a motion moved by Ms. Barbara Elizabeth Conolly and seconded by Mr. Austin Osmond Harris.

6. **Review of the OAG Report(s):**

The Office of the Auditor General (OAG) staff presented the *Office of the Auditor General Major Capital Projects - Follow Up October 2017* report to the Public Accounts Committee. During the presentation the OAG staff discussed the Finance function framework, and reviewed the following topics:

- Exhibit 4 – Assessment of seven MCPS against the MPO Government framework on page 19.
- Exhibit 5 – The Budgeting and Accounting framework on page 24.

In addition, the Office of the Auditor General (OAG) staff discussed the *2015-16 Financial Audit General Report on the Entire Public Sector* to the Public Accounts Committee. During the presentation the OAG staff touched on the following topics:

- Exhibit #2 Entity Qualifications 2015-2016 on page 9.
- Appendix A – Status of the 2015 -2016 Audits on page 17.

The Public Accounts Committee agreed that the OAG create a schedule of Witnesses for the *2015-16 Financial Audit General Report on the Entire Public Sector*, and *Major Capital Projects - Follow Up October 2017* report hearings for January 2018.

The Public Accounts Committee agreed that during the upcoming *2015-16 Financial Audit General Report on the Entire Public Sector* hearings in January 2018, that certificates will be presented to the unqualified and qualified Witnesses.

7. Auditor General's Update:

The Auditor General, Mrs. Sue Winspear presented the Public Accounts Committee with the following documents:

- Quarterly Report to 30 September 2017
- 2017 Letter of Engagement from Baker Tilly (OAG's External Auditors)

The Public Accounts Committee members agreed for the Chairman to sign the 2017 Letter of Engagement from Baker Tilly (OAG's External Auditors).

8. Any Other Business:

The Chairman presented the new Commonwealth Association of Public Accounts Committees (CAPAC) PAC Principles document to the committee. During the presentation the chairman touched on the topics:

- The PAC Principles.
- Standards of Good Practice for PACs.
- CAPAC Membership Process.

The Chairman asked that the CAPAC principles and good practice be circulated to all members and, the Auditor General to allow for more discussion and possible adoption at the meeting on Monday, 8th January 2017 at 10:00 am

9. Scheduling of Next Meeting

The next meeting was confirmed for:

- Monday, 8th January 2017 at 10:00 am

10. Adjournment

There being no further business, the Chairman adjourned the meeting at 11:30 am.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Wednesday, 21st February 2018 at 9:00 am

Financial Reporting Of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

Minutes and verbatim transcript of the meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building, Grand Cayman on Wednesday, 21st February 2018 at 9:22 am

Present:

Hon. D Ezzard Miller, MLA – Chairman
Mr. Christopher S Saunders, MLA – Member
Hon. Bernie A Bush, MLA - Member
Mr. Austin O Harris, Jr, MLA – Member
Ms. Barbara E Conolly, MLA - Member

Ms. Manesa Webb, Committee Clerk

Apologies: There were no apologies.

Attendees:

Ms. Sue Winspear - Auditor General, Office of the Auditor General
Mr. Garnet Harrison – Deputy Auditor General, Office of the Auditor General
Mr. Winston Sobers - Audit Manager, Office of the Auditor General
Mr. Ruel Huet - Audit Project Leader, Office of the Auditor General
Mr. Kenneth Jefferson - Financial Secretary/Chief Officer- Ministry of Finance and Economic Development (FED)
Mr Matthew Tibbetts - Accountant General Ministry of Finance and Economic Development (FED)

Witnesses:

Mr. Kenneth Jefferson - Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (FED)

Mr. Matthew Tibbetts - Accountant General Ministry of Finance and Economic Development (FED)

Mrs. Suzanne Bothwell - Court Administrator / Chief Officer- Judicial Administration

Mrs. Tiffany Ebanks - Chief Financial Officer - Judicial Administration

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the meeting to order at 9:22 am.

2. Welcome

The Chairman gave a brief welcome to the Members and thanked them for attending the Public Accounts Committee (“PAC”) Hearing. He also welcomed the Auditor General and thanked her along with the OAG staff; Mr. Kenneth Jefferson and Mr. Matthew Tibbetts for attending the hearing.

The Chairman advised the Committee that they would be dealing with *Financial Reporting of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017*. Mrs. Sue Winspear, the Auditor General, offered opening remarks on the background and current standing of the general report and financial audits. The Chairman then opened the floor to questions from the Members of the Public Accounts Committee.

3. Review of Financial Reporting of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

- Financial Reporting of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

The meeting commenced at 9:22 am and the Chairman invited the witnesses to the Chamber and asked them to state their names and take an oath by holding in their hand the Bible.

The following persons appeared in their named capacity as witnesses before the Committee for this Report:

- Mr. Kenneth Jefferson - Financial Secretary/Chief Officer, Ministry of Finance and Economic Development (FED)
- Mr Matthew Tibbetts - Accountant General Ministry of Finance and Economic Development (FED)

The Committee continued the meeting with the next witnesses at 11:20 am. The following persons appeared in their named capacity as witnesses before the Committee for this Report:

- Mrs. Suzanne Bothwell -Court Administrator / Chief Officer- Judicial Administration
- Mrs. Tiffany Ebanks -Chief Financial Officer - Judicial Administration

The Chairman thanked the witnesses for attending the meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building.

4. Any Other Business:

There was no other business.

5. Scheduling of Next Meeting

The next meetings with witnesses were confirmed for:

- Thursday, 22nd February at 10:00am
- Friday, 23rd February at 10:00 am

6. Adjournment

There being no further business, the Chairman adjourned the meeting at 12:56 pm.

**OFFICIAL VERBATIM REPORT
STANDING PUBLIC ACCOUNTS COMMITTEE
WEDNESDAY
21 FEBRUARY 2018
9:20 AM
*Meeting with witnesses***

**FINANCIAL REPORTING OF THE CAYMAN ISLANDS GOVERNMENT—GENERAL
REPORT 2015 and 2016 FINANCIAL AUDITS – DECEMBER 2017**

Verbatim transcript of the Standing Public Accounts Committee meeting held 21st February 2018, at 9:20 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

PAC Members Present:

Hon. D. Ezzard Miller, MLA, Chairman
Hon. Bernie A. Bush, MLA, Member
Mr. Austin O. Harris, Jr., MLA, Member
Mr. Christopher S. Saunders, MLA, Member
Ms. Barbara E. Connolly, MLA, Member

In attendance:

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development

Audit Office:

Ms. Sue Winspear, Auditor General
Mr. Garnet Harrison, Deputy Auditor General
Mr. Winston Sobers, Audit Manager
Mr. Ruel Huet, Audit Project Leader

Witnesses:

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development
Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration
Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration
Ms. Lillian Bush, Administrative and Finance Manager, Judicial Administration

[Hon. D. Ezzard Miller, Chairman presiding]

The Chairman: Good morning, everyone. Let the record show that we have a quorum and I would like to get started. First of all, let me apologise for being a little bit but, between urgent constituent matters and the traffic, sometimes the journey from North Side to George Town can be long. But thank you all for coming.

Today, we are going to deal with the Financial Reporting of the Cayman Islands Government – General Report. I do not think we are on TV yet, so we need to find out what is going on with the system as to whether we are live, delayed or not on at all.

[Short pause]

The Chairman: This morning we are dealing with the Financial Reporting of the Cayman Islands Government General Report 2015-2016, Financial Audits and Consolidated Accounts.

We have with us, Mr. Kenneth Jefferson, his support staff, Mr. Matthew Tibbetts, hiding in the background. I noticed they have the same colour tie but one is dressed in full black, so he can fade into the background, I believe, but anyway . . . just a little bit of levity.

Mr. Jefferson, you know the rules; you are here for all of our meetings. The first question you answer, just identify yourselves so that the listening public will know who you are.

I will open the floor up to the questions from the Members.

Mr. Harris.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman. Good morning to the Committee, and, in particular, good morning to our witnesses this morning, starting with the Financial Secretary, Mr. Kenneth Jefferson.

First, let me congratulate the Financial Secretary and his team for a notable improvement on the Public Sector Accounts. According to the Auditor General's Report for the year ending 30th June 2016, 30 out of 36 entities received an unqualified or clean opinion; six were qualified, one adverse opinion and one disclaimer. I think I speak for all in this Committee when I say that I think it is a vast improvement when we consider just four years ago, over half of those entities received either a qualified, adverse, or disclaimed audit opinion. However, whilst we already congratulated those entities on a job well done, today we are here to focus on the short-comings, rather than the significant achievements. In terms of the qualified opinions by the Auditor General, six in total; some common themes highlighted throughout, included matters relevant to completeness of revenue, property plant and equipment and post-retirement health care liability.

I want to, Mr. Chairman, focus on the largest of those three, which of course, deals with the post-retirement health care liability. In 2014, Government's financial advisors estimated a post-health care liability of \$1.18 billion and in 2017, that number jumped to \$1.7 billion or a 44 per cent increase. While not mentioned in this Auditor General's Report in any significant degree, we must also consider (to give proper context to this conversation) the Public Sector Pension Fund, which is also unfunded to the tune of about \$200 million dollars. What this means, and I think we all agree, is that the costs related to health care coverage in and of itself, has the ability to overwhelm the Government budget if nothing is done to bring that under control. I do not think there is any argument there. So what is the answer?

Some has said that we in the Cayman Islands, in particular the Government, should be putting aside, \$120 million each and every year to service this ever-expanding liability. Unfortunately, that is not what we are doing. Instead, a lot of people, both within the Government and in the public sector, are all screaming of other ways we should be spending Government surplus, when in actual fact, more prudent savings are required.

Mr. Jefferson, and through you, Mr. Chairman, in February of last year, you said in the public domain that discussions with the civil service are expected to be concluded and a position reached with respect to the civil service cost-sharing with Government on their health care costs. I wonder, Mr. Jefferson, and through you, Mr. Chairman, if you could illuminate this Committee on what those discussions may have yielded and what conclusion have been arrived at in respect to the often-discussed civil servant health-care costs, and in particular, the concept of sharing

those costs, similar to what is operated in the private sector.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman, and good morning to you and all Committee Members and the Clerk of the Committee.

My name is Kenneth Jefferson and my title is, Financial Secretary and Chief Officer in the Ministry of Finance and Economic Development.

Mr. Chairman, before I attempt to answer the question that the Honourable Member has just asked, I will just very briefly put into context the matter under discussion of the post-retirement health care costs. I start by saying that we have also commissioned now a valuation of that liability with an effective date of the 31st December, 2017. We have commissioned that to be calculated. I do not have the result as of right now, but it is on its way.

Mr. Chairman, as the Committee will know, at the end of June 2016, the liability number was approximately \$1.4 billion dollars, and to put that into perspective, without taking account of the \$1.4 billion liability, the net assets of the Government at the same time, 30th June 2016, were approximately, \$1.2 billion dollars. So, placing a \$1.4 billion liability directly onto the Government's Balance Sheet, obviously has a tremendous impact on that Balance Sheet.

I think Member Harris spoke about the 2017 valuation number which was around \$1.7 billion; that would obviously have an even bigger impact. So, just for the public's knowledge, the effect of putting the liability number squarely on the face of the Balance Sheet would turn the Government's net asset position, which is quite strong now of a \$1.2 billion, excluding the liability, would turn that into a negative position and would say that the Government does not, in fact, have any positive net assets at all. And if it is even sensible to talk about it, the net assets position would be negative to the tune of, you know, \$200 million if you choose \$1.4 billion and the \$1.2 billion in assets. If you choose \$1.7 billion for the liability at the end of 2017, the position would then be a negative \$500 million. So, it is extremely significant just to try to put that into context.

I would also make the point, to say that, as we all know, the Government is, at the moment, planning to incur borrowing in 2019. I think the appropriation approved is \$153 million and the other portion, Government would pay from its own cash resources to eliminate the debt in November 2019.

I just make the point to say that, if you are a financier of the Government, and you had to contrast a Balance Sheet that says the Government has positive net assets of \$1.2 billion versus a Balance Sheet that says Government has negative net assets of \$500 million, the contrast is extremely stark and one inspires great confidence to lend and the other one

does not. So that is the context, Mr. Chairman, and Committee Members. It is an extremely significant number and I have said that we are in the process of getting a valuation number for the position at the end of 31st December, 2017 but have not gotten that in hand yet.

So finally, to get around to Member Harris's question about what the results of the discussion have yielded, what conclusions were reached as a result of those discussions, I have, Mr. Chairman, very limited knowledge of what those discussions were. All I can I say, Mr. Chairman, is, it was concluded that the cost-sharing arrangement would not affect existing civil servants; it would only impact if the decision was made to have civil servants being hired at a specified date and that date has not been specified. If and when a date is specified, the cost-sharing arrangement would take effect in respect of civil servants hired beyond that date. I am very sorry that I do not have any more detailed information on that particular aspect and I hate to sort of fend it off to another agency, but I think the Portfolio of the Civil Service would perhaps have more information. I can obviously undertake to get information for the Committee, but for now, all I do know is that it is intended that cost-sharing will only apply to civil servants at a future hire date and, to the best of my knowledge, that hire date has not even been decided.

The Chairman: Okay. Just one follow-up question, if I may, Mr. Austin: Your evaluation that you commissioned, is that going to give you an annual liability or just a total liability? Projected?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. It is actually going to do both. It is going to give us a liability as at the end of December 2017 and it is also going to say if the Government were putting aside amounts annually to meet a future liability, what that annual cost will be. So, it will give us an annual cost and it will give us a liability number at a particular date that we specify.

The Chairman: But, right now, each budget has within it, various provisions to fund the health care of pensioners for that current budget in various votes, if I remember correctly.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. Yes, that is absolutely correct. So the budget that exists now and all past budgets, have costs that relate to the likely expenditure to be incurred in that particular year. But I think the rationale and the thinking is the fact that if you worked a particular year, 2018, you are likely to incur health care costs during 2018, and therefore you need to make a budget to cover that. But the act of

working during 2018, which is one more year of service, will increase the likelihood of future health-care costs after retirement and therefore, you need to be accounting for that second part as well in 2018. And so, that later aspect of accounting yearly for what is a future benefit, we have not been including in our Financial Statements. It is, essentially, the current year likely cost that will be incurred during that year.

The Chairman: But, unlike pensions, the coverage that you get is not related to the number of years that you served. If you retire from the civil service, you get 100 per cent coverage whether you've worked 5 years or 30 years, right?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Correct. Post-retirement health care coverage would kick in from retirement until the civil servant passes away. And in the calculations, obviously the actuaries would have an estimated year at which the civil servant would pass away and I am sure that is in their 80s, probably around 82/83.

The Chairman: Average, yeah. The health care benefits are not protected . . . As I recall, the Pension Law says that the pension liability for Government for the ensuing year, carries priority in Government's budgeting; that has not been changed? The Pension is the first charge on Government's revenue collected?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: No, not to my knowledge, Mr. Chairman. There are certain appropriations within the annual budgets that have some sort of protection. It is rarely discussed, as you know, when the budget is presented here because it is all put on the table for MLAs to look at and to discuss, but I think there are certain appropriations that are statutorily protected. I seem to recall some years ago that the remuneration of the Auditor General, for example, was one of those areas.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman; through you, as a follow up. Thank you, Mr. Jefferson, for that answer and if I can derive some thoughts on your answer, I wonder, is it fair to admit that where we stand today in 2018, we are no further ahead at finding a solution to the post-retirement health care liability than we have been in previous years? And is it fair to say, whilst you acknowledge you do not have the benefit of the discussions that took place within the civil service, I believe a memo from the Civil Service Association was published within the last year, where the civil servants flatly rejected the notion of cost-sharing on the basis that their remuneration packages were based on having 100 per cent of these health care costs shouldered by the Government and therefore, unless the Government looks at increasing

wages to compensate for these cost-sharing, then the civil servants have, on no uncertain terms, outright refused the cost-sharing initiative, as it relates to post-retirement health care liability? Is that correct, sir?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, yes, it is correct with respect to what the honourable Member has said on the memo from the Civil Service Association. That is the correct position.

Mr. Chairman, in respect of the earlier part of the Member's question as to whether we are any further ahead now than we were a few years ago, I think the answer to that would be partially further ahead. Partially, because the matter is now in the public domain and it is fairly well known. We have had the health care valuation reports tabled in the Legislative Assembly, so it is partly ahead in the sense that it is an open issue and is well known. It has stalled to the extent of not getting it and so, it is recognised within the Notes to the Government's Financial Statements as to what the liability number is. So, it is there; it is simply not on the face of the balance sheet and the aspects that very little or no progress has been made on, would be having it placed squarely on the face of the balance sheet and perhaps, even more importantly, little or no progress has been made as to how we actually tackle it.

So, you can recognise it, and it sits on your balance sheet, and it could actually grow from year to year but how you actually tackle it in terms of getting it reduced, frankly and honestly, there has been no progress made on that. No concrete, substantial, progress, apart from a thought about applying cost-sharing arrangements to civil servants joining government after a certain date. And to be fair and honest and open, applying health care cost-sharing arrangements to future civil servants is not going to do very much to the \$1.4 billion, \$1.5 billion, \$1.6 billion, or \$1.7 billion liability figure.

Mr. Austin O. Harris, Jr.: Thank you. And, Mr. Chairman, through you, I thank you for the latter part of your comment, because it leads to what my question would be.

If the civil service have stated and agreed that the cost-sharing would not apply to existing civil servant members, but only those who are hired after any such date that that decision is taken, as you quite rightly stated just moments ago, the incoming staff will not be such that they would even begin to make a dent in the costs or liability associated with the \$ 1.7 or \$ 1.4 billion dollar liability.

Also, I do not suspect any time soon the Government to engage in a hiring spree because it is as a result of that prudent financial management and the reduction in head count and personnel costs, that we

see some of the positive numbers represented in the year ending financial reports of 30th June 2016. So, the existing civil service have no solution for cost-sharing. They agree that it may be acceptable for any new civil servants coming on board, but we also acknowledge those new civil servants coming on board will not make a dent in reducing the post health care liability, so frankly, it is not a solution at all. I will ask you, however, your opinion in terms of other viable solutions.

Would you agree that, in the absence of some other solution coming to the fore, that we have two options: either as a country and as a government, we produce greater surplus budgets, save more—whether it be to the tune of \$120 million a year to establish a fund specifically to cover the fund associated with that health-care liability, or, we lower the future health care costs to this country? Would those be the two viable solutions as we sit here today, as being the most realistic?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman, and to the honourable Member, thanks as well.

Mr. Chairman, I just want to say, before I get around to giving my opinion, and to make it clear—and perhaps it may sound like a bit of backtracking, but it really is not—that what I would say in sort of defence for the Government, would be to say that we are obviously talking about huge numbers, \$1 billion plus in health care costs in the future; the potential for that to arise. I do not want the public to be left with the impression that this is a crisis.

We are talking about the future, I am not in any way underestimating the significance of it, but we obviously have gone through many years of trying and testing situations where civil servants and their dependants have worked and retired and are now benefitting from health care service being provided to them and their families after they have reached retirement age without any hiccups in that process and without any crisis happening and without retired civil servants being told, *I am sorry that I cannot give you the health care coverage that you have worked many years for*. So, I wanted just to say that, although the idea is important and it is significant, the Government has cared for retired civil servants and their families all along without this becoming a national crisis.

Mr. Chairman, in respect of the opinions that the honourable Member just asked about, definitely it is the case, Mr. Chairman, that increasing surpluses and putting more monies aside is a solution; there is no doubt about that. Increasing surpluses could actually involve revenue increases, which in turn, would either, come from economic growth and leave existing rates and fees as is, or increasing rates and revenues and fee charges to the public which, I think, the Government or any government would try its very level

best to avoid. And so, surplus increasing with economic growth is the better option. Setting aside amounts annually to meet that liability in the future is great. And, Mr. Chairman, bear in mind too, that it is perhaps a kind of an academic exercise because, ultimately, what we are saying is that if you were to put the liability number on the balance sheet today, it would be \$1.4, \$1.5 billion; there is no corresponding asset against which to attack that number.

What we all have in mind is that we are worried about that situation and the optics of it. What we would like to see is an asset accumulating which can mitigate against the liability, and, ultimately, we want the two to net to zero. But, so that the act of, you know, accumulating an asset to offset the liability, it is possible to argue to some extent that that is an academic exercise because the real significant situation happening is that retired civil servants are being cared for. That is important.

So, even though you have a huge liability number now, there is no adverse impact of that affecting persons being able to be cared for. And the real likely situation would be that, in future years, the health care costs of people living longer, et cetera, government's budget is likely to show increasing health costs of providing for existing civil servants at the time, and civil servants who have gone on to retirement. So, the absolute number for health care costs in 15 years' time in an annual budget is likely to be significantly higher than that absolute number currently now in 2018. So, that is a real prospect of occurring.

The Chairman: Right now, civil servant retirees are taken care of through allocation for cost, which is managed by CINICO, right?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Correct, Mr. Chairman.

The Chairman: And similarly, for active civil servants working. Has any consideration been given to getting CINICO to quote a premium to the civil service, which covers the retirees and the healthy people? Because either of the two scenarios that you dealt with earlier, of saving and putting money aside and the likelihood, or almost a guarantee, that health care cost is going to increase, all we need is one or two bad years, and we are in serious financial problems for the Government. But if the Government addressed this under the mandated Health Insurance Law and purchased health insurance for civil servants and retirees as a group, where the retirees got the benefit and the premium of the younger and healthier civil servants, that has to be a more sustainable solution and that would, in fact, wipe out the liability overnight. If you are then providing insurance coverage from today forward, the

liability is gone, because the insurance company has it then.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, before I address your suggestion, I just like to say in respect of Member Harris's other request on opinions, another possibility would be a national health insurance scheme—

The Chairman: That is what we were talking about.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: —introduced in the Cayman Islands. So, that is another possibility, in addition to the surplus and so forth that he spoke about earlier.

Mr. Chairman, I hope this is an answer to your question, to say that the premium rates that CINICO presently charges to the Government, are based on age bands, so, an individual of 25 years as a civil servant—unfortunately I do not have those rates with me—would attract a monthly premium rate of X dollars and someone who is 70, would attract a higher premium rate, which the Government pays to CINICO.

The Chairman: But I would offer that that is self-defeating. That defeats the whole purpose of health insurance and spreading the risk, because if you are valuing the risk of a 19-year old and you are only charging a premium based on that risk, obviously the risk on someone 59 [years of age] is going to be substantially greater, and therefore, if you value his premium for that age, that is going to be substantially higher. The whole idea of health insurance, and particularly group health insurance, is that you actuarially calculate a premium that covers all of the bands, and it is accepted that the younger ones are paying a little more to help to look after the seniors because the younger ones, one thing they are guaranteed you know, they are going to get old too, right? So, you are in fact paying forward for your own coverage when you become that age. It just does not make any sense for Government to be paying an Insurance company based on age bands.

Mr. Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, this is unusual but if I could ask a question for clarification: Is it being suggested then that we should have one premium rate for everyone?

The Chairman: I have been suggesting that to Government from . . . well, I created the legislation in 1992, that would have done that, and I have been suggesting it since I came back in here in 2009, every year. Government should be insuring the civil service with CINICO on a premium that covers everybody; in

fact, I would even suggest putting in the indigents because of the numerical difference in the number of indigents versus the number of healthy people. The adjustment for Government might be positive, in terms of what you are paying to CINICO because CINICO, as a health insurance provider, has the ability the Government does not have, to reinsure for catastrophic illness in the open market place. And right now, Government is not getting any of those benefits by allowing CINICO to price their insurance premium in age bands. If you are collecting at the top, and that is the only one that you are going to have any interest in laying off on the reinsurance market, the premium is going to be extremely high.

Mr. Christopher S. Saunders: Sorry, Mr. Chairman—

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman if I—

Mr. Christopher S. Saunders: Sorry, Mr. Jefferson.

We are looking at the Government's accounts in terms of the lack of sign-off or the adverse opinion from the Auditor General. The reality of it is that this is an accounting issue, and I think we have gone a little bit far off on the other reasons because we could be here all day speaking about health care.

The reality of the situation is simply this: As the Financial Secretary have said, there is no underlying asset. My issue is that we somehow forget that government also owns a hospital. So, at the end of the day the true cost to government would be the incremental cost or the additional cost of carrying the people in the future. So, that, in, itself, must account for something and that is not one of the things we need to look at.

If I have a garage, and I say to my employees that I am going to give them free mechanical service after they leave, at the end of the day I still have the fixed costs of paying mechanics. From that standpoint, the true cost would be if I have to go and buy or hire an additional mechanic just to service the people who worked for me and have left. So, from that standpoint, \$1.7 billion dollars, the number is just going to keep growing.

Now, the issue is that with the Government now extending the retirement age from 60 to 65, it means that the post health care cost should actually go down and the current cost should stay up. And if Government more moves to a voluntary and not make a mandatory retirement age, where people are now living longer, because I refuse to believe that if someone should stop working at 65 when they are living to 82, there is no way anyone is going to save up enough money within the civil service. Let us be honest, to live on a pension for 17 years post, what it is when you consider what the average salary is, this in

itself, is a whole different exercise that we need to undertake in terms of looking at this.

I would say this much: in terms of expanding the old CINICO issue, we have already determined in this House, during the last budget session, that the civil servants are actually subsidising the retired people from the civil service who now have CINICO. So, from that standpoint, to put everything squarely on the civil servants, I think it is a little bit unfair.

Now, just to bring it back to why we are here today, it is concerning the issues as to why the Auditor General has issued opinion that she has anything. We are kind of going a little bit too far off with the whole health care issue, so I just want to bring it back because my issue is more under evaluation and one thing that jumped out to me . . . and sorry, this is where I am getting to my question concerning the roads and the valuation of roads for \$128 million; that I am more concerned about, in the sense of we have gone through, we have spent all of this money on roads and now we are trying to value and those are the things. I do not want to belabour the old health care issue, because that is a separate debate that has to be done in a different arena, so I just want to kind of bring it back before we get too far out.

The Chairman: Okay, well.

Did you have a follow-up on the health care?

Mr. Austin O. Harris, Jr.: Well, yes, sir. Thank you, Mr. Chairman.

Speaking on the need to secure stronger Government surpluses, Mr. Jefferson, whilst, again, the previous administration must be applauded for their performance during the past four years, the financial statements, however, for 2014/15, 2015/16, suggest that we may be arriving at a point of diminished returns, in the sense that it is getting harder, annually, to secure surpluses. This is evidenced in 2015, as reported by the Auditor General, with reported losses to statutory authorities and government-owned companies of 46 per cent in 2015 and a further 50 per cent in 2016, or half, reported losses in 2016.

