



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2018/19 SESSION

17 December 2018

*First Sitting of the Third Meeting
(Pages 1-68)*

Hon W McKeeva Bush, OBE, JP, MLA, Speaker

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PRESENT WERE:

SPEAKER

Hon W McKeeva Bush, OBE, JP, MLA
Speaker of the Cayman Islands Legislative Assembly

MINISTERS OF THE CABINET

Hon Alden McLaughlin, MBE, JP, MLA	<i>The Premier</i> , Minister of Human Resources, Immigration and Community Affairs
Hon Moses I Kirkconnell, JP, MLA	<i>Deputy Premier</i> , Minister of District Administration, Tourism and Transport
Hon Juliana Y O'Connor-Connolly JP, MLA	Minister of Education, Youth, Sports, Agriculture and Lands
Hon Dwayne S Seymour, JP, MLA	Minister of Health, Environment, Culture and Housing
Hon Roy M McTaggart, JP, MLA	Minister of Finance and Economic Development
Hon Joseph X Hew, JP, MLA	Minister of Commerce, Planning and Infrastructure
Hon Tara A Rivers, JP, MLA	Minister of Financial Services and Home Affairs

EX OFFICIO MEMBERS OF THE CABINET

Hon Gloria McField-Nixon	Temporary <i>Deputy Governor</i> , ex officio Member responsible for the Portfolio of the Civil Service
Hon Samuel Bulgin, QC, JP.	<i>Attorney General</i> , ex officio Member responsible for Legal Affairs

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Hon Bernie A Bush, MLA	<i>Deputy Speaker</i> - Elected Member for West Bay North
Capt A Eugene Ebanks, JP, MLA	Elected Member for West Bay Central
Mr David C Wight, MLA	Elected Member for George Town West
Ms Barbara E Conolly, MLA	Elected Member for George Town South
Mr Austin O Harris, MLA	Elected Member for Prospect

OPPOSITION MEMBERS

INDEPENDENT MEMBERS

Hon D Ezzard Miller, MLA	<i>Leader of the Opposition</i> - Elected Member for North Side
Mr Alva H Suckoo, MLA	<i>Deputy Leader of the Opposition</i> - Elected Member for Newlands
Mr Anthony S Eden, OBE, MLA	Elected Member for Savannah
Mr Christopher S Saunders, MLA	Elected Member for Bodden Town West
Mr Kenneth V Bryan, MLA	Elected Member for George Town Central
Mr V Arden McLean, JP, MLA	Elected Member for East End

OFFICIAL HANSARD REPORT
THIRD MEETING 2018/2019 SESSION
MONDAY
17 DECEMBER 2018
11:40 AM
First Sitting

[Hon. W. McKeeva Bush, Speaker, presiding]

The Speaker: Good morning.

Prayers will be read by the Honourable Deputy Premier.

PRAYERS

Hon. Moses I. Kirkconnell, Deputy Premier, Minister of District Administration, Tourism and Transport: As the Christmas season is upon us, we certainly offer Christmas Blessings to all Members.

Let us pray.

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

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

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

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

The Speaker: Please be seated.

The House is now resumed.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

Oath of Allegiance and Due Execution

The Speaker: Please rise.

Hon. Gloria McField-Nixon, Acting Deputy Governor: I, Gloria Michelle McField-Nixon, do swear that I will well and truly serve Her Majesty Queen Elizabeth II, and her Heirs and successors and the people of the Cayman Islands in the Office of the Ex-Officio Member of the Legislative Assembly, so help me God.

The Speaker: Mrs. McField-Nixon, we consider that you have been truly welcomed, but we repeat it; you are welcome as the ex-officio, the Honourable Acting Deputy Governor.

Please be seated.

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

The Speaker: Honourable Members, as you can see, there is a new person on the Dias with me. He is our new Page, Mr. Christopher Clarke. In an effort to modernise and give Members some very needed assistance and particularly so to our Sergeant-at-arms, we have this new Page. Hitherto-fore, the Sergeant was expected to be everywhere at the same time and he has done his job well. We know that is impossible and we must understand that as our public should. The new Page will assist him in carrying out his duties.

This is somewhat of a historic effort and I am delighted that Mr. Clarke is here with us. I know he knows something already of the procedure here, as he has watched with keen interest, the affairs of the House, and I am pleased for many reasons for that, as more and more young people need to understand and get involved with the parliamentary process. We are into over 180 years of parliamentary government and the wheels of progress for the services Members need here, have moved exceedingly slow. I hope that the new Autonomy Bill would have gotten all of the desired feedback for passage, sometime early in the

New Year; hopefully, in the next Meeting of the honourable House. I hope too, that funds will be able to be allocated for the security measures we have agreed and the small bits of new space that is so badly needed.

I do want to put on record my sincere thanks to the Honourable Acting Deputy Governor for her keenness to help, and indeed, the help she has rendered and afforded me as Speaker and the professional manner she goes about doing good. But we expect a little bit more.

[Laughter]

The Speaker: But, thank you very much, Mrs. McField-Nixon, Honourable Acting Deputy Governor, for what you have done since the new Government.

Mr. Clarke, you will know by now that the Speaker doesn't speak, and when the opportunity is afforded to the Speaker, the Speaker speaks.

PRESENTATION OF PETITIONS

The Speaker: None.

PRESENTATION OF PAPERS AND OF REPORTS

The Speaker: None.

QUESTIONS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: None.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

CONSTITUTIONAL DISCUSSIONS—CAYMAN ISLANDS GOVERNMENT AND THE UNITED KINGDOM GOVERNMENT

The Speaker: I have received statements by the Honourable Premier.

The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker.

Mr. Speaker, as this Honourable House will recall, last month I confirmed to Members and the public that the United Kingdom Government had agreed to begin talks with the Cayman Islands on proposals for various safeguards to our Constitution.

These talks did occur over two days in London: Friday, 7 December, 2018, and again on Monday, 10th at the Foreign and Commonwealth Office (FCO).

I am pleased to report to this House, Mr. Speaker, that the two days of talks went as well as one could have hoped. Indeed, I regard them as having been constructive and fairly positive, and for this I would like to thank the Cayman delegation as well as the delegation from the Foreign and Commonwealth Office in London.

I wish to especially thank Sir Jeffrey Jowell, QC, for the excellent preparatory work done that allowed us to not only make an excellent case for reform but also for the very clearly drafted proposals provided to the FCO prior to the talks. These made it easy for the United Kingdom Government to readily understand our position and to take a position themselves.

I extend my gratitude as well, Mr. Speaker, to our own Attorney General for his excellent contribution and solid recommendations to our effort.

These were important talks, Mr. Speaker, which took us over six months to arrange. I acknowledge the work done by our London Office, in particular the head of that Office and our representative in the UK, Mr. Eric Bush, in assisting to get the dates pinned down.

Mr. Speaker, as you know, we sought these discussions in the aftermath of a breach of convention and possible constitutional overreach when in May this year the House of Commons legislated for the British Overseas Territories in the area of domestic policy.

As all Members of the House will know, responsibility for domestic policy has been devolved to the territories under the terms of their respective Constitution Orders made by Her Majesty in Privy Council. Contrary to the longstanding convention, the UK Parliament sought to legislate for the territories in an area of devolved responsibility by attaching an amendment to the Sanctions and Anti Money Laundering Bill that was making its way through the United Kingdom Parliament. The Bill with the amendment was passed by the House of Commons and then later by the House of Lords in May. This amendment requires the British Overseas Territories, but curiously not the Crown Dependencies, to establish public registers of beneficial ownership, and to do so no later than 31 December, 2020. Failing this, the amendment requires the UK Government to utilise an Order in Council to change local legislation to force the governments of the territories to implement public registers of beneficial ownership; thereby, effectively legislating directly on a matter that has been devolved to the local governments.

This break in longstanding convention and overreach by the UK Parliament represents a line that, once crossed, cannot be uncrossed. The concern is therefore not just about beneficial ownership registers,

but about what other areas of devolved authority the UK Parliament may feel it should interfere in without at least consulting with the Cayman Islands Government.

And so, Mr. Speaker, the safeguards we seek will confirm that the Cayman Islands Government has autonomous capacity in respect of domestic affairs, and that the United Kingdom will not seek to legislate, directly or indirectly for the Cayman Islands without, at a minimum, consultation with the Cayman Islands Government.

Prior to the meetings in London, as I mentioned before, the Government provided the Foreign and Commonwealth Office with proposed constitutional changes in draft form. These proposals were discussed with the Opposition prior to the trip to London and again with the Leader and Deputy Leader of the Opposition while we were in London. I wish to thank the Leader of the Opposition and his Deputy for their able assistance during the talks in London. I also want to thank those on the Government bench who also ably assisted with the negotiations: the Minister of Commerce, Planning and Infrastructure and the Minister of Financial Services and Home Affairs.

Mr. Speaker, not only did the country see before we left for London that the Government and the Opposition both recognised the importance and necessity of the safeguards being sought, but in London the United Kingdom Government was presented with a solid Caymanian front, with the Premier and Opposition Leader, together with our delegation, sitting not on two separate sides, but united in the cause of defending our beloved Islands.

In addition to addressing the principal concern mentioned earlier, the opportunity was also taken to seek a small number of administrative changes to the current Constitution Order to improve the operations of the local government and legislature.

I am pleased to advise that by the end of the talks the majority of the proposed changes were agreed in principle while the remainder is still under consideration by the United Kingdom Government.

Mr. Speaker, United Kingdom officials listened and genuinely sought to be helpful whilst asserting that the UK's interests and its ability to ultimately legislate for its territories must remain paramount. We are a British territory and so we understand this, but we argued our case hammering home the points we needed to make. And, Mr. Speaker, the Foreign and Commonwealth Office team certainly did seek to understand our positions and provide suggestions to address the concerns where they thought they could.

Mr. Speaker, the United Kingdom has committed to formally responding to us in the coming weeks. This formal response will include a Draft Order in Council that will confirm the matters already agreed in principle and provide the UK's proposals on how to address the matters that were left to be considered. Once the UK's response and Draft Order in Council

are acceptable to the Cayman Islands Delegation, then the constitutional negotiations will be considered concluded and the proposed amendments, with Draft Order in Council, will be published and later debated in this Legislative Assembly.

Mr. Speaker, everyone in this House would be aware of the challenges that the United Kingdom Government is now going through with Brexit; challenges that are impacting the UK's internal politics. In recent days there was even a no confidence vote called on the Prime Minister within her party. The Prime Minister won that round but things are still poised on a knives-edge politically in the UK.

These safeguards we seek on behalf of the Cayman Islands cannot be allowed to be caught up in the UK's internal Brexit cauldron as it heats and boils. So I am grateful to the United Kingdom Government for seeking to conclude these negotiations as quickly as possible. This is also in our interest, so I, and I believe this House, commit ourselves to seeing this through as best we can within a reasonable timeframe early next year.

Following debate, and if approved by the Legislative Assembly, and subsequently by Her Majesty in Privy Council, the proposed changes are expected to come into effect in time for the 60th anniversary constitutional celebrations in July 2019.

I wish to thank the team, providing administrative support for the Cayman Delegation in London: Mr. Samuel Rose, Cabinet Secretary; Mr. Roy Tatum, Head of the Office of the Premier; Mr. Jason Webster; Cabinet Office Policy Analyst; and Ms. Jana Pouchie-Bush, Personal Assistant to myself as the Premier.

I thank the United Kingdom team also, which included Mr. Ian Hendry, Constitutional Advisor to the Foreign and Commonwealth Office (FCO); and someone who is well known to the older heads in the House: Mr. Ben Merrick, Director of the Overseas Territories; and Mr. Will Gelling of the FCO; Greg Reisman, Assistant Legal Advisor to the FCO; and, His Excellency, the Governor, Mr. Martyn Roper, also attended.

I would like to, again, thank all the Members of both delegations for the hard work and constructive dialogue during the two days of talks. On the UK's side I particularly wish to thank Lord Tariq Ahmad of Wimbledon, Minister for the Overseas Territories, for his approach when working with us and with all the Territories. Lord Ahmad, I believe, presents a real sense of partnership and friendship to the United Kingdom's relationship with its Territories that is greatly appreciated. Indeed, despite a very hectic and uncertain week of Brexit debates in London, Lord Ahmad ensured that he was able to keep his finger on the pulse of the negotiations and made time at the start of the talks to meet with me, and again at the end of the talks, to ensure sufficient progress was made.

Mr. Speaker, we now await the formal response from the United Kingdom Government and I look forward to successfully concluding the negotiations and to publish them and then bringing them to the Floor of this honourable House for consideration and debate.

Mr. Speaker, my second statement on a new Ministry. Mr. Speaker—

Point of Order

The Speaker: —is the Member for George Town Central rising on a Point of Order?

Mr. Kenneth V. Bryan, Elected Member for George Town Central: Mr. Speaker, according to Standing Order 30(2), that speech is completed and I am allowed to have, obviously, with your grace—

The Speaker: You are in accordance with the Standing Order, yes.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker.

The Speaker: Short questions pertaining to the statement.

Mr. Kenneth V. Bryan: Mr. Speaker, I just want the Honourable Premier to clarify that in his statement on page two (2) where he says that he had discussions with the Opposition, that he clarifies to the Honourable House that Kenneth Bryan, the Independent Member of the Opposition was not involved in any discussions in respect to the Constitutional changes. Therefore, the people of George Town Central have not had a voice in respect to these discussions.

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I clarified that, I think before, at the last Meeting of the House, and the Member is right. The fact that he has not been involved in the discussions is entirely his alone. I invited him on the Floor of this House to have discussions with me following my discussions with the official Opposition. I am yet to hear from the Member. I am still more than happy to discuss the matters with him. I wish not to exclude any Member of this House from such an important matter at all, Sir.

The Speaker: The Member for George Town Central.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker, and forgive me for my lack of clarity of what Point of Order to stand on, because, normally this Point of Order is done in debates and this is not a debate at this particular point. But at—

The Speaker: Honourable Member, you can ask questions in relation to what the statement says and what the Premier has said.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker.

What I am standing on now is a different point of order because of what was just said by the Premier, which is that it is not entirely true at all. Mr. Speaker, if we can bring the Hansards into questions because, Mr. Speaker, what is happening now is that the Premier is trying to make the listening audience believe that I did not want to be involved in the constitutional discussions of this Country and that is unfair, Mr. Speaker, and very incorrect.

Now, if we want to present the Hansards of this House, I would be happy that we can do that but all I wanted to do was to be clear that I was not involved in any discussions. There was no invitation outside of what the Honourable Premier said on the Floor of the House, in the last Sitting of the House, in that I am as opened to what is being said like everybody else. Every other Member of the Opposition had an opportunity to speak with the Premier directly, and I was not given that privilege.

The Speaker: I consider that as a point of explanation. Honourable Premier do we want to move on and leave it there or . . . ?

The Premier, Hon. Alden McLaughlin: Except that the Member is being untruthful. I said on the Floor of this House that I am more than happy to meet with the Member. I said so to him in the passage way there as well. But the Member is doing what he usually does best; he refuse to co-operate with the Opposition, he refuses to cooperate with the Government and then he plays victim as though we are trying to leave him out of something. I repeat my offer to the Member, following this Meeting, to sit down and go through this with him. If he wants to make public display about it, that is up to him but he is being what he usually is, which is disruptive, uncooperative, seeking to gain some sort of prominence when in fact, every other Member of this House is cooperating with what is a critically important matter, he is playing political games with it.

[Inaudible interjection]

The Speaker: I consider that we should move to the next statement.

NEW INTERNATIONAL TRADE AND INVESTMENT MINISTRY

The Premier, Hon. Alden McLaughlin: Mr. Speaker. I previously advised this House of the Government's intention to create a new international trade and

investment ministry as well as open an office in Hong Kong.

I am happy to advise this honourable House that both of these have progressed with the United Kingdom Government, via the Governor's Office, and that the UK Government has formally confirmed their agreement for a new ministry to be established and have also agreed that it will be named the Ministry of International Trade, Investment, Aviation and Maritime Affairs. Mr. Speaker, by way of explanation, the reason why we needed to engage the Governor's Office and the Foreign and Commonwealth Office on this particular issue of the name for the Ministry, is because some of these subjects are areas which are within the section 55 special responsibilities of the Governor.

I can also confirm that the United Kingdom has also provided a Letter of Entrustment that approves the opening of a Cayman Islands Government Office in Hong Kong, subject to receiving the necessary approvals from Hong Kong authorities. The UK Government and the Governor's Office have also committed to assisting with both endeavours, the start-up of the new Ministry and the Hong Kong Office. It is with the latter that this assistance will be especially useful and the United Kingdom Consulate General in Hong Kong will provide advice and on the ground assistance to get the initiative going, including seeking the necessary approvals from the Hong Kong Government.

Mr. Speaker, while it is perhaps extraordinary for an administration to create a new ministry in midstream, Mr. Speaker, these are indeed extraordinary times. The principal purpose that brings us here today is to debate and hopefully approve a series of bills that seek to defend the Cayman Islands from being blacklisted by the European Union or falling afoul of the Organization for Economic Cooperation and Development's (OECD's) Forum on Harmful Tax Practices (FHTP). What we continue to see, Mr. Speaker, is an ever-changing landscape as regards the required regulation of the financial services sector; requirements that are no longer European Union-centric but are becoming the international standard – and so Cayman must move with the times if we are to maintain a vibrant Financial Services Industry.

Mr. Speaker, the landscape will continue to change and the Cayman economic model will continue to face external threats, particularly as a result of the widespread misunderstanding of the Cayman Islands, our Financial Services Industry and the regulatory regime that underpins it. And despite our efforts to educate and engage with politicians in the United Kingdom, this misunderstanding even extends to Westminster, as we saw earlier this year. And, Mr. Speaker, whilst we are all hopeful that the United Kingdom will find a good solution to the challenge that is Brexit, it will continue to face

challenges post-Brexit. So, we believe we must do our bit to lessen their burden and at the same time, as I have said before, to step out of the UK's shadow and stand up for ourselves when it comes to matters of international trade. This is the role, Mr. Speaker, which the new Ministry will take on.

Mr. Speaker, this Government, recognises that in general terms, foreign policy or external affairs are functions reserved to the Governor under section 55 of the Constitution. However, that section also recognises that in the discharge of their normal functions, key ministries will necessarily need to relate to overseas governments and institutions. The Constitution therefore provides that, in consultation with the Premier, the Governor may delegate responsibilities for external affairs to elected Ministers, which then gives them freedom to act within certain prescribed limits.

In reality, every Ministry has responsibilities that bring them into contact with other jurisdictions or inter-governmental bodies. This varies considerably in scope and in the resources required to develop and maintain overseas relationships within each Ministry.

Sadly, Mr. Speaker, there is limited joining up of activities across Ministries and from the point of view of partners abroad in both the public and private sectors, the Cayman Islands Government can at times be difficult to work with. At the political level, I, as Premier, act as the de facto lead for cross-Governmental international activity and therefore, traditionally, the Premier will lead significant overseas missions. However, within the civil service there is no one similarly charged with coordinating or leading this activity. Opportunities to present a coherent and consistent approach to other governments and to potential investors and partners are being missed. The new Ministry will provide this coordinating function.

In summary, the Ministry of International Trade, Investment, Aviation and Maritime Affairs will advance the economic and political interests of the Government, the Caymanian people and the local business community; to make it easier for potential overseas investors to do business in the Cayman Islands, and to help enhance the reputation of these Islands.

Generally, Mr. Speaker, the benefits of the new Ministry will include:

- improved reputation and promotion of Cayman with key opinion formers in overseas governments and institutions and in the private sector
- increased inward investment as we attract a wider pool of potential investors and make it easier for them to gain access to Caymanian markets
- increased tourism and financial services business as we help to open up and secure markets

- economic diversification as we are able better to understand and attract an increasingly diverse range of businesses to Cayman, in bringing a renewed focus on growing our aircraft and shipping registries.

To achieve these benefits, Mr. Speaker, the new Ministry will take direct responsibility for the Cayman Islands Government Office in London and a limited range of existing government departments and entities. The Ministry will, more broadly, be charged with coordinating the jurisdiction's activities internationally though many of those activities themselves would remain with existing Ministries.

The departments, offices and statutory authorities that will fall within the new Ministry will be those that have a principal focus on external trade and customers.

They are identified as:

- the Cayman Islands Government Office in the United Kingdom (CIGO-UK)
- the Department of Investment (to be split off from the Department of Commerce and Investment)
- the Shipping Registry of the Maritime Authority; and
- the Aircraft Registry but not the regulatory functions of the Civil Aviation Authority.

I wish to make plain that with regards to the last two that the Ministry's role will be limited to the promotion of the shipping and aircraft registries and does not affect the Governor's responsibilities over other areas of maritime and aviation affairs.

In addition to the UK Government Office, it is anticipated that over time the Ministry will develop a network of international offices in locations where their establishment would enable it to better achieve its stated purpose. Proposals for such offices will be brought forward on a case-by-case basis and as I have mentioned previously, the first business case, for the establishment of an Asia Office in Hong Kong, has already been developed and approved.

Mr. Speaker, several potential locations for an Asia Office were considered, however, in consultation with key business leaders it was determined that Hong Kong would be the most advantageous location. That is because of its existing links to Caymanian businesses and government entities and its ideal location as a gateway to other Asian markets.

Mr. Speaker, the establishment of the Cayman Islands Government Office in Asia will create a focal point to promote all aspects of the jurisdiction in an increasingly significant market. It will strengthen and deepen business ties and provide a gateway for future trade and investment in Asia. It will also facilitate the development of cultural ties between Asia and these Islands.

The primary focus for the office will be in the realisation of economic benefits. It will support the existing twin pillar industries of tourism and financial services and also serve to support the diversification of the Cayman economy through establishing links and promoting inward investment opportunities with Asia's highly-developed knowledge-based industrial sectors.

Mr. Speaker, a physical presence on the ground in Hong Kong will mean that the Office can provide certain real-time support services such as certificates of good standing, dealing with immigration related queries for Asian visitors, and potentially company incorporation and funds registration in a same day and time zone convenient manner. This will add tremendous value to the efforts of Cayman-based firms already operating in Asia, and in particular in Hong Kong.

Previous attempts to establish an office in Hong Kong were unsuccessful but times have changed. Both the Government and the business community share optimism that the new Asia Office will provide a springboard for improved business and other links for the benefit of Cayman. And, as I have indicated, the UK is also geared up to assist us to make it a success this time around.

As I indicated earlier, Mr. Speaker, Brexit is presenting a challenge to the UK and in some regards to its Territories. However, we also see opportunities. These include the opportunities that the UK's Global Britain initiative could bring to Cayman if we put ourselves in the best possible position to exploit those opportunities.

The obvious example is our participation in the GREAT Festival of Innovation in Hong Kong earlier this year. We were very grateful for the Secretary of State's invitation to take part and we would welcome the opportunity to participate in similar events in the future. We believe that had this new Ministry been up and running we could have been even more effective participants in the Festival; and so this demonstrated to us that if we raise our game we can make the most of the opportunities that working closely with the UK can bring us.

In setting up both a new Ministry and an Asia Office in Hong Kong, the case for change is underpinned by the view that international issues will become increasingly important to the wellbeing of these Islands. It is therefore essential that high calibre and suitably skilled staff are employed and this will present opportunities for Caymanians to gain invaluable experience and exposure working in the Ministry or in the London and Hong Kong offices, and in any future offices that may be opened.

Mr. Speaker, the Government accepts that there are costs and indeed potential risks in this approach. We intend to provide an annual budget, estimated at some \$3 million for the Ministry and the Asia Office. There will be new civil service headcount

but much of the budget will go directly into promoting the Cayman Islands and attracting business. This represents a considerable investment when we are well aware of the other potential calls on government funding. However, we believe the benefits I have outlined are significant enough to justify the investment; an investment in the future and prosperity of our people and of our Islands.

Mr. Speaker, I said at the start that the creation of a new Ministry is an extraordinary step resulting from the extraordinary times in which we live. What is not extraordinary, however, is this Government's determination to make the right decisions to support our economy, our businesses and our people.

[Crosstalk]

The Speaker: Honourable Premier, please continue.

JOINT MINISTERIAL COUNCIL MEETINGS— LONDON

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I have one more statement with your permission Sir, concerning the United Kingdom Overseas Territories Association Joint Ministerial Council (JMC) meetings I recently attended in London.

Before I do so, I would like to put on record, my thanks to the United Kingdom team led by Lord Tariq Ahmad, Minister for the overseas Territories, Mr. Ben Merrick, Director of the Overseas Territories and Mr. Will Gelling of the FCO for organising the series of successful meetings and events.

I would also like to thank the Honourable Minister of Financial Services and Home Affairs, the Attorney General, the Cabinet Secretary, and the Cayman Islands London Office led by Mr. Eric Bush.

Mr. Speaker, the London Office did a splendid job organising several very successful events during the week, in particular, the largest London friends of Cayman dinner that I have ever hosted, which was very well received by all who attended. I was delighted that on this occasion, which I think is the first time this has ever occurred, we were able to also have with us, the Honourable Leader of the Opposition and the Deputy Leader of the Opposition and also the Minister for Commerce, all of the latter names, all of whom were in London for the constitutional talks.

Mr. Speaker, the week of meetings began with an environment workshop, which I led as the President of the Political Council of the United Kingdom Overseas Territories Association known as UKOTA. This was the first UKOTA environment workshop and participants included leaders of Overseas Territories, departments of Her Majesty's Government as well as non-governmental organisations and organisations and charities in the environment sector. I was very pleased to see Nadia

Hardie, the Chairperson of the Cayman Islands National Trust also in attendance.

The topics discussed included environment funding, ocean conservation strategy and the inclusion of Overseas Territories in the UK Government's, the green future 25 year plans to improve the environment.

Mr. Speaker, I was very happy to share with the attendees at the workshop the good news of the procurement of 634 acres of protected land in the Cayman Islands which has now increased the protected land in Cayman to some 4,111 acres equivalent to 6.3 per cent of Cayman's total landmass.

The overseas territories are custodians of environmental assets of global importance. Over 90 per cent of the United Kingdom's bio-diversity is in the territories, including many engendered species. The overseas territories need to ensure that we receive the support and assistance by way of specialist technical advice as well as funding for environmental research and protection remains available post-Brexit when access to European Union funds will no longer be available.

Mr. Speaker, as overseas territories, we fall between the cracks unable to access some international funds because they say we are too rich but also unable to access UK domestic funding. Working with NGOs, universities and charities may mean we will be able to unlock some of this. Mr. Speaker, following the workshop, the Cayman Islands chaired the UKOTA Political Council meeting; this was our opportunity to discuss matters relating to UKOTA as an organisation as well as discuss and agree positions to be taken at the upcoming Joint Ministerial Council (JMC) meetings. It was agreed at this meeting that the Cayman Islands will host the 2019 Pre-joint Ministerial Council meetings at the beginning of July. I look forward to hosting the leaders of the overseas territories' governments on our beautiful Islands, not just to progress discussions, but to share with them our culture and to celebrate Cayman festivities that are planned to mark the 60th anniversary of our Constitution.

Following this meeting, our delegation met with the all-party parliamentary group for the Cayman Islands. Mr. Speaker, this gave me an opportunity to update the group on how well the Cayman economy is doing and to discuss concerns around the EU blacklisting process and the upcoming constitutional talks with the UK Government. On Tuesday of that week, the two-day Joint Ministerial Council meeting between the British Overseas Territories and Her Majesty's Government began.

I want to go on record and thank the UK Ministers who attended the meetings despite important debates taking place on Brexit in the House of Commons at the same time. The meeting focused on discussions about Brexit, contingency planning, updates on domestic parliamentary process, trade

policies and development funding. Discussions included an overview of planning for a 'no deal' scenario in Brexit, trade policies post-Brexit and potential changes to funding through the overseas development fund.

The overseas territories were advised that the European Union funding that supports environment and other projects in the territories will be guaranteed by the United Kingdom until 2020. However, some overseas territories noted that this may create challenges for projects that need longer term funding. Mr. Speaker, the Cayman Islands is not in that category; we do not get the funding.

There followed a lively debate on British Overseas Territories citizens passports. Concerns were raised that British Overseas Territories' passports are now electronically coded with the same electronic code as British passports. For some territories' nationals this created occasional problems when travelling. It was requested that, British Overseas Territories citizens' passport be encoded with a code for each territory to avoid this issue. Mr. Speaker, the Cayman Islands is not affected by this but places like the British Virgin Islands have special arrangements with the United States Virgin Islands in terms of travel, but that privilege is not extended to British passport owners generally, only to British Virgin Island passport holders. So, it is in that context that this issue was raised.

A key session of the meeting focused on child safeguarding. Territory leaders updated the Joint-Ministerial Council on work that had been done in their countries. I was very happy to be able to give an update on the work that has been done over the past year in the Cayman Islands: the advancements of the multi-agency safeguarding hub, training and capacity building, raising community awareness on safeguarding children and older persons and the restructuring of the services of the Department of Children and Family Services.

On Wednesday of that week, the meeting began with overseas territories' leaders providing updates on their disaster preparedness. Those territories that were affected by hurricanes last year gave an update on their recovery process. They thanked the United Kingdom Government for its help, and once again thanked the Cayman Islands for the assistance we provided.

The Honourable Minister for Financial Services and Home Affairs gave an update on work that has been taking place in our Islands to enhance resilience to natural disasters as well as to strengthen the regional cooperation frameworks. This includes working with the Governor's Office and the Foreign and Commonwealth Office to pilot FCO's crisis hub. This is a tool that will aid in evacuations and in tracking missing persons during disasters.

Mr. Speaker, the Cayman Islands also agreed to participate in a formal regional overseas territory

rapid deployment team that can swiftly provide support for impacted territories. A second new specialist helicopter will be purchased with the assistance of the United Kingdom Government for use in the Cayman Islands, as well as to participate with disaster relief in the British overseas territories. The Cayman Islands has already begun implementing a national emergency notification system as well as upgrading the national public safety radio systems.

The financial services session centred on the European Union blacklisting process with Mr. Stride, the Financial Secretary to the UK Treasury, noting that the United Kingdom Government is committed to assisting the overseas territories during the process.

I explained that the Cayman Islands has been actively engaging with the EU throughout the process and is on track to meet our commitment by the end of the year. Discussions moved to the UK's goal to make public registers of beneficial ownership the global standard by 2023.

It was noted that, although, the sanctions and Anti-Money Laundering Act passed by the UK Parliament in May this year, required that an Order in Council will be issued by the end of 2020 requiring overseas territories, but not the Crown dependencies, to implement public registers. The UK expects that such registers would be fully implemented and operational by 2023.

So, Mr. Speaker, the effect of this executive decision now of the UK Government is that the 2020 deadline is effectively extended to 2023 for the establishment of public registers of beneficial ownership in the territories.

I requested once again that the UK extend the United Nations Convention against corruption to the Cayman Islands. Mr. Speaker, as you know, this has been a request of the Cayman Islands for several years and the background to this is that in this constant struggle that we have about the various regimes in the Cayman Islands, which fights against anti-money laundering, terrorist financing, corruption, bribery, the full range of issues of concern, it beggars belief that we simply cannot seem to get the United Kingdom's Government to extend this important international convention to these Islands for reason which none of us can quite understand. So, what has become an annual request of mine at every JMC is that this be extended to us.

The afternoon session started with a discussion on trade and investment. A background was provided about the work done by the Caribbean Investment and Trade Advisory Group and the GREAT Campaign. Overseas territories' leaders were encouraged to determine how these organisations could work with overseas territories on trade matters. Mr. Speaker, as you are aware, the Cayman Islands participated in the UK's GREAT festival of innovation Hong Kong earlier this year and I could attest to the benefit of attending. The day closed with a session on

the constitutional relationship with the United Kingdom. It was noted that the UK wants to have positive constitutional relationship with the overseas territories.

The challenge to the overseas territories and the relationship with the UK, that the passage of the sanctions that the Anti-Money Laundering Act in the UK Parliament caused earlier was acknowledged again by the UK Government. It was also noted that the UK wants the best constitutional options available for the people of the British Overseas Territories. The aim is to recognise that the overseas territories are self-governing and subject only to the UK retaining power to carry out its obligations on the International Law. Various territories provided their thoughts, and several have started conversations to revise certain aspects of their constitutions to the United Kingdom but the Cayman Islands are ahead of the game.

Thank you, Mr. Speaker, for this opportunity to report to this honourable House about the activities around the Joint Ministerial Council meeting and I commend this statement to the House.

The Speaker: The Member for East End.

SHORT QUESTIONS

Standing Order 30(2)

Mr. V. Arden McLean, Elected Member for East End: Thank you, Mr. Speaker.

Mr. Speaker, I beg your indulgence under Standing Order 30(2) to ask the Premier a couple of short questions.

Mr. Speaker, the Premier mentioned the helicopter. I saw some new release where it was 25 per cent; I believe that they were talking about putting in. Can the Premier tell us if that is so, and if it is so, why have they not put in more, say 50 per cent? And what are the conditions of the United Kingdom contributing to the purchase of a helicopter?

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker, and I thank the Member for the question.

Mr. Speaker, we issued a substantive press statement on this matter while I was in London on the day that I executed the Memorandum of Understanding (MOU) with Lord Tariq Ahmad, the Minister for the overseas territories. I do not have all of the detail in my head and I do not have the details in writing at hand, but I can say this much; the helicopter will be the property of the Cayman Islands Government. It is not the property of the United Kingdom Government. So, they have agreed, because they wish essentially for the Cayman Islands to become a sort of regional hub for the overseas territories; not just the overseas territories but principally the overseas territories to be able to deal

with crises and to deploy from here. So, in exchange for that, they have contributed and they have already paid the money, 25 per cent of the cost of acquiring the helicopter, which we estimate to be somewhere around \$11 million or closer to \$12 million probably, and to also contribute 25 per cent of the cost of the operational and maintenance cost of the aircraft for five years.

As I said, as their consideration for us being able to deploy this aircraft in situations where it is necessary, principally in overseas territories but perhaps even regionally like places like Jamaica, if there is a need for it. Although you would think that the necessity for that would be much less than BVI [British Virgin Islands], TCI [Turks and Caicos Islands], Anguilla, and Monserrat. As I said, we issued a press statement that I can have called up which has in considerable detail what the actual arrangements are.

The Speaker: The Member for East End.

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

Mr. Speaker, I saw that press release but the minutia was not in there, like whether this is a grant or it is a joint purchase and caveats to go along with it. The Premier can answer that after. But my other question to the Premier was to the UK expecting the registers, which are, the beneficial ownership registers, to be in place in 2023: Does that include the Crown Dependent Territories (CDTs) as well?

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I will deal with some of his supplementary to the other point. I repeat: the new helicopter will be the property of the Cayman Islands Government. The arrangement with the UK is initially for five years. If we decide to terminate the agreement, we simply have to pay them back the—

Mr. V. Arden McLean: It is a loan?

The Premier, Hon. Alden McLaughlin: No, it is not a loan at all.

We have to pay them back on a prorated basis, what is remaining in terms because what they have done is essentially amortise over the five years but it is our aircraft; it is not theirs. And this arrangement is that we are going at their request. It is not as though we have asked them for the money for it, but they think, given what we have been able to do in recent times, particularly last year during the hurricanes and the aftermath of hurricanes in the region, that we have got the ability to actually help our brothers and sisters in the territories and assist the UK in the discharge of its obligations on that regard. We think it provides a great opportunity. We would have one more tactical officer on the team. We will be able

to send one of the tactical officers who the Member for East End knows very well, for training overseas for an extended period and so, we think overall it is just helping us with the development of our capacity here to deal with; not just disaster situations but rescues at sea and general surveillance from the police standpoint.

So, to move on to the second question: No, this issue does not, as I have repeated, the effect of the amendment sanctions and Anti-Money Laundering Bill, now Act, does not apply to the Crown Dependencies but all indications are, I am told, from the authorities in the UK, is that the CDs will be brought on board by the time we get to 2023. As the old man in West Bay has said, I give it to yah as cheap as I buy it.

The Speaker: The Member for George Town Central.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker. I rise also on Standing Order 30(2) for a few short questions to the Honourable Premier.

The Speaker: It is allowed.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker.

Just for clarity and not coming from a fastidious standpoint at all, but in paragraph five (5) of page three (3), the Honourable Premier said that the public registries are not expected to be implemented and in operation until about 2023, and I see that as a positive thing because it gives more time for the global standard element. Was that initiated by talks of the Honourable Premier and the team, or was that something that was happening throughout all the overseas territories?

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I believe it has been the result of the significant pushback that all of us have given about this and the constant complaints, and they believe that the extra time will allow, in their words, “the rest of the world to catch up” because the UK is seeking to have this as a global standard by 2023. As I have said before, if it is a global standard, we have no argument with it because then we are not uncompetitive, we are not likely to be subjected to regulatory arbitrage with business migrating somewhere else, so, they are hopeful, which I think, is being very optimistic, that this will be a global standard by 2023.

Mr. Kenneth V. Bryan: Last supplementary, Mr. Speaker.

The Speaker: The Member for George Town Central.

Mr. Kenneth V. Bryan: Would it be fair to say that that could be perceived as a positive thing and a softening, so to speak, of the fear of the public registry? Because if they are ultimately correct, then the effect of the negative concerns of public registry would not be so impactful; so this would be somewhat a level of good news for our financial services, in effect, if there is such a thing.

The Speaker: The Honourable Premier.

Mr. Kenneth V. Bryan: The Member is right, Mr. Speaker.

The Speaker: I think . . .
Madam Clerk.

PERSONAL EXPLANATIONS

The Speaker: None

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: None.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: None.

Honourable Premier.

I think it is appropriate that we break for lunch. We will get ourselves back on time and come back at 2:00 pm. The House will now suspend proceedings.

Proceedings suspended at 12:37 pm

Proceedings resumed at 2:33 pm

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker.

Mr. Speaker, with your permission Sir, I wish to offer an explanation to the House in relation to the three Bills that we are now coming on to:

- The International Tax Co-operation (Economic Substance) Bill, 2018,
- The Companies (Amendment) (No.2) Bill, 2018; and
- The Local Companies Control (Amendment) Bill, 2018.

Mr. Speaker, these three Bills were all published on the 6th December 2018. Today is the 17th of December 2018 and thus the Bills have not met the 21 day notice requirement as provided for in section 77(2) of the Cayman Islands Constitution Order, 2009; which provides that “**Standing Orders shall require that, except in a case of emergency, every Bill introduced by the Government shall be published at least 21 days before the commencement of the meeting at which it is scheduled to be introduced.**”

Mr. Speaker, this is unusual and in the five and a half years since I have been Premier, this has only occurred once where the Government needed to advise this House that because of the circumstances, the notice requirement cannot be met.

The circumstances in this particular case are that we are required, as are countries around the world, and certainly many of our competitor jurisdictions with respect to financial services such as Bermuda and the British Virgin Islands, and indeed the Crown dependencies as well, particularly Jersey and Isle of Man, to pass legislation which establishes a requirement and for economic substance with the respect to entities on the part of entities which do business in the jurisdiction. That is a simplified version of a much more complex issue to which the Minister for Financial Services will speak when she rises. But there is an imposition of a date by which the legislation must be passed and in effect, which is the 31st December 2018.

Mr. Speaker, this has been an ongoing process, one which the Government has been engaged in for the best part of two years and certainly the last year in particular, has been very intense work. Collaboration, consultation with the industry here and a formal consultation process with both the European Commission through the code of conduct group and the OECD [Organization for Economic Co-operation and Development] through their forum on harmful tax practices; a process that is, even as I speak, ongoing. The dialogue is ongoing, as is the continued consultation with industry. We have done everything we possibly could to meet the 21 day notice period, but it became apparent to us that do that would mean that we did not take advantage of the opportunity for consultation and dialogue to the fullest extent between some of our competitor jurisdictions, as well as the various European Agencies of which I have just spoken.

Also, Mr. Speaker, quite frankly, to take advantage of the fact that some of those other jurisdictions had actually published their proposed legislation and we were able to take advantage of the feedback from the European Commission, the Code of Conduct Group and the FHTP with respect to those Bills that they published. Indeed, Mr. Speaker, and it is a matter of public knowledge, so I can mention it; today, we see in the Bermuda Gazette that the EU

has rejected their Bills as being inadequate in terms of the standards and requirements which they have set. So, we have delayed as long as we possibly could, in getting to this point in our effort to trying to get this right. I have had a discussion with the Leader of the Opposition, I explained this to him, and he fully understands and appreciates the challenges that we are meeting, and has, I think, quite appropriately, agreed that in the circumstances, he will not object to the matter proceeding today.

So, Mr. Speaker, on that basis, I have also had discussions with the Honourable Attorney General and the Governor, because the Governor has to assent to the Bills once they are passed, and we obviously need time between the passage of the Bills here in this House for the Attorney General to obtain what is called a ‘vellum copy’, provide an opinion to the Governor that the Bill meets the constitutional requirements, in the sense that it does not breach any of the rules and human rights principles and the whole set of criteria, in order that the Governor can be properly advised and satisfied to assent to the Bills, and for them to come into effect before the 1st January next year.

Mr. Speaker, I thought it was important that I explain this to the House and to the broader public, why there is this unusual situation where we are proceeding to deal with Bills which have not met the 21 days’ notice requirement as set out in the Constitution.

INTERNATIONAL TAX CO-OPERATION (ECONOMIC SUBSTANCE) BILL, 2018

The Clerk: The International Tax Co-operation (Economic Substance) Bill, 2018

The Speaker: The Bill has been deemed to have been read a first time and is set down for the Second Reading.

COMPANIES (AMENDMENT) (NO.2) BILL, 2018

The Clerk: The Companies (Amendment) (No. 2) Bill, 2018

The Speaker: The Bill has been deemed to have been read a first time and is set down for the Second Reading.

LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 2018

The Clerk: The Local Companies (Control) (Amendment) Bill, 2018.

The Speaker: The Bill has been deemed to have been read a first time and is set down for the Second Reading.

SECOND READINGS

INTERNATIONAL TAX CO-OPERATION (ECONOMIC SUBSTANCE) BILL, 2018

The Clerk: The International Tax Co-operation (Economic Substance) Bill, 2018.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers, Minister of Financial Services and Home Affairs: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the Second Reading of a Bill entitled The International Tax Co-operation (Economic Substance) Bill, 2018.

The Speaker: The Bill has been duly moved, does the Honourable Minister wish to speak thereto?

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I rise to present the Bill on behalf of the Government. It is a Bill that seeks to fulfil the Cayman Islands Government's commitment to the EU Code of Conduct Group, of which I will refer to as the COCG going forward, in connection with the European Unions, the EU's list of non-cooperative jurisdiction for tax purposes and address recommendations from the OECD's BEPS [Base Erosion and Profit Shifting] inclusive framework.

Mr. Speaker, for more than 50 years our own Caymanian people have joined efforts with persons who made the wise choice to call these Islands home and together we have built a solid financial services industry, that for decades, has been the strongest economic pillar of our economy. This, Mr. Speaker, has been accomplished in spite of and despite the many challenges that the country has faced over the years over that same period of time in which we have been a dominant player in the global financial services arena.

From the late 70s the Cayman Islands have no longer been the Islands that time forgot. In fact, to the contrary, Cayman is often top of mind; top of mind for our many investors and clients from all over the world who see Cayman as a choice jurisdiction to do business because of our stable political framework and respect for the rule of law; our sophisticated judiciary; our tax neutrality; our high quality service providers and significant infrastructure advancements. However, we are also often top of mind for the international community when it comes to the various international initiatives and assessments to which the Cayman Islands is, and have been consistently subjected to, for many, many years. And unfortunately, we are often top of mind for our detractors who love to create stories to feed the popular misconceived narrative of the Cayman Islands

which mirrors the infamous Hollywood Drama of old, instead of the reality that exist.

Yet, Mr. Speaker, through it all, Cayman has continued to rise. We have continued to lead and to prosper. Mr. Speaker if our history as a country has taught us anything at all, it has taught us that the only thing permanent in life is change. And for us, change has occurred in a relatively short period of time. And in the world of global finance, the pace of change seems to have significantly increased post the financial crises in 2008/2009. So, Mr. Speaker, this Bill, and those yet to come at this Meeting of the House, is about Cayman's resilience, our experience and it is about our success in adapting to change, which for us, is a way of life.

Mr. Speaker at this stage, I think it necessary to provide some important context as to why we are here today in relation to the Bills before us. Members of this honourable House will recall that back in March of this year I provided a detailed update to all Honourable Members and the public of the status of the European Union's list of non-cooperative jurisdictions for tax purposes. Although I will not repeat the entire statement that was given at that time, please permit me to recap some of the pertinent information discussed back in March.

"Following a yearlong dialogue between the Cayman Islands' Government and the European Union on the 5th December 2017, the EU announced that the Cayman Islands were not included in its list of non-cooperative jurisdictions for tax purposes. This was a public acknowledgement of our cooperation with the EU and a testament to the strength of our regime." The statement further went on to say: "However, while the EU recognised our overall regime, it did express a concern regarding one particular aspect of it and in our ongoing spirit of global cooperation, Cayman made a commitment to address this concern."

Again, Mr. Speaker, later in the statement I described the elements of the screening process: "The EU's screening process entailed consideration of three criteria: tax transparency, the implementation of the OECDs Base Erosion and Profit Shifting program and fair taxation."