Also, according to the Auditor General, these losses impact the cumulative annual surplus and are a result of the cumulative expenses growing at a more rapid pace than the cumulative revenues. To counter this, the Auditor General recommended that the SAGCs establish more robust audit and risk management committees, which they have done, however, the Auditor General noted a deficiency or an absence in core government in establishing the same mechanisms that oversee the progress of ministries and portfolios in terms of what is being done to manage risk. Basically, we are taking the SAGCs word rather than trusting but verifying. I wonder if the honourable Financial Secretary, through you, Mr. Chairman, can tell us what is being done to address this deficiency within core government to improve risk

management and the internal control frameworks, in order to establish and safeguard public assets.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman, and thank member Harris for his question. It is absolutely correct, what the Member has said in terms of the Auditing Risk Committee not being established as of right now, in central government. I did speak to the Honourable Deputy Governor via e-mail yesterday evening and this is a matter that has been put to his office and he, in turn, has been liaising with Her Excellency the Governor. The feedback that I have received is that we should be in a position to have the Risk and Audit Committee established by the end of next month, March 2018.

I think it is perhaps one of the accomplishments that Her Excellency will make before she leaves office very soon next week, to actually have the committee up and running. I know that the last task was to actually get a person to chair the committee and efforts were being made to find that chairman from retired accountants, but I was told that the committee itself was going to be established no later than the 31st of March, 2018.

I would also make the point, Mr. Chairman, that this Committee, itself, has obviously applied the right amount of pressure, with the help of the Audit Office, to seeking improvements within the civil service and the wider public sector. So, I hope that answers the Member's question; that the committee will be established by 31st March.

Mr. Austin O. Harris, Jr.: Thank you.

Mr. Chairman. If I may take us back to, I believe your question, sir, as it related to the Public Service Pension Fund. The 2014 Actuarial Valuation, which was finalised in 2015, approved by Cabinet in June 2016 and Tabled in the Legislative Assembly, determined that a continuation of the current level of contributions to the Defined Contribution Plan which represents 12 per cent of salaries, is projected to result in the depletion of the Defined Benefit Allocated Fund by 2024.

The Actuary also found that the Parliamentary Plan is also severely underfunded with current assets only covering 41 per cent of past service obligations. Now, whilst I acknowledge that the Public Service Pension Fund is somewhat notably different than the Post Health Care Liability, you did state on the latter point that we are not in crisis mode and do not want to give the public the wrong impression. Well, when we look at the Pension Fund, once upon a time, 2024 may have seemed like a long way away, however today, it is a mere six years away. I wonder if the Financial Secretary, through you, Mr. Chairman, can tell this Committee what plans, if any, are under-

way to address this funding deficit as it relates to the Public Service Pension Fund.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman, and I thank the member for that question.

The question of pensions, I think perhaps is a little confusing to the public, in the sense that there is obviously a pension expense number which appears in our budget, but there is also a funding valuation that takes place every three years. Funding valuation meaning the amount of cash that the Government will pay over to the pension fund in respect of pensions and the two can actually be different.

The previous funding valuation was in respect of the date, 1st January, 2014. The Pensions Law require that those valuations be done every three years, so there is now a valuation for 1st January, 2017, which will recommend contribution rates that the Government has to pay over in respect of pensions to the Pension Board. I think the answer to the honourable Member's question is that the depletion by 2024 was on the basis of Pension Contribution rates existing at a certain point. If those contribution rates were to continue in the future, the Defined Benefit aspect of the Public Service Pension Fund could possibly be depleted by 2024.

The purpose of the tri-annual (every three year) valuation is to look at those contribution rates to make sure that the contribution rates payable by the Government to the Pension Fund do not cause a depletion to take place. I have said a lot, but I will conclude by saying that the 1st of January 2017 valuation, which has been done, and is to be presented to Caucus and Cabinet very shortly, that pension contribution rate does represent an increase on the cash contribution pay over rate that was previously the case. So, it is an ongoing situation to say that we do need to update our pension contribution rate in order that the depletion does not take place. That is my best answer, Mr. Chairman.

The Chairman: I keep asking this question and for some reason I cannot seem to get an answer: Can you tell us what percentage of the current civil service is on Defined Contribution versus Defined Benefits Plan?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, in very approximate terms, (and I can get precise information very quickly), the vast majority of civil servants are now on Defined Contribution Pension Plans. The percentage would have to be of the magnitude of 80-plus per cent that are on Defined Contribution. The Defined Benefit, which is the more generous Pension plan relatively, in

my example, 20 per cent which is relatively small and closed off, obviously, from the year 2000, so that the number of people actually, can't increase. So, it is of the magnitude of 80-plus per cent of civil servants that are on Defined Contribution Plans.

The Chairman: Right. And, in the Government's Defined Contribution Plan, the basis of such a plan is that it is normally not defined, the benefit that you will get, and it is not a life-time benefit? It is only a benefit that is payable based on what your pay-out rate is, until the money is done?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Correct, Mr. Chairman.

The Chairman: And, in theory, under the Defined Contribution Section of the Government Pension Scheme, there is no liability to Government.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Again, correct, Sir.

The Chairman: Okay. What amount is the 12 per cent contribution now, buying in a pension? Is it annually or monthly for a civil servant?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, I am very sorry, I will have to undertake to provide that information to you.

The Chairman: Okay, because the Defined Benefit Contribution purchases a particular benefit—

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Correct.

The Chairman: —which is based on the number of years that you serve with a maximum of two-thirds salary, irrespective of how many years you've served? I think you max out at about 30 years, based on the contribution percentage that you pay.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Under Defined Benefit Scheme, a retired civil servant can get a pension that is equal to two-thirds of their salary; but to get those two-thirds, maximum, you have to serve a number of years.

The Chairman: I think it is 33 years.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thirty-three and a third years is the number

that persons are most familiar with, but that 33 and a third years is linked to joining the civil service at a particular date; I think that might be around 1980. And so, if you joined the civil service prior to 1980 and you worked 33 and a third years, at the point of which you retired, you then are able to earn a pension equal to two-thirds of your salary. If you join the civil service after 1980, the period that you have to work to get the two-third, maximum is 40 years. So, someone like myself and Mr. Tibbetts, would—

The Chairman: Which is normal?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: —would have to work forty years.

The Chairman: Yeah. Normally, in the Defined Benefits, your contribution rate should earn you 1720th of your salary for each contribution that you made. Based on working 40 years out of a 60 year life span, you would then get two-thirds of your salary.

The private sector legislation on Defined Contribution Plans which mandates \$1,000 dollars a month (\$12,000 a year), does not apply to the Government Contribution Scheme?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: No, Mr. Chairman.

The Chairman: Is there any legislation that sets that amount for Government in a Defined Contribution Scheme?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Not to my knowledge, Mr. Chairman. As you said earlier, under the Defined in the public sector setting, the Defined Contribution Plans specify that a recipient receives a pension on the basis of pension contributions made on their behalf from themselves and from their employer, essentially until that pot is finished.

The pension legislation does actually specify minimum though; it does actually specify minimum monthly pensions. So, in terms of raw calculations and maths, it could be that a person would ordinarily receive a Defined Contribution Pension of \$250 dollars per month, but the law then specifies certain minimum levels and I cannot recall what those minimum levels are. So, there are minimum monthly pension amounts specified in our pension legislation for the Defined—

The Chairman: Right. So, in that case, when the minimums are higher than that which would be normally calculated, how is that funded? Is it the same money that is used which the person has? Does it just use it

up faster, or, does Government somehow make a contribution to make up the difference?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: I believe there are ex gratia payments made by the Government to the Pension Fund to essentially cover the element that you are speaking of, Mr. Chairman.

The Chairman: Mr. Saunders.

Mr. Christopher S. Saunders: Yes, thank you, Mr. Chairman.

Just through you, sir, I think for reference of the public, that the Government pretty much has, I think, under the Defined Benefits there is a Parliamentary Plan, there is a Judicial Plan and there is the Civil Service Plan.

The Chairman: [INAUDIBLE]

Mr. Christopher S. Saunders: Yeah. No, no, no, no. No, no. I am talking that they operate . . . that they have.

The Chairman: [INAUDIBLE]

Mr. Christopher S. Saunders: No, no, no, but the Plans that the Government has, because, if memory serves me right, I think the last Contribution Rate was 16.3 per cent for the general civil service, 30 per cent for Judicial and 58.2 per cent for the parliamentary plan that they operate. Now, I remember looking into those because at that point, the main issue was that the underlying assets were not performing as they should have; thus the reason why the percentage increased.

My question to the Financial Secretary is this: Of the Defined Contribution amounts, is the Government up to date in those payments, in terms of, is the Government up to date in its Defined Contribution payments that they should be making?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman.

Mr. Chairman, the answer to that would be yes, but what I would clarify slightly to say is that there is a 1st of January, 2017 valuation which recommends contribution rates being paid over to the Pension Fund that are different to what was in the 1st January, 2014 valuation and so, I know that the contribution level will increase very shortly from the Government to the Pension Board. And the Member is correct, there are three plans: the Judicial Plan, the Parliamentarian Plan, and the main Public Service Pension Plan.

The Chairman: Are all the statutory authorities and government-owned companies, members of the Government Pension Plan, or are some of those involved in private sector arrangements?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chair. They are not all members of the Public Service Pension Plan; not all of them. I would say a majority of them are. If the Committee is interested, I could get that list.

The Chairman: Mr. Saunders, do you have any more questions on pensions?

Mr. Christopher S. Saunders: My concern with the Pension (and this is a just general statement) is that if you look at the average civil servant salary, which is, say, around \$3,000, and if we look at someone working for forty years, we are looking at someone making just under \$1.5 million dollars or thereabouts. And if we look at 12 per cent of that amount, we are looking at maybe \$175,000 dollars and granted, we may have . . . I guess it depends on how the assets are performing, and this has been the big issue because in most cases, right now the markets are not doing what they are supposed to be doing; so, we are talking about a person, on average, maybe looking at \$200,000 to \$250,000 dollars when they go to retire after 40 years of working, considering what the average is.

When considering what their life-span is now, the big question is this: Who is going to recognise that there is a serious short fall when it comes down to people living longer and what it is that they are setting aside? And, I think one of the things that the Government needs to really start looking at is in terms of moving away from this set kind of retirement date and making something more voluntary now.

I understand the limitations of this Committee is that we look more at what it is the Government should be doing, as opposed to whatever, and not to get the policy. But, at this standpoint, I think, for the public and for the civil servants at large, this is a conversation we need to have where we recognise that if we have civil servants after 40 years going out with \$250,000 dollars and they are living 17, 18, 20 years past retirement, the reality of it is that \$250,000 dollars is not going to go very far. And, I think, ultimately, for us in this Chamber, this is one of the issues that we will definitely have to tackle. So, I just want to put that out there, because I do not want it to seem as if everything is honky dory, when in fact, it is still a bigger issue, especially moving to the Defined Contributions.

The Chairman: I think that one of the most unfortunate things that happened to the Civil Service was that the Private Sector convinced them to shift from Defined Benefits to Defined Contributions. But that is

behind us now; that is history, we will have to live with it.

Can I take it down the Auditor's General Report then, Mr. Jefferson?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Yes, Sir.

The Chairman: The Auditor General expressed some concern about the exclusion of the Public Service Pension Board. How are you addressing that? Is it going to be incorporated in the 2016/17 accounts?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. I will try not to be too long in my explanation but I do want to give the Committee a perspective. Just before the meeting started this morning we did have a chat with the Audit Office to clarify exactly what they meant by their concerns.

As we just heard, we have three Pension Plans and the assets sit under the ownership of those Pension Plans. And just to put it into perspective, as of the end of December 2017, the value of those investments, and, of course, it is based on market value so, they will change, but the value of those investments in the three plans was in the region of US\$823,000 million. So, the Audit Office is correct in that the assets are substantial and would have a substantial effect on the Government's Balance Sheet if they were included. The Minister of Finance has taken a slightly different view and said that they should not be included because they do not really belong to the Government; they belong to retirees and they belong to civil servants, et cetera.

The conclusion of our discussion this morning was that we would need to pass legislation to make it abundantly clear that those assets belong to retirees and to active participants and do not belong to the Government.

Mr. Chairman and Members, we in the Ministry of Finance did make an attempt to get there by making a change in the Public Management and Finance Law (PMFL). I think it was in April, 2017, where it was said that the financial statements of the Pension Board, which is the Management of the three Funds, "... the Financial Statements of the Pension Board shall not include the Financial Statements of the three Plans." [UNVERIFIED QUOTE] So, we were trying to get away and put some separation there. But the answer to your question is: we would need to make a change to the legislation and probably the best place to do it would be the pensions legislation to make that distinction as to say, categorically, who actually owns the fundamental, significant, underlying assets.

Mr. Chairman, that would obviously only be possible for the 2018 Financial Statements and not

the 2016/17 Financial Statements that are now being prepared. We would not have sufficient time to pass that legislation to make that impact on the 2016/17 financials but it can be done for the 2018 financial statements.

The Chairman: Okay.

Next would be the inaccuracies in the opening balances and the adjustments. We know the history of that but, are we getting closer to having something because this obviously goes back to the years that we did not have accounts, as such, and the government of the day passed a law that we did not need accounts for certain years? Do you remember?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. Yes, you are correct, Mr. Chairman, that the Public Management Finance Law was changed many years ago to say that financial statements only for the years ended 30th June 2009 onwards, required auditing and years prior to that did not require it because at that point it was sort of too old and would lose their value.

Mr. Chairman, not telling tales, but one of the most significant outstanding audits involves the Ministry of Education. So, their audit for the year ended June 2014 has not been completed and the year 2015 and 2016 has not been completed, and obviously, with that agency having schools, et cetera, the amount of assets within that entity's financial statements would be significant and would have a significant impact on the entire public sector's financial statements.

Mr. Chairman, I can say to the Committee that only, I think, it was yesterday, there was an e-mail from the Ministry of Education to the Audit Office saying that the Ministry of Education would be willing to accept whatever audit opinion the Audit Office would render on the June 2014 accounts, and so, I think that particular Ministry for June 2014, the conclusion of that audit, will happen hopefully this month, early in March, but could possibly happen this month. That would be a step forward because, that one in particular, is significant. We do keep (and this one has been long coming) pushing the issue. And I will say that also, sir, that with the Minister of Finance, we have bi-weekly meetings with him in the Ministry of Finance and we present a table to him showing the status of audits and which ones are outstanding and he has been putting the appropriate amount of pressure on us to get the audits finalised, to get agencies who have any disagreements with the Audit Office to come to a conclusion and move on because, these are years old now.

The Chairman: I am happy to hear that 2014 is likely to be done but what about 2015/16? Has the Minister of Finance placed any deadline on the Minister of Ed-

ucation to get those accounts in some kind of order to be submitted and audited?

Ms. Sue Winspear, Auditor General: Mr. Chairman, through you: It is probably better for me to answer that than the Financial Secretary, given that I have gotten responsibility for the audit.

The issue is we have been trying to clear the remaining entity audits before we get into the two-month period in March and April, when statutorily we have to do the 43 entities that have their Financial Statements for the 18-month period of 2016/17.

Just to update you, we are virtually there and have as good as signed off on the Cabinet Office. We expect to be able to sign off on the Ministry of Home Affairs of the Health side of the Ministry that was outstanding for 2015/16 and we are almost there with a couple of other entities. As the Financial Secretary said, the entity with the three year outstanding position is the Ministry of Education, and it does feel that we are moving on there and once we have done 2013/14, I hope the following two years will go a lot more quickly.

Unfortunately, we will have to prioritise the 2016/17 audits during March and April, so we will not be able to get back to them until May, but I do feel very confident that by the end of 2018 we will have caught up on the backlog subjects there being no issues that we cannot resolve with clients. We have moved a huge amount in the 18-month period to virtually eliminate the backlog and I would recognise the support we have been given by the Financial Secretary and the Accountant General in achieving that.

The Chairman: Is there any rational explanation for the huge delays? Is it in any way related to the Education Portfolio moving around Ministries every election and the double accounting that would occur there? In other words, would Education moving in May last year complicate the progress?

Ms. Sue Winspear, Auditor General: Historically, there have been a number of issues, not least the valuation of assets that have caused problems. To be fair to the Ministry and its staff and my office, there would be different views on why there is a delay and what has caused and contributed to the delay, but I do feel, being positive, we have reached a position where we will be able to issue an opinion.

Obviously, the outstanding ones are a more problematic audit in terms of opinion, in any event. I should say Cabinet Office would be a clean opinion, just to be clear on that, but it is very unlikely that Education will, so, of course, part of the discussions have been trying to give the client an opportunity to provide evidence so that we can remove qualification points, but I think we have exhausted those avenues now. But things will improve and, as we move through the latter two years for Education, I hope we will get to a

better position in terms of qualification but it is almost certainly going to be a heavily qualified account.

The Chairman: Okay. And are the other depreciation and amortising expense and accuracies also related to the delay in the Education Ministry?

Ms. Sue Winspear, Auditor General: Yes, it is very much related to the fact that there is not consistent valuation across all of the PPNA. Although the Accountant General, I must say, have done a fantastic job in getting a consistent valuation across many entities. We still have got some SAGCs that are on a different basis and obviously as you quite rightly mentioned, while we have not gotten everything up to date and consolidated, that creates other issues too.

The Chairman: But the Public Authorities Law should now give the Minister of Finance and other Ministries the authority to insist that they fall in line with statutory authorities and use similar systems so it will allow for the . . .

The question is: Does the Public Authorities Law give you or somebody now, the authority to insist that these statutory authorities and government-owned companies comply with Government's standards and follow similar processes?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, I am not 100 percent certain of that. What I can say is that the Public Management and Finance Law itself, when it was last amended in April 2017, one of the changes made then, was to specify that the Financial Secretary shall be the overall leader of financial management and reporting functions. So, we will use that lever and I don't think that we will have a huge amount of resistance—at least I certainly do not hope so—in making suggestions as to what needs to occur.

And the valuation basis, Mr. Chairman, also will appear in the Public Finance Manual, which the Treasury is issuing.

The Chairman: But the lines of communication for that are clearly laid out in the Public Authorities Law, where you are dealing with the Chairman of the Board and the Board has to set the standards for the Executive to carry out—right?

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Correct, Mr. Chairman.

Mr. Christopher S. Saunders: Sorry, Mr. Chairman, just looking back at the reason for the adverse opinion, where it says, "Incomplete, insufficient valuation; inconsistent accounting policies and poor control over property plant and equipment" [UNVERIFIED

QUOTE], I notice the SAGCs are one entity also highlighted. Is it just one SAGC or are there several SAGCs? And I would like, for clarification, which one of the SAGCs are having those problems.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. Mr. Chairman, I do know, in answer to the honourable Member, that there are more. There are more than just one SAGC (Statutory Authority and Government Company, for the benefit of the public) that has not valued their assets on a revalued basis and have stuck with the historical cost, the basis of valuing assets.

Mr. Chairman, if I could ask the assistance of the Audit Office, there is a specific paragraph within the Appendix of the report that actually details out which particular Statutory Authorities would fall into this category.

Ms. Winspear, Auditor General: It is paragraph 155 on page 60, I believe.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you. It is eight, Mr. Chairman.

Ms. Sue Winspear, Auditor General: Yes, eight entities.

Mr. Christopher S. Saunders: Sorry. Sorry, I have a different report that I was looking at. I was actually going through the old financial statements. Sorry. I can take a look at that separately.

I noticed also that one of the reasons for the adverse opinion was actually on the revenue side of incomplete revenues. Is it possible that maybe the Audit Office can probably give us more of a better background in terms of what those issues were with regards to the incomplete revenues for the benefit of the listening public?

Ms. Sue Winspear, Auditor General: Thank you, honourable Member.

Through you, Mr. Chairman: It was particularly on the coercive revenue side so, within the entire public sector, you have all of the coercive revenue, which is revenue that has no sort of direct service attached to it, which the Government of state has the opportunity to levy. That falls under direct Ministerial responsibility and it is kept set outside of the individual Ministries that we audit.

The only place at which we look at the Executive level income is actually through the entire Public Sector accounts and, again, the Financial Secretary might wish to say more but, management cannot attest to the controls around that coercive revenue to assure us of its completeness and, of course, we know that there are system improvements going on, in

Customs, for example, at the moment, to try and address some of those issues.

We have, through our previous audit report in 2015, looked at the collection of government revenues but until we get proper systematic controls on the coercive, taxable, revenue of government, that qualification will remain. In addition, we do have issues where some individual entities have got revenue completeness issues and indeed, tomorrow, the three sessions where you will be talking to the Museum, the Gallery and CNCF [Cayman National Cultural Foundation], there are issues around revenue completeness there. And, of course, the most significant one, which is material at the APS level is the Health Services Authorities and the problems they have got with their revenue collection, which this Committee has sort of heard sessions on many a time.

Mr. Christopher S. Saunders: Thank you for that clarification.

Just going back to my previous question—the directed page shows the entities included for the consolidated financial statements. What I am looking for is basically which ones of the SAGCs was a culprit. So, I know the HSA was one of them. Were there others that, in terms of the revaluation exercise also the cause of the adverse opinion, aside from the HSA?

Ms. Sue Winspear, Auditor General: Sorry. Sorry, through you, Mr. Chairman. I missed that. Are you still talking about revenue or something?

[Inaudible interjection]

Ms. Sue Winspear, Auditor General: The revaluation?

Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development: Mr. Chair, if I may. There are five Statutory and Government Companies that actually stuck with what is called “the cost valuation method” versus the “fair value” and those are:

- The Civil Aviation Authority
- The CNCF [Cayman National Cultural Foundation]
- The Turtle Farm
- The National Gallery and
- The Water Authority

So, we conducted a service-wide evaluation but some have chosen to stick with the costing method, and this year we are ensuring that everyone moves to what is called the “fair value” method of valuation.

Mr Christopher S. Saunders: Okay. Thank you very much for that. Just for my own edification now, be-

cause, two weeks or thereabouts we were here and some of those entities got clean audit opinions, so I am trying to figure out then, if they were clean audit opinions on the individual level, why then is there an issue at the Entire Public Sector level?

Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development: Thank you for that question.

Either of us can answer this but I am familiar with it so that is why I was thinking I could just answer it. So, at an individual level obviously, they would not have an issue because individually they were not told they had to do it this way and they are allowed to do either method—cost or fair value. However, when we consolidate it, it creates an inconsistency across the board, so audit then qualifies the consolidated accounts because some are valuing on fair value and some are valuing based on cost. So the inconsistency is where the qualification comes from.

Mr. Christopher S. Saunders: And I am assuming you guys are going to fix it because, ultimately, what we are looking for is how we can get a clean audit opinion for the Government. Now, in the past I was under the impression that it was more the pension and the health care issue that—

Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development: The major ones.

Mr. Christopher S. Saunders: —the primary drive was behind but now, when I am seeing these other issues, and especially when looking at coercive revenues, I can tell you taking, for example, charitable organisations, I do not think there is probably any charitable organisation in Cayman that has a clean audit opinion because everyone basically gives that qualified based on the revenue issue. If that is the case, on the Government side, at some point, materiality has to kick in wherever the coercive revenue is or the amount is; it has got to be immaterial to at least give a clean audit. But, what we do not want is to say that we have structural issues that will forever prevent us getting a clean audit. So, the main thing is like, what is it that we ultimately need to ensure that is fixed, that within the next two, three years we can say the Government now has a complete clean audit?

Mr. Matthew Tibbetts, Accountant General, Ministry of Finance and Economic Development: There are a number of things that we need to address still. We started out by working on the fixed assets and the real property, including the road network as well.

We did not get 100 percent in the first year, which is why we still have some issues identified here, where we could have had authorities. We should have maybe given specific direction to say you need to

have fair value method of valuation, so, it is a work in progress for sure. But in regards to the coercive revenue, particularly; we have a situation in Government where the entire Public Sector Reporting Unit is consolidating accounts.

Realistically, the job of the EPS Unit is to consolidate accounts, not so much focused on developing a framework and so on, and that is something the Ministry of Finance needs to work on, maybe in regards to a framework overall. But we have a situation where each Ministry is collecting coercive revenue individually, but the audit is actually conducted at the entity level, so there are two different layers in each Ministry. We have an executive level, which is the overall Ministry finances and then we have the entity level which is the responsibility of the chief officer for the operations of the Ministry. Audits are currently conducted at the entity level, which means we can get a clean opinion on the entity level. Now, that does not mean that their coercive revenue they collect is inaccurate, incomplete or so on. So, we have a situation where a Ministry is getting a clean opinion but only for a portion of their books essentially, which is considered the entity level.

So, this is something we are looking to address this is where we have considered a few different options in the past. One of them was potentially merging executive/entity books together, so they would actually be responsible for the entire Ministry's books. Something we are considering now, which would be a quicker change and would probably be a more appropriate change, would be considering whether we should be auditing at the executive level, because that would then include both the entity and the executive. Now, we do not want a situation, obviously, where everyone is getting a clean opinion now and because we change where we are auditing, everyone then gets a poor opinion or a qualified opinion, adverse or disclaimer, even.

We want to ensure that we work with CFOs [Chief Financial Officers] in the current year, to try to get their executive books to a position where they will end up with a clean opinion as well in the overall Ministry books and not just for the entity level. I would rather a situation where, when we transition to auditing at a different point, they remain at the clean opinion or unqualified opinion, so that we do not have a situation where it appears to the public that we are going backwards in having clean opinions previously and then we have qualified accounts. So it is something we are trying to manage and work with CFOs to ensure that we actually get to that point where they can get clean opinions on the entire Ministry accounts.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Yes, Mr. Chairman, if I can take a few seconds to elaborate, because I think it may be a little confusing and not clear. When you and the Deputy

Governor were handing out acknowledgements of clean opinions, et cetera, I just want to spend a few seconds on that. The individual Ministries, Portfolios, Offices accounts on which opinions are rendered and which they receive the certificates for, when looking at their financial statements on which the audit opinions are issued and the expenses there on which the audit opinions are issued, the revenues there relate to the relationship between the Ministry, Portfolio, Office and Cabinet.

So, the Ministry of Health will show revenue received from the Cabinet for the production of outputs. If you move to the Ministry of Education which now includes lands and you look at their entity financial statements, their revenue line is going to be dominated by revenue that they get from the Cabinet for producing outputs that the Cabinet wants. In that example you will not find Stamp Duty as part of the Ministry of Lands Revenue. These termed coercive revenues do not appear within the individual entities' financial statements; it is the relationship between them and the Cabinet. So, in the case of Finance, we will not find customs import duties within the Ministry of Finance's accounts. What chief financial officers and chief officers focus on is to get an unqualified clean opinion on their own individual entity and the coercive revenue aspect is not recorded in those individual financial statements. They are not in there and to be blunt, sir, to the Committee, we in Finance do not believe that the same level of care for accounting for executive transactions exist as the same level of care for the entity transactions, because the individual Ministries want to get a clean opinion on their entity financials.

One of the thought processes that we have is to say, for example, *Ministry of Lands, you shall be made responsible for coercive revenue in the form of stamp duty. Ministry of Finance, you shall be made responsible for coercive revenue in the form of import duties* and then, also, require an opinion to be rendered on whether those executive transactions coercive revenues are valid. And we believe that because that is likely to be problematic, the individual CFO in all of the different agencies will want to endeavour to improve the level of care in accounting for those transactions to get a clean opinion there too. And, in that process, then, that helps the entire public sector.

The Chairman: Yeah, makes sense.