Mr. Speaker, I later went on to state: "On the point of fair taxation, it is important to stress that the Cayman's tax regime does not include preferential tax measures. It does not charge different rates to persons based on the factors including whether the person resides in Cayman or not. However, despite this fact, the EU wants more assurance that Cayman's tax regime allows for economic substance. I underscore at this point, and for the purposes of the EU process, the term 'economic substance' is still being defined." [UNVERIFIED QUOTES]

Mr. Speaker, again, to note that the statement was made in March and, in fact, the EU did not issue

any sort of guidance as to what it meant by 'economic substance' until June of this year.

Mr. Speaker I continued the statement given in March by saying: "In cooperation, Government has therefore continued our discussions with the EU on economic substance. As it relates to the process going forward:

1. The EU is now in the monitoring phase of the commitments made by countries including Cayman
2. To eliminate the EU's concern about allowing the incorporation of companies that are not allowed to operate in our local economy which is sometimes referred to as 'ring-fencing', Government has committed to revising Cayman's exempted companies regime to allow those entities to operate in the local economy only if local participation requirements are met.
3. To elaborate on what I mentioned earlier, Cayman and the EU are also discussing enhanced accounting and regulatory reporting obligations and the definition of 'economic substance' for relevant business.
4. Importantly, Government will continue to consult with the financial services industry on any legislative amendments that may be necessary. This is in line with Government's long standing practice as we recognise that ongoing dialogue with our key stakeholders is paramount to the current and future success of the Cayman Islands financial services industry. This is also in keeping with the practise adopted from the beginning of this latest EU screening process. To this end, the Premier and I along with the Ministry's technical team, have already met with representatives of each of the financial services industry associations to update them on the process, the commitments and the ongoing discussions with the EU. Our collective goal is to ensure that we continue to protect, promote and to grow our vibrant and vital financial services industry." [UNVERIFIED QUOTES]

Mr. Speaker, prior to making this statement in this honourable House in mid-March, the Ministry issued a press release on the 9th March stating the outstanding EU issues and what the Cayman Islands had committed to address by the end of 2018. As expressly stated in the press release issued then, those commitments related to the perceived ring-fencing of exempted companies, accounting and regulatory obligations and sufficient economic substance for relevant business. This public

pronouncement in the press release on the 9th March was in fact preceded by a meeting with the representatives from the financial services industry associations with whom the Ministry consults, or as a matter of course, as it relates to financial services legislative and regulatory changes proposed. That meeting actually took place on the 3rd March with all of the industry association representatives.

Mr. Speaker, I begin by saying all of that in order to set the record straight. Contrary to what some in the local media and some editorials might wish the public to believe, from as far back as early March of this year, the Ministry and the Government outlined to the public at several different times, using several different mediums, what the EU concerns were and what the commitments made by the Cayman Islands in November 2017 were to address these concerns. And importantly, what the process intended to be followed by the Government being namely, to continue to consult with the financial services industry on legislative amendments that may be necessary.

Mr. Speaker, it really should not come as any surprise to anyone that the very same consultation process laid out in this honourable House in March of this year was indeed followed according to the plan. Mr. Speaker, I intend to speak more in detail about the consultation process carried out by the Ministry and the Government throughout this year, but before I do, permit me to briefly address another important contextual point that needs to be made in relation to the Bills before us today.

It is also important, Mr. Speaker, to give some context to the Bills in relation to the global standards applicable to tax cooperation and Cayman's particular journey in international tax cooperation. International cooperation between governments on tax matters is not new. It operates according to a set of agreed rules and standards. These are usually mandated by the G20 Leaders or Finance Ministers with the technical work of setting the standards being done by the OECD. The OECD is the leading international organisation for global tax policy and, as with all standards they evolve over time and are kept under review. These standards are rolled out globally and do not affect Cayman alone.

Mr. Speaker, there are two main areas in international tax that are of particular relevance to us: That being, the Tax Transparency and Exchange (TTEI) of Information; and the Base Erosion and Profit Shifting. Speaking briefly about the Tax Transparency and Exchange of Information; this means having information in the jurisdiction which government authorities have access to so they can exchange it with other jurisdictions that need it for tax purposes. The international standard provides the rules and the bilateral or multilateral agreements or treaties between jurisdictions allow the information to be exchanged legally across borders. Cayman has actually engaged in transparency and exchange of

information for tax purposes since 2005 and beginning with the tax information exchange agreement entered into with the US in 2001, Cayman has now over 100 international exchange partners, either in the form of a Tax Information Exchange Agreement or the TIEAs as they are often known as, the multilateral convention or other arrangements. Our network of agreements allows us to be in line with the international standards for tax transparency.

There are different ways of exchanging tax information; on request or automatically. The biggest event in the automatic exchange in recent years is the common reporting standard which followed the introduction of FATCA [Foreign Account Tax Compliance Act] by the US. Cayman introduced FATCA in 2014 and an equivalent with the UK in 2015 and introduced CRS [Common Reporting Standard] in 2017. Mr. Speaker, there are over 100 jurisdictions that have implemented the CRS including all G20 OECD and EU countries, all UK Overseas Territories and Crown Dependencies and all financial centres, for example, including Singapore, Hong Kong, Mauritius, Bahamas, Barbados and the like.

The global CRS exchange network is up and running. The international standards on transparency and exchange of information are monitored and reviewed by the global forum on transparency and exchange of information for tax purposes or the global forum for short. There are now 154 member jurisdictions in the global forum and the number continues to grow. It is the largest tax body in the world and includes all G20 OECD and EU countries. All the UK overseas territories and crown dependencies and all other international financial centres. Again, such as Singapore, Hong Kong, Bahamas et cetera. All members commit to the international standards for exchange of information on request and automatic exchange of information. Every jurisdiction is a member on an equal footing and has a seat at the Table. Every jurisdiction get peer reviewed against the international standards and the exchange on request reviews are now in the second round, and the automatic exchange reviews will begin in earnest in 2019.

In November 2018, the Global Forum Annual Meeting approved the rules and procedure for the automatic exchange of information reviews coming up in 2019.

Mr. Speaker, speaking now to the Base Erosion and Profit Shifting which is relevant to the particular Bill before us now: In 2013, the OECD was mandated by the G20 to deal with a global issue of businesses moving profits from one jurisdiction to another and of adopting practices which affected countries tax bases. This became the BEPS project and focused on corporate tax avoidance. In 2015, the OECD produced 15 BEPS actions with the aim of dealing with these concerns. The BEPS work is handled by the OECD BEPS inclusive framework and

this body has over 120 members. This body includes all OECD, G20 and EU countries including the US, Canada, Japan, Australia UK, China, Switzerland, Mexico, Brazil, Argentina, South Africa and India, to name a few. It also includes all of the UK Overseas Territories and Crown Dependencies, being: Bermuda, BVI, Jersey, Guernsey, the Isle of Man and others. It also includes other major financial centres including Singapore, Hong Kong, Mauritius, Bahamas, Barbados and the like. Members of the inclusive teamwork are on an equal footing with all having a seat at the Table.

It is important to note that Cayman became a member of the BEPS inclusive framework in early 2017. Bermuda and the CDs the (Crown Dependencies) were already members since 2016 with Cayman and the other overseas territories joining in 2017.

One of the BEPS minimum standards is action 5 on harmful tax practices which includes the standard on economic substance. This works dates back to the OECD 1998 report on harmful tax practices and the working group of the BEPS inclusive framework which deals with this is the Forum on Harmful Tax Practices (the FHTP); the group that deals with this particular issue. All BEPS inclusive framework members are members of the FHTP and all-inclusive framework members are subject to review by the FHTP against this action 5 standard.

The FHTP has been in existence since around 2000 and one of its main purposes is and has been reviewing preferential regimes within a jurisdictions tax system. What is important for us to note and what is of course a part very much of the process that we have been involved in, in terms of developing this Bill, is that with the completion of the BEPS project in 2015, the FHTP was mandated to review its scope and its work. One of the outcomes of this review is that all, no or nominal tax jurisdictions such as the Cayman Islands are now subject to FHTP review. This also applies to Jersey, Guernsey, Isle of Man, Bermuda, BVI, TCI, Bahamas, Bahrain and others.

Mr. Speaker, it is also important to note that all the other jurisdictions with corporate tax systems are already within the scope of FHTP, for example, being all the G20, EU and financial centres such as Singapore, Barbados, Mauritius and the like. These were a part of the FHTP scope prior to the new inclusion of the all or no nominal tax jurisdictions which have now brought Cayman into the scope of this work.

Mr. Speaker, hundreds of regimes has been reviewed over the years and many jurisdictions have either amended or abolished preferential tax provisions following FHTP assessment. These changes or commitments to change are subject to ongoing monitoring by the FHTP. The FHTP standard on economic substance has been adopted as the EU

or by the EU Code of Conduct group terms of reference on the 2.2 jurisdiction and is the basis of the proposed legislation.

Mr. Speaker, I hope that this overview was helpful in terms of putting the work that we have been doing in the global context and new the global context which is applicable to the Cayman Islands in this regard.

Mr. Speaker, today as a direct result of our efforts as a jurisdiction to adopt and adapt to the changing global standards, the Cayman Islands is a leading international financial services centre. So, it is expected then, that as a leading international financial centre, Cayman would be subjected to and would be expected to comply with international financial services assessments and initiatives as do our competitors. In fact, successive governments have affirmed the longstanding policy of cooperating with global standards over the course of our history. But as I have said before, global standards are not static, they evolve and moreover, they do not always originate from global bodies as we have seen with the example of US FATCA, the Foreign Account Tax Compliance Act which has now been adopted by the OECD as the common reporting standard. So, when Cayman introduced FATCA in 2014, it actually put us in good standing when CRS was launched in 2017. We were prepared when the US standard became the global standard and we adapted accordingly.

With this in mind, for the better part of this year, the Cayman Islands as a jurisdiction has been developing our response to the European Union's non-cooperative tax jurisdiction initiative. I say that we have been developing our response as a jurisdiction because indeed, that has been the case. It is the Government's practise to have robust consultation with stakeholders and, this time, led often by the Premier, myself and the Ministry of Financial Services, our consultation was particularly extensive by design.

Mr. Speaker, as we face the prospect of being one of the countries that could be blacklisted by the EU, the Government remains well aware of the necessity of developing a unified jurisdictional position, just like we have in the past. From those experiences, we know that having a unified jurisdictional position on global standards, gives industry clients confidence in our regime, gives Cayman continued fiscal stability and gives the global financial services industry and community, a competitive and compliant jurisdiction from which to do and conduct business in the Cayman Islands.

Arriving at this position takes time. Again, considering the importance of our industry, the Government has the responsibility to do all that we can do to try as best as possible to get this right and we take that responsibility very seriously. Therefore, Government's consultation led by the Ministry of Financial services was therefore threefold.

For the internal stakeholders, the Ministry consulted with its own kind of government entities and regulatory entities; those being, the Cayman Islands Monetary Authority (CIMA) the Department of International Tax Cooperation, Registrar of Companies and it also consulted with the Ministry of Commerce.

Externally, the Ministry solicited and received extensive feedback from the local financial services industry, again, according to the plan that was outlined back in March of this year. Working with the Ministry of Commerce, feedback was also received from the Chamber of Commerce. Just to give a brief overview of the timeline and the types of activities and the intense consultation that took place are as follows:

- 3rd March this year there was an EU briefing on an industry update provided by myself and the Premier to representatives from all financial services associations, of course, very much supported by the Ministry of Financial Services in providing that EU briefing and update.
- 26th April there was also an EU briefing presentation and at that time, we looked at establish the specific working groups and the terms of reference to determine the work of the working groups, and the working groups were being established along the lines of the nine FHTP categories and those templates were discussed and the FHTP categories are dealt with specifically in the Bill. Again, this was presented at an update meeting with the Ministry team and myself and there were representatives from all of the 15 financial services associations present. At this point, remember now, we had not received clear guidance from the EU as yet but we didn't allow that to stop us from starting to actually do the work based on some of the indications that we have been getting about the considerations that the EU was having at that time around the issue of substance.
- 7th May to the 16th May, during that period there were intensive working group sub-committee meetings held and led by the Ministry of Financial Services representatives, working with the individual representatives nominated by each of the financial services industry associations. Every association was asked to nominate representatives to sit on each of those working groups. So, we had the depth and breadth of perspectives on each of these working groups as appropriate to consider the sector specific issues. So, the working group sub-committee work started in earnest in the beginning of May.

- By mid-May, right before I returned to Brussels in May to have face to face engagements, I met with the EU substance working groups to get an update from the working groups as to the work that they have been doing to look at our industry in relation to those FHTP categories, in anticipation that in the event that the EU were to move towards adopting this position, we would have had some beginning to do the work as early as possible to get our heads wrapped around this idea of economic substance.

Mr. Speaker, I got an update from the Working Group on the work that they have done on a sector by sector analysis. I have to say at this point, that that information provided by the working groups were actually very helpful in terms of my engagements later on in the month in Brussels in being able to speak with a level of confidence about the types of activities, the types of industries and the specific work that is done in each of these areas.

For the remainder of the month of May, there was some communication from the Ministry of Financial Services to all industry associations. Again, the reason for working through the industry association, was not just the standard practice adopted, it was because the associations themselves would then communicate to their members to ensure that there is the cross section of industries, sectors and individuals involved in getting and feeding the information back to the Ministry.

A month later, in June, the communications continued from the Ministry to the industry associations and during the last two weeks in June, there were working group subcommittee meetings, looking at what the work of these individual industry groups need to continue to evolve based on the feedback that was provided post our trip to Brussels in May.

Mr. Speaker, it is also important that in June was when the EU Code of Conduct Group published its scoping paper for the 2.2 jurisdictions, as I said. So, it was only then, in June, that we were able to get some sort of clarity as to what the Code of Conduct group was requesting as it relates to substance. So, the work of the working groups resumed, looking at the paper in more detail. At the same time, we then initiated ongoing weekly meetings—ongoing, Mr. Speaker, until present—with some high level advisory group made up of senior financial services executives to help to discuss and thrash out these issues as they continue to develop.

The work continued on through the summer:

- In July there was an industry association communication.
- In August there was information provided by the industry and requests were made

for information to help us to drill down into these areas and the impact of these areas and what it means for our industry to help us to shape what responses we should or should not make in this regard.

- In September, there were further communications to the industry from the Ministry, and back and forth from the industry to the Ministry.
- In October, there was another all-industry update meeting with representative of all the financial services association to kind of bring them up to speed collectively, about all the work that had gone on during the summer. That took place in the beginning of October with myself and then led by representatives from the Ministry. As I said, every financial services association representative; the 15 associations having multiple representatives present.

Mr. Speaker, followed by that meeting, there was then further communication in October with the industry associations. The 9th October was when we actually had the industry consultation on the industry draft of the Bills. It is important to say that this idea of having industry consultation before any Bills are published is standard practice. There is nothing nefarious about it. It is making sure that the major stakeholders that have the greatest ability to have a reasoned and rationale voice about what is being put forward has an opportunity to see it first before anything is put out in the wider domain.

Given the sensitivities, obviously, about this particular issue, and as a jurisdiction—and we are not the only jurisdiction, as the Premier has said, and as I have outlined—of having to grapple with these issues and what it means for the industry and for the country, we felt that there was no reason to deviate from the standard norm of having these initial consultation drafts to be consulted on by industry first. In total, there were at least three consultation drafts that were issued, were consulted on and comments received on, as it relates to the Bills and the Bills that we see before us today. So, the first round of consultation on the actual drafts took place in early October, end of November and then the publication of the green gazetted Bills as we saw on the 6th December.

In between that, there were multiple meetings with both the wider industry association representatives of all 15. Those were meetings taking place in October and November; actually, there were a couple in November and October. Also, as I said, from June of this year, the ongoing weekly meetings with the senior financial services executives' advisory group.

Mr. Speaker, that may have seemed to have been quite detailed, but it think it was important for

members of the listening public and Members in this Chamber to get a full appreciation of the consultation process. As I said, the consultation process is continuing in many respects because this is a process that is and has elements of continued feedback; both from the OECD as well as locally.

Mr. Speaker, overall, it is certainly fair to say that the consultation comprised of numerous meetings and communications in this industry. As I said, there were nine separate working groups established specifically to look at each of the FHTP categories that are related to what is known as the relevant activities in the Bill. Those nine working groups were made up of nominations by the industry associations themselves, putting forward people to represent their industry sectors and to then be able to work and feed information from their associates to association members and also feed information back from the Ministry to their associations, as it relates to the individual work of the working groups.

There were also the group meetings with all of the financial services industry representatives, the heads of the associations and their nominees to attend on behalf of the association. As I said, there was the engagement with the ongoing weekly advisory senior financial services industry representatives. So, Mr. Speaker, it is not an exaggeration to say that representatives from the financial services industry and commerce have dedicated hundreds of hours in helping the Government to determine what the best jurisdictional response should be at each stage of the process throughout the year.

Mr. Speaker, I would like to acknowledge the 15 industry associations who were actively involved throughout the consultation process beginning in March of this year. Specifically, in alphabetical order, they were:

- The Alternative Investment Management Association
- AIMA Cayman Chapter
- The Caymanian Bar Association
- Cayman Finance
- Cayman Islands Banker's Association
- The Cayman Islands Company Manager's Association
- The Cayman Islands Compliance Association
- The Cayman Islands Directors Association
- The Cayman Islands Funds Administrators Association
- The Cayman Islands Institute of Professional Accountants (CIIPA)
- The Cayman Islands Law Society
- The Certified Financial Analyst or the Chartered Financial Analyst (CFA) Society Cayman Islands
- The Chamber of Commerce

- The Chartered Alternative Investment Analyst Association
- The Insurance Managers Association of Cayman (IMAC) and;
- The Society of Trust and Estate Practitioners (STEP) CI Branch

Mr. Speaker, I would also like to take the time to acknowledge and publicly thank the hundred people who participated as a part of the intense and extensive consultation program led by the Ministry. These representatives attended many industry wide meetings held with all of the 15 industry associations. They communicated to and from their membership, they participated on the FHTP working groups and they acted as members of the senior executive advisory group. If I really tried to name each and every individual today, I would probably be here for another hour, so I will not attempt to name all of those individuals who we know have been involved.

What I can say, and just to give a representative sample of those who were involved in the process and we want to thank, as being a part of the senior executive, the Financial Services Group, that continue to work very closely and dedicated lots of hours and time to this process; we would like to name and acknowledge again, as a representative example: Mr. Alasdair Robertson, Anton Duckworth, Mr. Connor O'Dea who is the Chairman of Cayman Finance, Mr. David Rich, Ms. Debra Drummond, Mr. Don Ebanks, Mr. Don Seymour, Ms. Ingrid Pierce, Mr. John Fowler, Mr. Jonathan Green, Mr. Paul Lumsden and Mr. Rohan Small. As I said, Mr. Speaker, this is certainly not an attempt, to in any way, shape or form, not to recognise the hard work of the over 100 people who participated at some level of this process. And I also want to thank each and every one who participated in this extensive consultation process for submitting feedbacks and comments throughout.

Also, Mr. Speaker, the 100 people that are known to have actively participated at individual, multiple, collective meeting levels, is also in addition to the persons who actually submitted comments through their representatives in their association. There are possibly countless nameless persons who sent their comments via their associations as they were asked to do as a part of the consultation process. I want to publicly thank them for taking the time to submit comments as and when they felt necessary as well.

Mr. Speaker, the Ministry, in terms of consulting locally, also, the third arm then of the three pronged approach was to consult and continue to engage with and remain in contact with the European Union as well as UK Officials and the OECD. So, that, as I said, was how we got here, how we got to having these Bills to be able to present and debate and discuss today. But some people may ask and again, before I go on to that, I think again the benefit of that

depth and breadth of the Government consultation has helped us to develop a legislative package and framework that we are informed directly by industry about.

Some people may be asking, *Where does Cayman stand in relation to our competitors in all of this?* As discussed in the honourable House previously, in the Fall of 2016, the EU started this assessment of the non-cooperative jurisdiction list and at that time, in 2017, they indicated those persons who were on the list and those persons—there were about 47 jurisdictions—that were not on that list but they felt needed to do some more work to address some of the concerns that they have expressed. As I said, it was well-known that Cayman was not on the list of non-cooperative jurisdictions; however, Cayman was included along with 12 other jurisdictions that (13 in total) were asked to address concerns related to the fair taxation criteria.

This jurisdiction which was asked to address this particular EU concern included the UK Crown Dependencies of Jersey, Guernsey and the Isle of Man, UK Overseas Territories, Anguilla, Bermuda, British Virgin Islands, Turks and Caicos, and Cayman; as well as the Bahamas, Bahrain, Martial Islands, the United Arab Emirates and Benoa 2. This list of jurisdictions is the so-called 2.2 jurisdictions.

Interestingly, with respect to the timing of the Bills, from what we can see, based on the information gleaned by the Ministry, Cayman is very much in step with what the other OTs and CDs are doing as it relates to the timing of their Bills. So, just as an example, Mr. Speaker, I have been reliably informed that the Bahamas published their Bills on the week of the 26th November and passed their legislation on the 5th December. Bermuda published on the 7th December, from what I have been told, and, as was indicated earlier, they are currently in their version of the legislative assembly, today, as we speak on these matters as well. The British Virgin Islands published their Bills on the 4th and dealt with it in their parliament or legislative assembly on the 13th December. Cayman published on the 6th and we are here on the 17th. Guernsey published on the 8th of November and passed on the 1st December. Isle of Man on the 8th November, 12th December; and Jersey on the 23rd October and passed on the 6th December.

Mr. Speaker, I took this time to lay out the background and the process followed up until this point, of getting where we are today because I do not want any Member of this honourable House or the listening public to think that this was a rushed Bill, delivered at the 11th hour without due consideration. On the contrary, it is because of the careful consideration and the extensive industry consultation the active engagement with the EU and later the OECD, why we published and are presenting these Bills when we are. As I said, we are in line with the

timeline of the other Overseas Territories and Crown Dependencies.

Mr. Speaker, now, that I have thoroughly explained why Cayman has cooperated with the EU on this initiative and the local consultation process followed, I will now provide an over of the Bill itself.

The International Tax Cooperation (Economic Substance) Bill is arranged in to seven (7) clauses.

Clause 1 of the Bill contains the short title and commencement provisions.

Clause 2 of the Bill provides for the interpretation of words used throughout the Law and provides for words and expressions listed in the Schedule to be construed in accordance with that Schedule.

Clause 3 of the Bill specifies the functions of the Authority (the "Tax Information Authority" as defined in clause 2) which include administering the Law, determining whether relevant entity satisfies the economic substance test, monitoring compliance with the Law and any other function specified in the Law.

Clause 4 of the Bill requires a relevant entity to satisfy the economic substance test in relation to any relevant activity carried on by that relevant entity. A relevant entity is required to satisfy the economic substance test in relation to a relevant activity from such date as may be prescribed.

Clause 5 gives the Authority the power to issue guidance on how the economic substance test may be satisfied.

Clause 6 gives the Authority the power to determine whether a relevant entity satisfies the economic substance test for any financial year of the relevant entity commencing on or after the date prescribed under clause 4(6).

Clause 7 requires a relevant entity to notify the Authority annually of whether or not it is carrying on a relevant activity; if the relevant entity is carrying on a relevant activity, whether or not all or any part of the relevant entity's gross income in relation to the relevant activity is subject to tax in a jurisdiction outside of the Islands; and the date of the end of its financial year. A relevant entity that is required to satisfy the economic substance test is required to provide the Authority with a report which must include certain information in respect of the relevant entity.

Clause 7 also provides the Authority with the power, by notice served on any person that the Authority reasonably believes to have relevant information, to require that person to provide the Authority with information or make available for inspection, books, records and other documents as may reasonably be required by the Authority for the purposes of discharging the Authority's functions under this Law.

Clause 8 provides for notice of a failure to satisfy the economic substance test to be given to a relevant entity and provides for the imposition of

penalties and for a court process through the Registrar for further action to be taken.

Clause 9 provides for appeals against a determination of the Authority.

Clause 10 gives the Authority the power, in accordance with relevant international standards and scheduled agreements, to provide the information provided to it under the Law in respect of a relevant entity that is required to satisfy the economic substance test in relation to a relevant activity to the competent authority in the relevant jurisdiction.

Clause 11 makes provision with respect to the confidentiality of information.

Clause 12 provides that the Authority is not liable in damages for anything done or omitted in the discharge of its functions under the Law unless it is shown that the act or omission was in bad faith.

Clause 13 creates a summary offence for knowingly or wilfully supplying false or misleading information to the Authority under the Law.

Clause 14 provides for the liability of officers of a body corporate where the offence is committed by the body corporate.

Clause 15 gives Cabinet the power to make regulations, including regulations prescribing enforcement provisions and appeals.

Clause 16 gives Cabinet the power to make regulations to provide for such savings, transitional and consequential provisions to have effect in connection with the coming into operation of any provision of the Law as are necessary or expedient.

The Schedule contains definitions for certain words and expressions used in the Law.

Mr. Speaker, before I commend this Bill for a second reading, I must take the time to recognise my extremely hard working and dedicated staff at the Ministry of Financial Services and all those persons who assisted in the development of this Bill from that perspective as part of Cayman's legislative package.

I would like to give my heartfelt thanks to Chief Officer, Dr. Dax Basdeo; Director of the Department of Financial Services, Mrs. Michelle Bahadur; the Director of the Department of International Tax Co-operation, Mr. Duncan Nickel; Mr. Peter Stafford, Ms. Andrea Proctor, Mr. Wilber Welcome, Ms. Rolna DaCosta, Mr. Samuel Jacques-Cloutier, Ms. Shanna Best, Ms. Angela Piercy and Mr. Matthew Yates who are the staff of the Ministry.

Also, I would like to give a heartfelt vote of gratitude to the Special Projects Manager, Ms. Anna Goubault who has been contracted to work with the Ministry specifically to assist with this very arduous, time consuming and very engaging process as have been all of the staff of the Ministry I have just mentioned.

Last but not least, Mr. Speaker, I would like to recognise Ms. Karen Steven Dolton of the Legislative Drafting Department who has worked tirelessly to circulate the various drafts to incorporate the

comments received, all hours of the day, all ours of the night. The entire team has shown tremendous dedication. They have shown tremendous perseverance under often very stressful times and what I know to be near impossible timeframes. Truth, be told, Mr. Speaker, sometimes I was guilty of asking for those impossible timeframes. But the team has stepped up and they have done an amazing job and I want to say, and put on record, on behalf of the Government, our thanks in this regard.

Mr. Speaker, I also want to thank all those Members in this honourable House who made themselves available to discuss the Bills and to give the team the opportunity to answer whatever questions that they may have. At this stage, I will conclude my presentation of the proposed Bill.

I therefore commend the International Tax Cooperation (Economic Substance) Bill, 2018 to this honourable House for passage.

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

The Honourable Member for Bodden Town West.

[Pause]

Mr. Christopher S. Saunders, Elected Member for Bodden Town West: Mr. Speaker, I rise to make my contributions to this Bill that is currently before this honourable House. I will start by explaining why the governments in North America and Europe keep knocking on our door and why they will never go away regardless of what we do. I will go through the mess that they have made in their own countries and the futility of chasing phantom tax revenues that they believe are within offshore financial centres such as the Cayman Islands, Bermuda, BVI and elsewhere.

Growing up, I, like other Members in this honourable House, heard about the North Americans searching for Bigfoot and the abominable snowman over in Europe. They have been searching for a Loch Ness Monster. Having failed to find any of these boogiemen or monsters, they have now teamed up to search for phantom tax revenue here in the Cayman Islands which you will soon realise does not exist.

Mr. Speaker, I ran into the Honourable Minister of Financial Services over the weekend, and she reminded me that I did not attend neither of the two meetings she organised to discuss this Bill. My response to her, Mr. Speaker, is that what she wanted to tell me was not going to change what I am going to say here today. Mr. Speaker, while the Honourable Minister of Financial Services would probably like to tell the powers that be in Europe that they need to visit the Cayman Islands and, in particular, her district of West Bay, that when they come to the end of Town Hall Road, they just need to make a left to find their

final destination which is where Mr. Ivan works. I know she can't.

Mr. Speaker, the Honourable Minister and the Government are between a rock and a hard place; rightfully so. They do not want the Cayman Islands in the EU's blacklist, as to do so, would bring a certain level of uncertainty in the financial services industry. Human being by nature, Mr. Speaker, does not like uncertainty.

Mr. Speaker, I, like Members on the Government Bench also spoke to key leaders in the financial industry to hear their views on this Bill. Some of them were young, and some were young at heart. Some are Caymanian, some are Caymanian at heart. While I agreed with some and disagreed with others, one thing was clear, Mr. Speaker, they showed a genuine care of our Islands and the future for our financial services industry; for that, I am eternally grateful for them to take the time to meet with me and to take my calls. One particular lawyer (and I promised him that I had to mention this) was on the phone with me so late and so long that his wife became suspicious. I can assure her that it was me that he was talking to and he can get a copy of this and play it back to her so she knows exactly that he was not speaking to anyone else.

Mr. Speaker, the Honourable Minister of Financial Services and Members of her team have met with many people in Europe to discuss this Bill. I was not at any of those meetings, and maybe that was good thing for them. Since being elected, I have had the opportunity to meet with representatives of the OECD while on a PAC course with the Honourable Leader of the Opposition, Mr. Ezzard Miller and Councillor Connolly. Mr. Speaker, we did not pull any punches and gave them a brief education on how the banking system works and took them to task for their level of hypocrisy and ignorance of not only the Cayman Islands financial services industry, but a general understanding of global trade and global investments.

In other words, you cannot be engaging in negotiations and calling the people you are negotiating with ignorant and hypocritical; that would not be a wise decision and it goes against unwritten rule within the diplomatic code. However, since I am not at the negotiating table, I can say what the Honourable Minister and Members of our Government cannot say, and it is simple: Most of the political leaders that make up the G20 countries have failed their people. Successive governments have built a massive socialist welfare state that they know at the time they were building it, that they could not afford it, and they kept kicking the can down the road. Mr. Speaker, they are now running out of roads, and are fooling many of the people in their countries into believing that their roads to pay for their failures [are] in the Cayman Islands, Bermuda, BVI and elsewhere.

Let us start with this phantom money. In my previous life when I was in banking, the bank balance sheet would fluctuate depending on the time of year. I recall deposits being as low as \$1.3 billion and as high as \$2 billion. During that time Mr. Speaker, whether it was \$1.3 billion or \$2 billion, the amount of cash that we had in Cayman remained the same, about \$1 million. That represented the funds we had in the vault. Do you know where the rest of the money was? It was in corresponding banks in North America, Europe and Asia. The money was never here, it never came here either, and it never left their countries. At the end of 2007, according to the Cayman Islands Monetary Authority Banking sector report, there was just over \$732.5 billion in class A and B banks. Do you know what amount of that cash is actually in the Cayman Islands? It is \$63 million—the money they had sitting in the vaults. That is right, Mr. Speaker; not even 1 per cent, not even half of per cent, it is even less than 1/10th of a per cent.

Mr. Speaker, the point I am making is that they are looking for money that sits in their banks, the money never left. It is an academic accounting entry. Are we therefore then to believe that the mighty governments of North America, Europe and Asia, with their sophisticated technology and their intelligent services, do not have any idea, who or where the funds that are sitting in their banks that they regulate belongs to, or come from?

Mr. Speaker, that is like saying that there is a can of soup sitting on a shelf in one of our local supermarkets and the Government lacks authority and the ability to go into that supermarket with that can opener, to open it to see what is inside—really, Mr. Speaker? Those governments have done far worst to their own people but they would have us believe that they have no idea who deposits in their countries belong to.

To make matters worse—and let us just say for a minute that we believe them, that they do not know to whom the money belongs to, as they do not know who owns those corporate entities . . . well, the beneficial ownership issue coming down the line. In short, the money is in their bank, they have told us we must enact laws to tell them who own the monies that are sitting in their banks. What else do they need from us to go and collect taxes from their people? Mr. Speaker, every single thing that they have asked for in the last 20 plus years, we have given them, and they still cannot collect the money that they are looking for, and the reason they cannot get this money is simple; it does not exist. Mr. Speaker, if they still believe that this money exists and they still cannot find it, then, they are either incompetent or stupid, and should be fired. And I encourage the voters in those countries to fire them and the bureaucrats and technocrats that are getting paid to perpetrate this fraud and scam on their people.

Mr. Speaker, today I am going to tell the Caymanian people—

Mr. V. Arden McLean: You can throw away that EU passport.

[Inaudible interjection and laughter]

Mr. Christopher S. Saunders: —and those who are following these events, that while I can go back to the American Revolution, or French Revolution (don't worry, I won't), I will start with the United States and head east.

I believe the United States hypocrisy and ignorance can best be found in these lines from Ronald Reagan's first Inaugural Address delivered January 20th, 1981 where he said: **“These United States are confronted with an economic affliction of great proportions. We suffer from the longest and one of the worst sustained inflations in our national history. It distorts our economic decisions, penalizes thrift, and crushes the struggling young and the fixed-income elderly alike. It threatens to shatter the lives of millions of our people.**

“Idle industries have cast workers into unemployment, causing human misery, and personal indignity. Those who do work are denied a fair return for their labor by a tax system which penalizes successful achievement and keeps us from maintaining full productivity.

“But great as our tax burden is, it has not kept pace with public spending. For decades, we have piled deficit upon deficit, mortgaging our future and our children's future for the temporary convenience of the present. To continue this long trend is to guarantee tremendous social, cultural, political, and economic upheavals.

“You and I, as individuals, can, by borrowing, live beyond our means, but for only a limited period of time. Why, then, should we think that collectively, as a nation, we are not bound by that same limitation? We must act today in order to preserve tomorrow. And let there be no misunderstanding: We are going to begin to act, beginning today.”

Mr. Speaker, Reagan was the 40th President of the United States and there were 39 Administrations before his. When Reagan took Office, the United States national debt was \$908 billion and represented 32 per cent of GDP. At the end of 1988, the US National debt was \$2.857 trillion and 49 per cent of GDP and in essence, Reagan put just short of \$2 trillion or 215 per cent of the US national debt.

In essence, despite such inspiring words at the start of his term, the 40th president went on to put on more debt than the 39 previous presidents combined. So much for 'beginning to act, beginning today', but then again what would we expect from an

actor? The irony of all of it Mr. Speaker, is successful George H. W. Bush took it to over \$4 trillion by the end of his term and 62 per cent of GDP. In a mere 12 years, the US National Debt went from \$908 billion to over \$4 trillion. It took them 204 years from the start of their Republic to get to \$908 billion. In those 204 years, they went through wars, depressions, and recessions and then in 12 years, they added over \$3 trillion.

Mr. Speaker, the real irony is that the George W. Bush's Administration and the Obama's Administration made those 12 years look like child play; Reagan was a baby. Twenty-four years later, at the end of Obama's second term, the national debt stood at \$19.5 trillion and 104 per cent of GDP. Today, it is around \$22 trillion.

In contrast, we here in the Cayman Islands have a national debt of less than \$500 million and GDP of over \$3.1 billion, giving us a debt to GDP ratio of around 15 per cent. These people can't give us any advice.

What is the cause of this, Mr. Speaker? A combination of two things: tax cut and increase in government's spending by the US Government. In the US, around 1980, if you were single and had an income of US\$34,100 you had a tax rate of 49 per cent. Today, it is 22 per cent. If you are married and filing jointly, you get a tax rate of 49 per cent if you made more than \$45,800 as a couple; today, it is 12 per cent. Corporations that made more than US \$100,000 had a tax rate of 46 per cent in 1980; today, it is 21 per cent. As a percentage of GDP, the US Government was collecting between 18 per cent and 21 per cent of GDP. Alternatively, since 1980 and today, as a percentage of GDP, the US Government is spending between 33 per cent and 38 per cent. So, in essence, they are collecting between 18 per cent and 21 per cent of GDP but they are spending between 33 and 38 per cent of GDP.

It is also worth highlighting that more than 60 per cent or close to \$2.5 trillion of the \$4 trillion budget this year alone, will go towards health and social security. Another \$1 trillion on defense, benefits for veterans and interest on the debt.

Education and housing gets less than \$200 billion or a mere 4 per cent. The real crime in this, Mr. Speaker, is that more than twice the money is spent on servicing the debt of the past as opposed to investing in education for the future, and they have the audacity and temerity to tell Americans that they cannot invest in their children because companies are hiding tax revenues in overseas places like the Cayman Islands, Bermuda and BVI.

Mr. Speaker, as a former Finance Minister you would know that the only way to pay down debt, is to generate a surplus. As the US continues deficits spending, it would mean that their debt would grow, their interest payments will go up and the ability to invest in their children and the citizens will go down.

Mr. Speaker, the world saw the popularity of Bernie Sanders in the last democratic primary in the United States, and I am sure that many people did not expect a Devout Socialist could become so popular in the US. A lot of young people support him as they realised that the only way out for them would be to take from the rich.

JFK said it best in his first inaugural speech in 1961: **“If a free society cannot help the many who are poor, it cannot save the few who are rich.”**

How can it be right that a person who is making \$40,000 USD per year is paying a higher tax rate than Google, Amazon, Starbucks, Apple, Facebook, Bank of America, JP Morgan Chase, Exxon, Chevron, and the list goes on? I say to my American friends, if you are comfortable with those billion and trillion dollar companies having a lower tax rate than a person making \$40,000 per year, then do not come knocking on the door of the Cayman Islands. Go knock on the door of you politicians who are owned by those big companies. There is not enough money offshore that can fix the American problem.

[Inaudible interjection]

Mr. Christopher S. Saunders: Mm-hmm.

They have a trillion dollar problem and we have nothing remotely close to that here in the Cayman Islands. Or to paraphrase from the great American rapper Jay-Z—“you got 99 problems”, but the Cayman Islands and our beaches ain’t one. And please note that I said ‘beaches’, I do not want anyone to think I actually used the term that he used.

Mr. Speaker, I am heading east now to the United Kingdom and their cousins in the rest of Europe. Let us start with Mummy, or as some prefer “Mother”. In 2005, the UK had a national debt of less than £500 billion or 38 per cent of GDP; 2005, 13 years ago. Today, 13 years later, it is over £1.8 trillion and more than 80 per cent of their GDP; 13 years. Earlier, I spoke about the accumulated debt, since the start of the United States in 1776.

Surprisingly, the UK’s national debt began in 1692 when William III engaged a syndicate of city merchants to market and issue government debt. The syndicate became the bank of England and Her Majesty’s Government debt begun a century long climb financing Marlborough’s wars, wars against the French, against the American Colonial Rebels, and peaking in 1815 at the end of the Napoleonic wars, had over 200 per cent of GDP. After the war, the debt entered a century long decline. Naturally, the Government debt exploded again in World War I and World War II, where it reached the levels of 1815 at over 200 per cent of GDP. I say all of this to say, with all the ups and downs over three centuries in a span of 313 years, the United Kingdom accumulated a debt of less than £500 billion or 38 per cent of GDP between 1692 and 2005; 313 years. In the last 13

years alone, they added \$1.3 trillion. So, while it took 313 years to accumulate, in 13 years, £1.3 trillion to the debt and carried it to over 80 per cent of GDP.

Today, the UK Government is struggling to balance their budget; this is not new. Between 1975 and today, 43 years, they only balanced their budget five times; two times between 1988 and 1990, and three times between 1998 and 2001. One of the key drivers in their ability to balance their budget this year and next year is that the Chancellor wants to honour promises made by the Prime Minister to boost spending on health and housing. Again, Mr. Speaker, their social programs (I almost said socialist a while ago).

Mr. Speaker, before I get to the heart of Europe, I need to explain why Europe is in a mess. Earlier I spoke about how the debt in the UK was increased to fight wars; well, Europeans have been fighting amongst themselves since Jesus was on Varadero Beach. Because they are always fighting amongst themselves, they tried their best to do little trade until about the end of World War II. By then they had to start trading amongst themselves as they needed steel and coal to help rebuild. So what did they do? They removed tariffs on those items and over the next 40-50 years, they slowly integrated more until they removed just about every single barrier to trade except one; their currency.

On the 1st January 1999, the Euro was introduced into the world financial market. Here is the problem, Mr. Speaker. As you are aware, there are two types of policies used to manage an economy; monetary policy which deals with the supply of money and the management of interest rates, and fiscal policy which deals with the Government taxes and expenditure. What these geniuses in Europe did, was allow the interest rates to be managed centrally, and fiscal policies to be managed on a country by country basis. In essence, a country like Greece that was poorly managed, and had to borrow funds at about 20 per cent, lied (and yes, I used the word “lied”) their way into the Eurozone by misrepresenting their financial position and all of a sudden was borrowing money at the same rate as Germany. In addition to Greece, there were some other poorly run countries, namely; Portugal, Italy and Spain. Those four countries became collectively known as “the pigs of Europe”. Mr. Speaker, they even have their own website—*thepigs.eu*.

Mr. Speaker, here is where the rubber meets the road: Italy has never had a budget surplus since 1946. In essence, 62 years of deficit budget and borrowing and they want to blame that on the Cayman Islands’ financial industry? The last time Greece had a budget surplus was the year I was born, 1973. They have had a deficit since 1974. For 44 years they have been running budget deficit; 44 years, and they want to blame that on our financial industry too.

The last time France had a budget surplus was the year I was born also, Mr. Speaker, 1973 again. Since 1974 deficits spending, 44 years and they want to blame that on our financial industry. Mr. Speaker, I can go through every single country in the Euro zone and give you the history but if I were to do that, we won't get out of here before Christmas. Every single one of them, barring Germany and a few others were poorly managed. All I saying, Mr. Speaker, is that the vast majority of countries in Europe have been having financial problems from the day I was born and every single year they find a way to blame the Cayman Islands and other offshore financial centers that play an important role in facilitating global investments and global trade by offering a tax neutral solution.

Mr. Speaker, the creation of the Eurozone amplified this problem. In a nutshell, those countries in Europe that were already borrowing to cover cost, found themselves in a position to borrow funds cheaper. They could pay down expensive loans with cheaper money, but did they stop there? No. they just kept borrowing and borrowing, and borrowing, and borrowing, until the bubble burst in 2008.

This now brings us to the Bill we are debating today. As a part of the response to the 2008 financial crisis, the OECD started the BEPS project. BEPS stands for Base Erosion and Profit Shifting. This was formerly launched in 2010 by the G20 Finance Ministers who in turn called on the OECD to develop an action plan to address BEPS issues. In 2013, the OECD action plan was delivered to the G20, as mentioned previously by the Minister. After a few years back and forth, the 2015 final report was pretty much agreed in 2016. The report laid out 15 points to control abusive tax avoidance by multinational entities and the Bill refers to them as the MNEs.

Mr. Speaker, I am not going to say that there are not companies out there that abuse the tax system. I can tell you, I have worked for some multinational in my former life, and based on what I see and know, some of those people, in Europe and North America, need to dip in the River Jordan 7 times and ask for forgiveness for the amount of countries that they cheated tax in. It is not just European countries; countries right in the Caribbean and elsewhere also suffer from these things.

Mr. Speaker, with this Bill, what I am more concerned about is the legislative impact analysis that they will have. We make \$350 million per year, Mr. Speaker, from our financial services industry and the money that we collect from that industry allows us not to tax Caymanians as high as we should because many of those monies are paid for entities that actually operate outside the Cayman Islands to some extent, but it takes a pressure and burden off of our people. This issue, I know has been discussed for quite some time and for the last 20 years, Mr. Speaker, from the AAMPLE task competition and this

and that day, they have come at us with every single thing they have and in 20 years they still cannot find anything.

Mr. Speaker, I just want to read here, an article that came out in the Tax Justice Network. Just bear with me a little bit. I think I have extra copy THAT I can send to the Minister when I am finished also. The headline that had caught my attention says: **“EU tax haven blacklist blocks just 1% of financial secrecy services threatening EU economies.”** This was an article that was an article that written in September 23rd of this year, Mr. Speaker. I just want to touch on something and actually, it is not that long. It says: **“Tax havens currently blacklisted by the EU are responsible for just 1 per cent of the financial secrecy services facing EU member states, while one-third (34 per cent) is supplied by financial centres from within the EU targeting other member states.”** So, Mr. Speaker, just off the bat, the EU members themselves are responsible for one-third of the secrecy that they are looking to fight.

It says: **“New research published today by the Tax Justice Network reveals that the EU’s blacklist has failed to include any of the top 10 suppliers of financial secrecy services to the EU – services like shell companies and banking secrecy laws which enable money laundering, corruption, tax abuse and the financing of terrorism.”**

“The largest supplier of financial secrecy to EU member states is the US (4.7 per cent). This is five times the financial secrecy supplied all together by the seven tax havens blacklisted by the EU – American Samoa, Guam, Namibia, Palau, Samoa, Trinidad and Tobago, and the US Virgin Islands. Four of the top 10 suppliers of financially secrecy services to the EU are EU member states: the Netherlands, Luxembourg, Germany and France. The Netherlands is the second largest supplier (4 per cent); Luxembourg is third (3.8 per cent); Germany, the sixth largest supplier, is responsible for 3.3 per cent; France, the eighth largest supplier, is responsible for 2.3 per cent.”

“The new research deals another blow to the idea that financial secrecy is limited to a few remote, palm-fringed islands operating on the peripheries of the world economy. The research reveals a stark picture of the world’s major financial centres undermining other countries’ tax laws and facilitating other crimes and corrupt practices.”

“Germany supplies more than twice as much financial secrecy services to the Netherlands as the infamous Panama does. Meanwhile, the Netherlands supplies more than three times as much financial secrecy services to Germany as does Panama. Just over 4 per cent of financial secrecy facing Sweden is supplied by the Cayman Islands . . .” So, you see, it is just one

country they have an issue with; it is with us, Mr. Speaker. “. . . where Swedish residents have stored \$11bn in assets. In comparison, nearly 6 per cent of financial secrecy facing Sweden is supplied by the US, where Swedish residents have stored a whopping \$144bn in assets.” So, they are arguing about \$11 billion for us, but there is \$144 billion in the US.