Mr. Austin O. Harris, Jr.: Mr. Chairman; to the Accountant General, Mr. Ebanks [sic].

[Inaudible interjection]

Mr. Austin O. Harris, Jr.: Mr. Tibbetts—excuse me.

Taking us back to the question relevant to the National Museum and the Auditor General's observance of some concerns regarding the complete-

ness of revenue, which again, I understand, as the question was answered, that it relates to the manner in which those entities operate, particularly to cash donations which may not necessarily subscribe to the standard practices or accepted practices of the entire Public Sector.

The Auditor General also noted the inability to offer an opinion when it related to Property, Plant and Equipment, and maybe I just need an explanation, but as I see Property, Plant and Equipment, these are fixed assets, not cash donations that may somehow operate differently on the revenue side. Perhaps you can explain to this Committee, through you, Mr. Chairman, where the deficiencies lie in evaluating the property and other fixed assets of the National Museum.

Ms. Sue Winspear, Auditor General: Perhaps I could help with that. I think that may be a question better directed at the Museum tomorrow because that is an entity-level issue that the Accountant General would not be involved with. And, obviously, the revenue points I made with regards to the three sessions tomorrow, they are relevant for the qualification on the entity but they are absolutely immaterial for the position on the entire Public Sector because they are so small.

Mr. Austin O. Harris, Jr.: Okay.

The Chairman: Any other questions? If not, Mr. Jefferson, thank you very much, sir, and it was a pleasure to have you as a witness, sir.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. And thanks to the honourable Members of the Committee as well.

The Chairman: We will take a break and come back at eleven for the Court.

Proceedings suspended at 10:50 am

Proceedings resumed at 11:22 am

The Chairman: Good morning again. We will get started after the break and we will be dealing with the Courts and their audit report. In the meantime, I need to swear the two officers in.

ADMINISTRATION OF OATHS OR AFFIRMATIONS

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: I swear by Almighty God that the evidence I shall give to this honourable

Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

Mrs. Lillian Bush, Administrative and Finance Manager, Judicial Administration: I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

JUDICIAL ADMINISTRATION

The Chairman: Good morning, Mrs. Bothwell and Mrs. Tiffany Ebanks.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: It is Miss Bush, who is with the Finance Centre. Mrs. Ebanks is on her way, Mr. Chairman.

The Chairman: Oh, okay.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: We had a little mix-up with the times of the summonses but she is in route, thank you.

The Chairman: No problem. We are a very friendly committee so we will accommodate you.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Thank you.

The Chairman: The way we operate is that when we ask the first question—

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Yes, sir.

The Chairman: —please identify yourself by name and title for the record and the listening public.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Thank you, Sir.

The Chairman: Today, we have some questions and what we normally do is make the Auditor General give a short summary so that we all get into the correct frame of mind about what we want to talk about. So I will invite the Auditor General at this time.

Ms. Sue Winspear, Auditor General: Thank you, Mr. Chairman.

I refer you to Page 64 in our report for the specific detail about the qualification point on Judicial Administration which relates largely to the entity not having a detailed Fixed Asset Register until the year 2015/2016. This meant that a modified audit opinion was given because we could not qualify the completeness, existence, accuracy or valuation of the

Property, Plant and Equipment. During the year ending 30th June, 2016, Judicial Administration moved from its main office in DMS House to Government Administration Building on Elgin Avenue, and with that move, they performed a physical verification exercise of their fixed assets in use and compiled a detailed Fixed Asset Register with the help of an outside company.

We used KPMG to audit this entity for us and Garnet oversees and supervises that audit prior to my sign-off and so Garnet's here with me today. Clearly, we cannot pre-empt the 16/17 Audit, but everything else being equal, we do feel confident that the entity is on the way to a clean opinion. Thank you, Mr. Chairman.

The Chairman: Okay. I guess the first question would be: Have you gotten the matter sorted out with the Fixed Asset Register for your 2016/17 accounts?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Suzanne Bothwell, Court Administrator and Chief Officer.

As a point of order, Mr. Chairman, I just wish to clarify the statement made by Madam Auditor General regarding Judicial Administration's move to Elgin Avenue. Judicial Administration is not on Elgin Avenue; we remain in the centre of town. And I can say that I do know, being a past employee of another entity, that the Portfolio of Legal Affairs moved from DMS House to Elgin Avenue at the Government Administration Building.

I can say, however, sir, that there was a question regarding the completeness of the Asset Register for Judicial Administration, which resulted in the qualified opinion, and steps were taken in 2016 to prepare a completed Asset Register which was completed, I think, around June of 2016, and that Register will be used as a basis for our Asset Register and will certainly be updated annually to identify any changes or additions to the Asset Register itself.

The Chairman: Mr. Saunders.

Mr. Christopher S. Saunders: Good morning; just a quick question, through you, Mr. Chairman: What was the process used to create the Fixed Asset Register?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: I can say that a local firm was retained by the then Chief Financial Officer, who was in post. That person is no longer with the organisation. They prepared a Schedule of Documents identifying all of the furniture, plant, equipment of the organisation and then a separate register of the values; the current-day value of the assets.

Mr. Christopher S. Saunders: Thank you.

I think it will probably be easier if I save this if the CFO is in route because it is more of an accounting question. What I am looking for is the completeness of the Register in term of the process used and I think that would probably best answered by the CFO, so, I will wait until the CFO comes to continue with that question.

The Chairman: You have addressed the surplus position being repaid back to Central Government in compliance with the Public Management and Finance Law?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: The surplus? Sorry.

The Chairman: Yeah.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Oh, the sur—

The Chairman: The observation by the Auditor General is "In accordance with the Public Management and Finance Law, government entities are allowed to retain such part of its net operating surplus as determined by the Minister of Finance. As of June 30th, 2015 the entity accumulated \$927,327 of surplus payable on its Statement of Financial Position. We were not provided with any evidence that the entity was explicitly granted permission to retain these surpluses in accordance with the Law." [UNVERIFIED QUOTE]

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Mr. Chairman, I do not have any indication of the agency retaining surpluses as far as I am aware, but I will have to, perhaps, do a further due diligence. As far as I am aware, Judicial Administration hands over all of its surpluses. However, in order to give you an accurate response, I will perhaps have to do a little bit more due diligence to ensure that there was no express provision by the Minister of Finance to allow Judicial to keep its surpluses. As the current Court Administrator and Chief Officer, I have no indication in the future budgets of us keeping any of our surpluses.

The Chairman: The Management response, the Auditor General says, on October 30th, 2013: "All Ministries, Portfolio, Officers were instructed by the Honourable Minister of Finance to repay to Cabinet the net accumulated surplus up to, and including the year ended 30th June, 2012. Given that the entity had a net accumulated loss at June, 2012, and still maintains one, notwithstanding the surplus of \$214,152 in June 2016, no payment has been made. However, the entity will endeavour to consult with the Minister of Finance as is required." [UNVERIFIED QUOTE]

Has there been any consultation with the Minister of Finance? Have you all received any application from the Court to keep the \$214,152?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Mr. Chairman, our CFO has just arrived; if we could have a few minutes to just discuss with her the issue.

The Chairman: Sure. Sure.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Thank you.

ADMINISTRATION OF OATH OR AFFIRMATION

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: I swear by Almighty God that the evidence I shall give to this Honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, sorry, Sir. We are checking within the Ministry of Finance to see if such a request was made to us. I expect to get that answer fairly soon but, maybe it is possible, Mr. Chairman that Mrs. Ebanks might know.

The Chairman: The question we were asking is that the Auditor General raised the matter of the Courts not having evidenced that they were given permission by the Minister of Finance, in accordance with the Public Management and Finance Law, to retain surpluses at the end of the year and we are just asking if that had been clarified.

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: Tiffany Ebanks, Chief Financial Officer for Judicial Administration. Just to preface by saying that I became the Chief Financial Officer effective February, 2017, and so, I was not involved with the 2015/16 Audits or those prior, however, I have gone over the material and will try my best to answer your questions today.

In regards to the surplus, I am not aware of any written correspondence to the FS (Financial Secretary) as yet, regarding whether Judicial can retain that, however, I do understand that Judicial Administration had been carrying a deficit previously and we will be submitting to the Financial Secretary if they can net that surplus off against the prior deficit.

Mr. Christopher S. Saunders: Mr. Chairman, through you, sir.

One of the earlier questions we had was with regards to the Fixed Asset Register and what I am

looking for is completeness, so I am trying to understand the process that was used in which to complete the Fixed Asset Register.

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: So sorry I am late. My Summons was for one o'clock so...

You are trying to gain some understanding regarding the...

Mr. Christopher S. Saunders: The process used to complete the Fixed Asset Register. How is it set up?

Mrs. Tiffany Ebanks Chief Financial Officer, Judicial Administration: Okay. So, previously, based on my understanding, there was a Fixed Asset Register that was maintained. It was maintained by category with supporting Schedules for additions and disposals relating to each financial year.

In 2016, they undertook a Fixed Asset count which included office equipment, computers, furniture and fittings, et cetera, as well as they then consolidated all of the information they had been carrying for the previous years to put together a comprehensive Fixed Asset Register; and that is what was produced to the Auditors as at 30th June, 2016.

Mr. Christopher S. Saunders: Sorry. What I am trying to get at, because I notice that the Gross Carrying Value of the Fixed Asset is roughly \$2.9 million and... well, before depreciation. I think it is on... Sorry, I am speaking from memory so just bear with me...

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: Mm-hmm.

Mr. Christopher S. Saunders: On Page 16, which is Note 5—Property and Equipment—

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: Mm-hmm.

Mr. Christopher S. Saunders: —if you look on the lower part from 30th June 2016, you will see the actual cost is roughly \$2.889 million which is just under \$2.9 million—

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: Right.

Mr. Christopher S. Saunders: And then there is depreciation. So, what I am trying to figure out or, in particular, what I want to get comfort level on is if you look at the computer, for example, computer hardware and software; when assets are not being tracked, then there is a possibility that things can slip through the cracks and then understanding the sensitivity of the nature of what is done at the Judicial, is that, how comfortable or what comfort level can we have that

just about every single computer, laptop or whatever, was properly accounted for now.

Vehicles are straight forward. I mean, it is hard for someone to go take a car but a computer that may probably have information on it. What I am looking for is that level of completeness so, what I was looking for more, in the answer is that, *You know what, we went back, we looked at all the invoices where we spent XYZ and we made sure that was actually accounted for.*

So, it was more that, of what I was looking for in terms of we spent this and this is there, because these things, I mean, the amount of units is very easy for one to go missing. Yes, it would be immaterial, but I am more interested in the information that may have been on a computer, per se, as opposed to just one computer out of 100 missing, that could still have sensitive information on it.

So, what I am looking for is just a certain amount of comfort level that it just was not a book exercise or a financial exercise to complete it, but rather, areas where confidential information would have existed, would have been given particular priority with regards to making sure every single thing is accounted for.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Suzanne Bothwell, Chief Officer.

With respect to the statements that you just made, sir, each item that has been identified for the Fixed Asset Register, has a code and a label; they went through that process. In addition to that, the Judicial Administration has its own IT Department, separated from Computer Services and those staff members manage the computer equipment, the life of that equipment, and they have their own information on that. If a piece of equipment went missing, I will not say that it is highly unlikely that staff will not notice it is missing because each person in the organisation, most of them have their own station, but most importantly, there is no data that is stored on the computer itself. The way Government data is stored is through servers and so, civil servants are prohibited from storing any data on the card drive of the desktop or the computer itself. You must store your data on the server, which means that a computer can die, it can be switched out and the data is not lost, it is not affected. That data is secured elsewhere.

Certainly, there is a way for us to track the equipment in the plant and, of course, the Government has its own methods by which we are allowed to dispose of equipment. Separately, the Court, in terms of the security, I think the biggest risk of security for the Court is cyber-intrusion, as opposed to theft of the actual physical equipment, but I can say that the Court is heavily under surveillance, interior and exterior, and we do have an alarm system. So, unless a theft occurs outside of working hours or outside when the se-

curity [officers] leave the premises, there should be some indication that there has been some intrusion into the organisation. But we do have mechanisms, I think, through the Asset Register, to identify the equipment and the furniture, et cetera, there.

We are undergoing processes internally; particularly for this budget year, to ensure that we can make this a living document, per se, so that we can continue to identify the assets and if there are additions, and particularly in the future, if there are needs for disposals, how we go about that process. I do not know, sir, if that assists you in any way.

Mr. Christopher S. Saunders: It is a good answer, I will say that much. But when you consider that the one government department charged with security has lost guns, drugs and 1.3 terabytes of information, which is the Police, I think from that standpoint—and I do not think there is any building that would have more secured personnel than the Police Department—the reality of it is, we do have these issues.

When you mentioned that you now have your own IT Department, for me, that brings segregation of duties, where the person who orders the goods, the person receiving the goods and the person paying for the goods are separate. In most entities you will find that the person ordering and receiving is the same entity while there may be a finance department paying for it. I know of one IT government department of fraud being committed where, basically, computers that were being ordered were not even coming on line. So, they did not even make it that far and those are the kinds of things that we are looking for. And so, even in terms of data protection it does not take anything for someone to do file, save as, and save to a hard drive or whatever. There are easier ways around these so, I mean, yes!

So the question for me then, in all of this is: What are the checks and balances within the system? Is there an IT audit that is done to make sure that no one is saving on the C:Drive which is pretty much built-in and pretty much, if so, how frequently is this done? And also, in terms of inventory, how much is it checked? Who is it that checks the IT guys, is pretty much what I am also trying to get to.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Certainly justified questions. I can say that, as a fairly long-serving civil servant, there are certain IT questions that perhaps need to be looked at by the Government at large regarding the consistency of practice across, whether it is central government or statutory authorities in regards to the security of data, equipment, procurement, et cetera. I can say that since I have taken up office, I have worked, and my team are also working with the Computer Services Department to ensure that we have some level of harmonised practice.

With respect to removing information through the USB drive or whatever it is on the computer, I am not aware of government having a single protocol for that, but I can say within the courts, that our systems are locked down. Employees are not actually allowed to save information or pull information from the system, save for very specific categories of persons, and it can be traced, as to who can do that. So that is something that we have locked down in our system; I think it is a USB port.

Furthermore, most of the court information is driven through a database so, most our staff works through a database and the information that is generally input is about 80 to 90 per cent that is stored into the database itself, which is then onto a separate server. But I do take your point, sir. These are things, I think, that each government entity is in a stage of transition or advancement, and certainly Judicial Administration is cognisant of the risks that you have identified because, technically, we are the only entity in the entire government that houses the information that we have and so certainly, the security and confidentiality of that information is of extremely high priority to us.

Ms. Barbara E. Conolly: Mr. Chairman, through you to Mrs. Ebanks: My question is on the Depreciation Policy for textbooks. The Auditor General's office identified an issue with the depreciation policy for textbooks. Your entity is using ten years to depreciate these books.

The report says that the entity could not provide an assessment of the textbooks on hand as of 30th June, 2016 and, as a result, the Auditor General's Office **"could not factually verify whether any adjustments would be made to the financial statements. A high level overview based on assumptions indicated that it is not likely that a material misstatement would exist. However, with frequent purchase of these assets, over time, a situation could occur that would result in asset balance being materially misstated."**

My question is: Has an analysis been done to determine the quantity of textbooks that are currently on hand, and if the Depreciation Policy has been developed to reflect a more realistic method of depreciation for these assets?

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: Through you, Mr. Chair. Thank you for the question.

In regards to the Depreciation Policy, in 2016 there was a review of it to determine whether 10 years was reasonable. And for the assets, there is a librarian for Judicial Administration that reviews and that sort of thing. I guess I should say [the librarian] is responsible for the library book coming in and out. In consultation with her, the librarian stated that the ma-

jority of the books that Judicial holds, 10 years would be reasonable.

There are aspects of it in terms of other entities for which I am responsible for. When we reviewed some of those depreciation methods had to be changed and that is being reflected in 2016/17 in those other entities. But in consultation with the librarian, the depreciation method of 10 years continues to be reasonable in terms of the books that are being held by Judicial Administration and that librarian is responsible for keeping track of those books that go in and out of there.

As far as I know, from the Court Administrator, she has advised that that room is under lock and key and there is also surveillance in there as well, so those are monitored in terms of the actual assets on hand.

Mr. Austin O. Harris, Jr.: Mr. Chairman.

The Chairman: Mr. Harris.

Mr. Austin O. Harris, Jr.: Mr. Chairman, through you. This question is directed at the Chief Financial Officer who I believe may have indirectly—

The Chairman: Is this on the textbook thing?

Mr. Austin O. Harris, Jr.: Pardon me? No, Sir.

The Chairman: Okay. I just have one follow-up question. When you get a new edition, do you write the book off completely at the time of getting the new edition or do you still keep it in stock and have a value for it?

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: Through you, Mr. Chair. Those editions then are added to the Fixed Asset Register. It is at the point after the 10 years, once it is deemed that those books then have been fully depreciated, that they will then be removed.

The Chairman: Sorry, Mr. Austin; go ahead.

Mr. Christopher S. Saunders: Actually, just one textbook question before he goes: I noticed "Other Assets" and am assuming that textbooks are under "Other Assets" and that is almost \$1.9 million worth of textbooks; or are there other things included in it?

Mrs. Tiffany Ebanks, Chief Financial Officer, Judicial Administration: Through you, Mr. Chair: On Page 17 of the report it gives the cost of library books as \$809,000. The net book value right now that is being carried as at 2016 was \$185,000.

Mr. Christopher S. Saunders: I am assuming that most of those would have been like prior case studies, so it would have been like precedents so—

The Chairman: Research books, reference books.

Mr. Christopher S. Saunders: The law is the law so, I mean, I am assuming they would still be valid, so I do not think ten years is probably unrealistic realistically, if that is what they are being used for.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Yes, Sir. They fall into broadly two or three categories of books. We have the Law Reports so, for example, the Cayman Islands have its own Law Reports. Those are the published cases at various levels of court from different jurisdictions, and then there are generally textbooks on specific subject matters which are periodically updated by the authors. But even though you get the updated texts, it does not mean that the original text is of no use. Sometimes in the profession, you have to go back to the beginning and sometimes that is helpful. But at some stage you will see that they do transition out and are no longer useful.

There are also journals which are basically periodicals on specific subject areas dealing with current areas of the law and I do not think they will throw those away because each journal is different unless they are consolidated.

Mr. Christopher S. Saunders: Thank you.

Mr. Austin O. Harris, Jr.: Mr. Chairman, through you, again, a question to the Chief Financial Officer, relevant to the expense trend analysis. Whilst I believe some of these questions have been answered indirectly through the previous questions, I would like the opportunity to just address it directly to the Chief Financial Officer.

According to the expense trend analysis reported over five years of 2011/15, it shows a moderate increase in Judicial Administration's expenses of approximately 14 per cent, while the Director of Public Prosecutions expenses increased by almost 11 per cent. Whilst we anticipate that certain factions get their way, we can see these expenses sky-rocket in the not-too-distant-future. I wonder if you can tell this Committee what are the factors that have contributed to these increases and expenses over the last five years.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: I Crave your indulgence, sir.

The Chairman: Absolutely.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: In discussion with the Chief Financial Officer she has asked that I take this question as it is more intimately related to the day to day running of the organisation.

Whilst I was not here, I can say for the entire period, that there are certain features of the entity budget that have been going up over the years and there are specific reasons why. One of the issues is the cost of security. Earlier, particularly around 2012 and before 2013, the Judicial Administration had a cadre of auxiliary officers supplied by the RCIPS and these were police officers that supported the Court in a security role.

I would like to say that around 2014/15 a transition occurred where the RCIPS expressed that they were unable to continue this service because they themselves were in need of the posts, the monies that funded those posts, and there was a transition of Judicial Administration having to hire a private security services to fulfil a number of different security functions in the court. So that, I can say, is an area that has caused an increase over the years in the Judicial Administration entity budget and certainly, as the business of the courts increase and the need for additional court room is increased, that cost will increase in correspondence to those needs.

There have been some staffing increases and then there have been increases in the use, for example, of interpreters. These are services to the Court but, certainly, in terms of the rights of the individual in attending court, there are services the court must provide if they are not entirely comfortable with the English language. It is important that they understand the charges that are being put to them and the case of the Prosecution, so there have been instances where interpreters of different languages are used in the courts on the day and if necessary, if matters go to trial, then, there is requirement of translation of documents and those costs vary from year to year.

There have been additional court rooms that have come on board and some . . . well, those are capital, I suppose, the expansion of offices, but they are a hybrid between capital expenditure and entity expenditure; for example, utilities and so forth. So, when Court Room 7, our newest court room, is established, we will have to increase the budget to allow for additional janitorial and utility services; and certainly that will follow through or continue for any additional space that is leased over time. In addition to the one-off capital expenditure, there will always be the ongoing entity expenditure to cover these costs on an annual basis. So it is a myriad of factors that have contributed to the periodic increase of the Budget.

Mr. Christopher S. Saunders: Sorry. Just on the same trend; and this is just following on from my colleague from the district of Prospect.

I noticed on page 18, pension costs. I am looking at Note 11 which, for the prior year it was \$2.889 million and the total pension expense was \$148,000. Yet, despite salaries going up to \$3.155 million, the pension cost actually went down; so I am trying to figure out what is driving the decrease because normally, as the staff costs go up, the pension costs will go up, but it has actually decreased. So, I am just curious as to what was driving that end.

I noticed on Note 16, which is page 20, in terms of employee entitlements, it said the \$53,000 decrease in employee entitlements to budget is a direct result of management efforts to reduce these liability. I am curious as to what those efforts were, but I would not expect pensions to be reduced.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman: With respect to the reasons regarding the employee entitlements, I actually find it hard to give you an honest and accurate answer. I think that would be personal to the last Court Administrator who would have known the circumstances of his organisation at the time and the reasons why he felt there was an opportunity for him to reduce liability through natural attrition of staff, et cetera.

With respect to the reduction of pension and the salary and then they have the salaries as a separate figure, not reducing, I cannot give a specific reason, save for that I do know when temporary staff were hired to perform specific functions in Judicial Administration for specific periods on a number of budget years and, because they are temporary, that means that they would not be paid pension directly by the organisation, we would pay a fee to the agency that they are hired through. And that is perhaps the only feasible explanation I can give for the reduction of pension payments and potentially also, the fact that perhaps some posts were not filled. So, perhaps the monies for salaries were used to pay for support but then there was no pension liability directly by the organisation at that time. Thank you.

The Chairman: For Lease of Property and Equipment, can you please break that out for me as to what your actual lease cost is for physical facilities? You mentioned earlier that you were leasing some spaces; what you are paying for that, other than the Government Building.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Right. Thank you, Mr. Chairman.

The primary lease space has always been the Kirk House Building which is a building that comprises four floors and Judicial Administration leases the entire building, save for one small office space which is being leased by a private company. The figure that I see here of \$575 generally corresponds with what I

understand the annual lease payment to be, the rental.

The Chairman: [INAUDIBLE – not speaking into the microphone]

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: There is one storage facility that we rent off-site, but this figure largely looks like it is the leased property.

The Chairman: [INAUDIBLE – not speaking into the microphone]

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: The term “non-cancellable” is not a term I am familiar with, but I can say that the leases Judicial holds, particularly for its core accommodation, are for five years.

The Chairman: [INAUDIBLE – not speaking into the microphone]

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Those contracts are negotiated through the Lands and Survey entity; I would expect that they should have some means for the Government to exit the arrangement, but I am not familiar with this term, and I would have to look at the Lease itself to see if they are, in fact, non-cancellable.
The Chairman: Mr. Bush.

Hon. Bernie A Bush: On Page 17, the Judicial Administration Report; why is the cost of the website \$317,000?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: I Crave your indulgence.

Hon. Bernie A Bush: Sorry, \$396,000.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman. The website is maintained by Brac Informatics—

Hon. Bernie A Bush: Who?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Brac Informatics—

Hon. Bernie A Bush: Got you.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: —which is a local company, and, in addition to providing hosting services, there is a subscription section to the site which allows for third party users to subscribe to access the

court lists, the laws, the judgements, et cetera through the site. I really cannot say for this particular year if that is the entire cost but . . . (*Thinking out loud*—this is June 2016).

I do know in that particular year they did have a review of the website, in addition to the regular service, but those are the scope of services provided by the website provider.

The Chairman: Does that also include your secure back up storage?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: No. No.

Hon. Bernie A. Bush: Okay.

My next set of questions, ma'am, I will pre-empt by the case that I brought to the radio waves at the time, when you had a four-year old girl molested by a 65-year old man and it took three years to get to the courts. By that time the child could not remember anything and the man went free.

[Inaudible interjection]

Hon. Bernie A. Bush: I know and that is why I am pre-empting my question.

Can you, as the Chief Officer for this, then give me an idea, just say for Grand Court, 2010-2017 or 2015-2017 (your choice), what the number of pending cases is?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman. I cannot give the specific figure but it is information I can obtain for you. I do recall (my memory is not as good as it used to be), the Honourable Chief Justice discussing the amount of pending indictments in the Grand Court and if I am not correct, and subject to correction, I believe, he said it was about 100.

Hon. Bernie A. Bush: Correct.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: And he did give me a number of reasons why the delay. The delays are multi-faceted, but I will say that there was a [report conducted by Ms. Claire Wetton](#) at the time, to look at the state of our justice system and the improvements, particularly in the criminal area, that could be made, and I can say that a number of the recommendations were implemented at the time.

The issue of delay continues to be an area of concern for the courts in particular, insofar as I can say that we do have one primary Judge locally who sits probably 90 per cent in the Grand Court Criminal Courts. We have three permanent Magistrates and four acting Magistrates that sit in the Summary Court

and their portfolio is largely criminal, and we do bring in a roster of acting Judges who primarily sit in the Criminal Grand Court to facilitate the speedy bringing on of cases, sentencing, et cetera. And we do have another acting Grand Court Judge locally who came in July of last year and is helping to support the Judiciary in the management of the criminal and civil cases.

The primary obstacle facing the Court is space.

Hon. Bernie A. Bush: Okay. Okay miss, I did not even bother to ask you about the pending cases in the Summary Court, because I did not want what you just gave me on the shorter version, which is the Grand Court, because the Summary Court is four times worse than what it is at the Grand Court level.

Caymanians are suffering because of this. Lives are being held in limbo and various different things that affect them in these cases. You are well versed in this, ma'am. Is it lack of money, lack of staff or just lack of space?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Well, certainly lack of staff and space will be hand in hand because it takes a team of persons to run a court. The primary driver is space at the moment because, just to shed some light on how the courts work: if the Court of Appeal comes down and they come down on average three times a year for three weeks to sit in, if they come down, that means a Grand Court is bumped out and in turn, if a Grand Court is bumped, technically some Summary Court cases are also bumped, because we now have to take a new court in for that space.

The Chief Justice for the last two years has asked to run two Grand Court Criminal Judges Court Rooms parallel to each other. So, if that is the aim, then that means, invariably, that the Summary Court from time to time may have to come out, because when we have Criminal Grand Court trials they are invariably jury trials and we only have two spaces in the organisation that can facilitate jury trials.