“Among the criteria that the EU considers when determining whether to add a country to its tax haven blacklist is the transparency rating the country receives from the OECD. Nearly half (49 per cent) of financial secrecy services facing the EU are supplied by OECD countries.”

Mr. Speaker, when you go through this and even just another line here, from another article that came out last week, it basically says they touched on the European corn when they said they needed to get their own house in order. I will send a copy of this to you, Mr. Speaker. It says: “For real impact, the EU must also tackle tax havens within its own territory.” [UNVERIFIED QUOTE] Last year, Oxfam revealed that if the EU applied its own criteria for blacklisting to its member states, four countries would qualify - the Netherlands, Malta, Ireland, and Luxembourg. Some months later, the European Commission openly criticised seven EU member states for their aggressive tax practices. But words are not enough. On paper, Europe remains the region with the lowest average corporate tax rate in the world, and harmful tax incentives like patent boxes, which allow companies to avoid tax on intellectual property rights, are widespread. This makes it easy for multinational companies to avoid paying their fair share, leaving governments in both the EU and elsewhere without the resources they urgently need. There are four steps the EU should take to help end tax dodging.”

Mr. Speaker, one of the biggest culprits in all of this is the United States. Now, the EU is threatening to blacklist the United States and I am going to wonder how that is going to work, seeing—

[Inaudible interjection]

Mr. Christopher S. Saunders: —how the US operates—

Mr. V. Arden McLean, Elected Member for East End: That is the best news yet.

Mr. Christopher S. Saunders: —with their banking system.

Well, I tell you what, a lot people in Cayman I know criticise Trump, but I’m going to be honest with you, since he has been up there, he has taken so much oxygen out the room, they are so busy with him.

Mr. V. Arden McLean: That’s the best news to come out this.

Mr. Christopher S. Saunders: Mr. Speaker, the point I am making in all of this, is that, we have been so compliant. Our legislation is far ahead of many of the countries that keep criticising us. As you know, Mr. Speaker, we have an extra layer of structure which enables taxes to be paid in the jurisdiction of investment and it complies with FATCA [Foreign Account Tax Compliance Act] and CRS [Common Reporting Standards], so that taxes are paid on net-return to investors. The reason why Cayman has had success in structuring is because our structures involve a little amount of cost. And the one thing I am worried about in terms of this economic substance is; what costs will it put on the businesses operating here? I know there is one EU country —the Dutch—they have, I think, a legislation in place that basically requires an entity to set up, I think, it is €100,000 just to prove that they basically have a base there.

We are a tax neutral jurisdiction, we are low cost, we provide a competition, and we provide a service. The backbone of capitalism, Mr. Speaker, is competition and if we have our house in order, we are financially conservative and we are not going out on any crazy spending. But when we look at these countries in Europe that have not had a balance budget from the 1970s, just been running deficit budgets and borrowing even before the Cayman financial industry is even what it is today, they really and truly have sold their people a bag of goods that they have failed their people. They cannot deliver on what they need to provide for their people and they have just been running debt, upon debt, upon debt, on their people, and the last hope they have is to try and blame the Cayman Islands.

Look at what is happening in the United States, Mr. Speaker. There is not enough money outside in the offshore financial centres. When we look at the OECD and G20 countries, Mr. Speaker, they are responsible for 86 per cent of the global GDP. Do they really believe that the other 14 per cent of GDP that they keep chasing for, really and truly is going to solve their problems? Eighty-six per cent of the world’s GDP is little less than 50 countries and they still are trying to sit down and say the Cayman Islands, Bermuda, and BVI are responsible for all their issues.

Mr. Speaker, next week we celebrate the birth of Jesus Christ and one of my favourite bible stories is when they took a blind man to Jesus and Jesus asked the blind man: “How do you see people?” He replied, “I see them like trees.” Jesus took some spit, and rubbed in the man’s eyes and then he asked him: “How do you see people now?” The man replied, “I see them as they are.” Mr. Speaker, we see these people for who they are, they are conmen. They have ripped off and fooled their own people, and what we need to start focusing on, Mr. Speaker, is to go on the offence and start taking out ads in their own newspapers and telling them ‘your politicians and

representatives have failed.' Some of them should be sending people to the Cayman Islands and sit in some of these back rows, back here and back here, and people can show them how a government is run. We may be small but we are not as crazy as they are. Many of them, including the UK, five times in the last 43 years they have balanced a budget and they want to come down here and tell us how we must run our country?

[Inaudible interjection]

Mr. Christopher S. Saunders: France, and all of those other countries in the EU, are massive socialist states in the debt and want to come tell us how to run country? You are collecting 20 per cent of GDP and spending 35 per cent of your GDP and then you want to blame us? Really?

Mr. Speaker, let me tell you something. I am glad that I am sitting where I am sitting because I do not have the level of discipline that the Minister would have had to sit aside from those people and say to them, 'listen, when you reach the end of Town Hall Road, make a left.'

Thank you, Mr. Speaker.

[Desk thumping]

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

I am giving the last call but I am giving some latitude as I know that this is an important Bill.

Mr. V. Arden McLean: Mr. Speaker, it looks like people are waiting people out. That just doesn't make sense in this Parliament. Say what you go to say!

The Premier, Hon. Alden McLaughlin: What were you doing then?

[Laughter]

Mr. V. Arden McLean: I wasn't waiting people out. I was giving people the privilege to speak.

The Speaker: The Member for East End.

Mr. V. Arden McLean: There is no need to wait people out in this thing; you say what you have to say. I know there are some on that side, Mr. Speaker, who wait to hear what has to be said, because they can't open their mouth unless someone else does.

Mr. Speaker, I know we have been down this road too many times. Having spent just over 18 years here as a legislator, I have seen so many of these Bills—not rushed like this but—certainly brought here to try and satisfy the EU, the UK, and prior to my time,

the famous one, the Mutual Legal Assistance Treaty (MLAT). But you know what surprises me, Mr. Speaker—every time they come up with something new and they shift the gold post, we shift the markings on the field and we meet them head on but it is becoming a little tiresome now. It is becoming a little tiresome. My good colleague for Bodden Town West so eloquently laid out who these people really are. They cannot, to save their own skin, appreciate nor understand, how less than 40,000 indigenous people can outwit them every time.

Mr. Speaker, I read somewhere in a journal that the Cayman Islands was in the top 10 for the creation of complex financial entities. Now, that is not all of the indigenous; it is people who have come here, who have integrated here and the likes, but it just shows how capable we are. The people in this country, the residents of this country, the people who deal with the financial industry, and they cannot handle that. They cannot handle that and they decide that they are going to use might and their power over us all.

Mr. Speaker, I see the Premier made a number of statements this morning about how the agreements with the UK is going to work, even to them offering to help us with the helicopter because we did not ask them. But I said that to say that the UK is no help to us either, you know. I have some very good friends, in fact, in the UK. Very good friends; I have known them for years! As a matter of fact, one was here the other day. He did not even know that we helped England beat the Argentinians, with the million dollars. They have no understanding of what it is to feed their people, like my good friend for Bodden Town West said. That is what we struggle to do every day.

Mr. Speaker, they took over us as a people in the Caribbean and you noticed where they went? They went to the countries with the arable land; Barbados, Jamaica, Guyana, Trinidad and the likes—plundered our horrible land with the sugarcane. Eventually found a substitute for that for sugar and let us go fly, and the bananas, they started importing them from elsewhere, therefore, there was no more need for us. Now, because those of us in the Caribbean who had to find alternate methods to feed our people, instead of deficit budgeting, and we being much smarter than they are, developed the financial services, and now it is time to take that away too. If they could take away bananas and sugarcane . . . all the sugarcane was doing was making us drunk, you know! And if they were that jealous of us to do that, they have found a new thing to come at; our financial industry.

Mr. Speaker, despite our need to be a part of England, whatever way that may be, they don't mean us much good, you know. You think \$2 million about helicopter makes any difference? To me it doesn't. The last time that I know that England gave us a grant

was to build the East End School in 1969 and you mean to tell me they could not give the Premier a grant of \$2 million, that he did not have to pay back or didn't have something holding over his head? Really, now!

Mr. Speaker, I have been here long enough, longer than many, longer than most in here and I have heard your good-self, stand on that side on this aisle, of this honourable House and say that it is your considered position, that if they are enforcing the laws on us (and I am paraphrasing) that you believe that they have an obligation to give back to this country if there is any monetary loss as a result.

[Inaudible interjection and laughter]

Mr. V. Arden McLean: Mr. Speaker, maybe I did not appreciate totally your feelings and your position at that time, but I understand, I understand.

Mr. Kenneth V. Bryan: They're all seeing the light, Mac; they're all seeing the light.

Mr. V. Arden McLean: Mr. Speaker, our little friend here for George Town said, "they're all seeing the light."

[Pause]

Mr. V. Arden McLean: Eighteen years of light, started with darkness, but it didn't last for long. Some of us will have a long trek down that dark road; trust me.

Mr. Speaker, I have seen too much of us trying to comply with these people. I don't know if a fight like you had to put up at one time is the answer, but I do know what, somehow, somewhere, we are going to have to try and make sure we defend our economy. I cannot say that the Government has not done all they could but I do know that there is quite a bit of talk that people were not consulted. I've heard the Minister get up here and explained the consultation, so I do not understand what is going on there. Somebody has to, at the very least, counter the Minister. It would be foolhardy for her to get up here and say that she has been working with these people since June and it ain't so. And that is highly unfair for people to say that they have not been properly consulted. Maybe they did not do anything, or maybe they did not pass it on to their ranking file, but they cannot just come out and say that they were not consulted; that is not fair. Even the devil at some time during the day, you got to defend. You can't do that!

Mr. Speaker, I met with Dr. Basdeo and the Minister of Finance and a couple of other staff members from the Government and after their explanation, I had some questions for them. Suffice it to say, I did not get much comfort from them because they only told me what it was that we needed to get done. That is not comfort for me because it just makes

me feel like it's the same set of wheels in the same set of mud. We just constantly spin our wheels in the mud. But I did not go out there and said, albeit, it was at the 11th hour, the consultation, but at least it was consultation. A number of these lawyers and those from the financial industry are saying to me that they have not been consulted, Mr. Speaker. If there is anything I detest is a liar, or someone who stretches the truth or is mendacious with the truth—deliberately mendacious; a pathological liar.

[Inaudible interjections]

Mr. V. Arden McLean: Mr. Speaker, I find it kind of appalling that many of our people do not appreciate nor understand the gravity of what is happening to us. My hope is that we can get through this one, because, in my view, this one has some possible scary problems for us for the future.

Mr. Speaker, I have been saying for a very long time that what this country needs to do, what we need to do as a Government, is to . . . when I started talking about this idea, Cayman Finance was not formed, but I wanted us to bring a group of people together, some from government, some from the financial industry, and create a NGO [Non-Governmental Organization, wherein, the Government would set up half of the money to run that NGO and the other half would come from the financial sector. Their job would be to analyse everything that is going on all day, and update Ministers, the Premier, and the Cabinet on a daily basis. But I could see a building where that building rented or whatever, is specifically for that.

The financial industry is our most important industry, by far. Mr. Speaker, contrary to what people may think about me and the relationships I have with some of the people working in the financial industry, I view it as those are evils we have to put up with in this country. I have said to a number of them that you must be a part of this. You must be a part of it because if you give me, as the Government, the wrong information out of spite, then it is going to affect you too. So, I expect you to give me the best advice available. They are the people who operate these systems. It has been years, those of us who were working in it, that now reside in these hallowed Halls, since we have worked in it.

Mr. Speaker, I said to my good friend Dan Scott, *I am looking advice, if you don't give me . . . because every time you give me bad advice, it is going to be less money for you to take home. I want you to take home more money because for every dollar you take home, I want you to spend \$3 to be able to make it in this community.*

I still believe that Cayman Finance should be merged into a joint operation with government and government pays half of it and it will take the stress off of the Ministers; it will take the stress off of Cabinet

because that will be the front line to go to start dealing with these things. Ministers and Premier should only go at the end. Mr. Speaker, I know the Premier ain't going to like that because he likes being in the thick of things, but I believe we need to empower people. What harm could they do to the financial industry? That is my question. They would be a part of it; they are a part of it now. It should not be government alone to uphold the financial industry.

Whilst government makes plenty money out of it, \$300 million, whoa, maybe it would be interesting. It's a good thing we do not have any income tax here because we would be surprised to see what those guys make out of it. Do you not think it is time they did some work in it with us to protect it? Of course! That is my view. And you know, Mr. Speaker, how I am with my opinion—I'm going to make it known. That is my position. They are a part of this country; whether they are on work permit, residency or they get Cayman status eventually. Some of them been here forever, some of them have moved on from their original companies, there are entities, there are evils that we must put up with. They will be here forever, just like you and I. If they destroy the country, they might have somewhere to run to, but plenty of it will be left here that will get destroyed for them too. This is ours!

I am saying that to the Government, but more importantly, to those who are not operating or have good relationship within that industry that can come out there now and say that they were not consulted. We all need to do this together. We need to be hand in glove. Unless, of course, Mr. Speaker, we know what happened with the one that we found was working for MI6. We had to deal with him. But I don't believe that. I believe that people by and large come here initially to make money and then find out that this is where they want to be forever and they have a vested interest.

Moment of interruption—4:30 pm
Suspension of Standing Order 10(2)

The Speaker: Honourable Member?

Mr. V. Arden McLean: Yes?

The Speaker: Could you give us the chance. Honourable Premier, the hour of 4:30 has been reached.

The Premier, Hon. Alden McLaughlin: Thank you Mr. Speaker.

Mr. Speaker, I move the suspension of standing order 10(2) that the business of the House may continue beyond the hour of interruption until the conclusion of the debate on the three Bills on the Order Paper.

The Speaker: The question is that the honourable House do continue its business after the hour of 4:30 and Standing Order 10(2) be suspended.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: The honourable Member for East End, continuing his debate.

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

Mr. Speaker one of the things that we know, we have the most robust regime the Caribbean, and indeed I would say throughout the world, and that . . .

[Inaudible interjection]

Mr. V. Arden McLean: My good friend just reminded me, try opening a bank account in Cayman versus opening it in Miami Florida. You [would have to] go and dig up your grandmother for them to find out who you are.

Mr. Speaker, we have one of the most robust regimes. We have legislated until there are very few words left to put in legislation, to try and ensure that we meet all of the standards.

I recall when I was in office, in Cabinet, that we had to rush down here to get legislation in place. It was no difference when you were there, Mr. Speaker; it was the same thing. And we have amended the regime of financial laws in this country as much as we have amended the Immigration Law. Look at them—by the dozens. We have more committees, than the Senate in America, trying to help us to make sure we get it right. We have never reneged on doing what we had to do. In many instances, they ask us to promulgate legislations so others can follow, so we are used as guinea pigs. Between the 2005 and the 2009 Government, I knew of that at least three times. They want us to look at the legislation and then they spread it out. I think during that period, the Attorney General was the head of CFATF [Caribbean Financial Action Task Force].

Mr. Speaker, yet, the Government does it, by and large, on their-own. I am saying that the financial industry needs to be a part of it. And if they do not want to be a part of it, or if we are refusing to make them a part of it, then what is the use of us being here? It is the future of this country that is at stake. And, Mr. Speaker, yeah, to the Government, I think at some stage, we can show some bravery too, and object to some of these things. Fortune favours the brave sometimes.

I wonder why they pushed back the beneficial ownership to 2023 now. You think that just happened so? What do you think caused it? Objection thereto! There are politicians up there too, you know, Mr. Speaker. They are just like us. One of the things I want to see us do is let go, create a NGO for the financial industry and let them go on them up in England. Make them do the TV circuit, the media circuit or whatever. Reach the people!

What you think caused Brexit? Brexit was caused by the ordinary person; that is what politicians here are afraid of, and them there too. Put them out there on the TVs and let them tell the people of England and the EU that we helped England fight when it was only 10,000 of us here. We collected \$1 million and sent up there to liberate the Falkland Islands. How many people you think in England know that now? And this is what your politicians are trying to do us! Make um give another Brexit, the Cayman-ixt. They are fighting us with fire. Do you think I am looking water to out that fire? We need to fight back with fire! The only thing that counters violence is superior violence.

[[Inaudible interjection]]

Mr. V. Arden McLean: Prayer? No, you don't pray during that time. Don't get on your knees there because somebody going stop you.

Mr. Speaker, I know my good friend, the lady Minister there for Agriculture, she will pray. While she is praying, I am running a head of her. When she sees me I will be long gone. Not only hat, you will hear a lot of whining going by your head.

Mr. Speaker, one of the either things too, and I know this is going to be a little bit complicated because I do not think the people are stupid in any way but I have always thought that CARICOM, we should engage the membership of CARICOM. There is strength in numbers, but, of course, Mr. Speaker, those people don't necessarily been in this as long as we have and as accustomed to it as we are; I understand that.

Some of them countries too, you know, Mr. Speaker, as you well know, I have plenty friends in those countries, but some of those boys up there looking for that little [INAUDIBLE] too, you know, and they're not going to do anything too much against England. But if they understand that that is the new future for their country, they will fight for it too. That is the new future, because all the bananas are gone. The only reason they didn't come to Cayman was that they couldn't plant sugarcane on that binnacle cliff. Of course, not many people understand what binnacle cliff mean, right?

Mr. Speaker, this EU, I don't know why they're picking on us for and they have enough trouble on their hand. England is leaving them, the only English speaking country in the EU and they won't to

concentrate on trying to keep them. I wonder if England, as a result of trying to appease them, is now turning the books on us.

Mr. Christopher S. Saunders: No, England sees what we are dealing with now too.

Mr. V. Arden McLean: That's true, but they are not stupid. They should by now see what we are dealing with, with the EU, and they should really encourage their people to tell Teresa May to exit before March.

[Inaudible interjection and laughter]

Mr. V. Arden McLean: Mr. Speaker, I don't know why the media in this country gets it wrong every time. The biggest problem we have in this country with the media, there is no balance in their reporting, they go and find one persons, and that is their friend and that is what they report. They are causing a very irreparable damage to this industry. Mr. Speaker I don't get too involved in them anymore because I like saying that they come here, they are very few there that can be considered from here and they come here and they have no point of reference, none. They come, if they didn't come with a stenographers pad, they find one, and that's it; and a pen or pencil. Mr. Speaker, they need to be on board too. And I am not asking them to be biased towards the Government or the Opposition. I would never ask that. I ask for them to do balance reporting. And not for Arden McLean, because not one of them can do me anything that I can't find em. I know every crab hole in this country but it is for people like the ordinary person who goes about their lives, Mr. Speaker, don't even know what there is about the financial industry. But understand that if the financial industry gets destroyed, their whole family is wiped out. They understand that, don't think they don't. And for the civil servants who work themselves to death and tie light 'round they head at night and then trying to save this country from the pitfalls, and then these newspapers get up there with all kind of rubbish, trying to beat up the Government and beat up the Opposition. They don't understand the effects of it.

Yes, Mr. Speaker, there are many of us who don't understand the complexity of this matter, but we understand what it brings, and those are the ones that are going to suffer most. God Forbid. God forbid we have to go back there to those days because I know all of those people in the press can't make it yah. They can't dig nut grass, they cannot dig it! I had to dig it many days. They can't eat raw cassava and sweet potato. They can't find one bulrush to make porridge. They cannot cut one silver-thatch; they wouldn't even know what the tree looks like, to make rope to try to send to Jamaica. They can't do it, Mr. Speaker. Tell them I just went to cut 50-odd, 70-odd

strawberry trees, and, of course, they going to say, *Did you can pick the strawberries and leave them too?*

[Inaudible interjections]

Mr. V. Arden McLean: Not one of them can do it.

Mr. Speaker, every time we write in the papers about some action or inaction of this Government or the government, period—I aint even talking about this one here because it is not them. But the government, the country, it is picked up by someone else and the very people who pay these people to advertise their product is saying nothing to them. And I must get up here . . . well, everybody knows I ain't gonna keep my mouth closed. But they must come into these functions—

[Audible interjection of a blowing sound]

Mr. V. Arden McLean: No man, Alden, you got to do better than that.

[Laughter]

Mr. V. Arden McLean: —where I am invited to and rub against my shoulder and don't open their mouth. Yeah, but I don't open mine either. I don't owe them anything and they owe me nothing, and that is fine by me. But when they tread on this country and use the medium they have to talk about this country, which adversely affects this country, I am going to talk about it. That is what they do, because they don't need us. Understand; they don't! They have already made what they had to make and they can leave any time they want. They don't have anywhere to go except down in West Bay or wherever it is you should live, where people come from. I ain't got any place to go!

[Inaudible interjection]

Mr. V. Arden McLean: Yeah, I ain't coming with you.

[Laughter]

Mr. V. Arden McLean: I have no place to go but within the borders of this little country and these people are taking our country and destroying it and especially on our financial matters. And yeah, they are going to say, *Well, we caused it.* You ain't got to say anything for them to write bad about you, they'll find it. That is why, Mr. Speaker, it is time now. It is time for that beneficial ownership to be extended to the media, okay? And that way, we will know whose interest they are serving.

[Inaudible interjection]

Mr. V. Arden McLean: Well, I had them all my life up in here. Editorial, has it ever taken any ounce off of

me? Really? I am not like the rest, Mr. Speaker, or other people (let me say), who are afraid to lose weight. I never get to lose any of that; not from worries about those editorials. He makes one on me and I go on the radio on him. Simple! Tit for tat!

Mr. Speaker, I've never seen any bad one about Trump. Why they don't write about him? But all we want to do is to get back at the politicians in this country who may have said something that was not in line with their objectives, their goals, and that politician now responsible for something and going down a particular road, not understanding the damage they are doing to our country. The very country that they run from and say, *Oh, I want to live there, and they not making me live there.* We should have left them out there in no man's land. If it was me I would leave him right out there. Revoke his status while he was on the plane on the way out.

Mr. Anthony S. Eden, Elected Member for Savannah: Say it again.

Mr. V. Arden McLean: That is how it works. I have a right to defend this country and use whatever resources the country has available if I am in that government. That is what you do.

I swore to protect this country from any threats, foreign or local, and we got plenty of them yah local. I nah see no guns streaming down on us or planes flying in yet, but plenty of um is local. Mr. Speaker, we have our own challenges and I hope that we can work somehow to get past them.

Mr. Speaker, I just want to turn briefly to the Bill, because of a couple of concerns I have with that and Dr. Basdeo, I expressed a couple of those to him in our meeting. And one of them is, Mr. Speaker, this thing with the LCCL [Local Companies (Control) Licensing].

[Inaudible interjection]

Mr. V. Arden McLean: I understand that, but in here, it says that they can create an LCCL too.