So, the consequence of each Court and the business of that court have a knock-on effect to other courts and I will say that the court that will perhaps suffer most is the Summary Court, and that is the court that has the highest volume of cases. So, there have been concerted efforts on our part and we continue to work with the Government to find an affordable solution moving forward to allow the courts to efficiently administer justice. But certainly, staff would be a consequence because if you have a Judge you must have a personal assistant to help with preparation of their judgements, to help them manage their docket. There is also to be a Court Marshall as a court cannot be held without a Marshall. And certainly, if the volumes increase, then there might be some impact on our registries.

At present, it is being managed as well as it can. I do not think that we have terribly compromised the business of the court with these infractions but it has reached a point where if we do not have some relief in the foreseeable future, then, the quality will be affected. And certainly the customers, the clients, are the ones who will suffer the most.

Hon. Bernie A. Bush: Yes, ma'am, and that is mainly Caymanians, especially poor Caymanians.

Now, once again, I will pre-empt my next thing with a simple case of what happened and you will understand. And the reason I do this is because I want the listening public to understand, because a lot of times we, as Elected Members, get blamed for things that, as you know, we have no say in the Judicial system. We make the laws, you all enforce them.

On my street, a little dog ran up and down for two years, unkempt, not taken care of. One of the neighbours took the dog in; had a big vet bill, all kinds of stuff; well over \$2,000 to \$3,000. The dog started to live in the house with them. They left and went to Costa Rica and took the dog. Coming home, the man is arrested at the airport. Why? Someone claimed they dognapped the dog! This is a true story, ma'am. The gentleman was locked up because they arrested him on a Friday evening, and Saturday and most of Sunday he was at the prison. This is a law-abiding man. The police did not come and question any of us on the street to get the story straight.

It goes on: The man had to pay bail, could not leave to go back to Costa Rica to his wife and had to get lawyer money and seven or eight weeks later, they said they were taking him to court (it must have been the DPP that said yes, they could take it to Court). All of a sudden, it was kicked out. Now, that case opened my eyes and made me start to ask questions. And in 2011, the Attorney General moved the preliminary inquiries out of the courts.

In your professional opinion now, as the Chief Officer, why would you take the preliminary inquiries that would have taken some of this load that is in there out? Is there any particular reasoning that you can see for that?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman. I think before I can provide a response, I am not aware of the Attorney General removing preliminary inquiries out of the Courts-

Hon. Bernie A. Bush: Well, they were stopped in 2011; that is a fact.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: What I do know is that they changed the process for them and they used to use what we call the long form, which is quite a lengthy process in the Summary Court to what they

call short form which is in a British version. But the scenario that you spoke of, I think, goes more to administration of justice at an earlier juncture before it reaches the court; the role of the RCIPS and the police officer and certainly the function of the DPP's office.

I can say that, whilst the court must remain independent of those entities, we try to have a much better working relationship and collaboration. There are a number of boards, for example, I think it is called the Criminal Justice Board, which is led by the Chief Magistrate Hall. We meet with the various Government stake holders on a monthly basis to talk about issues regarding probation, prison, RCIPS and any problems that arise that would either adversely affect the administration of justice or that may help it and we would be given an opportunity to problem solve.

So there are better working relationships. One of the areas that possibly could be looked at is the areas of alternative sentencing, and I do know that other measures recently were looked at in terms of cautions that are outside the judicial system. So, there are modern methods to administering justice in what I want to say as an efficient way because it is about efficiency, but in a way that does not necessarily have to bring the person to court for every single infraction.

Hon. Bernie A. Bush: And like I said ma'am, and thank you for being so honest. Thank you.

When you compare a four-year old child being molested and nothing done but a stray dog, you could call it, who someone just wants to say that they had a Pomeranian but the dog is on the street running up and down, and someone went to jail for that for a weekend and thousands of dollars in lawyer's fees; something has to be done. And that leads me, ma'am, maybe, to my next questions.

I know both yourself and Mrs. Ebanks are new. So, you all are trying to straighten up (and I will say) the mess that you all found there, regardless of who wants to say it or not. Have there been any surveys done to the cost of issuing arrest warrants for minor offenses, unpaid fines, arrest of people for very minor things such as the recent case where the pregnant woman was dragged shoeless from her home for a couple hundred dollars.

The Chairman: Be careful now.

Hon. Bernie A. Bush: And do you accept that the courts no longer imprison people for judgement debts but the Government does? Are you aware of that?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman: I, unfortunately, have partially hung up my attorney's hat.

Hon. Bernie A. Bush: Okay.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: If there is a provision for a person to be detained and their liberty deprived, I would assume that is a last resort for the court.

Hon. Bernie A. Bush: Okay.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: That is not something that the court would use as a first option—

Hon. Bernie A. Bush: Yes, ma'am.

Mrs. Suzanne Bothwell: —because we are mindful that the right to liberty is a Constitutional Right and there must be a very justified and proportionate reason to detain someone and to deprive them of their liberty.

Hon. Bernie A. Bush: Okay.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: But in saying that, there will be circumstances where the court will have to exercise its judgement and in some instances it will result in someone being detained.

With respect to the cost of warrants and fines and so forth, there are some areas that we are looking at.

Hon. Bernie A. Bush: Thank you.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: So, for example, with the respect of fines, particularly in the Traffic Court, there is live discussion between the courts and the RICPS and it will perhaps be more cemented this budget year when we can explore a way in which we can perhaps reduce the number of persons coming to court for traffic offences. The system now is that you have a fine to pay; if you default you've got to turn up to court. Given the strictures that we are experiencing and in a modern society that may not necessarily be an appropriate way forward, particularly when you look at population growth. So, we are exploring alternative options, to see whether that can be implemented, where we can perhaps introduce a more incremental fine system and is only at a certain stage that somebody is then brought to court.

With respect to the warrants however, I will say that, depending on the case, if it is a warrant because of default of a fine, well, that would have to be a policy decision to discuss, you know, how we can address that in alternative way. If it is because of a safety reason, the warrants will continue to be issued.

Hon. Bernie A. Bush: Okay.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: But the fine warrants is something that I cannot say that we have had that in our agenda as something to look at, but now that you have brought it to our attention, it is perhaps something we can discuss with the Honourable Chief Justice and even perhaps the Honourable Attorney General, to explore whether there are any other alternative methods to dealing with this issue.

Hon. Bernie A. Bush: Okay, thank you.

I see in the 2009 Constitution where the judges have a defined retirement age but not the AG or the DPP. Why is that and, if that has changed, what is the retirement age? Please.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman, I really do not think I can—

The Chairman: No, I think that is a little bit outside—

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: —respond to those questions.

Hon. Bernie A. Bush: Okay, no problem.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Sorry. Thank you, sir. Thank you.

Hon. Bernie A. Bush: Thank you, Ma'am. And my last one is your jurisdiction as well. I now have sitting three constituents, all indigenous Caymanians; married ex-pats. They have gone to court for issues; the ex-pats are making more money than the locals. The ex-pats have gone to get help for lawyers—

The Chairman: Legal aid.

Hon. Bernie A. Bush: —legal aid. The three Caymanians have all applied for legal aid who were making much less money and they cannot get legal aid. Why is that? Why is the person making more money, is an ex-pat at that, and of three, I think one has residency because they have only been married for four, five, six years. The other two [have] just been married two, three years. So, why is it that the local people cannot get the aid, but the foreign people can? Is there an explanation for that?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman, I would say that the decision of granting or refusing legal aid is based on the decision of the person who has the authority to do so. There are certain specific factors they look at. I can say that legal aid is not necessarily a straight-forward process. Persons

can be granted a certain amount with a cap, and there is an expectation that the case is concluded in that cap.

Hon. Bernie A. Bush: Correct.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: There may be—

Hon. Bernie A. Bush: Correct. One second, Mrs.—
Now—

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Yes.

Hon. Bernie A. Bush: You are right.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Mm-hmm

Hon. Bernie A. Bush: The cap and all that are understandable but, if one person is allowed legal aid for case A, should not the other person also be allowed legal aid for the same case A? What is good for the goose is good for the gander. The precedent, is not that the big thing in your circles?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: The grant of legal aid is means-tested and is based on the case. And it is also based on the information that is disclosed to the Legal Aid Director, which was only recently appointed, so I have no idea how old these cases are.

Hon. Bernie A. Bush: Yes, ma'am.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: But I can say that under the present system, and even the past system is means-tested, but I can say now, it is perhaps much more stringent, because we have someone and her team who is dedicated at looking at the expenditure of the Legal Aid Fund.

What could happen—and I am not saying this is what is happening in these cases—is that there may be instances where some income is not disclosed to the Director. And so, whilst a spouse is of the view that this person earns X amount, that may not be the information coming to the Director.

Hon. Bernie A. Bush: In all three cases, ma'am, they had copies of their spouses checks.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Well, I cannot speak to it—

Hon. Bernie A. Bush: Right; you cannot speak to it.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: I mean, the Director has her decision—

Hon. Bernie A. Bush: Okay. Yes, ma'am.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: —and if they are unhappy with it they can apply for reconsideration. There is a process under the Law for them to apply for reconsideration of the decision, and I think there is a process for them to appeal to the judge if they are still not happy with the reconsidered decision of the Director.

So, I really cannot delve into the decision making of the post holder, but I can say that the Legal Aid Fund is being managed and I work very closely with the Director because she is new, and I feel that the direction that she is going in is a very good one for the country. It is a good one for our budget and we are actually seeing what I feel to be a more intimate review of the expenditure of the Fund, and to ensure that we keep within the limits of the budget that has been afforded by the Government for legal aid.

Hon. Bernie A. Bush: I do appreciate you trying to be as forthright as possible.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Thank you so much, sir. Thank you.

Hon. Bernie A. Bush: Thank you, very much, ma'am. I appreciate it.

Thank you, Mr. Chairman.

Mr. Austin O. Harris, Jr.: Mr. Chairman, through you, sir, if I may add a brief follow-up to my colleague's question moments ago. My next question relates to managing future expenses relevant to the desire for a new Court House. I also believe this stated need has bearing on existing expenses downstream, relevant to leased space, increased security needs, et cetera, as has already been mentioned in the current period. I am also trying, for the avoidance of doubt, to try to reconcile in my own mind the case both for and against the need for new court facilities.

During the opening of the Grand Court 2018, the Chief Justice accused the Government of failing to understand the Constitutional crisis in the Justice system and the urgent need for a new Court House. He once again argued that space had reached a premium and that current facilities cannot accommodate the number of cases coming before the courts. This, of course, has a correlation to the expenses of the Judicial Administration in the short term, as has been clearly stated in the testimony.

On the point that I believe my colleague, Mr. Bush, was referring to, in 2011, a lone local attorney,

Peter Polack, made the case that the present situation of lack of courtroom space comes down to a number of factors most notably, the removal of the preliminary inquiries in the Summary Court, as my colleague mentioned.

I believe, and again going from memory from media reports, he argued that preliminary inquiries, which are still used across most of the Caribbean region, enabled many cases destined for the Grand Court to be removed, often by a single hearing, sometimes by depositions only, for matters that failed to reach the *prima facie* benchmark. He argued that the removal of the preliminary inquiries caused the immediate consignment of the most serious criminal cases to the Grand Court, which was unprepared to receive the tidal wave of hundreds of cases requiring vast resources.

He argued that there was no committee review, no peer review, no stakeholder consultation that would provide empirical analysis to support the removal of the preliminary inquiry and its multi-faceted effects downstream, which has led to the demand for a \$200 million dollar Court House, that the Government argues the country cannot afford.

My question to Mrs. Bothwell is: Do you agree with these assertions from Mr. Polack and if not, please tell this Committee where perhaps, in your opinion, he may have erred?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman, before I commence to respond to your question, there was never a proposal by the Judicial Administration for a \$200 million Court House and I do not intend, unless instructed to do so, to go into the details of the discussions between Judicial Administration and the Government. However, I can say that there was a particular figure which was less than a \$100 million (quite significantly less) for us to commence a two-phase project.

I am aware of the media reports on the various discussions that have been had after the Chief Justice's speech. All I will say is that Judicial Administration will be engaging with the Office of the Premier and the Government, about how we can re-start discussions about upgrading the existing court facilities.

The issue of what solves the problem of delay in our court, or what has happened that has caused further delay, I think would require much more exploration for me to give a proper response today. The PI [preliminary inquiry] process is a very specific process in the Criminal Court; it is one facet of the criminal process, particularly that relates to the more serious crimes that are committed. Not every charge is subject to a preliminary inquiry, only those that are to be moved up to the Grand Court.

What we are seeing is delay in the Grand Court. We have a hundred indictments pending. But I

cannot say that the preliminary inquiry process is the sole cause of that. I believe, from what I said earlier, that it is a much more complex and faceted issue that regards the whole workings of the court and the knock-on effects of how we sit through a court, when and the types of cases we have.

I do not think there is any doubt that the current facilities we have are inadequate. They were deemed inadequate from the 1990s and there have been a number of court house projects over the decades to find the solution for the courts. I do not believe it was anticipated by those who constructed the main Court Building that we would seek to rent a commercial space next door to substitute as a court house. We rented a commercial space that was never built to be a court house and a court house cannot simply be dumped into a Class A commercial building. The needs of court rooms are very different.

Whilst one can retrofit a space to accommodate a court, it is not necessarily that you can identify a complex and you say that is your court house, and that has been part of the problem. If one considers it, the court is split in two. So, I have to, as Chief Officer, assess how I manage two separate complexes to manage one organisation and an organisation that tends to interface with two buildings. There are many risk factors in having a separate complex. I can say that the security costs are, perhaps, disproportionately high because we have two different complexes to manage the Courts and we have our business on separate floors and the floors are not built in such a way for us to integrate security into the layout of the building. And that is only one feature.

So, I would find it very difficult, and certainly I am not prepared, to talk about the full gamut of reasons as to why there is or there is not a need for better or improved court facilities or to what amount of money should be spent by the Government, but I can say, upon me coming into the organisation, my estimation is that the need is dire. The need is dire and I am optimistic that with the Government we will find an appropriate and affordable solution because if we do not, I feel very strongly as someone who has practiced law in this jurisdiction and (I am from here) I believe in the justice system and democracy, that the judicial administration and the support of the judiciary, if it is not run well it can help collapse democracy. So, I must be optimistic that we will find a workable solution to the problem. We will do our best and we will continue to engage with the Government.

Certainly, I do believe that the issues that have been raised by Mr. Pollack were valid issues but I cannot they were singular issues to the reason for the delays. The courts is made up of many, many different facets; we have the Criminal Court, which I will admit is our largest division, but our Financial Services division is an extremely heavy division, our Civil and Family is huge and then we also have the maintenance of the families and I will make an open

invitation if any of you wish to visit the Court, and will be happy to give you a tour, particularly on a Friday, when it is our family maintenance day. I will also say to you that it is horrifying, sometimes, to see the conditions that our clients have to come in, and it is also a safety hazard because of the sheer volumes that have to come in to the courts to deal with their maintenance.

So, as I said, I am optimistic, and it is a new year. I think there has been a lot of ventilation of issues and certainly it is now time for us to come back to the table and I have received confirmation that that will happen sooner rather than later by the Government, so that we can have productive discussions as to how we can move the initiative forward in a way that meets the needs of the country. Thank you, sir.

Mr. Austin O. Harris, Jr.: Mr. Chairman, thank you very much.

Just a point of order: I did not state that the removal of the preliminary inquiries was the primary reason for the need for a new Court House but it was one of many factors, most notably, the need for preliminary inquiries. I just want the record to reflect that.

Secondly, obviously I am no lawyer nor am I involved in the judicial process in any way and the purposes of these questions are just to enable me to better understand, as I stated prior, the case both for and against a new Court House. It is clear, from an individual that operates in that realm on a day to day basis what your viewpoint is on that subject, and I appreciate it; I appreciate your honesty. But likewise, as a member of the Government, whether it is \$100 million or \$200 million, somebody has to find that money, so it is a matter for a future expense. And, as I have stated previously, I would certainly encourage the Auditor General's office to consider a special report on the subject of the need for a new Court House because I believe it is important for the country to understand the economics based on the pending need and, as the Chief Officer has rightly stated, we certainly do not want to create a crisis for democracy, based on the absence of court room expense.

If I may take the question one step further, in the recommendations, again, coming from one who either currently or otherwise spends his time in the court room and again, I preface the fact that I am no lawyer nor do I have any knowledge in this area, but I am trying to understand it. Mr. Polack went on to suggest four alternate options to address the issue of court room space other than a new court building. One of them was the introduction of preliminary inquiry. The second was to constitute a review board to review all pending Grand and Summary Court cases with the oldest first. The appointment of a prosecution oversight committee to perform peer review and immediately stop borderline or inherently weak cases from tying up the court system, and he also recommended the implementation of the recent UK Justice

Review Report on the Office of Director of Public Prosecutions.

Now again, I wonder if you would share your thoughts on these recommendations. Do you believe they have value and could they represent an alternative or do you take a different view?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman: I would have to actually read the various materials in order to make an assessment, and I think that is first and foremost. Certainly, anything that is outside of the Court itself, I would have to be very, perhaps, limited in what I say, because that is not my jurisdiction; I have no oversight or control over those areas. The working of the DPP's [Director of Public Prosecution] Office is an independent office constitutionally, so certainly it would be a matter for that post holder to determine what is most efficient to run his or her organisation and to discharge their constitutional duties and likewise, the Office of the Attorney General. And that statement refers to the various recommendations that Mr. Pollack makes with respect to the prosecution peer review, et cetera.

With respect to the court itself, I would say that I am very open to discussing with third parties and through the Chief Justice, because ultimately, he will have to assess the appropriateness of any recommendation to bring about greater efficiencies within the administration of justice; it is something we are keen to continue to look at.

I think administration of justice is a living thing; everyday people come into court; everyday laws are passed creating new offenses or regulating matters that will end up in court, so the court must adapt to the times that it is in. So we do recognise that, however, we must be able to maintain our independence and to maintain the standards. But I do think that there is a lot that can be done in collaboration with various Government entities that are what I consider our internal clients, to bring about efficiencies in the system, and I can say we are working at various levels to achieve that. An example is that we are updating our database to allow for electronic filing of documents on the civil and criminal side, so you will be able to see, particularly, in this year you will see civil filings being scanned in an e-mailed into the courts; people being able to pay electronically, as opposed to having to come until three o'clock.

We will have the entities that provide reports to be able to e-mail them into the courts as opposed to them having to walk them over when the registries are over. Certainly, on the criminal side, which is our largest division, we are looking to bring about greater efficiencies with respect to the processes. But certainly, that is perhaps only part of the picture. The more fundamental part I think is looking at the substantive issue and to see whether we can do it better.

Right now, I know the Prison is under a lot of pressure with the remands and the . . . well, the remands, in particular, I think is the biggest issue for them and you know, perhaps a revisiting to the alternative to sentencing legislation and putting into force those provisions, will give the courts greater flexibility to discharge its duties, when it is sentencing individuals. It is not just about going to Northward or Fairbanks Prison; there are many, many options out there but until those are ratified and enforced, the courts options are limited. So, there is room for discussion in terms of how we can make things more efficient, more relevant to today's society and to bring about greater justice and reduced delays.

The Chairman: Has any consideration been given to holding court in the later evenings, at night and on weekends, since space is the primary problem?

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Mr. Chairman, that issue has been raised. It would require me to have a whole second cadre of staff, because the staff [personnel], right now are in court the entire day. So, in order for us to actually have a night court, we would have an additional panel of Judges or Magistrates, and a second team of people to administer that business.

The Chairman: For instance, you said already that the Appeal Court takes up one courtroom that will take out the Grand Court which kicks Summary Court out. Certainly, those Summary Court staff would be available to meet the evening if they are not in court that day.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: It depends because . . . well, there would be an open court that day but you might find, for example, that some of our Magistrates are acting judges, so if they are out of Summary Court that day, they could then take on cases in the Grand Court for Chamber matters but, theoretically you may find that there is some flexibility in time. But I do not think that, when they do not have court they are not doing anything; their time is filled with other aspects of court work.

The Chairman: Mr. Saunders.

Mr Christopher S. Saunders: Thank you, Mr. Chairman; through you, sir.

First of all, I want to thank the Chief Officer for her elaborate answer; it was quite informative and I will accept her invitation for a tour. I have been fortunate that in 45 years I have had no reason to visit your facilities.

[Laughter]

Mr Christopher S. Saunders: But one of the things I am curious about—and this is an issue that affects some of my constituents—is the old dead-beat dads, or the parents who are supposed to be paying in because there are many cases where there are these court orders for them to pay. Then they start paying for a month or two then they stop, and a lot of the single mothers are affected by some of these fathers who are not paying, as they should, the support.

I am curious in terms of the enforcement of those parents who have those obligations, especially to their children, to leave all of that on one parent and then they are seen on Facebook, living it up, and the kids are basically suffering because they are not doing what they are supposed to do. I am curious as to what the process is or what the procedure is within the court system to deal with the enforcement of those judgements once they have been made. Some of those guys just need to be arrested.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman: The issue of maintenance is quite a complex and nuanced issue because you are dealing with the family and certainly, the non-payment of the maintenance has a very real and tangible impact on the child or children to the point where they can experience levels of poverty in the home.

The court, I believe, tries to understand that it is dealing with human beings and it is dealing with the families and family is number one. So, if there is a circumstance—and I think the court gives great latitude to give the person who is in breach an opportunity to pay and to make up any arrears. When they are in jail, they cannot pay the arrears, they are not working, so if there is an opportunity to give them time to honour their obligations and pay the arrears they will try to work with them.

We have implemented mediation in the courts for family cases and it is still very new, but it is to understand that it is a means by which we can bring the conflict resolution out of the court room whereby the parties themselves can perhaps negotiate some of the solutions. In most extreme cases, the persons will be sent to jail. I am aware they will have orders to be imprisoned for failure. I cannot say what the statistics are on an annual basis for that, but certainly it does come back to impact the prison itself that is bursting at the seams for persons who are in there for imprisonment and remand. So, that is also a concern; not a primary concern of the court. If it is justified, the court will make the order to imprison and the prison thus have to find the facilities to place persons in. But, I think the courts can only do so much. I think this issue goes much deeper than the court room and the Court House. This is about the social fabric of our country and our people and their commitment to parent their children.

The reality is that those who are in court are in court for 18 years with the children. If they cannot find an amicable solution and honour their commitment to pay the maintenance, then they will be in court for 18 years fighting over the maintenance of that child. And that is because that is the obligation; a child is a child until they are 18 years old unless they go to university and the orders may extend to 23 [years]. So, if parents cannot find a way to parent together and to honour their obligations, they will be in court, if not on a monthly basis, multiple times every single year for 18 years, and that is why I say the court room solution and the maintenance regime only addresses part of the problem and the court can only do so much.

Mr Christopher S. Saunders: Sorry, Mr. Chairman; through you, sir, as a follow-up. I think the challenge that arises from that in our society is that we settle disputes within the courts, and once the court has made a ruling on a dispute, we expect as a society for those rulings to be carried out, and the minute we start subjecting those rulings to what someone feels or what someone this or what someone that, then, that is where there is also a breakdown within society because, at the end of the day, we are still a society of laws, we are still a society of rules and a judgement has been made.

At the end of the day there must be consequences. If a judgement is made within the court and it is not carried out, there must be consequences; whether is in contempt of court or something else because, what you start having now, is when seeing these kinds of things happening where people feel that they cannot get any justice. And that is when they start taking the law into their own hands. I can tell you, for the single mothers that are calling me and are struggling, what really bothers me is the gall of some of these dead-beat dads to not be doing their jobs and then have the gall and audacity and the temerity to be on Facebook with the biggest of flossing that you can see, and not taking care of their children when they should be locked up, I am going to tell you straight up, that it does a disservice to the court system, because at the end of the day, a judgement was made for them to do X and if they are not doing X in our society, it must be followed by a Y. But it cannot be that they are defying the court openly and they are not being sanctioned? It is not a way to build any society, because the court is still the final place for us to settle those disputes.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Through you, Mr. Chairman: I completely endorse the concern that you have raised and it is not that the court is turning a blind eye. I think part and parcel of it is the system that we have.

Cayman is not a jurisdiction whereby if you are employed, your income is registered. There is no

central database by which a Magistrate can go to say, *Well, Mr. John Brown, you say you are not employed, but I can see from the system that you have been employed and this was your income.* A lot of the information is reliant on what the offending parent says to the court, unless the court can verify independently that information. If the spouse or the former partner comes forth and says, *"Well, I know he was employed ABC"*, then, there are instances where the court may subpoena those records from the employer, but that requires a certain level of due diligence by people who are not the court.

So, unless Cayman obtains the infrastructure, to allow for greater transparency regarding people's income, then certainly the court will continue to struggle with enforcing the orders that it makes. No court is going to allow a defendant or an offending party to flout any order it makes, but it is about being able to properly have the information and the evidence to verify, particularly in the case of maintenance income.

I have worked in Child Protection for many years, and I can say, and I am sure the mothers can speak to you, about all of the steps that are taken to directly avoid the payment of maintenance by certain persons.

The Chairman: Maybe the sentence should include a work program during the day and jail at night. You work at the garbage dump picking up garbage during the day and instead of paying the person, you pay the parent.

Mr Christopher S. Saunders: Lock one of them up, just one. Just lock one up.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: They have been. They have been. Up until two weeks ago, I think, they almost broke into my office because he was locked up for not paying maintenance. But I will say that I think it is something that may have to be looked at in the round to see how we can have a holistic system to support the courts in being able to enforce this particular issue.

Hon. Bernie A Bush: Mr. Chairman, through you. I said I was finished but your answer a while ago, I thought I was talking to a social worker. My esteemed friend here from Bodden Town put it most eloquently. And beside those that are flaunting, we have those who are not even Caymanian and they think if they breed a local they will get points to stay here or their thought is: *I cannot be shipped off because I have a child.* For the NAU, in talking about the prison loaded with them, go and check out what poor NAU is going through, trying to support children from deadbeat fathers.

Once again, my partner here just said it straight; to make an example of a half dozen of them!

Just since you said that, I have WhatsApped five different people who have come to me. One of them is owed \$36,000 and the father is walking up and down smoking cigarettes and at one time quit his job so he would not have to pay. So, since he does not want to work, he should go to Northward and do something.

It is like the Chairman just said, ma'am, maybe it is time to sit with the judicial people and say part of that punishment is, when you go to Northward, you will come out and work at that dump or something to get money to pay for these children if we are going to pay for them through NAU because the judicial system is not getting it in another way. As representatives of the people, we are getting it and I am telling you, I am paying it out of my pocket, which I do not mind, because at the end of the day these are young Caymanian children. They are laughing when they are told to do this and they get no punishment. *Oh, We are going to review this, review that;* it is almost as bad as the firemen's salary. They reviewed it for six years and nothing done. Thank you.

Mrs. Suzanne Bothwell, Court Administrator/Chief Officer, Judicial Administration: Mr. Bush, thank you much.