[Inaudible interjection]

Mr. V. Arden McLean: Well, it is being amended directly to affect this.

[Inaudible interjection]

Mr. V. Arden McLean: Yeah, in the Companies Bill, but —

[Inaudible interjection]

Mr. V. Arden McLean: Oh, but I know you are going to try and call me on relevance but, Mr. Speaker, it is difficult not to anticipate a Bill when it all relates to this

one. It all relates to this one. Not this one that I got in my hand, but the one that we are currently debating. It is all relevant.

Mr. Speaker, I know we can do it at that time but my concern with that is, I recall that the LCCL was initially conceived to allow people . . . well, Alden you can take it now or take it later.

[Inaudible interjections]

Mr. V. Arden McLean: Because you know I ain't going to forget. You know I am not going to forget.

[Inaudible interjection]

Mr. V. Arden McLean: He can't get it twice, so he might as well take it now and relax until a little later.

Mr. Speaker, I ain't going to test his soul for fear of him jumping up here on a point of order and then he and I get into some legal problems here this evening because he knows I ain't backing down from him.

The Speaker: Honourable Member, you are doing pretty-good in your debate, I should say, if I should say that. I would suggest you . . .

Mr. V. Arden McLean: Stay clear of him.

[Laughter]

The Speaker: No, I would suggest that you be mindful of what is being said.

Mr. V. Arden McLean: Yes, Mr. Speaker, I will.

[Inaudible interjection and laughter]

Mr. V. Arden McLean: Mr. Speaker, what I am saying is that the Companies that will be required to show relevance in this country will be given the opportunity to open a company in this country. I do not know why, or if it was addressed but certainly we are talking about exempted companies; that is what this Bill is surrounding. I do not know and the Attorney General may want to explain this to us, but section 18 of the Trade and Business Licensing Law (2018 Revision) already allows exempt companies to open up a trade and business license here, so I do not know how that becomes relevant to this substance of allowing them because I do not see any change coming in this. A company can apply for the grant or renewal license if it is:

- (a) Caymanian owned and controlled
- (b) Holds or has applied for a licence under the Local Companies Control Law (2015 Revision); or

- (c) Is a non-resident company—non-LCCL company, exempted company or limited liability company

[Pause]

Mr. V. Arden McLean: Why it is referred to in the Bill when, under the Trade and Business License Law (2018 Revision), it is allowable now. If it has been considered, then somebody needs to explain that because it is not referred to in the Bill. The Bill does not refer to it. As a matter of fact, I know that there are people now and there are law firms now, using that provision to register exempted companies. Mr. Speaker, I ain't speaking out of turn; it is the Law. It is the Law. It is our law. So, I don't understand how we have gotten around that. But, Mr. Speaker, there is the issue of the registration allowing exempted companies to be registered in this country. Now I know we are trying to preserve those that we have, but if we allow them to register as an LCCL, we open up another can of worms and we need to find out what damage that is going to have on our local companies; especially the LCCLs. Because,

Mr. Speaker, I recall and I am sure you will too, remember when there were only four LCCLs in this country? They were only issued. That was created in '61 or somewhere in there, to allow for people who were prepared to do investment to give them exemptions which was, in particular, utilities for the development of this country; the two oil companies, CUC and Cable and Wireless. Those were the only people early and in the mid-'60s that ventured into our country and saw all of that Coco-Plum bush down West Bay Road and took the chance on us. So, we created a special little thing for them; just like, Mr. Speaker, when we created the special thing for the Hotel Aid Law, 50 per cent of the duty—all these things I remember. That doctor out there know too, what I am talking about, you know.

Now, it is my understanding that we have north of 250 of them. They must be giving them out for counting sand along West Bay Beach even. When giving a LCCL, that entity becomes Caymanian because they have total control. In those days, when it was created, they were given for 25 years. Captain Charles then renewed CUC and Cable and Wireless, I believe, for another 20 [years]. Was it not that? Or it was for another 15 [years]. But the first issuance of those LCCL was for 25 years. Nowadays, you can pick them up anywhere on the street. And the concern I have with that is in the absence of strict control, these people have the wherewithal to do anything, Mr. Speaker, thus killing the local entrepreneurship and the likes. That is where I am at, because I know, Mr. Speaker, all those LCCLs that have been issued are not properly monitored. No matter what kind of restrictions we have had on them, or placed on them, they are not properly monitored.

I want to be able to say that we stay off of that blacklist, which I do not think there will be any blacklist, but anyhow, they are just threatening that blacklist. But at the same time, I want to see if we can cut it off before we reach that far.

[Inaudible interjection]

Mr. V. Arden McLean: Like I said, I do not believe there will be any blacklist because they say they are going at Trump. Now, that is a good one to go at. Let us see how that works out.

[Inaudible interjection]

Mr. V. Arden McLean: Wait until that tweet starts coming through.

Mr. Speaker, this is where I am at. You know, to save those companies, if we are going to infiltrate the local companies, it could spell some concerns for us. I am not criticising, I am saying it us see if we cannot cut it short of that. I mean, you give a trade and business licence, and the next thing you know, he has gone to do something else. Him or her or whatever; the entity is what I am talking about. Mr. Speaker we are faced with that in the situation where we have a holding company. Mr. Speaker, everybody is taking advantage of us, you know? You get them to form Holding companies, and then they go into the one thing, trade and business licence exempt, which is farming. That is what they are doing. Do you see all these farm places sprouting up here? It is because there is an exemption on farming.

So, they come and do their holding company, buys farm land, and then go and farm and you cannot do them anything. Agriculture production and agro-based industries, including turtle, poultry and animal husbandry, hydroponics—unna hear how familiar those are? Do they sound familiar? That is what we will get, that is my concern. The little people here who will do that in their backyard . . . the Minister cannot be promoting backyard farming, like we did before. And we understand the exemption of farming, Mr. Speaker. That is like saying, the guys in East End or West Bay who do the little ground, they cannot go out and sell; they have to get a business licence. That is why it was done that way, just for Caymanians because that was what we did.

The Minister cannot be promoting backyard farming and then people come in here, and in one fell swoop wipe them out. That is what I am concerned about because they have the wherewithal to do it. My guys in East End, they go and chop down a piece of bush, burn it and they plant cassava and you know . . . very labour intensive. They plant yams, and they go out there and they pull 2,000 to 3,000 pounds of yam, and they sell it for a couple dollars per pound. That is serious supplement eh? That supplements the family

for the whole year but that is a traditional thing. That is what they have always done.

Farming includes cows too, you know; livestock, chicken farms; a subject for another day, which will be soon.

I thank you, Mr. Speaker.

The Speaker: The Member for Savannah.

Mr. Anthony S. Eden, Elected Member for Savannah: Thank you, Mr. Speaker.

[Inaudible interjection]

Mr. Anthony S. Eden: No, I will be short and brief. My job here is “warning”. As all of you know, I am second only to the Honourable Speaker, spending time in this Legislative Assembly, not only as a backbencher, but almost three terms on a Cabinet, going into my 27th year. I would not get too hunky-dory, too cuddly-cuddly with these people across the pond.

I remember when the late Tom Jefferson was Financial Secretary, George McCarthy, Ken Jefferson and maybe another one in between there. They keep sending these things over here, almost ad nauseam, every weekend and the Premier and my colleague for East End joined eight years later and witnessed the same thing. The more we so wonderfully and quickly complied, this was alluded to. We keep moving that goal post, moving that goal post.

We have to be careful, Mr. Speaker, and you as the oldest serving Member, not only as Speaker, but as a Minister and as a Member of this Legislative Assembly, I know the licks you took from within and from without, but we cannot trust these people and I can say this because I do not have a UK Passport, I do not want it! I remember, hurricane Ivan when that passed by and we finally got the chance to— it wasn't here but I do not remember where we had to meet that November—

[Inaudible interjection]

Mr. Anthony S. Eden: Okay, whatever, yes.

You see, unna talking about mama, our Mother Country of what? At that time I think, Mr. Speaker, they sent us a few tents to the value of \$125,000—

[Inaudible interjection]

Mr. Anthony S. Eden: I'm hearing Haiti helped us. And as I said, at that time, if my mother or my mama had treated me like our Mother Country had treated these poor little Islands, I would not have been there at that time.

These people have an agenda. It is not what they are telling you there and we should have learned it by now, over and over and over, 30 years almost

that I know of, they do not intend us well. It is just a competition; there is jealousy.

Any of you that listen to BBC and watch on the television, when you hear what is going on with Brexit, the chaos that is over there. When you see what is happening in Italy, they are laughing at those people. Greece, on the verge of Bankruptcy, and France, smart boy Macron, he was going to heal everything, they are ready to throw him under the bus right now, he got frightened because he is tried to get money for France by taxing the people, throwing a few more dollars on their fuel, but we see what has happened.

The Honourable Minister indicated that it was lots of consultation going on, but until recently, as my colleague Leader reminded me, not once, until recently, did they call him or any of the Opposition to discuss this until she was in the UK and we went there, but that is besides the fact. I am not criticising the Government. They have stood up, they have fought, we have done everything in God's Holy Name to try to please these people but the more we do, the more they put on us. So, do not be surprised and do not trust these people. They will find something else once this is compiled with.

In some of these areas, as the Honourable Premier told us, the Crown Dependencies are not going to be affected by it. My short word is to be careful Mr. Premier and Government. I know the Attorney General came into the Cabinet and they had him stressed out left, right and centre, between OECD, FAFTC and FATF. I know they're going to soon run out of synonyms and letters in the alphabet to name the things that they are throwing on us. But it is all about trust. They have their agenda, and they are not going to stop until they drive our financial sector into the ground. So, all I am saying to you, Mr. Premier, is please be careful, watch your step and do not trust these people. Simple!

Thank you.

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

The Member for Newlands.

Mr. Alva H. Suckoo, Jr.: Elected Member for Newlands: Thank you, Mr. Speaker.

Mr. Speaker, I will try to give a contribution to this Bill. I have been suffering from the flu so I will keep going as long as my voice will hold out, but I really did not want to miss the opportunity to get up and say a few words on this Bill.

Mr. Speaker, I listened closely to my colleagues on this side. While I join them in empathising and sympathising with the Government for having to deal with these issues as they come up, and in understanding the pressures of being on that side and having to deal with these things, and the

serious decisions that are being made which will affect, in one way or another, the future of these Islands, it is with a sense of loyalty and commitment to making the Cayman Islands the best it can be. It is difficult to get up sometimes and be critical, but I am reminded that according to our Constitution, I am sitting on this side of this Honourable House, and this is Westminster politics and I am a Member of the Opposition and do represent certain views that have been expressed to me by constituents and others in the industry, that I feel, although some of them may be viewed as critical, they are constructive in nature.

I want to start by saying that I support the Government's efforts in defending and moving our financial services forward, against all of these threats being thrown at us; left, right and centre, Mr. Speaker. But I would be derelict in my duties if I did not express some of the concerns that have been relayed to me as well. So, the Government can be rest assured that I am supporting their efforts but I am also doing my job as an Opposition Member when I speak here today.

Mr. Speaker, one of the individuals I spent some time with recently to discuss, in particular, this Bill, was a gentleman who has been involved in or financial services for a very long time, and he has given me permission to say his name, and he is Mr. Ian Paget-Brown. He gave me a good overview of what he thought of the Bill and what was being done. I wanted to publicly thank him for taking some valuable time out of his day for doing that. He did allow me to sort of wrap my thinking around some of these issues as well. While all of my comments are not attributed to his input, I do want to publicly thank him for taking the time to give me his feedback as well; there were others Mr. Speaker, but I do not have permission to call their names, so I won't do it.

Mr. Speaker, first and foremost, I think we need to be mindful of what it is that we are actually doing here. Essentially, what this legislation is going to do is that on the 1st of January, a lot of the business that is conducted here through these various entities is going to become illegal. That is what this Law does at its core. And what concerns me the most, it is not going to be done by the EU, or anyone else. It is going to be done by this Legislature. We are doing it, in the hope of complying with economic substance requirements and we are doing it on the bidding of the EU and OECD. And, as discussed here today, Mr. Speaker, other governments are basically being forced to do the same thing.

Meanwhile, Mr. Speaker, other financial centres that are not affected by these requirements are going to carry on business as usual. And they are going to potentially benefit from what we are being, and I say, forced to comply with, and that bothers me a great deal. It really bothers me when I think about all those Caymanians who rely on the financial services here to take care of their families—their children, and

to educate their children. What I do not want—and I am glad my colleague for Savannah got up and gave his warning to be cautious—is for any of us, in this honourable House to go down in the history books with fingers pointing at us saying that we did it. So, while I understand the back and forth, and what is being forced on us, and while we can protest as much as we want, I do understand the seriousness of the situation and I do understand the situation the Government finds itself in. but I also have to issue a word of caution, when dealing with this.

Mr. Speaker, I do not know if the Premier recalls, but some time ago in this honourable House when I think he was leaving to go to the United Kingdom to deal with beneficial ownership, I stood on this honourable Floor and I gave him by best wishes and support and asked him, to ask them, when he got there, one question: “when is enough going to be enough?” I think he said at the time that he could not answer that, but I think this is the answer: *it is never going to be enough*.

This issue has been hanging around now for some 20 years. In 1998, the OECD published a report, ‘*Harmful tax competition: An emerging global issue*.’ In that report, they highlighted this issue from their point of view. Back in October 2010, Mr. Speaker, I believe it was you as Minister of Finance, commissioned the drafting of a discussion paper in response to these threats. It was called: “*The Cayman Islands International Financial Centre Strategic Directions Committee Discussion Paper—Part 1*”, and that paper sought to address a lot of concerns that were raised by the OECD and others, with regards to beneficial ownership and this particular issue as well. Mr. Speaker that report on page 19 to 22, I think it was, of the strategy report, laid out a letter with the series of commitments contained in that letter from the then Governor, Peter J. Smith. However, unfortunately, since that time, some 17 years ago, not a lot has been done to address this issue. Until recently, I think, November 2017, we then received a letter from the EU which sort of reignited the whole argument again. And now, we find ourselves here today with these Bills having been gazetted on December 6th.

Mr. Speaker, while the Minister went to great lengths to detail the consultation that has been done, and I am not blaming the Government for this but circumstances have lead us to where we are today. We have had to essentially circumvent democracy in order to satisfy these requirements that are being forced on us. We have had to gazette Bills without giving the required notice and while the consultation process may have gone through the various stages and discussions that the Minister outlined, Mr. Speaker, we forgot one very important element of that consultation and that element probably represents the key stakeholder in all of this; the people.

Mr. Speaker, I do not feel comfortable, although I was party to the decision to be here today, that we have rushed to this point. Unfortunately, none of the consultations up until December 6th involved Members of the Opposition. And so, we found ourselves in a position where we represent constituents, we have to have discussions with individuals who are in the industry; we want to deliberate amongst ourselves and put forward amendments if possible. Let the democratic process play out, so that we can, together, arrive at the best possible outcome on this very serious issue. But because of the way this is has played out, we have done something, and I know the Premier said it, it rarely happens and I am glad that it rarely happens in our democracy, but it is something that I just wanted to note. We have circumvented the democratic process in doing this.

While the OECD and the EU and anyone else Mr. Speaker, may say that it is necessary and it has to be done, it shows me their lack of respect for our democracy and our democratic process. If we are going to be blacklisted, Mr. Speaker, for making things run their usual course, no other reason than that. Because eventually, we would get the Bills here and the Government would vote for them. But if we would be blacklisted for simply standing up in the name of democracy and saying, *No, wait until we get through the process properly*, that tells me a lot about their motives and regard for us. So, Mr. Speaker, I am not criticising the Government in any way. As I said, I was a part of that conversation when we decided to do this, but I wanted that to be noted.

Mr. Speaker, my colleagues have spent quite a bit of time talking about the Bill and what it is that we are doing here today. A lot of them have covered ground that I had intended to cover, which is good, because I do not have to speak as much with my sore throat. But in going through my discussions with various people in a very protracted timeframe, there are questions that have come up, that I think would be helpful, against the backdrop of what I just said, so that the people understand why this is being done, and why this is necessary. There are some questions that have come up which I feel, when the Minister gets up to respond, it would be useful and helpful, in hearing answers to those questions, Mr. Speaker.

The first question that has been thrown at me by individuals who have discussed this with me is what exactly the definition of ‘economic substance’ is. Again, in looking at the Bill, the closest I could come to was section 4 where it lays out the requirements to satisfy the economic substance test. I think it very clearly says what the requirements are because it talks about the entity has to generate income within the Islands, it has to be managed and operated within the Islands, relevant income from activities carried out, in or from within the Islands, physical presence, qualified fulltime employees. Mr. Speaker, that one

jumped out at me because 'qualified full-time employees' may be interpreted as no outsourcing, and that leads to something else I will talk about later but this is the closest I could get in the law to a definition that I could give people.

Mr. Speaker, there is another concern that I want to point out and hopefully the Minister can address this one as well. A number of service providers have spoken about the inability to consult with clients during this process. I think there was some advice given; I think it was through Cayman Finance, that maybe we should not discuss these issues with clients until the Bill was drafted and everyone could see what it is exactly what we are looking at. My concern with that approach was that it left a lot of uncertainty on the table. A lot of clients overseas were probably getting a little jittery and wondering what was going on. While the consultation was with the players in the industry, I think we may have overlooked the actual clients of those players, in the process.

I have had questions with regard to the Bill, because if we look at the Bill, clearly the language in this Bill is a lot different that we are used to seeing. I see definitions and key terms are in the back of the Bill and it is the first time I think I have seen that in this honourable legislature, and when you do a comparison across the other jurisdictions, there are glaring similarities in the legislation which has led a number of individuals to believe that this legislation was sent down here for us to pass, with very little input from us. Again, I am only voicing concerns that have been brought to me but I think they deserve an answer, given the gravity of what we are doing today.

I have had questions with regards to who reviewed the legislation, when was it received, if it was in fact sent here. And another question that has weighed on my mind significantly, Mr. Speaker, is: Have we actually done the necessary cost benefit and assessment to understand not only what it is going to cost to implement this regime, and when I say 'cost' I mean cost this country, the Government? Based on what I am seeing in the Bill, it is not going to be something that we can simply just pick up on January 1st and start to do. There are going to be significant cost, from my point of view, and there are going to be (and I am just talking about human resources) compliance cost, training cost, software cost and whatever else it is, but do we have an assessment of exactly what that cost will be? More importantly, do we know with any certainty what the cost is going to be to these entities to comply with the requirements of this Bill? Have we done the comparison between that cost and the cost to re-domicile (move your business elsewhere), so that we can have some assurance, especially on this side of the House, that we are not going to see a mass exodus of business?

Mr. Speaker, this feels a lot like the situation where we have been given a gun and bullet and being told to put it to our head.

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr.: Well, that leads me to another question. Is this truly a global standard? Where, is that standard defined? Is it going to then be applied across the board?

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr.: The OECD Members as well? The EU Members?

Hon. D. Ezzard Miller, Leader of the Opposition: Including the US.

Mr. Alva H. Suckoo, Jr.: The United States? I am quite certain, Mr. Speaker that the United States is not going to comply by January 1st. Why are we jumping ahead of them?

I understand the threats and the position we are in and we are not in a position to play poker with the OECD and the EU. I understand that, but I have to raise these questions because it points out the hypocrisy—

[Inaudible interjection]

Mr. Alva H. Suckoo, Jr.: Yeah. It points out the hypocrisy of what is being done to us. So, I do not ask questions that I know the answer to.

[Inaudible interjections]

Mr. Alva H. Suckoo, Jr.: Mr. Speaker, there are more concerns and worries that I have because the cost to implement and to regulate and to police this, is going to be borne by this country and I do not see very much, as the Leader of the Opposition has said, in this Bill that looks to ease the financial burden on the Government and it is going to be tremendous.

Another concern that I have is that we currently service clients from 'No tax' jurisdictions, such as Saudi Arabia in the Middle East. Now, with those individuals, I understand the whole mechanism of it where they may be doing business through an entity here in a jurisdiction that has tax, but have we really examined the full impact of this on those no-tax jurisdictions because they have no beef with us? They do not view us as providing tax relief to individuals or their citizens. So, now, is this going to impact our relations with those clients? And when you set that against the backdrop of EU business, the very little EU business that we have, and then the potential impact on South America business we are embracing a regime that is going to have much wider implications

that we may have initially thought about. I want to hear some assurances, Mr. Speaker, that we have considered those things and prepared to deal with any potential fallout.

Mr. Speaker, not to belabour the point, but the Opposition was first made aware of these Bills when they were gazetted; that is the day we got copies. I am concerned because throughout all the meetings and consultation and so on, we never got the opportunity to sit at the table to discuss and we have always taken the approach that when it comes to certain things in this country like financial services, that we fight those battles together. The Leader of the Opposition and I just came back from London for the Constitutional discussions and that is another area we agreed to fight for together. Education is another one, Mr. Speaker.

It is a bit disappointing that I discovered drafts of these Laws were circulating long before the Opposition received the gazetted copies. At the very least, we are being asked to do something today, Mr. Speaker, that you do not normally see in politics; it is when both sides come together to support the country without much brawling, fighting and fussing over it. But it is a bit disappointing when I found out that we were, I think, basically the last to be involved in the process, despite having extended the olive branch and say, *Look, on financial services, we stand together.*

Mr. Speaker, there have been complaints made to me about a sort of a disjointed effort. Again, the Minister gave a very thorough overview, so I cannot argue with her, I was not involved. But there were concerns about lack of consultation and so on, and some people being concerned, that would lead to a situation where the outside world would get the perception that we did not quite have a handle on it. I am glad the Minister said what she said and maybe she needs to drive that point home. What I would like her to do is to name everybody, and I think she has done most of that, but do not be afraid to stand up here and say so and so was consulted, and so and so said this, because this issue is too—

[Inaudible interjection]

Mr. Alva H. Suckoo Jr.: If you have to read the hundred names, read them because this issue is too important.

Hon. D. Ezzard Miller, Leader of the Opposition: Some of those same people will tell us they were not consulted.

Mr. Alva H. Suckoo Jr.: Mr. Speaker, I have also heard some people voiced the concern that *Well, so what if we get blacklisted?* They have been convinced on the other hand that what we are doing is going to be much more detrimental. That point, I think, again,

needs to be addressed. We have seen examples where countries have been blacklisted while we were grey listed, and they fared a lot better than we did. So, there are those arguments out there. Again, Mr. Speaker, I am representing things that have been passed to me as a representative and it is my duty to bring them up so that we can trash them out here and get definitive answers.

Mr. Speaker, another area that the Law speaks to is the actual regulations and I do not know if regulations have been drafted in a form that could be shared, but I notice that the clause there was not the standard clause that I am used to seeing and it went much deeper into exactly what Cabinet could do with the regulations and I will touch on that a little bit later on.