The Chairman: That completes our hearing for today. We will have lunch and then we are back here 10 o'clock tomorrow morning.

At 12:57 pm the Public Accounts Committee stood adjourned until 10 am Thursday, 22 February 2018.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Thursday, 22nd February 2018 at 10:00 am

Financial Reporting Of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

Minutes and verbatim transcript of the meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building, Grand Cayman on Thursday, 22nd February 2018 at 10:17 am

Present:

Hon. D Ezzard Miller, MLA – Chairman
Mr. Christopher S Saunders, MLA – Member
Hon. Bernie A Bush, MLA - Member
Mr. Austin O Harris, Jr, MLA – Member
Ms. Barbara E Conolly, MLA - Member

Ms. Manesa Webb, Committee Clerk

Apologies: There were no apologies.

Attendees:

Ms. Sue Winspear - Auditor General, Office of the Auditor General
Mr. Garnet Harrison– Deputy Auditor General, Office of the Auditor General
Mr. Julius Aurelio- Audit Manager, Office of the Auditor General
Mr. Kenneth Jefferson - Financial Secretary/Chief Officer- Ministry of Finance and Economic Development (FED)
Mr Matthew Tibbetts - Accountant General Ministry of Finance and Economic Development (FED)
Ms. Anne Owens - Senior Assistant Financial Secretary, Ministry of Finance and Economic Development (FED)

Witnesses:

Mrs. Peggy Leshikar-Denton-Director- Cayman Islands National Museum

Mr. Ronnie Dunn – Managing Partner – FINCOR (outsourced accountant for Cayman Islands National Museum)

Mrs. Marcia Muttoo- Managing Director – Cayman National Cultural Foundation

Mrs. Natalie Urquhart - Director - National Gallery of the Cayman Islands

Ms. Lauren Christie - Accountant - Berman Fisher (outsourced accountant for the National Gallery of the Cayman Islands)

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the meeting to order at 10:17 am.

2. Welcome

The Chairman gave a brief welcomed to the Members and thanked them for attending the Public Accounts Committee (“PAC”) hearing. He also welcomed the Auditor General and thanked her along with the OAG staff, Mr. Kenneth Jefferson and Mr. Matthew Tibbetts for attending the hearing.

The Chairman advised the Committee that they would be dealing with *Financial Reporting of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017*. The Chairman then opened the floor to questions from the Members of the Public Accounts Committee.

3. Review of Financial Reporting Of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

- Financial Reporting Of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

The meeting commenced at 10:17 am and the Chairman invited the witnesses to the Chamber and asked them to state their names and take an oath by holding in their hand the Bible.

The following persons appeared in their named capacity as witnesses before the Committee for this Report:

- Mrs. Peggy Leshikar –Denton - Director- Cayman Islands National Museum
- Mr. Ronnie Dunn – Managing Partner – FINCOR (outsourced accountant for Cayman Islands National Museum)

The Committee continued the meeting with the next witnesses at 10:51 am. The following persons appeared in their named capacity as witnesses before the Committee for this Report:

- Mrs. Marcia Muttoo-Managing Director – Cayman National Cultural Foundation

The Committee continued the meeting with the next witnesses at 1:14 pm. The following persons appeared in their named capacity as witnesses before the Committee for this Report:

- Mrs. Natalie Urquhart- Director - National Gallery of the Cayman Islands
- Ms. Lauren Christie - Accountant - Berman Fisher (outsourced accountant for the National Gallery of the Cayman Islands)

The Chairman thanked the witnesses for attending the meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building.

4. Any Other Business:

There was no other business.

5. Scheduling of Next Meeting

The next meeting with witnesses was confirmed for:

- Friday, 23rd February 2018 at 10:00 am

The next administrative meeting was confirmed for:

- Tuesday, 6th March 2018 at 10:00 am

6. Adjournment

There being no further business, the Chairman adjourned the meeting at 1:45 pm.

**OFFICIAL VERBATIM TRANSCRIPT
STANDING PUBLIC ACCOUNTS COMMITTEE
THURSDAY
22 FEBRUARY 2018
10:17 AM
*Meeting with witnesses***

**FINANCIAL REPORTING OF THE CAYMAN ISLANDS GOVERNMENT—GENERAL
REPORT 2015 and 2016 FINANCIAL AUDITS – DECEMBER 2017**

Verbatim transcript of the Standing Public Accounts Committee meeting held 22 February 2018, at 10:17 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

PAC Members Present:

Hon. D. Ezzard Miller, MLA - Chairman
Hon. Bernie A. Bush, MLA
Mr. Austin O. Harris, Jr. MLA
Ms. Barbara E. Conolly, MLA
Mr. Christopher S. Saunders, MLA

Ms. Manesa Webb, Committee Clerk

In attendance:

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development
Ms. Anne Owens, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development
Mr. Matthew Tibbetts, Accountant General

Audit Office:

Ms. Sue Winspear, Auditor General
Mr. Garnet Harrison, Deputy Auditor General
Mr. Julius Aurelio, Audit Manager

Witnesses:

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum
Mr. Ronnie Dunn, Managing Partner, Accountant – FINCOR
Mrs. Marcia Mutto, Managing Director, Cayman National Cultural Foundation
Mrs. Natalie Urquhart, Director, National Gallery of the Cayman Islands
Ms. Lauren Christie, Accountant, Berman Fisher

[Hon. D. Ezzard Miller, Chairman presiding]

The Chairman: Good morning. Let the record show that we have a quorum present and the Meeting is called to order at 10:17 [am]. This morning we are going to be dealing with the Cayman Islands National Museum, the Cayman Islands National Cultural Foundation and after lunch we will be dealing with the National Gallery of the Cayman Islands. So, we will invite those persons from the Cayman Islands National Museum first.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: I swear by Almighty God

that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

Mr. Ronnie Dunn, Contracted Accountant, FINCOR: I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

**CAYMAN ISLANDS
NATIONAL MUSEUM**

The Chairman: Good Morning Mrs. Peggy.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Thank you. Good morning, sir.

The Chairman: In the first question you are asked, just identify yourself by name and title before you answer for the record and you only need to do it once. And you can also introduce the person that you have with you and what their role is, please.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Thank you.

Dr. Peggy Leshikar-Denton, Director of the Cayman Islands National Museum.

I have our contracted Financial Consultant, Mr. Ronnie Dunn, from FINCOR with us. Thank you

The Chairman: Thanks for coming. The Committee has some questions based on the Auditor General's report which you will obviously be aware of, so we will open the floor for questions.

Mr. Austin.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman and good morning to the witnesses.

The Auditor General, in her Audit of 30th June 2016 gave a qualified opinion on the financial statements regarding to property, plant and equipment, as well as the completeness of cash receipts from fund raising, income and donations. They also included an emphasis on matter regarding the museum's dependence on the financial support of the Cayman Islands Government to enable it to meet its obligations.

This is one of those reports and truth, as I poured over the file, I found myself asking often: Is the Auditor General being a little too picky in their requirements and whether or not this could have received an unqualified report? However, in the end I resigned myself to accept that the auditors may only audit in accordance with the Law and in particular the Public Management and Finance Law; and therefore I accept that the Auditor General's Office had a need to remain consistent in its reporting. However, they also, in their recommendations offered what I thought were a number of low hanging fruit which should otherwise ensure, if not guarantee, that at the next audit you have a clean report and certainly by the recommendations and management response it seems that we are on our way there.

I am particularly interested and certainly speaking to my colleagues who are accountants by profession, auditors have a bit of a concern in signing off on your internal control specific to cash donations. One of the deficiencies in internal controls noted by the Auditor General was that "internal controls are not adequately documented and monitored to provide assurance that the entity's environment is conducive to adequately capture, record, and report income from donations and fundraising." The response from management was that cash donations account for less than 1 per cent of the Museum's total revenue, when in actual fact if we want to split hairs, it is closer to almost 2 per cent; 1.9 per cent in 2016 and 1.98 per

cent in . . . well, sorry, the actual budget figure is closer to 2 per cent.

You have, however, committed to correcting this for the 2016/2017 fiscal year and my question is: Could you tell this Committee what measures have you implemented? Have you since implemented these measures to adequately record and keep track of cash donations as it is received by the Museum?

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Do I speak through the Chair or directly?

The Chairman: Through the Chair.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Okay. Thank you.

The Chairman: But you only need to establish that protocol once; you don't have to say that before every sentence, just once.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Okay, thank you I am just trying to do it correctly.

Through the Chair, thank you very much for the positive remarks first that you have made about the Museum. We do feel that we have been moving progressively forward over the last years.

Regarding specifically your points about the cash donations, we derive the primary part of our donations as sponsorships that come via cheques, so there is clear tracking there. We have less than about \$1,000 that comes in through a cash donation box for which we do have procedures and forms and a number of people who go through that process with us. We also have a Financial Policies and Procedural Manual that has been developed this year and in place. Perhaps I would ask Mr. Dunn to comment a little further on that.

Mr. Ronnie Dunn, Contracted Accountant, FINCOR: Thank you, Dr. Peggy.

Through you Mr. Chair: The Internal Controls that were noted within the report were similarly identified by the Government's Internal Audit Unit and in response the organisation did develop a set of Internal Control Policies and Procedures. Last year we sat with the Internal Audit Unit, went through all the policies that were developed and the systems that were in place and they concluded that they were satisfied that we met their requirements and the observations that they made.

Just to give you an illustration: In 2017 the total amount that came through the cash donation box was \$617. It is literally a plexiglass box that is physically screwed onto a podium in the National Museum and persons drop monies and coins; sometimes we get pesos, Canadian dollars, all sorts of different cur-

rencies in it. The procedure is that the keys to that box which is physical attached to an immovable object, is kept over in the office of the finance manager.

When the box is to be cleared, two persons go over, physically remove the box from the podium, escort it back to the finance admin office, put all the coins and dollars out on the table, count it all up, verify with each other that this is the amount that came out of the box, sign off on a form that requires two people, photocopy and then it is taken back to the shop and included into the day's deposit. So, the procedure of internal control is for segregation of duties and custody of cash, we have documented it, we have been following it, we have records for it and the amounts involved is very immaterial when you have revenues of over a million dollars and the amount is a few hundred dollars a year.

Mr. Austin O. Harris, Jr.: Thank you for that. I accept all of that and certainly I noted it in the management's response when they referred to the lock box and how it is secured. The problem that I think . . . well, I can't speak for the Auditor General but the problem that I have in reviewing these financial statements is that fundraising income and donations are combined and they show a figure of \$54,801. Certainly, not the immaterial number of less than \$600 or what-not, and perhaps it might be advantageous to perhaps separate cash donations from the overall total. So, perhaps we can get some context as to the immaterial amount noting, of course, again, that the Law makes certain requirements for internal controls.

Mr. Ronnie Dunn, Contracted Accountant, FINCOR: Thank you. I think that is a very good suggestion and I think a substantial portion of the donations that year actually came from DOT; the fundraising donation sponsorship.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: The 2015-2016, it was the 25th Anniversary and so we had sponsorship from . . . well, I believe there were six major donors who gave us \$5,000 each towards our special exhibits and publications, and Walkers also gave us funding towards some improvements of the building, the Museum Building itself.

Mr. Ronnie Dunn, Contracted Accountant, FINCOR: And so, those would have all come through cheques which you would then have an audit trail that you can verify as to their completeness.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Yes, and since that time we have received a good donation from DOT to which Mr. Dunn was referring for the history of diving exhibit that we have on at present.

The Chairman: Mr. Saunders.

Mr. Christopher S. Saunders: Thank you, Mr. Chairman, and through you, sir. In just looking at the Auditor General's report with regards to efficiency in internal controls, I noticed that there were several of them in terms of journal entries, property plant equipment, restricted funds and contingency reserve. Now, I noticed in the response from management, in regards to journal entries—and I will just go through them one by one—it says, "Procedures have been put in place to implement this for the 2016/2017 year." Have those procedures been put in place?

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Sir, through the Chair, yes, a form has been developed. I will ask Mr. Dunn to comment further.

Mr. Ronnie Dunn, Contracted Accountant, FINCOR: Thank you, Director.

To the Member, yes, the procedure is in place and I have actually noted that for the majority of the journal entries made for the organisation, they relate to prepaid expenses for matters such as insurance, which we would have paid in full at the beginning of the fiscal year or close thereto, but because we report on a monthly basis, then, we would accrue it first as prepaid expenses and release it as it has been expended throughout the year.

Monthly journals would be made to recognise depreciation expense for the wearing out of assets at the end of the fiscal year we accrue the audit fees for that year into that year, even though the work isn't physically done until the following year and then we accrue leave accruals. So, there is not a massive amount of journal entries that are affecting other matters such as accounts, payable, receivable or otherwise. Those go through the sub-ledger as normal procedures; it is just the usual end of year accounting entries and entries to recognise, things like depreciation and prepaid expenses. To answer your question, yes there is a procedure in place whereby the journal entries are recorded and taken to the Director for review and signed off.

Mr. Christopher S. Saunders: Okay.

The property, plant, and equipment, you said is a full registry of property plant equipment reassessments of relevant classes will be implemented by the end of December 2016. Was that also done?

Mr. Ronnie Dunn, Contracted Accountant, FINCOR: Through you, Mr. Chair: It wasn't done completely in 2016 but I think it was early within 2017. When you talk about property, plant and equipment a couple of things you want to establish—completeness, existence, evaluation, condition. So, a complete inventory of all equipment furniture, everything that was

movable objects of the Museum has been carried out, they have all been labelled and it is in a register. The issue that continues is around the valuation which was the basis of the qualification point in the report.

Largely, more than 97 per cent of the asset base consists of the leasehold improvements and the permanent exhibits for the organisation.

I was discussing with the Auditor General briefly and will be discussing with the auditors that are going to be auditing the organisation, as to whether or not the estimates associated with the period of depreciation is correct. The policies within the document, refers to leasehold improvement being depreciated between 3 and 30 years.

One of the repair works that was carried out less than 20 years ago was to the roof of the organisation and we are already looking to change that. So, I am thinking that the period of time that the depreciation is taking place is too long from a leasehold improvement perspective and so, we have \$3 million that is going across a 30 year lease in some respects. We are going to be revisiting that from the first perspective to ensure that the estimates associated with the depreciation rate is correct. All the records for acquisitions are on leasehold improvement since 2010 when this new QuickBooks system is in place can be substantiated. So, I really believe that working with the auditors this year, we should be able to address that qualification point.

Mr. Christopher S. Saunders: Okay.

Just out of morbid curiosity; the artefacts and those things you guys have inside there, those are not being considered asset that's being depreciated? I would hate to think that you have something 200 or 300 years old and are trying to depreciate it.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: There is a note in the financial statements that, you know, similar to many museums worldwide the actual objects in the collection are not—

Mr. Christopher S. Saunders: Yeah that's what I thought because I am like, if you have something that is 300 years old, I mean, that's fine; that is just more for the public.

Dr. Peggy Leshikar-Duncan, Director, Cayman Islands National Museum: But sir, if we buy a painting or a thatch basket, that cost is in our books but not say if it becomes a Rembrandt or something, you know, at this stage.

Mr. Christopher S. Saunders: Sorry, just finishing up my questions: The restricted funds and the contingency reserve, we noticed that you said you would have those recommendations in place by the end of the calendar year. Were those completed?

Mr. Ronnie Dunn, Contracted Accountant, FINCOR: Through you, Mr. Chair, to the Member: The contingency reserve at \$200,000, across the public sector the goal is to have approximately 90 days of reserve on hand in the event an event occurs which restricts revenue to the organisation for a period of time. The \$200,000 does not reflect 90 days at this particular time. The intent is to bring it to the Board of Directors to ask for that to be topped up as the organisation has significantly greater cash overall than the \$200,000 to have a true 90 day reserve in line with central government and others. Once that is done, it will then be clarified that that reserve represents a contingency reserve in the event of unforeseen circumstances which restrict revenues.

The policies around the restricted funds, whilst there has been some documentation developed since, the reality is, the donor in making those donations to the organisation, often set requirements as to what that donation can be used for, and so, until the organisation meets those requirements, they remain as restricted funds. Now, reviewing it, some of the donations I believe, came from the government itself and it has sat there for quite some time. It was under \$100,000 for a number of years. This year it went over slightly, due to another donation of \$3,900 that we received.

The intent is that when those requirements set by the donor have been met, the funds will be expended and will be recorded as revenue or expense or the asset that it acquires, but until then we have to honour the wishes of the donor and keep that money separate and restricted and not otherwise use it for operational expenses.

Mr. Christopher S. Saunders: Final question, Mr. Chairman, and this is more to the Auditor General's team. I understand, as to what my colleague from Prospect raised, that with some organisations there is also the reluctance to give unqualified opinion to charitable organisations that basically lives on donation from others. I am just curious as to what the Museum would need to do to make sure that they receive an unqualified opinion at least by the end of this financial year; maybe not for 2017 but for 2018, and if that would be possible.

Ms. Sue Winspear, Auditor General: Thank you, through you Mr. Chairman: I was going to state the outset that the three entities we have before us today are all very similar in that they are small, not for profit organisations that actually have a lot of cash and cheque, say, fundraising and donations. And, as Mr. Harris said, we try desperately hard not to be overly picky as auditors but we are required to audit to standards and we need to be able to prove the completeness of cash.

The second entity that you are seeing this morning CNCF [Cayman National Cultural Founda-

tion] have managed to removed that qualification and I would have said if I had gotten the chance to say something at the start, that it feels the Museum is really moving in a positive direction, and whilst you can't prejudge where the 2016-2017 Audit is going to go and what it is going to find, it feels reassuring and even more reassuring from the testimony we have heard today.

The other thing I was going to add was that we contract this audit to Eisner Amper, so, on the ground it is one that is delivered by the firm as indeed the next two are as well. I have with me Garnet and Julius who oversees Eisner Amper who would do two of them, the Gallery and the Museum and KPMG where Garnet oversees the CNCF. So, on the specific they may have more details about where we are actually at with the audit.

The Chairman: Just identify yourself.

Mr. Julius Aurelio, Audit Manager, Office of the Auditor General: Through you, Mr. Chair, good morning—Julius Aurelio, Audit Manager, Office of the Auditor General.

With respect to the donations as the Auditor General has specified, we are assured by what we have heard today. In the last audit we have shared with the Museum what we thought was being done in places like the Gallery too, which has really stepped up, including putting a camera on its lockbox, which really adds some security. So, when Eisner Amper comes in this year, I am sure they will take a look at the improvements, and, as we said, we hope to be assisting more with their objectives.

The Chairman: One question: How does the . . . Mr. Jefferson, help me here. The Charitable . . . the Law we passed is the Non-Profit Organisation . . . what's the name of the Law? That's what it is, right? Or is it . . . It was first presented as the Charities Bill and then it was . . .

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Thank you, Mr. Chairman. We are going to attempt to Google it.

The Chairman: That Law has some specific requirements in it. How does that affect what you are doing in your accounting? And, are you aware of the requirements of that legislation and will you be in a position to meet the requirements of that legislation?

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: We have attended a session on the NGO [Non-governmental Organisation] Law. We are, of course, a public authority so there is some grey area in, you know. We are going to fill out the forms and so forth that we need to do for the NGO

Law but it is my understanding that as a public authority there are considerable controls on us, for instance, the auditing itself, you know, I don't even think it is required in the NGO Law.

The Chairman: But that does require certain methodologies of reporting income and what-not, as I recall. It has been passed, I think, probably three or four years ago. I am trying to remember the exact title. I think it was Non-Profit Organisations.

Mr. Kenneth Jefferson, Financial Secretary/Chief Officer, Ministry of Finance and Economic Development: Mr. Chairman, the name of the Law is the Non-Profit Organisations Law, 2017.

The Chairman: Right. And the most recent one we are talking about is the Charities Law, which is completely and entirely different. That is the deal with these Financial Institutions that collect this money that has to be donated to charity or something; but that requires, as I recall, certain specific performance in relation to donations as to source of funds and stuff like that. So, you might want to look to make sure that whatever you are doing, and we encourage it, as the Auditor General said, we think you are moving in the right direction. I think that is an added thing that you need to have on your vision screen somewhere about because you don't want to make all of these corrections and then you get down the road on the next audit and you find that you are not in compliance with some sections of that Law.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Thank you.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman; just one final brief personal observation. First I want to thank the Member for Bodden Town West for supporting my argument and likewise to the Auditor General for accepting it.

You know some entities exist to make a profit, other entities exist to serve the national purpose and I believe the Museum serves the latter. The Museum is a vital part to any country's national identity and whilst perhaps quite rightly so, you may be able to fulfil all of the recommendations as it relates to deficiencies to internal controls, the matter of plant, property and equipment, I am not sure how you intend to get over and certainly how the Auditor General's Office tends to reconcile the emphasis of matter that this is an entity that in order to continue, will require government funding and support.

I just want to say to the Museum, as I recall from the budget debates back in November and I think the support the Museum received from all Members of this honourable House, I don't think the Museum needs to worry or feel itself under threat in any way of

not being able to operate. I believe the Government will continue to support those operations.

The Chairman: Unless we need the money for the Port.

[Laughter]

Mr. Austin O. Harris, Jr.: Again, I thank the Auditor General for identifying what are a number of low hanging fruits and I also thank and acknowledge the Museum and the members represented for heeding those recommendations which, I believe, will lead to a clean audit report for 2017. So, I thank you very much.

Dr. Peggy Leshikar-Denton, Director, Cayman Islands National Museum: Thank you. We are grateful for your comments and your support. We are an organisation in service to society and we aspire to serve the people.

The Chairman: Any other questions?

Thank you all very much for coming and keep up the good work.

Mr. Ronnie Dunn, Contracted Accountant, FINCOR: Thank you, Mr. Chair.

The Chairman: Hopefully, next year we will hand you one of those certificates that have become so valuable.

[Pause as witnesses leave and next witness enters the Chamber]

ADMINISTRATION OF OATH OR AFFIRMATION

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

CAYMAN NATIONAL CULTURAL FOUNDATION

The Chairman: Good Morning, Ms. Marcia, and thanks for coming.

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: Good Morning, Mr. Miller.

The Chairman: This morning we are dealing with the Cayman National Cultural Foundation and we have a few questions to ask you, based on the Auditor Gen-

eral's report which you would be aware of. The Auditor General's report, do you have?

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: Yes sir, I have taken out—

The Chairman: When you answer the first question, just identify yourself by name and title for the record. You don't need to say it every time, just the one time so that it will be in the records that you were here. So, I open the floor up for questions.

Mr. Austin.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman, and thank you to Mrs. Muttoo for being here.

This is another one of those reports that I believe perhaps has the potential to avoid a qualified opinion in the future, but I do have some questions because I think the observations of the Auditor General's Office are. . . well, not significant but important. They offered a qualified opinion as it related to matters relating to internal controls and observed simple things like there are no copies of cheques, for example, retained or sent back to the bank and this could very easily be corrected.

I understand that at the Cultural Foundation there are a number of persons wearing a number of hats but I am curious to ask whether or not there is a qualified bookkeeper managing the accounts, because, in my observation of the Auditor General's report, I believe the recommendations, to my mind, are minor in nature and can be easily corrected through the introduction of simple systems such as a general ledger and overall proper record keeping as it relates to cash deposit and donations. Could you inform this Committee as to the skillsets of the individual who may be managing the books at the Cayman Islands National Cultural Foundation, please?

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: Thank you for your question, sir.

Mr. Chairman, through you: My name is Marcia Muttoo. I am the Managing Director of the Cayman National Cultural Foundation. Among my qualifications are a Post-Graduate Degree in Arts Management and while the Cultural Foundation does not have a Financial Officer's post to the degree that you have described, we contract qualified independent accounting professionals to assist us with the preparation of the financial statements.

On a day to day basis, I handle most of the financial matters, and you mentioned the comments from the Auditor General's Office; in particular, the one where it was stated that there were no copies of cheques. Our bank with which we have been doing business for more than 20 years stopped sending back the cancelled cheques a couple of years ago.

They used to provide us with the actual cancelled cheques so that the auditors could go through that and do their checks in that manner. When they stopped doing that, we were no longer in possession of the actual cheques. We have since been in contact with the bank. They have advised us that they can provide copies of the cheques; it would be at some cost, so, we have determined that what we should do in the future is to receive from the auditor, if agreed, a listing of the cheques that they would like to see and then we ask the bank to provide those cheques. It will obviously cost us but it would be less expensive than having copies provided of every single cheque that we have written over the course of a year.

They do have, however, the ability to look at the cheque stubs which we do have in our possession throughout the year. So, if there is something that they would like to check in that manner, they are able to do so.

The Chairman: I don't think that that was the Auditor General's concern. The Auditor General's concern is whether the cheques over \$1,000 have two signatures before they are deposited at the bank.

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: I don't believe that concern was expressed in the financial statements. There is a system in place, that once the cheque is over \$1,000 it must have two signatures which is on record with the bank and in each and every case they will have found that we have always had more than one signature on all cheques over \$1,000.

The Chairman: There are instances where the bank has paid out cheques that require two signatures with one signature. I think that part of this is that they need to know that the cheque was signed by two people.

Mr. Garnet Harrison, Deputy Auditor General, Auditor General's Office: Through you, Mr. Chair: Garnet Harrison, Auditor General's Office.

In regards to this, it is exactly looking at that control in seeing if those two signatures are there as well. Obviously, from the cheque stub we can't see that and from other things. In essence, this is again not done by us directly; it is done by another auditing firm. So, we are relying on what their test procedures are, but from what I understand, they want to take a look at those cheques to make sure the amount is the same; it is what it was written for and also for the signatories that they can verify both signatories.

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: Well, as I said I can guarantee that you will be able to get that information because as long as you tell us which cheques you would like to see, because obviously, the auditor takes a sample. We can have those come from the

bank; they will make photocopies for us so that you can be assured that not only did the cheque leave us with two signatures but that that very cheque actually was processed through the bank.

Ms. Sue Winspear, Auditor General: The response about copying the cheques before they are sent off would probably suffice rather than incurring any cost because the last thing we want to do is make it difficult, but we need to comply with standards and ensure controls are in place. So, the response at the bottom line about copying them once they are signed would probably suffice.

Mr. Christopher S. Saunders: I think it is important just to recognise that cash in any audit is always considered high risk and as such, the controls around cash has got to be above that of pretty much any other asset you have.

I will join my colleague for Prospect. I guess where a little bit of my reservation is, is that any qualified accountant that you employed to do this, it is like basic 101 accounting and I would say to you that when you go back to have that conversation with whoever you are contracting with; because some of the other errors that have been noticed are not the work of a qualified accountant, at least at this level. At the end of the day, one of the things I look at also in my consideration is the size of the entity. With \$180,000 in cash and roughly \$1 million in expenses, I mean, this is now considered a million dollar business, and, as such, the controls that we would expect to have in place for a million dollar business would be a little bit more robust.

So, I think the Auditor General's recommendation in terms of photocopying is spot-on because, at the end of the day, we, in this position, shouldn't be relying on any bank to send over anything we need. Every piece of evidence of every transaction should always be available within the business and not just something for us to send for. So, that I think is more on your finance team and I am sorry, whoever it is isn't here with you today to actually comment in terms of what it is that they are doing because these are more financial transactions in nature and the controls that go with those.

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: Point taken.

The Chairman: And the other one is: Have you corrected the matters about the accrual balances and stuff in the accounts?

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: Yes we have. That was a situation where the insurance premium, the bill is stated in a different time period than the full financial year and there was an error in a three month por-

tion of that. We had not accrued it to the correct financial year, which was immediately corrected once it was pointed out.

The Chairman: And any differences or inadequacies based on your ownership agreement with Government? Those have been addressed for the 2016/2017 accounts?

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: They have indeed, yes.

The Chairman: Any other questions?

[No audible reply]

The Chairman: Okay, well thank you very much, Mrs. Muttoo, for coming. That is all the questions we have for you at this point in time.

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: Thank you so much. May I be excused, Mr. Chairman?

The Chairman: Yes, of course, you can.

Mrs. Marcia Muttoo, Managing Director, Cayman National Cultural Foundation: Okay, thank you.

[Pause as witness departs]

The Chairman: Good evening, let the record show that we have a quorum present and we will get started. This afternoon we are dealing with the National Gallery and I would invite the two persons to be brought in.

[Pause as next witnesses enter the Chamber]

ADMINISTRATION OF OATHS OR AFFIRMATIONS

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: I do solemnly and sincerely and truly declare and affirm that the evidence I shall give this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

Ms. Lauren Christie, Accountant, Berman Fisher: I do solemnly and sincerely and truly declare and affirm that the evidence I shall give this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

CAYMAN ISLANDS NATIONAL GALLERY

The Chairman: Good afternoon, Mrs. Urquhart. The first time you are asked a question, please identify yourself by name and title so that the record will show. You only need to do it once. We are dealing with the 2015/2016 Audit Report on the National Gallery, and the Committee has some questions that we would like to ask you.

Mr. Austin.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman, and good afternoon to the two witnesses present.

Just to give context to, I think, the questions that will be coming, I am going to read directly from the audit report highlighting the concerns that I think are at the top of the minds of members of this Committee. It reads: "As a result of our audit we have discussed with management our concerns over the material uncertainty that has arisen because of the continuous years of net losses in operations of the Gallery since 2012 when the operations expanded to the new Gallery Building and the unfavourable current ratio and net cash flows used in operations which are negative operating cash flows."

"There have been significant increases in operating costs arising from conducting business in the new Gallery building and it provides material uncertainty over the ability of the Gallery to continue as a growing concern." [UNVERIFIED QUOTE]

I say those to preface the question that most entities would like on their wish list, new infrastructure. Everybody wants a new building but usually when desiring a new building, there is a financial case made for it, usually within that entity's own operating books. It seems that that was not done and perhaps there is a back story behind how the Gallery came to be in its current location. Was a business case made? Was it a decision taken by the Board? What were the financial implications and were there considerations for those financial implications?

It seems at face value that none of that had been done. You simply got a new building and since having that new building, as identified in the records, you have not proven the ability to afford that building. So, perhaps you can illuminate this Committee a little bit in terms of the background as well as the financial difficulties that, for all intense and purposes, the National Gallery is having, since moving in to your new facilities.

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: Natalie Urquhart, the Director of the National Gallery. Thank you for the question.

To the background of the building, absolutely there was business plan made. I think we identified this back in 2010, bearing in mind to remember that most of the building had been privately fundraised for over about 14 years. So, we were at the point in 2010 that most of those private donations would have had

to be returned, had we not moved forward with the building.

We did identify to the present Ministry at the time we were working under, that the business plan would need to look at, bringing the Gallery into better alignment with the other two cultural organisations. I think at the time that we had decided to move forward with the building, the National Gallery was about \$400,000 per year from Government. That has continued up until this 2018 year when that has been amended. That is about half what the National Museum was receiving. So we have always been responsible for public/private partnership since day one.

We rely very heavily on private sectors and also through a series of fundraising events. So, that does sort of implicate the annual revenue that the Gallery is able to earn because we are based on these fundraising models.

We did flag that part of our business plan would be a grant increase to recognise that we were literally doubling in size of the building in operations. And one of the main reasons for building the building was to allow for the first time ever, for a National Art Collection Gallery for the people of the Cayman Islands, and also a major education centre. So, it was deemed that this was a good time to move forward with that. I think you know that we do about 60 workshops and events every month that are free to the public. So, there was a real need and demand for this organisation to take it to the next level.

The Business Plan is based, as I mentioned, on the government grants, private sponsorship through mainly education events; the model that we have served as well. We have to be flexible every year; we have to cut events if we don't receive that private sponsorship and we have made that very clear from day one to our Ministry. And the year that we are particularly looking at, the 2015/2016 year, was a very tough year for us.

I do want to put for the record that a large amount of the loss is depreciation on the new building and certainly the years before from 2012, 2013, 2014, the major amounts that we were looking at on paper is depreciation, so it is not a cash loss. We have brought this to the attention of our leadership over the last few years and looked at ways to diversify revenue. So, we have now got a large Events Department in place. We are doing fundraising schemes that will bring in long term revenue like our new National Gallery Book, which again was underwritten by a donor, which allows for all of that income to contribute to our annual revenue. This year, looking back to the 2016/2017 audit, paints a very different picture than the 2015/2016. Donations have increased and we have also implemented new fundraising events to make a significant difference to that. That will be reflected in the audit that is coming up.

Mr. Austin O. Harris, Jr.: Just a follow-up: You stated that a large part of the reason why you got the National Gallery's new building in the first place, came as a direct result of private financial donations and fundraising. Have you seen those private donations reduced or increased over the last five years?

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: It has fluctuated. Certainly, at the time of the building, you will remember we were building in 2010/2011, we had a global recession that was starting to affect Cayman but we saw donations from private companies affected later because we usually work on a three year giving cycle. But I think the building itself has brought an enormous amount of pride to the community; whether it is to the people who come in and use it for the classes, the students, or the corporate sector that we work with. So, that started to rebuild.

It is a major amount of my time as Director, in going out there and seeking private partnerships but also looking at these events that we are talking about. So, we do a very large fundraiser called the "Big Art Auction" which wasn't held in 2015/2016 for various reasons. That was another sort of loss of contribution to that particular year. This past year we have held five fundraising events in the 18-month period and that's now bringing us back up to where we expect in our business plan.

Mr. Austin O. Harris, Jr.: Across the globe, national galleries usually are supported by patrons, sometimes called "patrons of the arts" and they fill those gaps that help to manage operational costs against the course, to your statement, the fluctuating level of donations that may be received. Can you state whether the National Gallery has a similar program of patrons that support the organisation other than government; and if so, can you identify to this Committee how many and perhaps the value of those patrons' contributions?

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: I will answer that in two separate sections because we would call our corporate partners patrons, if they are long term supporters. So, there are about seven corporations in the Cayman Islands that have been funding education programs for over 10 years; those would be repeat program donors. We did lose one of those in 2015/2016, which is again partly responsible for that loss because they redirected their philanthropic efforts away from the Cayman Islands and that was State Street that had been with us for about 10 years.

The other major organisations that we partnered with for many years are Dart, Walkers, EY [Ernst & Young], Butterfield, Cayman National, and various other programs with smaller donors, like Scotiabank for pop-up, and this is all education programs. So, one of the things that we did see in 2015/2016 is

also a drop-off in sponsorship of exhibitions. Now exhibitions really are a one big 3-month education program but we find that the corporate sector like to fund longer term child-based education. So, all of our children's education is available for free as a result.

In terms of individual patrons, we have two individual patrons. Patrons, as you mentioned, normally come through a management board and we are very keen in the National Gallery to ensure that our management board has a very diverse group of individuals. So, it is not like a traditional Art Museum in New York or London where a lot of the Board of Directors would be made up of high net worth individuals. Our Board has a very different profile. There are, however, a couple of patrons on our board that do regularly contribute on an annual basis.

The Chairman: Mr. Chris.

Mr. Christopher S. Saunders: Thank you very much, Mr. Chairman.

Welcome to the National Gallery.

As we were putting together the invitees for the Public Accounts Committee as part of our oversight responsibilities, one of the things I am hoping for, since I know that these proceedings are carried publicly, is that the public and others at large will at least get a better understanding of what it is that the National Gallery does and the importance that it plays here in the Cayman Islands, and hopefully we can find some new additional ones. Once people recognise sometimes what the challenges are, then maybe we can get other people to step up to the plate and to support what it is that you are doing. At the end of the day the arts does have a place to play within our society and as part of continuing our own heritage and culture and so forth.

One of the things I am serious about and just expanding on what my colleague from Prospect said, is in terms of, I guess, getting more external support. It is a very wonderful building and I suspect that more events will be held here and I expect that maybe this year will probably be better than the 2016 year. What are some of the initiatives that you guys are now undertaking or doing to basically improve in terms of the donation and the revenue side of the business? Because at the end of the day, it still needs to, I guess, pay its own way and ultimately wherever the shortfall is, that is something that the public purse would have to pick up.

We want to just make sure that we are comfortable and if there is anything we can also do to help, because at the end of the day the purpose of this body here is to help in whatever way we can. What initiatives you guys will be doing that you think will increase revenues and at least carry the National Gallery up to point of breakeven?

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: Thank you; that is a wonderful question.

Absolutely, we have been looking really, since, as we said before moving into the building, about how museums in the 21st Century can be revenue generators in their own rights and we see a trend in this happening over the world. We have always, as I said, been sort of 50/50 public/private and even with the increased that we have received this year will still only be just around that equation, so we are very committed to expanding our revenue generation. One of the projects I briefly mentioned was looking into publications now. Museums are also meant to be academic research centres and we want to provide incredible resources, both, to our young students in our schools in Cayman but also all the way up to seniors. We do that with programs on a weekly basis but we would like to create sort of a more tangible longterm publication that supports Caymanian Heritage and our Caymanian story.

Our recent book project, we just launched is the first ever Art History of The Cayman Islands based on the National Collection. That is also a revenue generator because we were able to seek a patron to underwrite that, Mrs Susan Olde. So, all of the funds, 100 per cent of those funds are going directly back into supporting programming. That is a great model for future revenue generation at the Gallery.

I think one of the challenges we have though, because we have a very large education program, and I should state that we do provide an afterschool program weekly for 120 students here and in Cayman Brac, and that is just one sample of the type of reach that the Gallery has. That is all done free of charge. We have discussed the model of starting to charge people entry but we are really determined to make sure that there are no barriers to anyone in the Cayman Islands community to access this incredible resource. So, we do not want to put a charge on the door if we can possibly help it. One day that might have to be considered but certainly we will try everything we can do now not to have that.

So, these publication projects expand merchandising in the shop, we have a project that we are just about to launch which is really based for gifts and tourism based on the art work in the National Collection. Of course, some of that revenue needs to go back to the artist themselves, so we do have to consider that too. But really, one of the blocks to some of the ideas that we have for revenue generation is our staffing resources. So, we had a part-time fundraising administrator for six-months last year to try out whether that position would pay for itself and more and it looks very positive. It means that one person can really go out there and look globally for fundraising, not just locally.

Currently, I do most of the fundraising myself and I am also running the organisation, so it is very

challenging to put enough time and resources into building those new community partnerships with corporate and individual donors. So, we are certainly looking at increasing a staff member there to help generate revenue, and then we have our events team. So, we can only do as many events as kind of the 1.5 person team can manage at present; but we are looking at ways of maybe having people on the retainer for larger events, should we be going to expand those events. So, those are just a couple of samples.

Mr. Austin O. Harris, Jr.: Just a follow-up, Mr. Chairman. I thank you for your answers.

Obviously, it suggests that efforts are being made to improve your financial position and one of the similarities, if you will, in all of the witnesses today, is that the National Gallery, the National Museum, the Cayman National Cultural Foundation are not for-profit, whose emphasis is preserving national identity and culture.

Other similarities suggest that with your otherwise barebones staff there are a number of people wearing a number of different hats, much like yourself as you have just explained. However, the challenges that the Auditor General found was both a lack of revenue to support the operations of the new Gallery in its new building as we've seen cost increase in revenues; perhaps not keeping pace with that. I think you have identified though, your efforts to improve that situation. But the other side of the coin is what the Auditor General defined as concerns regarding the completeness of cash receipts from donations and events and exhibition income. Basically, this tells me that it is a matter of question of how your books are presented and maintained, and for that, I ask the question: Who is the National Gallery's bookkeeper and what are that person's qualifications and or experience specific to financial management?

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: Very good question as well and I would like to state for the record that this qualification is an annual qualification for charities globally. It is not a reflection of the way the National Gallery manages its accounts. We would love to get rid of this qualification and we put very strict cash handling and procedures into place that have been recognised during our audit process over the last for years as Best Practice. We are very proud of those but this is a global cash handling qualification.

For the last five years we have worked—and this is my colleague Lauren Christie from Berman Fisher. I apologise for not introducing her earlier on. We have worked with the firm Berman Fisher so we have formal accounting personnel doing our bookkeeping. We do not have an in-house bookkeeper for that reason. As the Gallery moved into the new facility and increased in size and speed of revenue, obviously, we have a gift shop membership, work-

shops et cetera, we wanted to make sure we were working with the very best qualification in terms of managing our accounts. I am very pleased with the audits we have had over the last few years, apart from this one qualification, which again, is this global qualification for any charities that have donations.

Mr. Christopher S. Saunders: Mr Chairman, through you: That was one of the issues that we recognised with all of the charitable organisations, so you are correct in that regard.

One question which we had asked the Auditor General previously and I guess for ease of your own better understating, the one question that we had was: What it would take for this opinion to ever become qualified? Now, I am looking in terms of the nature of your business and in terms of the amount of collections that you guys would have that would be non-governmental, and the question will be then: Would you guys ever get the unqualified opinion? I think it would be easier coming from the Auditor General to say, because ultimately that is to be the opinion from her department. What would you guys have to do to get it to become unqualified because I know it is going to be very difficult with the nature of your organisation to ever get an unqualified opinion?

I think it is important for us to at least set the expectations from the public, that at least there may be a government entity that just will not get pass this point because of where we are globally as a standard. I know there are many charitable organisations in Cayman that do not get an unqualified opinion for exactly the same reason. So, if that is the case I would leave that to the Auditor General to answer and if you can't get it, you just can't get it.

Ms. Sue Winspear, Auditor General: Thank you, honourable Member. Through you, Mr. Chair: We have talked about this and we have talked about it in the context of the other two entities and I absolutely agree with you, it is a really difficult qualification point to remove, because, as auditors, we are required to be able to verify the accuracy and the completeness of the revenue and that is naturally very difficult and not for profit fundraising entities that handle a lot of cash, and we have talked about that with the other two witnesses as well as the Gallery.

CNCF have managed to remove that qualification. We talked as well with the Museum about the things they were doing, including the camera and the cash books that Mr. Dunn was talking about. And if you look at the audit opinion . . . sorry, the 260, we know that the firm on the ground, it is Eisner Amper that does this audit on our behalf and we review the audit and I ultimately sign off, so it is my audit inevitably. But it says there that they are going to do a specific review of the criteria upfront in this audit because like everybody here, we want to do the best we can to try and remove this qualification. In every other re-

spect if you look, there aren't any issues in the ISA260. We feel the entity is very well managed and, as you have heard, it is a very difficult area.

Sorry, I don't know if Julius who actually oversees the audit wanted to add anything.

Mr. Julius Aurelio, Audit Manager, Auditor General's Office: Through you, Mr. Chair: Looking at the National Gallery, actually is where we found the camera in place, which is really something that we are looking to as a best practice, as a good practice. So, when we get to the point of speaking with the auditors, we will surely follow-up with them the status of this assessment that they will do upfront.

Mr. Christopher S. Saunders: Thank you.

Mr. Chairman, through you: I think, just for the benefit of the public and touching back on what my colleague from Prospect raised before, the main issue for the National Gallery is then pretty much a growing concern issue in terms of the revenues and the associated expenses. So, I think, just as a kind of, I guess, to set the tone in terms of what we were looking for in the 2017 audit, would be more on the revenue side and, I guess, if it is not there, then, more the management of expenses. But from an audit standpoint we recognise that the nature of the business makes it very difficult to get an unqualified opinion. But we don't want the public to believe thinking that it is mismanaged but rather it is more a revenue issue. So, just for the ease of everyone here and what it is that we will be looking for in the 2017 audit is pretty much around then the issue of it being able to sustain itself and not become a burden on the public purse.

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: Thank you, if I could speak to that, through you, Mr. Chair: I am very glad that we have put this out because it does send the wrong message. We have actually been speaking with the Auditor General's Office for many years at this point to ask how we can remove this qualification and we have built a management system accordingly to be best practiced within our organisation.

I should also qualify that the cash we handle is rather small in percentage when we are talking about the fundraising that we bring in every year. Most of that revenue is pulled in directly from private firms or wire transferred and we have a very clear system of tracking that, making sure that it is all put to the point of sale. So, if we are talking about donation boxes—(speaking to someone in the background off microphone—*Can you remember exactly what the donation boxes are around? Is it \$5,000 a year?*)—of cash handling on site, obviously, that does not include the gift shop.

The procedure that we put into place in addition to the cameras is having two staff [members] manage that counting at all times and then co-signing

that and putting it through our point of sale system which then goes directly to our accounting system. So, we are very, very cautious about how this is managed and we are very much hoping to be able to remove that qualification as well, as a result of that good practice.

Mr. Austin O. Harris, Jr.: Mr. Chairman, I am grateful for that statement.

I refer to what the Auditor General refers to as the completeness of donations. It reads: "The need for the Gallery to demonstrate its ability to assert the completeness of donations and fundraising revenues reported on their financial statements." [UNVERIFIED QUOTE]

Now, not being an accountant myself but certainly relying on the experience of my colleagues, that simply says to me that the Auditor General's Office requires more information on your financial statements as to where these revenues/donations are coming from; the creation of an audit trail perhaps. But you have just stated that whether it be your point of sale, whether it be your cash procedures, or whether it be the installation of a security camera, it seems as if you are making the necessary changes as advised by the Auditor General's Office.

Are you able to identify what recommendations have been made that you are unable to comply with, in the first instance? And certainly, to the Auditor General's Office: What more, in your anticipation, can the National Gallery do so that we can arrive at removing this qualification? In other words: How much more information would you require to prove the completeness of the revenue stated on the financial statements, in order to be satisfied that the financial statements pass muster, so to speak?

Ms. Sue Winspear, Auditor General: Thank you.

Through you, Mr. Chair: As I said just now, there is the one qualification point and we have discussed how prevalent this is in this type of entity across the world. We are auditing to International Auditing Standards and therefore we must be satisfied about the completeness of the revenue.

I mentioned in response to the last question that there are no ISA260 points which demonstrates, I think, a very high level of internal control and management within the Gallery and is commendable and I mentioned Eisner Amper, this year, is going to look at the controls because we know measures have been put in place and we have a good relationship to try and address this issue. So, I think everything that could be done in being done and again without preempting the audit because the work needs to be done and obviously other things may have changed, we feel there is every chance that we will be satisfied ultimately this year with the controls around revenue; particularly with the camera on the cash box and various other things.

As I've said, it may sound pedantic and petty but you are auditing to a great international standards and that requires you to be certain around completeness of revenue. And, it is a particular issue for this type of entity, as we have said, across the world, but we are optimistic without prejudging where the audit is going to take us.

Mr. Christopher S. Saunders: Through you, Mr. Chairman: I think it is also important for the public to recognise, and I have seen charitable organisations that accept no cash and still get this qualified opinion. So, when looking for completeness of revenue it doesn't have to do with anything with cash collection. And I am speaking from experience. I have seen some of these that have nothing to do with cash or anything, it is just a standard and very few non-profit globally, actually, get it clean. So, if this is the best . . . and this is why I said we wanted to set the expectations, that barring the losses from the entity, it is not going to get anything better than this. That will probably be only the one issue but this is standard language.

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: May I?

Through you, Mr. Chair, if I could, just to speak to that as well.

The Chairman: Yes, sure.

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: I think this is a really important conversation to be having so that the public is aware of the type of qualifications that charities have that do accept cash. And to point out again that our contribution from Government is about 50/50, so, we are very different from the National Museum which is almost 100 per cent and the Cultural Foundation, which is about two-thirds government support and some fundraising. So, we have to bring in an enormous amount of revenue every year to stay in business and so, we obviously do have a lot more connection to these fundraising events and donations. That is why to clarify, we haven't just put these good management practice structures into place in the last couple of years, they have been running for many years now and I think it is important to point that out and to put it into context. Thank you.

The Chairman: Any other questions?

[No audible reply]

The Chairman: Thank you very much, Mrs. Urquhart, for coming. We look forward to working together to get it done as good as we can.

Mrs. Natalie Urquhart, Director, National Gallery, Cayman Islands: Thank you, Mr. Chair, and the Committee.

The Chairman: Thank you very much.

Just one Housekeeping thing with the Committee: We received notice that the Legislative Assembly plans to start its Meeting on the 14th March. Can we have an admin meeting on March 6th to review because we have several reports that we need to table? We have the HSA, which is going to be a troubling one.

[Inaudible interjection]

The Chairman: I'm writing it, so everyone will know.

We have the Government Accounts—right? We have the Major Capital Projects—right? So, what I would try to do on working with the Clerk between now and then, and the AG's Office, is to get the reports drafted. The meeting shouldn't be longer than an hour and then we can also do the invoices et cetera for the . . .

[Inaudible interjection]

The Chairman: Right. Okay. So, the 6th of March at 10:00 am is okay with everyone?

Mr. Austin O. Harris, Jr.: Yes sir.

The Chairman: Okay.

Is that okay with you all?

[Inaudible interjection]

The Chairman: You only come if we have witnesses, so you don't business with her.

[Laughter from the Members]

The Chairman: Okay.

Thank you all very much. See you all tomorrow morning at 10:00 am. We are dealing with the Maritime Authority of the Cayman Islands.

At 1:50 pm the Public Accounts Committee Meeting adjourned.



Legislative Assembly of the Cayman Islands

THE STANDING PUBLIC ACCOUNTS COMMITTEE

MINUTES of Meeting with Witnesses

Friday, 23rd February 2018 at 10:00 am

Financial Reporting Of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

Minutes and verbatim transcript of the meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building, Grand Cayman on Friday, 23rd February 2018 at 10:00 am

Present:

Hon. D Ezzard Miller, MLA – Chairman
Mr. Christopher S Saunders, MLA – Member
Hon. Bernie A Bush, MLA - Member
Mr. Austin O Harris, Jr, MLA – Member
Ms. Barbara E Conolly, MLA - Member

Ms. Manesa Webb, Committee Clerk

Apologies: There were no apologies.

Attendees:

Ms. Sue Winspear - Auditor General, Office of the Auditor General
Mr. Patrick Smith – Director of Financial Audit, Office of the Auditor General
Mr. Julius Aurelio- Audit Manager, Office of the Auditor General
Mr. Ruel Huet- Audit Project Leader, Office of the Auditor General
Mr. Michael Nixon - Senior Assistant Financial Secretary, Ministry of Finance and Economic Development (FED)
Ms. Anne Owens - Senior Assistant Financial Secretary, Ministry of Finance and Economic Development (FED)

Witnesses:

Mr. Joel Walton - Chief Executive Officer, Maritime Authority of the Cayman Islands

Mr. Osbert Francis - Global Director of Operations, Maritime Authority of the Cayman Islands

Mr. Phillip Barnes - Chairman of the Board, Maritime Authority of the Cayman Islands

1. Meeting to Order

There being a quorum present (Standing Orders 77(2) refers), the Chairman called the meeting to order at 10:15 am.

2. Welcome

The Chairman gave a brief welcome to the Members and thanked them for attending the Public Accounts Committee (“PAC”) hearing. He also welcomed the Auditor General and thanked her along with the OAG staff; Mr. Kenneth Jefferson and Mr. Matthew Tibbetts for attending the hearing.

The Chairman advised the Committee that they would be dealing with *Financial Reporting of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017*. Mrs. Sue Winspear, the Auditor General, offered opening remarks on the background and current standing of the general report and financial audits. The Chairman then opened the floor to questions from the Members of the Public Accounts Committee.

3. Review of Financial Reporting of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

- Financial Reporting Of the Cayman Islands Government General Report 2015 and 2016 Financial Audits – December 2017

The meeting commenced at 10:15 am and the Chairman invited the witnesses to the Chamber and asked them to state their names and take an oath by holding in their hand the Bible.

The following persons appeared in their named capacity as witness before the Committee for this Report:

- Mr. Joel Walton: Chief Executive Officer – Maritime Authority of the Cayman Islands

The Committee continued the meeting with the next witness at 11:20 am. The following persons appeared in their named capacity as witness before the Committee for this Report:

- Mr. Osbert Francis: Chief Financial Officer – Maritime Authority of the Cayman Islands

The Committee continued the meeting with the next witness at 1:02 pm. The following persons appeared in their named capacity as witness before the Committee for this Report:

- Mr. Phillip Barnes: Chairman of the Board – Maritime Authority of the Cayman Islands

The Chairman thanked the witnesses for attending the meeting of the Standing Public Accounts Committee held in the Chamber of the Legislative Assembly Building.

4. Any Other Business:

There was no other business.

5. Scheduling of Next Meeting

The next administrative meeting was confirmed for:

- Tuesday, 6th March 2018 at 10:00 am

6. Adjournment

There being no further business, the Chairman adjourned the meeting at 1:20 pm.

**OFFICIAL VERBATIM TRANSCRIPT
STANDING PUBLIC ACCOUNTS COMMITTEE
FRIDAY
23 FEBRUARY 2018
10:00 AM
*Meeting with witnesses***

**FINANCIAL REPORTING OF THE CAYMAN ISLANDS GOVERNMENT—GENERAL
REPORT 2015 and 2016 FINANCIAL AUDITS – DECEMBER 2017**

Verbatim transcript of the Standing Public Accounts Committee meeting held 23 February 2018, at 10:00 am, in the Chamber of the Legislative Assembly Building, George Town, Grand Cayman.

PAC Members Present:

Hon. D. Ezzard Miller, MLA - Chairman
Mr. Christopher S. Saunders, MLA
Hon. Bernie A. Bush, MLA
Mr. Austin O. Harris, MLA
Ms. Barbara E. Conolly, MLA

In Attendance:

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development
Ms. Anne Owens, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development

Audit Office:

Ms. Sue Winspear, Auditor General
Mr. Patrick Smith, Director of Financial Audit
Mr. Julius Aurelio, Audit Manager
Mr. Ruel Huet, Audit Manager

Witnesses:

Mr. Joel Walton, Chief Executive Officer, Maritime Authority of the Cayman Islands
Mr. Osbert Francis, Global Director of Operations, Maritime Authority of the Cayman Islands
Mr. Phillip Barnes, Chairman of the Board, Maritime Authority of the Cayman Islands

[Hon. D. Ezzard Miller, Chairman presiding]

The Chairman: Good morning, everyone. Let the record show that we have a quorum present and I am calling the meeting to order at 10:15.