Mr. Speaker, I have already discussed the sort of mixed messages that were coming out of Cayman Finance where firms were told not to say very much to their clients until the legislation was passed. Again, I am concerned with that because it leaves too much room for uncertainty.

There is also a promise of employment and opportunities, Mr. Speaker, which may come out of this for Caymanians. I somehow fail to see how all of that will be realised by January 1st because I think based on what I have read in the Bill, a lot of the expertise and human resources that are going to be needed is not just someone sitting in an office and answering the phone. These are going to be people who have to have qualifications and experience. My concern is that while we have known about this issue for quite some time, we are not going to have (and I will say it) the Caymanians ready January 1st to jump in and fill these positions. What is going to happen is that we are either going to see a mass increase in work permit applications, or we are going to see some level of outsourcing to corporate service providers, potentially, to fill those gaps that are now required by the law. That is all well and good, Mr. Speaker, except for the fact that I have heard people out there saying there are opportunities to be gained from this for Caymanians and I do not really see that many, given the short timeframe to pass this legislation and start operating.

The same can be said, Mr. Speaker, for the real estate boom that we are expecting from it. That may not happen if the cost to comply drives business away. And for those small Caymanian firms with Caymanian employees who are qualified and experienced, who might want to try to benefit from the added compliance requirements of this Law, what is the process for them to be recognised and qualified in the eyes of the legislation to provide those services? The same way we do directorships and so forth, what is the regime that is going to be put in place to make sure that those Caymanian providers, those Caymanian lawyers, the one man shops and so forth for them to benefit? What I would hate to see is that

all this is done essentially overnight and those same individuals who are out there struggling now, will struggle even more, because I can guarantee you that the first to lose business will be those small operators.

There is an argument to be made that delaying the implementation of this legislation, even if we vote on it here tonight, but delaying it would give us more time to be prepared. I understand that not all jurisdictions are going into effect immediately with their legislation but we do have the concern that a large number of our people, our Caymanians who are supposed to benefit from any potential benefits that can be gained, may not benefit.

Mr. Speaker, another concern I have, and the Minister did spell this out when we met with her in London, is that the OECD requirements are not as onerous as the EU requirements but the EU is prepared to recognise our compliance with the OECD standard. Do we have that commitment in writing? I would hate to think that we go down the road of what we read in the news this morning, that, we pass this legislation and then there is a declaration. I do not know—if you do not quite meet the standard, we are not accepting it. I know you can only get assurances so many times but this one in particular I would hope that we have taken all possible steps to make sure that there is no conflict there.

Mr. Speaker, there is also an area that has not been discussed and perhaps the Government has not considered it but there is potential here because we have Cayman Enterprise City and there are other jurisdictions like the UAE [United Arab Emirates] that have free zones, and these regulations I do not believe are going to apply to those free zones. So, they essentially operate outside of this. There may be potential here for us to look at Cayman Enterprise City to do something similar and somehow circumvent all of these requirements. I do not think that I am giving away any state secret, Mr. Speaker, by suggesting that because I am sure some brilliant lawyer has already thought of it, but it was something that has come up in my research that I thought might be worthwhile looking into.

The Speaker: Honourable Member, I do not know how much longer you have or if you are going to speak. If you are not cutting off within the next few minutes, I would suspend for the evening break.

Mr. Alva H. Suckoo Jr.: Mr. Speaker I would probably need just maybe 10 minutes more, and I will be done.

The Speaker: Can't wait that long.

We will suspend until 7:00 pm.

Proceedings suspended at 5:55 pm

Proceedings resumed at 7:31 pm

INTERNATIONAL TAX CO-OPERATION (ECONOMIC SUBSTANCE) BILL, 2018

[Continuation of debate thereon]

The Speaker: The Elected Member for Newlands continuing.

Mr. Alva H. Suckoo Jr., Elected Member for Newlands: Thank you, Mr. Speaker.

Mr. Speaker, just as we took the break I was going to through the actual Bill and just pointing out a few areas where I have concerns—

[Inaudible interjection]

Mr. Alva H. Suckoo Jr.: I'm almost done.

Throughout the Bill I see references to the guidance that is supposed to be issued. I am not sure if the guidance has been completed and is available, but in my estimation, the Law would be effective without the guidance, so perhaps you could get some confirmation on that as well.

Finally, in going through the clauses in the Bill, and in particular, I am looking at the clause that gives the Cabinet the authority to make regulations which would be clause 15. The Cabinet may make regulations and if we look down at 15(3): **“Regulations made under this Law, may create an offence punishable by a fine not exceeding ten thousand dollars.”**

Now, Mr. Speaker, I have a real concern with this because we are giving Cabinet—and this is any Cabinet, not just this Cabinet—the authority to create, essentially, a criminal offence. However, the regulations to this Law do not require a vote in the legislature to be approved. What I consider this to be is legislating in the shadows, so to speak, because we are giving Cabinet the authority to create a criminal offence without going through the democratic process. So, when you think about that, if we were making changes to the Penal Code, we would bring those changes here in a Bill, we would debate them, there would be consultation. What this does, effectively, is bypass all of that; bypass the democratic process and it is not even subject to an affirmative vote in this honourable House. I cannot support that on, its own, Mr. Speaker. It is completely undemocratic and I do not encourage that the Government proceed with this Bill with it worded this way.

I think one simple solution would be to make it subject to an affirmative vote in this Legislature but I really cannot vote for this Bill with that being in there. We just returned from the United Kingdom negotiating with the UK Government to essentially try to prevent them overreaching and legislating for us. It is the same principle, I think, that applies when we look at these regulations. We do not want to create a local situation where any Cabinet, not just this Cabinet, can

do the same thing. I think when you make especially criminal offences they have to pass through this honourable House, Mr. Speaker; so that I would consider something that needs to be changed. Either we remove that clause from the Bill, or we change the Bill to say that the regulations need to be voted on in this Legislature; either one of those would suffice to fix the problem, Mr. Speaker.

That was actually the last point in the Bill that I wanted to bring to the Government's attention. Before I sit down I will say this, Mr. Speaker. I understand, as I said earlier, the gravity and urgency of the situation because it has been artificially brought on by outside forces and, of course, we have to respond and we have to do what we can to protect our financial services.

However, I would ask the Government to not be so hasty sometimes in how we respond to these threats because if we look at what is happening now in the EU, there is turmoil there. Greece and Italy has had their share of problems, and now we see recently what has been going on in France and Spain. The EU has now turned its focus on the United States and in the midst of this there is Brexit, the departure of the United Kingdom from the EU. I think given a little patience and giving this some time, and I do not like to wish the downfall of anyone, but given what is going on currently within the EU, I think they have their share of problems and in the due time, we will probably see even more unravelling of what it is they are trying to do. They have focused on the United States. My advice would be to let Donald Trump deal with them for a little while. I do not see that we need to rush to put all this in place overnight. Yes, we can vote on this legislation but we do not have to immediately gazette it and bring it into effect. We can take some time to plan the way forward.

Mr. Speaker, you made an excellent start when you commissioned that report that I spoke about earlier; that was about 10 years ago. We need that sort of level of planning where we plan for the next 20 years for this country. We need to take stock of what is happening internationally. We cannot be complacent, sit back and do nothing but I think that a lot of these threats are merely threats and we have to stop treating all the threats the same way and evaluate each one on its own merit and severity.

With that said, Mr. Speaker, the Government I think knows that I stand behind their efforts to support our Financial Services and that the Opposition can be counted on to show up and do what we have to do to work together. I hope that my concerns about the late invitation to the table for the Opposition has been noted and in the future, that we can avoid those sorts of situations by agreeing ahead of time that issues like this, we work hand in hand.

With those few words, Mr. Speaker, I want to thank you for the opportunity to address this

honourable House and I thank all Members for listening.

Thank you.

The Speaker: Does any other Member wish to speak?

The Member for George Town Central.

Mr. Kenneth V. Bryan, Elected Member for George Town Central: Thank you, Mr. Speaker.

I rise to give some short comments and contribution to this topic that is so very important to Cayman Islands' future. I want to start off with some positives, Mr. Speaker, and then hopefully end off with some concerns, not necessarily negatives.

Mr. Speaker, if, this Bill and subsequent Bills are properly done through good guidance by the Honourable Minister and this Administration and we are successful with navigating ourselves through the murky waters of the financial world, this can potentially be a good benefit to the Cayman Islands.

For the average person who may be listening at home, substance and the relevance to this Bill basically means that they have to have somebody on Island to manage the affairs of these thousands of companies that are referred to in this Bill. Mr. Speaker, we know that based on the type of economy that we have, trickledown economics start to come into play, so there are many potential benefits to this Administration and to the people of the Cayman Islands and I would like to take this opportunity to talk about a few of them from a positive standpoint if all goes well with this Bill.

Now, Mr. Speaker, you have heard some other Members speak about having a person here on the work permit but we have not talked about the consumption of goods that all of these individuals have to have, if in fact, we have a large influx of persons who are not from the Cayman Islands. And though we do have unemployment, Mr. Speaker, what is expected or could potentially be the amount of people necessary to fit the requirements of substance, we still, even if we hired every single Caymanian, would never address the needed employment for these. Neither do we have, I believe, based on expertise necessary, enough expertise here on Island; even though it would be a very positive story to have every Caymanian employed.

If this is done correctly, though we have yet to get a true full definition of what that means and it is understandable that as time passes we will get a more refined view of that, but that in itself, is a concern and I will deal with that later on. But the substance in its basic format right now, Mr. Speaker, means that there's going to have to be people in the Cayman Islands living here, working here, consuming here and for us that all know about our economy, work permits, there are fees to that which the Government already derive a lot of money for the core Government in that

respect. And if we are talking about thousands if not tens of thousands of potential persons having to be here to fulfil the commitments of these new Bills, that could be a potential benefit from revenue. Obviously, those persons will have to live somewhere for those Caymanians who have rental apartments to be beneficial to them. From the Customs Department, they will make income because the more people who are here have to consume more foods, goods and services and the like, and small business could benefit. So, the trickle down element is there and there is a good opportunity for this Government to make good of something that could potentially be something really terrible.

Mr. Speaker, that is as far as I can go with the positives for now, because in order to assess the situation properly, I think there needs to be some accurate definitions of expectations. Substance itself is one of them because though the positive trickledown effect of persons coming into your jurisdiction, if we do not plan appropriately for those types of influxes it could also be damaging to our local environment. So, for example, let us just say that in order to meet the requirement of substance, though we do not know the full definition of it yet, means that there is going to be 10,000 people in the Cayman Islands within say the next year or two. What does that mean for the infrastructure of the Cayman Islands? What does that mean for traffic on the roads of the Cayman Islands which is pretty heavy at the moment. I was doing some Christmas shopping the other day and it took me one hour to just get through George Town. What does that say about the schools? Because one would assume that some of these professionals that are here may bring their families and loved ones as well. So, there are a number of negative trickledown effects as well.

One of my concerns that came to mind, Mr. Speaker, is that without true definition of expectation of what this Bill intends to do without the negatives of what is perceived to be happening with the European Union or financial services, how are we supposed to plan properly if we do not know exactly what we are planning for? We do not have a figure to say that this is going to affect 10,000 companies and 10,000 of those are going to need to have one person in the Cayman Islands with an office. Then, we will know what to do. We will know how to make the necessary moves, we know that there could be an expectation; we can make predictions to say well, 20 per cent of them may need to have kids, we need to have private sector initiatives for the building of schools or fix our transport that is becoming such a difficult problem in the Cayman Islands. All of these types of information are necessary to plan properly to take advantage of a potentially good situation, if there is one in this Bill.

The truth is, when I read the Bill, like my good colleague, the Deputy Opposition Leader, he highlighted in section 4 of the Bill, the ambiguity of the

definition of "substance". When you have words like 'it has to have adequate', what does "adequate" mean, Mr. Speaker? What is "adequate substance" when we do not have a full definition established at this moment? Does that mean 10 people, one person? And, Mr. Speaker, without that definition, when we pass this Law, for the rest of the businesses in the community that are going to be affected by this, how are they to plan when they do not know what the definition means themselves?

There are a lot of small businesses, and when I say 'small' I mean, it is not the Maples, the Walkers, and the big finance companies, but there are smaller 'mom and pop' financial service businesses, if I dare say, that may have 10 or 15 employees there but still contribute to our great industry of financial services. They may not have been involved in the discussion because I hear a lot of the big names called but there are a lot of smaller companies that may have a Caymanian Lawyer who decided to branch out on their own that were not involved in the discussion. At least I did not hear those names, and they are sitting on the outside, probably not involved in the discussions; quite like the Opposition, to be honest with you, Mr. Speaker, who may not be comforted yet as to what exactly is going to be expected of them.

I hope that the Minister will explain what those expectations are. And, if we do not know what the expectations are, Mr. Speaker, it makes the matter a little bit more difficult. We have to plan in order to make sure that our environment, economy and budgets are appropriate but if we do not know what to expect, it is hard to do that. Hence the reason I said, it is potentially a good thing, but we cannot even say that.

Mr. Speaker, I was hoping, and I brought this up in the meeting which you heard my good colleague for East End highlight, that we met with the Chief Officer of Financial Services. And one of the things concerning for me is that we are deciding to do this, not necessarily because it is something that we wanted to do by way of this Bill, but because there are pressures from outside entities for us to do it and we do not want to be on the blacklist; fine, understood. But how can we measure whether we should do this or not? And when I say "measure" what do I mean by that, Mr. Speaker? Because if we do not do this, Mr. Speaker, everybody goes on '*the Blacklist*' and we hear about this Blacklist and we know that it is bad and damaging to our financial services but nobody can say how bad, but we know that it is very, very bad.

In order to decide to do something, you have to be able to say how bad one thing is, compared to how bad something else is, because, Mr Speaker, like you have heard from other Members here today, people are worried about what this Bill itself could potentially do to our financial services market. So, is there a measure of how bad the effects of this Bill

could potentially be on the local financial services market compared to what the effects of the blacklisting would be? So, for example, being blacklisted can cost us \$100 million but carrying this Bill may only cost us \$10 million. Where is that measure for people to consume and understand what the Government is trying to do?

Mr. Speaker, in all honesty, the Government may have done the best that they can do in a difficult situation; I genuinely think so, but I am going to have to trust them with that because for one, they did not involve the Opposition, in any capacity, on something that—like my good Member the Deputy Opposition Leader has said—should not be a political football. We should have joined hands together with this for when the negotiations started months ago, because now, we are left with 12 days, eight hours of consumption of this Bill that could potentially be:

1. The death of Financial services; or
2. Potentially, another way where Government got through the poisons of the forest and made it out in the other end, I do not know.

However, you cannot expect the Opposition to come here and say (*clapping hands*), *congratulations Government, this is the best you can do*, when we have 12 days to consume it. I am hoping that throughout all of their discussions over the last 10 months, I believe, that they feel comfortable in their stomach because I am not. As the representative of George Town Central, 12 days for something as major as this is not good enough for me to feel comfortable to say I am going to jump on the bandwagon and say yes. I think it is unfair that the Government even comes here and expects us to do that with 12 days.

To see something as important as this Bill and the potential positives or negatives of this Bill is ludicrous in my mind, to be honest with you. And I think that the Opposition, along with myself as the Independent of the House, have indicated that there are some things that there won't be politics with. Education and Financial Services have been repeated a number of times.

So, Mr. Speaker, ultimately there are some concerns that I have: 1) what the definition of "substance" is. So those small 'mom and pop' financial service businesses can actually know, because I know many of them may not have been exposed like the big boys have. And though the big boys have the substantial share of the market, and they deservingly should be there, and the names that I have heard called are very respectable names in the financial services industry. I know that they have given good contributions to the discussion but what I did not hear, Mr. Speaker, is that they are now in agreement with the final Bill. Those persons that were mentioned, we heard that they have given contribution to back and forth discussions about it, but I did not hear the

Minister say after all of that dialogue, that all of those names are in full support.

Mr. Speaker, you and I can have a discussion about a matter for 10 years that does not mean that when we are though talking about it, that we are in agreement. So, I would like for the Government, in order to make me feel a little more comfortable, particularly because I am not a master of financial services like the Industry Leaders in the Cayman Islands. Those names that are being called are giving the Government their support on what the final outcome of this Bill is because we have heard about so many different drafts of this Bill over the last, I think, if I am correct, March to now is 10 months. So, we have had some time, back and forth, and some good updates to the industry, like the Minister has said, but that would give me a level of more comfort.

Like some of my good colleagues from the Opposition, I have mixed reviews, Mr. Speaker. Some people said, *you know Ken, it is the best that we can do and we are going to have to deal with it because the outcome of being on the Blacklist is worse than what this Bill says*. But that just tells me that there are concerns about the current Bill. So the natural thing is, well how bad is this Bill compared to the Blacklist? That would give the people, particularly me, as the representative of George Town Central, a little more comfort to say, *Yes, the Government is making the right decision on this*. So, at this particular point, the Government is coming to me as a Member to say, *Take 12 days to decide whether you are going to support a Bill that is so important to this country* and expect me to be okay with that. I have my due diligence to do as well. At this particular point, Mr. Speaker, this is going to be right down the middle. This could be the danger and the death of financial services, or it could be something that we could benefit from in the long term. I do not even know.

I think it is an injustice not only to me as the representative, not only to the Opposition Members, but to the democratic scrutiny that is necessary in any democracy, to come 12 days before and expect us to be in full swing. I am actually surprised, Mr. Speaker, of how gentle the Opposition Members have been and that is because of the concept of not wanting to be a hurdle in the way of a genuine concern.

I think what we are missing is that there could have been an opportunity where we could have been here tonight and there would not have been even any debate, because we have a capable Member on the Opposition who has financial services background, who could have been the representative from this side to work with the Government to say that we already had those little issues that we have with the Bill and had our concerns heard and when it got here in its final outcome, it is all done.

So, Mr. Speaker, I honestly cannot say what my vote is going to be at the end. I am hoping to hear some more contributions by the Minister as to some of

the concerns I have highlighted as well as some of the genuine concerns highlighted by the other Members of the Opposition which are good questions. I think I repeated some of the things that some Members have already said. If there are good responses to those concerns, maybe I will give my support. I know that they may not necessarily need it because they have the numbers of the Government side to get these necessary Bills passed, and I do not think anybody really wants to vote against it because we do not want to be on the Blacklist.

Information is the key to any decision, and it seems that yet again, there are missing opportunities for information. By all means, I am not suggesting that the Government is hiding anything, but they have had the luxury of digesting and playing out in their minds, what the outcomes could be and be comfortable; like the saying goes, Mr. Speaker—"go home and sleep on it." I have not had enough nights to sleep on it yet, and they have had 10 months. So, Mr. Speaker, I hope the Minister can address those things.

I did not intend to be long but one last thing before I wrap up: without the definition of what "substance" is, how long are the businesses in the community going to be given before they meet the requirement? Let us say that we pass the Bill tonight and tomorrow or the end of the year this comes into Law on January 1st. I am just trying to rationalise, Mr. Speaker, as to how does a business that deals with financial services, those types of companies, that will say, *Alright, I want to be in compliance with the Law*, when there is no definition of what "substance" means? Is there a grace period until we define what substance is that is going to be given to the businesses out there that they can say, *Okay, it does not have to come into effect until a year later*. What is the story, because it seems to be unclear about what that is?

Mr. Speaker, I hope the Government does not take my contribution to be a negative one because I personally think that once these issues have been addressed, that we can pass this hurdle and actually start to think about the benefits which I spoke about in the first part of my contribution. But I dare say, Mr. Speaker, they need to get a good and strong measuring tool, particularly from an economic standpoint to make some good decisions. If in reality, like what some of the Members on the Government side themselves have said, the potential impact of people coming to this country, 10,000 people, and that is a smaller figure in comparison to if each one of these companies have to have an individual on the ground in the Cayman Islands.

I just spoke to my colleague and he was talking about Switzerland, where their criteria to meet substance was \$100,000 investment?

Mr. Christopher S. Saunders: Netherlands.

Mr. Kenneth V. Bryan: In Netherlands. How much was it?

Mr. Christopher S. Saunders: One hundred thousand.

Mr. Kenneth V. Bryan: [It was] €100,000 investment in order for them to meet the requirement of substance—

[Inaudible interjections]

Mr. Kenneth V. Bryan: — and so, there is obviously different definitions of what substance can be and until we know what it is, only then can we plan for it appropriately. If this could potentially be a positive thing, I would like to assist the Government in the proper planning of that. I know the Minister for Transport, the Honourable Joseph Hew, would hate to have more traffic on the roads; and I know the Minister of Education, the Honourable Julianna O'Connor-Connolly, would know the schools are filled. I know the Minister of economics would definitely want to be able to have enough staff to be deal with this influx. So, it is about preparing for any actions and in order for us to make those predictions we need to know those numbers.

Mr. Speaker, hopefully my contribution would not be seen as negative but constructive criticism, and I hope that I can support the Bill after the conclusion of the contributions by the Minister or any other Member of the Government.

Thank you, Mr. Speaker; that is the end of my contribution.

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

The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I have to describe the collective contributions of the Opposition and the indecisive Member on the Opposition bench who is neither Opposition nor Government, as being wholly unhelpful to the debate on this matter.

The Deputy Leader of the Opposition, in particular, has become an expert, an absolute expert, in talking out of both sides of his mouth, and on the one hand saying he is supportive, he is sympathetic to the dilemma and challenges the Government faces, while at the same time offering every possible criticism he can conceive of, with respect to the Bill. Quite frankly, Mr. Speaker, on matters like this, you cannot have it both ways. Similarly, Mr. Speaker, that goes for the Member of George Town Central, in what is his trademark indecisive manner. I mean, it just goes to the very core of his being here, he cannot decide whether he is Government or Opposition and

he approaches everything he deals with in this House in the same indecisive manner. He is going to wait around he says—

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin:—he is going to wait around Mr. Speaker, he says, until he is able to divine, somehow, which side of the argument he supports.

Mr. Speaker, we are here on the 17th December, not because any of us on the Government side wants to be here. We have done everything we possibly could to get to this point. We just spent an hour plus for a final consultation before we pass these Bills with industry representatives; working out what a committee stage amendment is going to look like. There are thousands upon thousands of man and woman hours that have gone into this exercise. Do you see those people sitting over there from the Ministry of Financial Services and its related departments, and from Legal? You know how much angst, effort, stress, how many hours away from their families they have put in week after week, weekend after weekend to get here and to hear their work being dismissed in the way that, in particular, the Member for George Town Central has, as though nobody cared about any of this and all that matters is that he has only had 12 days to look at this. He has little idea about any of these issues and even with the best will in the world, his contribution to this debate would not be terribly significant. But the efforts of those in the Ministry, in the industry, in the Legal Department, I cannot even begin to tell you the value that we need to ascribe to that, and how grateful and thankful we should be as a country and as a government and as representatives, that we have that quality of expertise available to us.