This morning we are going to be dealing with the Maritime Authority of the Cayman Islands Financial Statements ending 30th June 2016 and our first witness is Mr. Joel Walton, so I will ask the Clerk to bring in Mr. Walton please.

**ADMINISTRATION OF OATH
OR AFFIRMATION**

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth. So help me God.

**MARITIME AUTHORITY OF THE
CAYMAN ISLANDS**

The Chairman: Good morning, Mr. Walton, and thank you for coming.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Good morning and thank you for having us.

The Chairman: We are dealing with the Maritime Authority's accounts that ended 30th June 2016, and the Committee has a couple of questions for you.

When you answer the first question, just identify yourself by name and title for the record that it will be recorded.

Mr. Saunders.

Mr. Christopher S. Saunders: Thank you. Good morning, Mr. Chairman, and good morning to everyone. Good morning, Mr. Walton, great seeing you, sir.

Just off the bat, I know from speaking to members of the public that not many people are familiar with the MACI in terms of what it does in its operations and everything else. So, I think for the listening public it will be good idea if you can just kind of give a brief introduction to the public in terms of what the Maritime Authority does and pretty much its roles, and where it fits into the bigger picture of promoting the Cayman Islands and everything else. Thanks.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Thank you, Mr. Chairman; can I?

The Chairman: Yes sure.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Thank you for the question, and, of course, it is always welcomed when we have an opportunity to speak about what we actually do. Fundamentally, the Authority is a regulatory body. Seventy-five per cent of the revenues earned are earned from the regulation of vessels that have either, been built under Cayman's supervision, or are actually registered with Cayman. Six per cent of the revenues are earned from the registration of those vessels, which, I think, for a lot of people listening, they may not be aware that that is the blend. So, if we want to compare it to other registries within Cayman, like the Companies Registry and so on, and the Banks Registry, it is a different thing in that, as I said, only six per cent of what we earn actually comes from the registration of vessels.

Now, the second aspect which I think is important for the listening public would be the nature of the Maritime legislative landscape. Again, it is Maritime because it goes back several centuries. We could almost argue that it was probably the first global industry and certainly it was the industry that actually facilitated globalisation because we didn't have any planes back then and things moved by water over land with horses, donkeys or whatever. So, it has a very extensive international regulatory landscape.

Yes, there are some exceptions where you have the United States Coast Guard in US domestic waters and sometimes in the Caribbean outside of domestic waters doing certain things.

We have the EU that will also do certain things that are unique to the European Union Sphere, but other than those unique situations, the regulatory landscape is set by the International Maritime organisation which is headquartered in London and there are four basic main bits of regulation which drives the work of the Maritime Authority.

One [of those basic regulations] is called SOLAS convention which is the Safety of Life At Sea, which deals with primarily the vessel, how it is built, how it is operated, signals et cetera. The second significant bit of legislation has to do with the standard of

training and certification of watch keepers. People like my dad who was a seafarer had to be trained to a certain level, and, like many of us in this room who had fathers, uncles, or cousins that went to sea and that convention governed what the nature of the curriculum was, how they were trained, how they were certified in order to actually run the physical plant which is the ship.

The third and most significant piece of legislation is what we call the MAPOL (Marine Pollution) Convention, which, of course, governs how ships are not to discharge waste oily water et cetera, in the world's oceans and, of course, things like the paint on their hulls and most significantly, ballast water. When ships sail empty they take on ballast water in China and when they pick up the iron ore in Brazil, Port of Santos, for example, they dump that water back into Brazilian domestic waters which has organisms like what some people would argue, that that is how lionfish move globally. I am not going to say that's how it does; I am going to say that is what MAPOL deals with. And there are other supporting conventions like the Ballast Water Convention that supports MAPOL as well.

The fourth and most significant piece of international legislation convention is called the Maritime Labour Convention, which is actually not an IMO Convention; it is an ILO Convention (International Labour Organisation). Basically, what that says is: *Okay, you set out how you are going to train seafarers, certify them, we are going to tell you how to treat them.* So, the work that we do is primarily governed by those four International Conventions.

Now, how do we get to do that? We are not IMO (International Maritime Organization) members; we are an Overseas Territory of the United Kingdom. And this is important to really appreciate, I think, again for the public: We don't issue certificates of Cayman Registry. We can't. We are merely three British ports of registry; George Town now, Bloody Bay and the Creek in Cayman Brac. Hopefully, we can get some more in the future.

So, the U.K. Government—HMG, where the Secretary of State is, we have an agreement with the UK that says, "We are going to delegate to the Cayman Islands, Isle of Man, Gibraltar et cetera, the ability to run a British supporting registry." So, what we do is to act on behalf of the UK Government, the Administering Parent Organisation which is called the MCA, (Maritime and Coastguard Agency) of the United Kingdom that, by its name, has both Maritime Security and Maritime Safety in it. In the context of Cayman, we are purely Maritime Safety and thankful for that.

So, primarily regulatory, 75 per cent of our revenue comes from that source and only 6 per cent comes from registration of vessels. We operate under international framework of regulation which we allow to implement on behalf of the United Kingdom Government under delegated authority via a signed Mem-

orandum of Understanding (MOU) and initially, a Categorisation Order in 1991. Now, that deals with existing vessels.

We also have a significant activity and that's a niche market in the design and construction of yachts 30 metres and over, and Cayman speaks roughly 100 feet or above. Again, we simply operate under a code which is now called a red ensign group code, which the UK has submitted to the International Maritime Organization as an alternative to the full SOLAS Convention but heavily based on SOLAS, heavily based on STCW [Standards of Training, Certification and Watchkeeping] that allows us to ensure that these yachts when they are being designed and constructed and operated, they operate within an international framework. Thank you very much.

Mr. Austin O. Harris, Jr.: Mr. Chairman, thank you, and good morning to Mr. Walton.

First of all, I want to apologise to the Committee as I have one clogged ear so I can't tell whether I am being too loud or not loud enough but hopefully we will get through it.

I just want to build on the question asked by my colleague, the Member for Bodden Town West. I think it is interesting certainly for me and I would imagine the three other Members who are relatively brand new to this legislative arena, in terms of understanding MACI's business model. And despite what I think is the positive reputation that precedes you, it is interesting to note that only 6 per cent of your business model is actually based in ship registration.

My question is, again building on the background context so that we can properly understand the financial statements but also that the public listening can also understand the function of the Maritime Authority. I wonder if you can tell this Committee who MACI's clients are and perhaps what may separate it, in your opinion, from the traditional statutory authority and government owned company, as well as what sets us apart from other jurisdictions for that matter, that we may compete with in the global arena.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Mr. Chairman, thank you for the question and the opportunity to speak to that.

In terms of differentiating features, we sell an undifferentiated product, in that, the registration of vessels we offer; that is, a certificate of British Registry is also offered by the United Kingdom itself, the Isle of Man, Gibraltar, Jersey Guernsey, British Virgin Islands and so on. So, we don't have something that is unique to Cayman, like our banking licence or our company licence. It is an undifferentiated product; it can be received in multiple jurisdictions and we all fly some form of the British Red Ensign. So a Cayman vessel can fly a straight red ensign which is the Cayman—if you want to look at what we're used to see-

ing, the blue flag, but instead of it being blue it is red and there is no Coat of Arms in it. But most of our vessels like to fly the red ensign, with the Coat of Arms, and actually, this year I think is the 60th Anniversary of the Coat of Arms. It is, from a standpoint of particularly yacht owners, when they decide what to fly they are always going to fly the Coat of Arms because they actually like it.

In terms of what else that we face, if we move now into the new build and the modern registry was built on a niche market. The first corporate document we issued in 2005 because the Authority was formed in July 1st 2005. The headline of that document was "Building a Global Niche Market Leader". We took the position that we had too many other disadvantages to overcome in the merchant ship market but we felt that if we could hire the best people, place them in the right locations globally in a market which is just developing, that we could actually dominate that market. The headline of the 2018/2020 corporate document is a bit different—"Client Focus, Excellence, Innovation and Quality".

So, in terms of how we have actually developed, two tracks registration of vessels but what has driven the modern flag has been the fact that within the new build yacht market, commercial yacht market, 30 meters and over, we start from the design stage with the architects who might be in Monaco or somewhere else, in China or the US. We didn't work with the Naval Architects who could be anywhere in the world. Hopefully, one day some will be here in Cayman and hopefully one day some of the design people will be based in Cayman as well; for the time being, they are not. So, we work with them and are then contracted by the shipyard to ensure that the builders or the owners in some cases directly, do what they are supposed to do. So, when the vessel is completed we can certify it as being either, a Statement of Compliance or a Certificate of Compliance that it actually meets the Global Standards.

I don't know if I have answered your question but just bear in mind there are two tracks in what we do.

Mr. Christopher S. Saunders: Through you, Mr. Chairman, I noticed in the Auditor General's Report on page 5, there was an issue that says and I will just read it for the sake of the listening public: "**Apart from the qualified opinion, we have also disclosed in our Auditor General's Report, information on the United Kingdom (UK) potential tax liability under 'Other Matters' as this issue is significant and the outcome remains uncertain at the time of this Report.**"

"**The issue involved uncertainty as to whether Authority's UK Office (Cayman Islands Shipping Registry) could be called upon by Her Majesty's Revenue and Customs (HMRC) to pay**

either corporation tax on surpluses generated and/or VAT on services supplied.

To date, there has been no formal engagement with the UK Tax Authorities on this matter. The Authority engaged its legal representative during the year to obtain advice on the matter, however, in the legal letter conclusion, the certainty has not been resolved.”

I noticed when you were explaining that we are using the, I guess, the UK Registry, has there been any progress on that or is that still an issue that is outstanding?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Just to say that historically, that point was used to qualify the financial statements of the Authority in its early years.

We have had legal opinions done and updated on that matter. The auditors have their opinion. To put it in context, I have yet to find a country that tax regulation; okay? It applies corporation tax, the incomes that are generated from the application of International Conventions. Even the French say that it is impossible. So, that is where we are with it.

If the Government of the Cayman Islands decide to approach HMG on this issue, it can do so. MACI itself doesn't have standing in this matter. We cannot approach HMG on this, where it's an under revenue department. Again, it is a matter of differences and opinions. You have the background so you understand where I am coming from with that. It would be nice to have that not appear in the financials but it does because the auditors have one view. We know what we do; we are acting on behalf of the UK Government. It doesn't tax its own MCA. We are simply an agent of the MCA in the context of global regulation. So, there we are, sir.

Mr. Austin O. Harris, Jr.: Mr. Chairman, the financial statements which I am eager to get to and, of course, some of the qualifications or the qualified opinions that the Auditor General has given to MACI, I have maintained a train of thought similar to other statutory authorities and government owned companies that the financial statements themselves may not necessarily tell the full story in terms of Maci's broader utility to the Cayman Islands. I wonder what other business or knock-on-effects, if you will, come to the Cayman Islands as a result of the business of MACI. Moments ago you said that some of the clients that you deal with are not only the yacht owners but the shipbuilders, the shipyards, naval architects; surely that business isn't just restricted to shipping registry or regulation. There must be some other knock-on benefits. I wonder if you can identify them for us.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Okay, Mr. Chairman, I am not too sure; should I wait for you to lead?

The Chairman: No, no, no, and you don't need to repeat through me; that is accepted. Once you have established the protocol—

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: It has been a while since I have been here, sir.

The Chairman: This idea that you must say “through the chair” for every sentence, once we have established the protocol, it is in place, continue to respond directly.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Okay, fair enough, and thank you for that clarification, Mr. Chairman.

If you look at—and I do have some statistics available here that I could read from if the members allow me to. At the end of December 31st 2017, we had 2,158 units registered with us, of which almost 80 per cent are yachts. That represented 5.17 million gross tons. It doesn't mean much, it is just the basically the weight of the mass of the vessel. Supporting that figure of 2,168 units, there is another 1,100 Cayman registered companies because you see most vessels are owned by some corporate entity. So, the company's registry would obviously register that Cayman Company and collect revenues for it. In addition to that, there were some 400+ mortgages associated with those 2,157 companies that was also registered and dealt with somewhere else.

Having responded to that a bit, one of the things that I think the flag brings to Cayman and as a Caymanian from a seafaring background, I was always worried about how my father was treated at sea, because, you know, he grew up in Cayman Brac at a time when they didn't know anything about anything other than what they saw on the schooners around the Islands. And when I went to the Maritime Authority in 2004 I said to myself, that while I have pursued a quality objective from 1993, the days when we almost . . . because of issues related to finance, because of issues related to quality, that we had to put quality at the central core of what we do. We also had to ignore the fact that there might be some tax benefits to doing business with our flag. We had to build a business on technical competence and quality.

There was a system of double checking what we do; it is called Port State Control. It is a global system of Port State Control. So, we can boast and we can say okay we have the best regulated industry in the world but it doesn't stop there. Any of these 2,157 units that sail into another country's port, that country has the right to board that vessel and to check to ensure that it is in compliance with global standards; not an IMF (International Monetary Fund) standard or World Bank (WB) standard or EU (European Union) standard or EU standard or US (United States) standard, but a global standard.

We have been on the White List, all of the key White Lists, in some cases as long as 12 years, since 2005. We were White Listed under the European System of Port State Control which is 27 countries including Canada and Russia. We are White Listed under Tokyo MOU [Memorandum of Understanding], which is a broader pool of countries all the way from New Zealand up to Japan and all in the middle. A US Coastguard what they call Qualship21, because the US doesn't run any joint approach to Port State Control, they do it by themselves, so it is called US Coastguard; we were under Qualship21 White List. But in 2016/2017 the 27 European countries, including Russian and Canada, said that the Cayman Islands vessels, the vessels that have Cayman Islands flags that have entered our ports over the last three years – because it is a three year rolling average—is the best regulated product in the world.

The Chairman: I admire your commitment to the Maritime industry in Cayman, but, can you explain then, why we hired an Indian Captain rather than a Caymanian Captain to work in the Maritime Authority for so many years when there were Caymanian Captains that were interested in the position?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: The jobs in the Maritime Authority . . . and you will remember a bit of this history—

The Chairman: I was very much involved in it.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Before I went there in 2004 and I do have some stats to share with the Committee because Mr. Miller and I go back a long way on this issue; okay?

Shipping is a global industry but what had happened here in Cayman over the years was that a lot of Caymanians or locals were not becoming involved, for whatever reason, in the Maritime which was then the Shipping Registry Department of Government. In 2004 when we decided to transition to an Authority we had this challenge. The challenge was that 35 per cent of the persons working in the office in Cayman were Caymanians and today, 91 per cent are Caymanians. In terms of our European Office which is based in South Hampton, we have one Caymanian there at the moment that is being trained as a surveyor to come through the system. Globally, in terms of employee based, 63 per cent of all the persons who work either, in Cayman or in the UK, are Caymanians. So, I would suggest, sir that we have come a long way from where we used to be—

The Chairman: I am not arguing that point; I just don't want us to get too far off base here because this could take the rest of the day.

One other question since you have the statistics there: How many Caymanians currently have a Caymanian licence for any position on ships?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: I can't give those figures off-hand but I can certainly undertake to provide those.

The Chairman: Yeah, yeah, okay.

You have a follow-up question? Okay go on then.

I have one follow-up question on the UK Tax matter. I just happen to be aware of the evolution of the UK PAC and its recent excursions into UK tax regimes and I would encourage the Maritime Authority to revisit that situation and get a legal opinion that can stand the test because these are the same people who drew in Google and a couple of other companies and forced them to pay millions of dollars; not that I think we would qualify in that but I think there is an increasing effort from the UK PAC to look at companies operating, whether you are a branch of them or not.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Yes, advice taken. We will update the opinion again.

The Chairman: Do you want to . . . alright.
Mr. Austin.

Mr. Austin O. Harris, Jr.: Thank you, Mr. Chairman.

Turning our attention to the financial statements, June 30th 2016, June 30th 2015, I note from the financial statements that we have seen, perhaps some break even positions on both the revenue and expenses column. What I think I find troubling and perhaps maybe I speak for the other members, is that despite some very strong revenue positions for the Maritime Authority in the region of [\$]9.3 million in 2016 and [\$]8.8 million in 2015, we have also seen expenses rise to the tune of approximately 97 per cent of revenue, year on year; at least looking at 2016 and 2015. So, expenses are rising just as quickly as the revenues come in the door and maybe you can explain to this Committee why that is. But also—and I think this is a good thing and I would be curious of an explanation as well—I note that cash balances and retain earnings have also increased steadily year on year and if I look at the cash reserves, in some cases you have a better cash reserve than core government. I wonder if you can speak to both the revenues against expenditure and also the matter of the cash position of MACI.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Thank you.

MACI was formed in July 1st 2005. The registry was established in 1903; there is some legacy there. When MACI was formed in 2005, there were several civil servants, like myself, who were transferred with the Authority for which there is a significant long term tale of past service liability, prior to 2005. So, those liabilities, even though they were not incurred during MACI's time, came all over to MACI, as has the post-retirement health care for those same 13 or so people.

Now, having been in business for twelve and a half years, there are some legacy debts of the parent company that have to be dealt with. That is how it is set up and that is how it is. So, that is part of the reason why you see the cash balances building up even though you are seeing book losses on the bottom. A lot of those losses come about because we have to recognise those liabilities as they occur.

Pension for example is a case: If we look at the most recent full blown [evaluation] of MACI's Pension liability, which, in some years has caused the bottom line to be affected by as much as \$.7 million. So, if we are trying to sustain a one year hit on a \$10 million revenue stream of \$.7 million, we are going to see some red. But it doesn't affect the cash and this is why MACI . . . and I know it is the Auditor General's report but this is fully recognised by the Audit Office. This speaks of MACI's healthy financial position. Of course, you have to understand that this is what is driving that. For example, the qualification that existed in the most recent financials have been audited by the Audit Office has to do with post-retirement health care. We finally got an evaluation on that and that is now a part of the 2017 financials up until the end of December and that is, at least, another further \$350,000 that has to be recognised in one year.

So, until we have gotten to a point where we have been able to address those long term liabilities and we are trying to do it while we are trying to keep a business that has no annual government subsidy or no annual equity injection as in some cases, in trying to balance that, the cash will continue to rise because on MACI's operation it does make money but we have some long term outstanding liabilities that have to be recognised; they drive the book loss at the bottom end.

The Chairman: On your cash balances and retained earnings, you will obviously have the necessary documentation from the Financial Secretary authorising you to retain those which is required by the Public Management and Finance Law (PMFL)?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Off-hand, sir, I can't say.

The Chairman: We have had this problem with another authority and there is a specific requirement under the Public Finance and Management Law that requires public authorities or statutory . . . you might

want to speak to this Mr. Nixon, or are you not in familiar with it?

[No audible reply]

The Chairman: I don't want to put you on the spot because the Financial Secretary himself was here.

Mr. Michael Nixon, Senior Assistant Financial Secretary, Ministry of Finance and Economic Development: We will look into that.

The Chairman: But he made it clear that there is a specific requirement under the Public Management and Finance Law for public authorities to retain earnings and exceed the cash deposit beyond the 90 days. There is another requirement of the Public Management Law which is required so you might want to make sure that you have that documentation in place so it doesn't come up later on.

On your post-retirement benefits, a couple years ago you told us in Finance Committee that the reason you shifted from CINICO to a private provider was because a private provider was offering post-retirement benefits for staff. What effect has that had on the . . . or was that only available for those people who didn't transfer from government?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: How that works is that when we finally were able to assess and get the final answer that, in fact, the Law had changed several years before; the policy had changed several years before, we then went to market to find . . . which CINICO was also one of the people we sent the tender document to and the current provider has been able to allow us, even with our retirees, to be maintained within their program. The retirees and the in-service people pay 25 per cent of the premium on their own premium and we pay 50 per cent on behalf of a spouse. So, it is 25 per cent on behalf of ourselves and dependents; and we have to pay 50 per cent on behalf of spouses. So, that's been fully enforced since 2013, I think.

The Chairman: The point I am making is that that would—

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Help us in retirement.

The Chairman: And if all of your staff are going to get that benefit, then, you really don't have a post-retirement liability because in health care the liability is only projected on future use, not past use or existing use. So, maybe you can get that one off your books in terms of the retirement.

The other question I have is on the personnel cost. I noticed that the overall budget figure in the ac-

counts for personnel cost, there is a decrease, but when we look at note 18 we will see that salaries and wages and other personnel costs went up around about \$70,000, and most of the savings on personnel was on your health insurance premium which decreased by \$60,000 and maybe you can explain the two of those because—

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Okay.

I can go back as well and sort of trace the development of this figure because it is directly related to the revenue stream and in 2005 which was the first year of the 2005/2006 the cost of staff was 60 per cent of the revenues earned. Today it represents 48 per cent of the revenues earned. But as a corollary, because we have moved away from always hiring staff to using independent contractors to reduce carrying costs and pensions and also tax burdens because we do have people global, and also on health care in some cases, the professional service fees for those independent contractors, used to be 7 per cent in 2005 and it is now 18 per cent. So, consistently while year on year you might see a slight bump, the trend has been from 60 per cent of revenues earned to 48 per cent in 2017. We do hire less people than we used to as employees.

The Chairman: What is your staff complement now?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: I also have that here. We have 47 employees of which 30 are in the Cayman Islands, 15 in the UK, 1 in Greece and 1 in the US. We then have an additional 31 independent contractors which are spread as follows: 7 in the UK, 4 in the Cayman Islands, 2 in Holland, 2 in Japan, 2 in Singapore, 1 in France, 1 in Greece, 1 in the Isle of Man, 1 in Italy, 1 in Jersey, 1 in Panama, 7 in the US, and we have a company that provides services in Brazil and in Shanghai/Colby. So, those 31 people are spread over those areas.

The Chairman: Any follow-ups from you?

Mr. Austin O. Harris, Jr.: Yes sir, thank you, Mr. Chairman. Just to follow-up again, taking a look at the figures represented in the financial statements.

Travel entertainment and business development, we have seen an increase in travel entertainment and business development of approximately 17 per cent from 30th June 2015 to 30th June 2016. I am willing to reconcile in my mind, given the global nature of MACI that the travel expenses speak for themselves. It is quite obvious you have to be in these places. When I look at the revenues on retain earnings, perhaps the business development side is also strong as well but I believe that it is pertinent that we ask the question as a Public Accounts Committee to

perhaps explain the increases in this category, at least over the last two years. Unfortunately, I thought I had brought the other financial statements that I printed off yesterday but I left them on my coffee table, but if you can explain those increases for me of 17 per cent and perhaps in your mind, are they justified?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: It is always a difficult one and I can appreciate where the member is coming from, being a former deputy financial secretary, it is something we always grapple with from central government's perspective. Having moved in to MACI it is something that I knew we would also have to face every day. I come before this Committee or anybody else who asks the question. I do have some stats though because I think it is important to look at this in the context of your revenue stream, okay? Now, if you look at . . . actually, Mr. Chairman, I do have a document but I wasn't too sure of the protocol because it is quite a sensitive confidential document. Maybe after we are finished I can show it you and you can decide if you want the members to have it, it might help again with some of these concerns.

In 2005 which is the first (2005/2006) year of MACI's business, the cost of travel entertainment and business development represented 9 per cent of the revenue earned from private sector sources. That figure rose as high as 11 per cent in 2008/2009 which is post financials collapse and 2009/2010. Since that time it has fallen to 7 per cent of the revenues earned from private sector sources. So we start off at 9 in 2005/2006, we had peaked at 11 and it is back down at 7 now. Now, if you look at the growth of the business side of MACI that is 6 per cent of the revenue which drives the regulation, we would have to look at the context of that to really get a picture of what the impact of that spend had. In 2005 when MACI was . . . well, actually I have figures that go back to 2008 and at that time MACI had . . . I can also take a chance on this.

The business of MACI in 2005 is almost doubled what it is today; the other way around. What we have today at the end of 2017 is almost doubled what we had when MACI started and consistently the spend on travel entertainment and business development has fallen as a percentage of what we get back, while we have been able to also pay our rent in the Glasshouse at the commercial rate, pay our work permit fees for one non-Caymanian and two permanent residents, pay our parking lot and so on. So, we do our best to pay what we have to pay while at the same time we also have to grow the business.

Mr. Christopher S. Saunders: Mr. Chairman, through you, sir: Thank you very much Mr. Walton.

I think it is important and well, for the public there is a saying that we have in finance of "Be careful we know the cost of everything and the price of noth-

ing." One of the things I think is important for the public to recognise because we were looking at even prior years' financials and we noticed in some years that MACI had a loss and they are basically still running at an operational profit. And if we look at the actual balance sheet we will see at the end of 2016 that there were still accumulated retained earnings of just under \$2.3 million. So, it basically means that business is still in a positive performance state. And when we also look at the cash itself and over the years we see that even accumulated depreciation itself and non-cash item is almost half a million dollars.

One of the approaches I have always taken to business is the balance scorecard approach where we look at financial performance, at internal processes, at customer service and we also look at the ability to have new products. The question that I want to get to in recognising where MACI is at this point, is that it still an organisation that you would say is in growth mode? The reason I ask that is that when an organisation is in growth mode, we will not find the efficiencies that we normally would have, versus an organisation that is already matured. So, if an organisation has reached its plateau, then we will start looking for certain efficiencies but once it is still in a growth mode phase, then, the inefficiencies will continue as you try to grow the business and we know it has doubled pretty much in the last ten years.

So, the question Mr. Walton is that, in your opinion, do you see MACI still in a growth phase and if so, where do you see the opportunities? At some point we will expect the business to reach its ceiling and then at that point now, that is when the public will start looking for certain efficiencies but you will have to sacrifice efficiency for growth which is just a standard part of business. So, in your opinion, just to bring it back around, where do you see the organisation? Over what period of time do you think the ceiling would be and then where do you think at that point we can start saying, *Well, we have gotten as much as we can get from the market now and we can start looking for the other efficiencies that go with it?*

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Yes, thank you; you are quite right member Saunders. The situation is that there are some areas that are untappable, for example, cruise ships. You will not find a cruise ship coming here that has a Cayman flag on it. That is a market we can't enter because the Cayman legislation on marriages doesn't allow one simple thing. So, that's a market that it could be as big for us as a yacht market has been.

The Chairman: I thought we had changed the Law to fix that.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: We fixed the Gambling Law.

The Chairman: Right.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: The most difficult one we fixed but we haven't been able to fix the marriage one as yet, okay?

In terms of merchant ships, we are just really getting into that market because there were many things that we did that the market did not want. The market has a certain way of operating and their competitors operate according to the market and it wasn't until three years ago that we were able to amend a regulatory framework to match how the market deals with it, and we have seen some significant increases in merchant ships on the flag. I think last year was 17 per cent increase in one year, some to the tonnage coming on, and I think last year was 11 per cent. So, MACI is very much in a growth mode, certainly on the merchant ship side.

On the yacht side, yacht building, yacht ownership is driven by the availability of a net for \$30 million—blow-money. If you look at the stock market over the last 12 months, there is a lot of blow money around. So, that market, while it has been in a state of decline since 2008 when we had 287 units under the construction of Cayman, we only have 140 now. We would expect that as a result of the increased wealth and the global spread of wealth is towards South-east Asia and China and we are doing more and more work now; it is a completely green field for us. We are starting to see significant uptake in that market, so you will see even further growth in yachts in the future and it will also come from outside our traditional areas. When will we plateau as a business? It depends on what happens to global trade on merchant ships.

I don't know of any other form other than 3D printing which only eliminates some of the movement of goods, but in terms of the movement of certain materials and so on, I don't see that that business, the business of actually trading, despite what we hear from the North of us, what we hear in Europe and other parts of the world, global trade will continue to grow. It is all a one tapped growth. I mean, even in Southeast Asia, countries like Vietnam are just coming to the fore; a lot of movement will come there. There is a long way to go. The whole continent of Africa, over one billion people and we see some significant uptake there in wealth generation and business.

So, unless we eliminate global trade, unless we as the Cayman flag mess up and drive our quality down in search of the wrong thing, we will be fine for quite somewhere in the future. This business has been around since 1903; its modern regeneration of the business has been around since 2005, there is somewhere to go. I can't help but feel proud at times

because, as I said, I come from a situation where I lost two uncles at sea, I lost a very good cousin at sea because of safety issues and we take that very seriously. When the Europeans can tell you that you are the number one best regulated vessel in the world coming into their ports, that is a good place to be, France was second. The headquarters for that MOU is actually in Paris.

Mr. Austin O. Harris, Jr.: Mr. Chairman, thank you.

I want to focus our attention on what the Auditor General identified as Appendix 2 and reasons for their qualified opinion relevant to internal control matters and other significant findings. The first on the list was Procurement Control Deficiencies, where the Auditor General observed that financial regulation section 37 requires the Authority to offer for public tender, contracts or purchases of services over \$50,000 in order that value for money can be clearly demonstrated.

They pointed out that with regards to the hiring of the authorities professional fee contractor, practices are not currently designed to readily demonstrate value for money and therefore recommended that management should develop a procurement policy which clearly outlines good practices, provides an audit trail and demonstrates how value for money was achieved. Management's response was to fundamentally agree with this position in that MACI would develop a procurement policy as well as a specialised recruiting policy and this would take place on or before the 1st March 2018.

Again, my questions are twofold:

1. Do you agree with the position on the recommendations of the Auditor General on the procurement control deficiencies?
2. How far along are you in addressing that?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Yes, agree, and we did take measures to address some aspects of that. I must say though, that there is another side to this discussion that I would like to expand a bit on.

What that gets at is the independent contractors located in some of these ports which I mentioned before—Shanghai, Singapore, Manila in some cases at that point, the US and so on, Holland, et cetera. Now, we don't go to market and say, *We want you to submit to us the cheapest price for doing this.* We have a price which we set, we know what that price is; it is X number of dollars an hour in the US, X number of Euros per hour in different parts of the EU; for example, in Greece, to this day you pay less for that same professional capability than you pay in Holland. And, of course, if you are recruiting somebody in Manila the wages are different again. So, we have a global system of set rates that we pay for this service.

As a result of audits' observation which is quite valid, we now advertise every time a renewal

comes up for position. Unless we have a problem that particular surveyor, we go on the internet and we advertise for it. When we create new positions as we have done recently in, well . . . new independent contractor offerings in Holland and in Germany, we put them up. So, we do publicly make them available but just bear in mind, we don't buy quality cheap and this is why we don't believe that the way to deal with buying in quality people is to buy the cheapest one. We sent the basic requirements as IMO requires of what a surveyor should have in terms of qualifications and training, and we advertise the rate that that is what we will pay and people then apply.

The Chairman: I think—

Ms. Sue Winspear, Auditor General: I just wanted to come in because as a point of explanation we talk about value for money. Value for money is not necessarily cheap. Value for money is about demonstrating what it is that you want, how you get it, and how much it costs, and we look for a tender evaluation model that trades those things off. What we are stating in that comment is we didn't feel there was evidence around value for money because processes weren't going through. The Director has just talked about the processes that are in place now and that is great but I just want to be really, really clear. When we talk about value for money, it is not to be mistaken for the cheapest.

The Chairman: And I think a part of what I read too was that I think the Procurement Law allows you to have single vendor providers but you must have the documentation to show that and that should be approved at the Board level and at the Ministry level and that kind of authority trail is what needs to be happening so that there is no question in that you have the authority to do that and it is properly recorded as well.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: I understand.

The Chairman: Any other questions?

Ms. Barbara E. Conolly: Through you, Mr. Chairman, to Mr. Walton.

Under the risk Management, the Authority based on the nature of this business is exposed to a number of risks but there is no formal risk management program in place. Currently, there are risk matters with respect to post-retirement medical plan and causality investment fund. With regard to the post-retirement medical plan, MACI introduced its post-medical insurance plan; however, the Auditor General's report noted that the risk assessment surrounding the impact on the organisation and policies to management, this initiative was not done in advance.

Further, there are no written and/or approved details about the plan, benefits and funding.

With the Authority not having appropriately structured risk management mechanisms in place, the potential for losses and disruptions significantly increases for the Authority. As the Authority is exposed to a number of jurisdictions, currencies, laws and regulations, there is a need for a more risk assessment scheme that is more structured and documented. I note from MACI's response that Mercer performed an actuarial report for the evaluation of post-retirement healthcare and the results of that report with the approval of the Board and the amount of \$350,000 has been accrued to cover persons the Authority believes it is legally obligated to cover.

It is noted that an official legal opinion is being sought. My question is: Can you indicate what the timeframe is to obtain this opinion?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Yes, as highlighted, we have made the provision based on the most recent Mercer Report. We have contracted to have an updated version of that. We have in the draft financials for 2017 the \$350,000 to address that particular aspect. We do have insurance in place as well as I mentioned before. In terms of the legal opinion, we have selected a company and we are just going through the process of having that opinion done to support the provision of the \$350,000. So, we have accepted to date and made a provision but we want to be absolutely sure that there is a legal grounding for it. We have, like cases in other authorities, that we have used to guide us in respect to the \$350,000 provision, but we have gone further into the process of working through the legal opinion of the information that is required to do that; therefore we are in the process of doing that now.

The Chairman: If I could just go back to the travel business development entertainment . . . oh, sorry, go ahead.

Mr. Christopher S. Saunders: I think it is important for the public also to recognise that post-retirement and the health care issue is something across many statutory authorities that were once government departments, so it is not something that is unique to MACI but it also exists at the Health Service Authority and even the Port Authority also when they were government departments previously and those benefits transferred over. So, I don't want it be that it makes it look as if this is unique to one statutory authority but rather across the board.

The Chairman: I am concerned on Note 22 to the financials on the . . . and I accept your explanation for the increase in the travel business development entertainment, but when we look at the breakdown, official

travel is up year on year 2015/2016 by roughly 70 per cent and entertainment is up roughly the same amount. We are not likely to be looking at that increase for 2016/2017 again, or, are we?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Mr. Chairman, could you help me towards that?

The Chairman: Page 19, Note 22. If you look at the breakdown on note 22 of travel business, development, entertainment, business development is almost the same as about a \$40,000 difference which is probably less than 2 per cent,—

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Okay, I got it.

The Chairman: —but when we look at the official travel and entertainment, that's up roughly 70 per cent. I just want to get some assurance that we are not likely to be facing that kind of increase in 2016/2017 over that one.

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: I did mention earlier that the merchant ship inside of the business has been going quite nicely over the last couple of years. What has driven that official travel—and this covers official travel for everybody like me, all the directors, some surveyors who travel on behalf of the business development effort and so on. So, 2016 will be very unusual because when we kicked in, me and several other members started to speak at conferences which we didn't do before; but again it comes back to the business. In terms of 2017, you are going to see a big difference again because it is an 18-month period, but everybody knows that, but it is not going to be significant as that in terms of percentage if you look at the average monthly spend.

The Chairman: We will be taking out the six months and comparing year on year when we get to it.

Are there any other questions? If not, thank you very much—

Mr. Austin O. Harris, Jr.: Sorry, Mr. Chairman, I was expecting my colleague to ask. Certainly, my last question and what appears could very well be the last question for you.

First of all I want to thank Mr. Walton for attending and for answering the questions of what I believe as honestly as he could and in particular for the personal education that he has provided me in terms of the background context of MACI, its role, its importance, why and how it does what it does. As you mentioned, some in the room have been very familiar with MACI since its inception and I certainly hope that

one day perhaps I will have that solid level of understanding as well.

Just a matter of opinion, yours in particular, as CEO of MACI, do you accept in broad terms the Auditor General's qualified opinion and do you believe that qualified opinion on MACI, in your opinion, is justified?

Mr. Joel Walton, Chief Executive Officer, Maritime Authority, Cayman Islands: Yes, yes it is, and as the Chairman and others highlighted, the member before, the post-retirement health care has been an issue for many of the other authorities as well. Some have been able to address it; we are only now getting around to addressing it in 2017. I think the Government itself struggles with \$1.7 billion or something like that, so it's . . . yes, it is justified, we have addressed it and we have moved on from that. Thank you.

The Chairman: Alright, thank you very much Mr. Walton.

ADMINISTRATION OF OATH OR AFFIRMATION

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

The Chairman: Good morning, Mr. Francis. As you are aware, we are dealing with the 2016 Auditor General's Report on the accounts of the Maritime Authority of the Cayman Islands and the Committee has some questions for you and the rules require that when you answer the first question you preface that with your full title and name so that it appears in the record of the Assembly.

Mr. Saunders.

Mr. Christopher S. Saunders: Thank you, Mr. Chairman, through you, sir.

Looking at page 7 of the Auditor General's Report, in particular, Note 18 concerning the heading: "**Significant Difficulties Encountered During the Course of Our Audit**". It says: "**No serious difficulties were encountered in the performance of our audit, however the following instances were remarkable to us in this financial audit as we did encounter them in the few past audits;**

- a. While draft financial statements were submitted by the deadline, the Authority provided complete and official draft of financial statements after the legal deadline.
- b. MACI required relatively more time this year to prepare and complete supporting schedules and supporting documents.

c. Revisions required on certain audit schedules that have already been in place in prior audits."

Just out of curiosity and, as an accountant myself, I know sometimes we have these challenges, so just for the ease of the members here, we are just to—especially since it was highlighted that it happened in the past—get an idea if it is a resource issue or something else that is needed to make sure that the legal deadlines are met with regards to the submission of financial statements. Thank you.

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Thank you, Mr. Saunders.

My name is Osbert Francis; I am the Global Director of Operations for the Maritime Authority of the Cayman Islands.

To address your question—

The Chairman: So, you are not the Chief Financial Officer, you are the Global Director?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Yes, sir, but the financials fall under my remit in that position.

The Chairman: So, we no longer have a Chief Financial Officer at the Maritime Authority, we now have a Global Director under which . . . ?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: That is correct, sir; there is no official title.

The Chairman: Okay. Did you prepare the statements yourself or . . . ?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Myself and staff. Well, it was actually done by our accounts person at that time that has since left the Authority.

The Chairman: So, when did this change occur? Is it since the 2016 accounts?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Since the 2016 accounts. She left in October of last year.

The Chairman: So, can you give us the Finance Department's new Org Structure?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: I am the Global Director and then directly beneath me, I have a

Head of Financing and Reporting and a Head of Accounting.

The Chairman: You have a Head of Finance and Reporting and a Head of Accounting?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Correct.

The Chairman: What are the JD differences in that role?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: The Head of Financial and Reporting, she deals strictly with financial reports and all the work that goes into getting those financial reports done and then the Head of Accounting is mainly on the accounts payable side.

Mr. Christopher S. Saunders: Well, Mr. Chairman, in fairness, based on what the agenda adds I think it pretty much will be unfair for me to ask a core accounting question like that if you are not the person responsible in that regard. So, I will leave it for you to answer if you want but I would technically withdraw that question because I don't want to put you on the spot like that because that question was saved specifically for the person that prepared the financial statements. So, if you are not that person, then, it would be kind of unfair to put you in that position, but if you want to make a stab at it, so be it.

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Yeah I don't mind making a stab, sir.

Basically, how it works is the person at the time, Ms. Yates, she completes the financial statements and then I review them. With respect to the schedules that were provided for audit that year, historically we have done interim audits with the OAG [Office of the Auditor General] where we allow them to come in at a 9 month . . . historically we do a 9 month interim audit with the OAG where we allow them to come in early in an effort to make the final audit a bit more expedient and to assist them with the work load at that time. So, I wasn't aware that our schedules were sent in ridiculously late. So—

The Chairman: Not to interrupt you Chris, but I need to get a sense of what has transitioned in the finance sector. So, you were hired as Global Director?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: I was hired as Head of Information and Technology five years ago.

The Chairman: And you moved from Head of Information Director to Global Director responsible for fi-

nance? You have a professional financing qualification?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: My first degree is in accounting, sir.

The Chairman: That wasn't the question I asked you. I question I asked you, was: Do you have a professional qualification?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: I do not.

The Chairman: Okay. Do you have a professional qualification in IT?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: I have had professional . . . it is a difficult question to answer, sir, because there are several different qualifications you can get from an IT perspective.

The Chairman: What IT qualification . . . you have a second degree in IT or a post-graduate degree?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Yes, my post-graduate degree is in IT; Management Information Systems.

Mr. Christopher S. Saunders: I understand in some organisations where they have operations, they would have Finance IT and HR included in operations. I think the questions that we had were more geared towards the CFO of the organisation. And, I think, how the structure is set up, I mean, having almost like a COO that would be in charge of the different sub-sections, the questions at least that I had prepared were more technical in nature and I really don't want to put a non-accountant in that position. So, Mr. Chairman my accounting questions—

The Chairman: Yeah, I certainly have some additional questions for the Chairman who is scheduled for later.

Just out of curiosity, are there other Global Directors in the organisation?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, the Cayman Islands: The Global Director title only came January 01 of this year; prior to that I was a Director of Operations but the structure remains the same under me as Director.

The Chairman: So, it is just title change or does that carry with it additional remuneration benefits in January this year?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: It came with additional responsibilities, sir, and remunerations.

The Chairman: The title of Global Director?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Correct.

The Chairman: Was that done in accordance with the Public Authorities Law?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: To my knowledge, yes, sir, but that is more a question for the Chief Executive Officer.

The Chairman: Yeah, I am just asking you because the person that I really have to ask is the guy coming next. Okay. Well, I really don't know if we have any questions for you if you are not the person who did the statements. So, I guess we will have to decide whether we want to summon the person. You said the person who actually prepared this statement that's audited, no longer works?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: That is correct.

The Chairman: But, there is an individual under you who does the actual accounting?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Yes, sir.

The Chairman: You have two Heads under you; one is head of Finance and one is Head of Accounting?

Mr. Osbert Francis, Global Director Operations Maritime Authority, Cayman Islands: That is correct.

The Chairman: Head of Finance you say handles—

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Head of Finance and Reporting.

The Chairman: And Reporting. Can you define "reporting" a little more specific?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: It is regarding the preparation of the financial statements for the Authority.

The Chairman: So, how do you reconcile having a Head of Accounting, who does the actual accounting,

but then, you have somebody else preparing the statements and the report as opposed to the person who actually did it?

Mr. Osbert Francis, Global Director Operations Maritime Authority, Cayman Islands: The Head is the person that does the financial reports.

The Chairman: So, you don't have two Heads. You have one person who is called the Head of Finance and Reporting and you have an accountant who is not a head of department with a lot of people working—

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: I have another person that is Head of Accounting.

Mr. Christopher S. Saunders: I think just to put things in context, the line of questioning that we were looking at, I guess was a bit more technical in nature, but I think it is also important for the public to recognise that even though the finance person isn't here, when we look at the overall financial statements and the reason for the qualifications, it is not really a technical issue from an accounting standpoint. So, for us it would have been more of just in terms of information gathering and anything else. So, I don't want it to appear as if the finance person not being here that there is something wrong with the financial statements; there isn't. It is really just a qualification issue based on the post-retirement issue which is something that exist in all authorities. So, that is really the basis for the qualification outside of that. So, there is nothing I would say that is wrong with the financial statements barring that one accounting issue under post-retirement was just something that exist across the entire government. So I don't want the public to get the wrong impression in that regard, just to be clear.

Some of the questions we had would have been more on the operational side in terms of drilling down into the information and, like I said, to be fair to you, we don't want to put you in that position where we are digging into something where you are more on the supervisory management side of it. So, those are questions that we can probably just send in a separate email to the CEO and just get those questions answered. I really don't want to keep you here and waste your time.

The Chairman: But the part that I have a very fundamental question [with] and correct me if I am wrong, but you said you were not aware that the accounts of the financial statements and the documentation were late, which is in violation of the Law; that is a very serious offence. And, were you not aware that they were submitted late?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Well, it has

always been a co-operative relationship with the OAG—

The Chairman: Yes, but that is not the question I am asking. Can you confirm because I can go back to the recording and find what I want? I just want you to confirm that the statement you made a while ago was that you were not aware that the financials were submitted and the relevant documentation were submitted outside of the requirements of the Law.

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: I believe how it reads, sir, is that they received a version and then they received another completed version. So, I don't think it is that the financials weren't received. I think they received another set of financials.

The Chairman: But you were aware that that –

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: Well I originally said I don't believe we were late.

The Chairman: Okay, but were you aware that some things had to be submitted after the fact?

Mr. Osbert Francis, Global Director Operations, Maritime Authority, Cayman Islands: The Schedules, yes, sir.

The Chairman: I just needed to clear that up because that was a –

Any other questions for Mr. Francis?

Okay sir, thank you very much.

Mr. Osbert Francis, Global Director Operations Maritime Authority, Cayman Islands: Okay.

The Chairman: We will take our lunch break and we will come back at 1:00 to deal with the next witness.

Proceedings suspended at 11:43 am

Proceedings resumed at 1:02 pm

The Chairman: Good afternoon everyone. Let's call the meeting back to order.

ADMINISTRATION OF OATH OR AFFIRMATION

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: I swear by Almighty God that the evidence I shall give to this honourable Legislative Assembly shall be the truth, the whole truth and nothing but the truth.

The Chairman: Good afternoon, Mr. Barnes, and thank you for coming. Let me express my gratitude for you particularly coming at such short notice without a formal summons (that was very much appreciated), otherwise, we would probably have to have an extra meeting next week, so that is really appreciated.

We are dealing with the Maritime Authority of the Cayman Islands Accounts for June 30th 2016 and we have a couple of questions for you as Chairman of the Board, mostly to do with governance and areas like that.

Mr. Saunders.

Mr. Christopher S. Saunders: Thank you very much, Mr. Chairman, and through you, sir. Mr. Barnes, I also want to express my gratitude for you making yourself available today.

One of the things that we are trying to achieve on the Public Accounts Committee is more on the governance side, to make sure that the boards—especially with the statutory authorities that are running these multimillion dollar organisations—at least have some level of governance over the day to day management.

We noticed that the financial statements were also signed by you as chairman of the board and what we want for the public to understand is the governance model or the governance structure that you and your board use to basically manage the operations. So, if you can just briefly just tell us the frequency of the board meetings, what it is that you guys generally look at and what sub-committees, if any, there are that the Board has to ensure that the management is actually being managed properly or watched properly. Thanks.

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: The Board consists of seven individuals and—

[Inaudible interjection]

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Thank you.

Phillip Antonio Barnes, the Chairman, Maritime Authority, Cayman Islands.

In response to your question, the Board consists of seven members. We meet regularly, at least six meetings staggered throughout the year. We also have an Audit and Finance Committee and its function is to review the management accounts in a very detail fashion, taking into accounts the results against budgets and the variances and seeking explanation for those variances. I would also like to add that on a monthly basis, management presents those management accounts to all board members which are circulated.

Now, in terms of our governance, MACI produces an annual corporate document which is ap-

proved by the board and it is reviewed quarterly from reports given to the board. The budgets are approved annually and reviewed monthly and here again we utilise the Audit and Finance Committee which comprises three board members who are knowledgeable and capable to make that function effective and efficient.

Did I answer your question?

Mr. Christopher S. Saunders: Yeah, well, I have a follow-up.

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Sure

Mr. Christopher S. Saunders: Yeah that's fine.

The Audit and Finance Committee, is that one committee or is it two committees?

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: One committee.

Mr. Christopher S. Saunders: Okay. From an operational standpoint, one of the things that governance entails heavily is risk and the finance and audit is one part of the risk but in terms of operational, which will include IT and HR, how are those risks managed from the board?

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: The board approves the HR Manual and whenever there are any subsequent amendments to it, it has to get board approval.

Now, I would also like to mention that under the Law, the board gives the directive to the Chief Executive Officer to carry out the day to day functions and the management of the Authority, but the board gets regular reports at the board meetings, of any activities and/or the results of the operation at that time.

Mr. Christopher S. Saunders: Just continuing on: The reports received by the board, are they standard reports and are they broken down to different sections where at least each section is completed by at least one senior manager? Or, how does the standard reporting works?

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: At our board meeting the Chief Executive Officer along with senior management report on various sectors of the business which they have direct involvement with. But, having said that, the CEO has the overall responsibility as we have given him the directives to run it and be accountable to us.

The Chairman: I just have a couple of questions not specific to this but we want to get a certain message out to other Board Chairmen as well as yourself. Are

you aware of the Public Authorities Law that came into effect on the 1st June last year?

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: That's correct.

The Chairman: And the other section 47 comes into effect on the 1st of June this year which is the one that talks about salaries—

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Correct.

The Chairman: —which places a lot more defined responsibility on Board Chairmen, in particular, and board members in the broader sense. Has your board been active in making sure that there is compliance to this legislation?

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Yes, the board is aware of it and we have, by utilising our Audit and Finance Committee that has assisted us in a more detail manner of it, but yes, and going forward it is something that we will definitely use as part of our governance to ensure that there is complete compliance with it.

The Chairman: Earlier, we had invited the CFO as a witness, Mr. Osbert Francis. Now, unfortunately when we invited him, he did not respond and tell us that he was not the Chief Financial Officer—right? Apparently there was a restructuring in October last year—

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Correct.

The Chairman: —which would have been post the coming into effect of the Public Authorities Law, where they created a number of positions. Can you confirm that the board is fully aware of those changes that were made?

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Yes, indeed. During our board meeting, we were given that report and in the case of Mr. Francis it was a new position but merely an extended role for which there have been a number of title changes that the board is aware of and have approved.

The Chairman: He also indicated that he doesn't have a professional accounting qualification nor does the Head of Accounting or Finance under him have any professional accounting qualifications.

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: That is correct and I believe the period we are looking at, the person who prepared the financials are no longer with MACI. But, at that time, that person reported to a CPA [Certified

Public Accountant], who, because of the internal structuring, has now moved on to another role, and I say that to say he also has as senior management, an opportunity to scrutinise those accounts, even before it goes to our Audit Committee. So, we find comfort in the manner in which the financials are prepared to be fair, and, of course, by the time it reaches the Auditors, we rely on their opinion.

The Chairman: Okay. And the board is comfortable that in those reshufflings, that that JD [job description] no longer requires a professional qualification to be Head of Finance or Head of Accounting or Global Director responsible for Finance.

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: I think the position . . . we will certainly review the position if it becomes necessary, but at the moment we are comfortable that the effectiveness of the person doing the role has been satisfactory.

The Chairman: Okay. Of course, this will come up in the accounts that will be audited now but it is just because we were surprised and a bit disappointed in that we were not told when we invited him as Chief Financial Officer, that he was not the Chief Financial Officer and that there was no longer a chief financial officer because we had certain professional related accounting questions which we now have unanswered because we didn't believe that he was in a position to answer them. But that will come up, of course, in greater detail in the 2016/2017 accounts. I just wanted you to be aware and to confirm to us that you were aware that the changes had been made.

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Absolutely.

Mr. Christopher S. Saunders: Yeah, thank you Mr. Chairman; through you, sir.

I just want for the public to understand that while it is good to have a CPA or a qualified accountant preparing the accounts, the real emphasis is to make sure that the person who is checking the accounts is actually qualified to do so, because I know there are many organisations and entities where the persons who prepare the financials aren't necessarily a CPA.

One of the things I am just a little bit curious about, Mr. Chairman, is that for an organisation doing roughly over \$9 million a year in revenues, in this day and age where we have more like the governance of a chief operating officer, a chief financial officer and a chief executive officer, that, finance itself, as a major risk in terms of an organisation of this size, ultimately it is a board decision. But I would strongly recommend from the board's standpoint that in covering risk (now it depends on the operation itself), to, at least have

that conversation, even with the Auditor General per se, from a risk management standpoint and to look at a structure where at least for an almost \$10 million a year revenue business, that you have a qualified person looking at it.

Now, we have seen in the last two days some entities are quite small and we wouldn't necessarily push on them or encourage them to have a CPA because we know it could be quite expensive, but for an organisation of this size, especially the broadness of it, you would at least expect a little bit more emphasis placed on finance. But, ultimately, that is a policy position and this is something that is outside the remit of this Committee because our job is not really to look at policy but just more from an accountability standpoint.

One of the other questions that I would like to pose on one of the issues we have is to do with the financial statements that were not prepared within the legal time limit which is one of the things that I would just remind you, as Chairman, that ultimately, it is a requirement by Law. The Law sets certain dates.

Also, the supporting schedules and the other stuff that goes with the audit to make it efficient, those were late and I think at a minimum, yourself, ultimately as the person who signs, at least needs to be made aware, and this is where the Audit Sub-committee comes in now from the board, whereas there needs to be access, that if the stuff isn't going to the auditors as quickly as it should, when 9 out of 10 times, most of the information that the auditors require are stuff that should be on record. That in itself raises flags.

Now, nonetheless, the audit opinion is qualified for a different reason but from an operational efficiency governance standpoint, that is something in making sure that the proper schedules and the information that should get to the auditors, get there because ultimately it would just naturally raise flags. If someone should have something ready and it is not readily available, then, questions naturally will arise.

This is not to say anything out there is untoward but from an efficiency standpoint for a \$9 million organisation, we would expect a little bit more from that standpoint. So, I just wanted to make you aware as the Chairperson of the Board.

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Thanks for that. I certainly take that into consideration.

The Chairman: Any other questions?

Thank you very much, Mr. Barnes. Again, we want to express our gratitude for you coming at such short notice; that is really appreciated. Thank you very much.

Mr. Phillip Barnes, Board Chairman, Maritime Authority, Cayman Islands: Thank you.

The Chairman: We have finished our work for the day. The meeting will be adjourned and our next meeting will be at 10:00 am, March 6, for us to consider the three or four reports that we hope to Table in the next Sitting of the Legislative Assembly.

I want to thank everybody for taking the time to come and I can tell you, it is a real pleasure to be Chairman of a Public Accounts Committee when all members turn up on a regular basis to attend meetings and participate. I have been here on other occasions when it was a lonely job and the only person who read the report of the membership was me. So, it is a pleasure to work with you all who come so well prepared and question. So, thank you all very much and we are now off-air. Thank you.

At 1:20 pm the Public Accounts Meeting stood adjourned until 10 am, 6 March, 2018.