Mr. Speaker, when I hear how some of these things that trivialise in this House by new Members in particular, I shudder at the prospect that they were actually in a position where they could make decisions which would affect the outcome of Bills like this. What are they saying we should do, Mr. Speaker? Fold our arms because we cannot make up our minds as the Member for George Town Central seems to be suggesting and the Deputy Leader of the Opposition likewise? Because we cannot be sure what the economic impact of this is going to be, we should fold our arms, sit on our posteriors and wait and see?

Mr. Speaker, the Financial Services industry only employs 15 per cent of our workforce but it contributes 55 per cent to our GDP. So, Mr. Speaker, we know—we are not guessing, we are not speculating—that if we do not do certain things as are set out in these Bills (three of them) we will be blacklisted by the European Union. No ifs, ands, buts, maybes; we will be! We are not the only jurisdiction this situation. As the Minister explained when she

spoke, all of the 2.2 jurisdictions, she named, are having to deal with these issues and all of us are at one stage or another in getting the legislation through because D-day is the 31st of December 2018. What is not in effect by then will not be taken into account as the European Commission goes through the exercise of determining, the Code of Conduct group in particular, what jurisdictions they will recommend to be blacklisted and what is not. That is where we are.

Mr. Speaker, there are some who have said, and some will say, *Well, we can just dismiss the EU blacklisting because they only account for 8 per cent of the business that we have in Cayman when it comes to financial services.* I wish that that were all there was to it because I can tell you it will make our lives a lot easier.

There are other factors, Mr. Speaker: one is that this requirement of substantial presence or economic substance has now been endorsed by the FHTP (Forum on Harmful Tax Practices) which is an agency of the OECD, and has therefore elevated this economic substance test or criteria to a global standard. Because, unlike the EU which is 27 nations, the OECD is 122 and it includes the United States of America. Now, there are legitimate arguments and concerns about equitably this principle will be applied across all of the member states of the OECD. Someone raised that, and they are absolutely right. Those are concerns that we all have but this is now a global standard.

If after this exercise is completed, all of our competitors are on a whitelist and the Cayman Islands is on a blacklist, I want anyone to ask themselves what that is likely to mean for Cayman's reputation as currently the 6th most important financial services jurisdiction in the world. What impact that is going to have on our businesses here. Which investor is going to say, *Well, I am happy and I am comfortable operating my businesses in a blacklisted country?* Because you see Mr. Speaker, the FHTP is also going through an evaluation exercise and while their blacklist will not be published in February or March, as the EU's intends to do, certainly within the course of the year, they will have produced a report. All of these things have been coordinated; no question about it.

We also have challenges involving the CFATF [Caribbean Financial Action Task Force] and the FATF [Financial Action Task Force] and their assessment of our anti-money laundering and counter finance terrorism regime, and, Mr. Speaker, indications are that we are not going to get a terribly good report. So, the combination of all of these things, Mr. Speaker, if we wind up on an EU blacklist along with all the other challenges we have, it will be a huge and potentially disastrous result for this country.

Mr. Speaker, I cannot tell you how heavily this weighs on all of us. The Minister has made three trips to Brussels; I have been on one with her. She and I get on the plane as soon as the New Year is in and

we are gone again; London, Brussels, Belgium, Paris, New York—do you think it is because we like global trotting? One day in each City and we are gone again. It is because we understand how critically important this is. It is not just about meeting the technical standards, which is what this Bill is about; it is about dealing with the politics that are involved. There are many, I am afraid, particularly, in some of the EU member states, who absolutely hate this little place. So, we have to do what you have to in any of these situations, whether it is local or somewhere else, to lobby others to support the Cayman position; and that means sitting down and eyeballing the right people across the table and explaining and advocating on behalf of the country.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: It has. It has. It has.

Mr. Speaker, the Deputy Leader of the Opposition said sarcastically: “That has worked so well for us so far.” It has, Mr. Speaker.

Mr. Alva H. Suckoo Jr.: Mr. Speaker, you heard me say me that?

The Premier, Hon. Alden McLaughlin: Why is it—

[Inaudible interjection]

The Speaker: [INAUDIBLE]

The Premier, Hon. Alden McLaughlin: —I am certain you did not hear it, Mr. Speaker, which is why I repeated it so you would.

[Laughter]

Mr. V. Arden McLean: Got to be careful of him.

[Laughter]

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I have said this many times before but I will say it again: 20 years ago I was President of the Caymanian Bar Association and it was the initial initiatives by the OECD that were occupying the minds of the financial services industry and the Government and the legal profession and the accounting profession at the time. I got involved in those discussions as the representative of the Bar Association and that is what propelled me into politics, long before I had any intention of doing so. For Cayman, in those days, many of the nay-sayers and dooms-day-ers were predicting the end of Cayman’s financial services industry.

Notwithstanding all of the threats and challenges and the need to change systems,

legislation and regulations and all of those things, we have gone from strength, to strength and that has not happened by chance. And so, for the Deputy Leader of the Opposition to believe that advocacy—and not just by me, but in the grand scheme of things, I just came—by many, and not just politicians . . . In fact, some of our most effective advocates are those sitting over there; the technical folk who are in the mix on a regular basis. A man like Duncan Nichol hardly spends a week in Cayman. Mr. Speaker, we know as a Government that engagement is absolutely critical to our survival and we do it. And we do it at great sacrifice to families and to ourselves, because it is our job.

Mr. Speaker, Charles Darwin said: “**It is not the strongest species that survive, nor the most intelligent, but the ones most responsive to change.**” We have understood that in Cayman and that is why when many others have faltered, we go from strength to strength, meeting every challenge, stressing along the way, stumbling from time to time, faltering on occasion but always coming out stronger at the end of the day, and that is where we are going to end up with his as well, - Mr. Speaker.

We are going to meet these challenges we are going to put in place the systems that are now to become the global norm and we will continue to beat them at their game; not by hiding or trying to say that we should be judged by a different standard, but doing what we do better than the rest of them can. That is what separates and distinguishes Cayman from many of the other jurisdictions. That is why, notwithstanding these new tests and requirements, we have confidence that Cayman is not only going to survive but it is going to continue to thrive.

Mr. Speaker, some of the Members on the other side have alluded to the possibility, perhaps even likelihood that this may well result in increased population. Mr. Speaker, if that is the result, which is what we predict too; that is an incredibly good thing. Of course, it will come with challenges, but think of the converse. For if that prediction is wrong, and what we do have instead is a flight of business, those two Members that I have been speaking about, who are the principal ones in this House that constantly talk about employment or unemployment opportunities for local people . . . If the converse is true and there is a flight of business, then we truly have, not the imaginary unemployment issues that the Member for George Town Central is banging on about on the radio these past weeks —

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: I do not know which country has no unemployment, but we are at a level now where the economist would refer to it as ‘structural unemployment’. No matter what you ever

do, there will always be a certain percentage of your labour force that is not employed.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: No matter what you do. But the imaginary unemployment and the huge thousands of people unemployed that he refers to, that will become a true reality.

Mr. Speaker, that is why, even though it inconveniences the Member for George Town Central this close to Christmas to be in the House doing the country's business, that is why, Mr. Speaker—

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: —we are here—

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: —we are here at 8:25 this evening. Because we are determined to do everything we possibly can to ensure not just the preservation of our financial services industry, but to build an even stronger foundation for its continued growth and its availability to this generation, the Member for George Town Central's generation and his children's generation to be able to benefit from. That is why we are here. I am sorry for the inconvenience to the Member but that is why we have been elected, Mr. Speaker.

I want to provide a few assurances about why this has been necessary from the EU's and the Forum on Harmful Tax Practices perspective. "The International concern is that harmful tax regimes—and this is a long time ago, this is 1998—affect the location of financial and other service activities, erode the tax basis of other countries, distort trade and investment patterns and undermine the fairness, neutrality and broad social acceptance of tax systems." [UNVERIFIED QUOTE] That, Mr. Speaker, was the OECD's 1998 report. Ever since then, we have, not just us, but this has been the thrust of their effort. It gets more difficult all the time, and jurisdictions like the Cayman Islands, we are one of very few in the world that have no form of direct taxation, no corporate tax. They struggle to understand how we can legitimately operate a country without direct taxation.

Mr. Speaker, introducing an economic substance requirement in Cayman should not affect companies that are here for legitimate commercial reasons. It should also not affect companies that are here for tax reasons as long as the income they earn elsewhere is subject to appropriate taxation in the relevant jurisdictions.

The International standards are clear and based on legitimate principles. Knowingly, leaving

loopholes in our legislative framework will facilitate companies that are attempting to circumvent their tax obligations elsewhere and that, Mr. Speaker, is what I will incur the wrath of the International agencies; not just those in the EU but more broadly.

As an international standard, all jurisdictions, including Cayman's competitors will have to comply with the substance rules. Differences in the legislation for substance that are being introduced by some of the other 2.2 jurisdictions should not result in arbitrage. In other words, the movement or migration of business away from Cayman to those jurisdictions, as everybody is going to be judged and assessed by the same standard.

It is also clear from our engagement with the Forum on Harmful Tax Practices and the Code of Conduct Group of the European Commission, that their advice to all of the 2.2 jurisdictions has been consistent.

Mr. Speaker, a consistent complaint by industry and it was repeated by the Member for George Town Central and I think by the Deputy Leader of the Opposition as well, that they cannot advise their clients as to how to meet the substance requirements. I think the Member for George Town Central also went on to say that there should be some definition of 'substance'. Now, Mr. Speaker, we believe that that is a red herring because not all businesses are the same. Not all businesses will require the same level of employees or the same level of accommodations and other things which provide the necessary substance. So, each case will have to be assessed on its own merit, bearing in mind what the nature of the business is and what the scale of the business actually is. A more subjective principle-based assessment will provide the necessary flexibility to different business models in each of the relevant activities.

The economic impact of introducing substance requirement in Cayman cannot be determined at this stage because there is simply no data on the majority of business being conducted in Cayman on which to base an assessment. Rough estimate suggests that up to 20,000 entities may be affected by the requirement for economic substance, but companies that are legitimately in Cayman for sound reasons should not have a concern. Companies that are here in an attempt to circumvent tax obligations elsewhere will have a choice; they can go back to onshore jurisdictions with direct taxation or they can increase their level of substance in Cayman.

Mr. Speaker, some of the industry arguments that bring in comparison to Ireland and Luxemburg are not presenting apples to apples comparisons. Those jurisdictions, while having relatively low tax rates have a variety of other tax and regulatory obligations that should be considered. Arguments that point to the United States as an example of non-compliance, we believe are dangerous ones to follow. The US is

subject to the same standards and even though individual states may have adopted positions contrary to those standards, international pressure is continuing to build and all of the indications and advices are that sooner, rather than later, even the big and powerful United States will not be allowed to operate as an outlier to international standards without serious reputational damage and may well be perceived in the end as a Pariah Nation.

Mr. Speaker, we do not have the luxury that places like the United States have of being big, mighty and powerful in this world. We are a nation state of three Islands comprising 100 square miles and 65,000 souls or thereabouts. Close to 50 per cent of that; certainly 40 to 45 per cent of that number, are people who are not of this place. A lot of them are on work permits. So, Mr. Speaker, we have to bear in mind that while we have, for decades, punched well above our weight on the international stage, particularly as it relates to the financial services, there are still limits as to the level of arrogance that we can demonstrate.

In any event, as I have said many times over the course of the last five and a half years, when it comes to these sorts of issues, if the global standard is, "A", then the Cayman Islands will be among the first to comply with "A". Our concern always is, when we are forced or pressured to do things which other competitor jurisdictions are not required to do and that allows for regulatory arbitrage and increases the risk of the migration of our business to those jurisdictions which have lesser requirements or lower standards. We are satisfied that as challenging as this (I cannot even say has been) is, because the battle will continue well beyond the passage of this Bill tonight, to ensure that we do not wind up on a blacklist; that despite all of those challenges that we will end up as Cayman has always ended up, in a good place and continues to be a jurisdiction that legitimate good business wants to be domiciled in.

Mr. Speaker, I lived in the Opposition for at least half of my political career and I have no interest in going back there, but believe you me, Mr. Speaker, I know full well the role of the Opposition. I think probably the worst anyone can say about you is that you were a good Opposition Member. I have been described as such in the past. But, Mr. Speaker, when in the Opposition, by definition, it means that you are not in the Government, and I think that some of the newer Members of the House—certainly not the Leader of the Opposition and certainly not the Member for East End or the Member for Savannah—believe that you can be in the Opposition and still participate in the Government decision making process. Mr. Speaker, perhaps that is naivety, perhaps it is a bit of idealism thrown in, and I am not seeking to make fun of that, I am just saying that really is not the political reality.

Believe you, me, Mr. Speaker, if this Bill had been read ready one day before it was, the Members

of the Opposition would have had it. We have been through so many iterations of this that I've lost count.

Mr. Speaker, the Member for George Town Central and I think also the Deputy Leader of the Opposition—

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: —spoke about uncertainty with clients. Well, Mr. Speaker, you want uncertainty? You give clients information, then change it the next day, then change it the next week, and then change it the next week, which is where we have been over the course of all of these months. As I said, Mr. Speaker, as recently as an hour ago, we were with the industry core group that has been helping us with this; ironing out what I hope is the last committee stage amendment. This is not because of a lack of effort on our part; this is because with the FHTP and the Code of Conduct Group, the thought process is constantly evolving. We get one set of things today and in three or four days when the legislation is drafted to suit that, there is another wrinkle that needs to be adjusted as a result. I say this with a sense of great disappointment and some concern. Those of you who have been paying attention to the media would have seen in the Bermuda's Gazette today what has transpired with respect to the Bermudan legislation. In short, the EU has rejected their legislation and so they now have to start over again, on the 17th December. I am trying to find it, Mr. Speaker, so that with your permission, I can quickly read it.

[Pause]

The Premier, Hon. Alden McLaughlin: Mr. Speaker, the article is from the Royal Gazette and it is entitled **"EU wants tougher substance rules"**. I am not going to read the whole thing, Mr. Speaker. It is dated December 17, so it is today, issued at eight o'clock. **"Bermuda's first attempt at legislation to address 'economic substance' concerns was given the thumbs-down by European Union officials, The Royal Gazette understands.**

"Three sources have claimed that the European Code of Conduct Group said last week it was not satisfied with the Economic Substance Act 2018 tabled in the House of Assembly on December 7."

Mr. Speaker, we are aiming to avoid that kind of a result which is why we have taken as long as we have and which is why we have consulted so broadly; not just locally, but in constant dialogue with the officials at the COCG and in the FHTP. There are no guarantees that we have gotten it right but we believe we are as good as we possibly can be at this stage. As I said, there is still a political component to this exercise; it is not simply one of ticking the relevant

boxes off and ensuring that we have met that criteria. Were that the case, I would have a lot more pleasant Christmas than I expect to have, for I would have one less thing to worry about.

Mr. Speaker, I hope that I have gone some way to explain not the technical matters with respect to the Bill as I leave that to the Minister, but the broad context in which we are operating and some of the challenges that we are operating.

Mr. Speaker, I finish with one final word of advice to both my good friends on the other side, the Deputy Leader of the Opposition and the Member for George Town Central, is that in my experience in the Opposition, I have learned that when you ride a fence too long, you wind up getting chafed.

Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak?

The Honourable Leader of the Opposition.

Hon. D. Ezzard Miller, Leader of the Opposition:

Mr. Speaker, I rise to ask a few questions, not to engage the Premier into any jabs into thin air because we do not have time for that at this hour of the night, but I would like some assurances from the Minister in her response in relation to clause 6 of the Bill where it says that: “. . . **except that such a determination shall not be made later than six years after the end of such financial year.**” That does not mean that this is going to allow us to go back five years from the date that this Bill is formed? I understand that it is six years so we need to make that clear, I think.

Also, in clause 7, I wonder why we have not adopted the tried and true filing timetable that has been in the Companies Law for so many years where the reports have to be filed. They have to file their returns within 90 days or after that there is a penalty, and if you do not file it within a period of time then there are more severe consequences for this. Because it is left up here to say that: “. . . **shall be made at the time specified by the Authority and in the form and the manner approved by the Authority.**”

The other question I would have, Mr. Speaker, is, with all of this filing and all of the administrative staff that we have to put in place, I do not see any place in the legislation where the Government can charge some sort of a filing fee to offset the cost of this service that the Government will be providing to the financial industry. I do not think that we should expect that all the cost of this is coming out of existing revenue streams.

The other question I would have is in [clause] 11 I want to be assured that whistle-blowers are protected. And the regulations, I would ask the Government to consider making these regulations subject to at least a negative resolution in parliament, if not an affirmative resolution because I think it would

give the industry some comfort that regulations will not be changed willy-nilly by an incoming Government. So, I would think that even a negative resolution, I believe, would give some surety to the industry that things are not going to be changed.

Those are my only comments, Mr. Speaker. Thank you very much.

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

Is the Minister ready to wind-up?

Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

I will do my best to wind up and hopefully be able to answer some of the last minute specific questions asked by the Member of the Opposition in terms of getting the information to hand, in time to be able to speak to that. Mr. Speaker, I may need to crave your indulgence for one moment that I can confer with my team to get the information to hand to be able to deal with that.

[Inaudible interjection]

Hon. Tara A. Rivers: But I will begin to speak and give them a chance to deal with those particular issues related to clause 6, 7 and 11, I think were the issues raised.

Mr. Speaker, I want to start by saying . . . well, as the Member for Bodden Town West spoke, and recognising, as he did, the role that I play, and the seat that I sit in when I am at the negotiating table interfacing with the EU. I am not sure that I should actually thank the honourable Member for his contribution —

Mr. Christopher S. Saunders: No, don't, because you will get in trouble.

Hon. Tara A. Rivers: —but I will certainly acknowledge the fact that he made his contribution [INAUDIBLE].

[Short pause]

Hon. Tara A. Rivers: Mr. Speaker, I really think the vast number of issues, even some of the questions and concerns that I needed to respond to, the Honourable Premier has very aptly dealt with those comments, remarks, concerns expressed and so, I will not attempt to respond, rehash or regurgitate those remarks or responses. But certainly, Mr. Speaker, on the point of the legislation to which, I think, was the Member for Newlands that either made the assertion or asked the question about whether this was some cookie cutter piece of legislation that was essentially distributed to the Cayman Islands and other jurisdictions because of the similarities.

[Inaudible interjection]

Hon. Tara A. Rivers: He is clarifying that it is on behalf of a constituent. Well, let me explain to him and his constituent that this is certainly not on the sense of the development of this Bill that I have outlined painstakingly in my contribution initially. And certainly the Premier, again, has reiterated the process that we followed. The constituent or the person that I guess did the analysis to look across the different pieces of legislation and noticed the, I think what he used as 'glaring similarities', is correct in the sense that all of the legislation that is being developed by the various 2.2 jurisdictions is based on the international standards that are articulated by the FHTP. So, there are some kind of prescribed activities, hence our relevant activities would mirror what those are, like all other jurisdictions would.

The commonalities that are seen in the Bill are as a result of the information contained by the FHTP in their various guidance documents. The document just published in November of this year specifically and expressly deals with the resumption of the application of substantial activities factor to no or nominal tax jurisdictions information. Again, as painstakingly discussed in my opening, this gives guidance and the framework for what the OECDs inclusive framework of BEPS action 5 in relation to the no or nominal tax jurisdictions which is also mirrored in the vast majority of the legislation that is being developed across the various jurisdictions as well.

I also spoke about the fact that the EU produced a scoping paper in June. Again, a lot of what you will see across the various jurisdictions is to try to address the concerns or issues and factors expressed in that paper as it relates to the 2.2. Jurisdictions. In fact, I believe a question was put by the team about there being some sort of model legislation that can be followed so we can make sure that we try to hit all of the points as necessary that would be in this kind of standard prescribed form and the answer was 'No'.

So again, Mr. Speaker, this is the reason why we have had to work very assiduously in building a framework that we hope, based on the feedback received from the OECD and EU, that is compliant with the global standard as it relates to this action or concern of the Forum and Harmful Tax Practices; but at the same time, working very closely with industry to ensure that the concerns and consideration of our domestic and our industry is taken into consideration and built in, in the way best possible for us.

Mr. Speaker, speaking to the issue of economic substance, and I think the Premier has touched on that very ably. Again, I will not rehash that. But just to say that unlike some of the other jurisdictions that I think the Member for George Town Central referred to in terms of the kind of bright line test you must have 'X' amount of dollars invested, 'Y'

amount of people boots on ground, Cayman and some of the other jurisdictions are looking to adopt a principle-based approach. That is, the determination will be made related to the needs and what is considered adequate by those particular business lines, industries, sectors et cetera. That is why we are and have been working so closely with industry in developing our legislative framework.

Mr. Speaker, I will ask for a moment to confer on the other points that the Leader of the Opposition raised, but I think between the Premier and I, we have addressed those issues. So, Mr. Speaker, if you would give me a moment to confer and I will reconvene in just a minute.

[Pause]

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

On the point of clause 6, the assessment of up to six years cannot look back in the assessment. It will be a look forward. So, I hope the Member has comfort in that regard.

Clause 7 dealing with the filing of timelines, this will be dealt with by regulations.

Clause 11 deals with the assurance of confidentiality of data and the point about the regulations is certainly something that I will look to discuss with the Premier in particular on that point.

We also will look to the Member for Newlands in his request about the regulations related to the ability to make an offence is something we will also consider when we get to committee stage.

Mr. Speaker, I want to make it clear: we believe that based on our interaction with the industry during this process and the input received, that there is indeed economic substance and substantial activities taking place in our jurisdiction already. There is no question about it, Mr. Speaker. We can just look around to see the number of bodies here, the buildings, and the office space, so, there are no Shell Companies and no numbered accounts existing in the Cayman Islands. So, this notion that some is trying to portray that the sky is going to fall down around us or we are going to have this immediate influx of people on day one, is not something based on the discussions with industry and the temperature that we understand to be the case in this regard.

We are working closely with the industry in developing this Bill. We are confident that the work we do here will be relatively—and I use that term loosely because we do not know, nobody has a crystal ball — and that is the definition of change and not being able to determine. There may be some industries that may be impacted but the vast majority of the work in the various business lines and the entities that would be impacted, again, not all entities in Cayman are affected by this Bill. But the assessment that we have done is that there may be some changes to some of the businesses going forward but the vast majority of

the work that is done, this particular legislation would not necessarily be of a negative impact. As the Premier outlined, for those businesses that would be particularly affected, they, of course, would have a choice to increase their presence here or do otherwise.

Mr. Speaker, as we have discussed, Cayman is certainly not alone in having to introduce these legislative changes. Our key competitors, in many respects, are already assessed as part of the OECD's Foreign and Harmful Tax Practices framework or will now be so as a result of the November 2018 resumption paper published by the OECD, indicating that no nominal tax jurisdictions like Cayman are now in scope for OECD's FHTP review process going forward.

I know we recently saw an indication, and I do not have it to hand to read it, but we see that Barbados has come out making a statement about the changes that they anticipate to make within their own tax system as well. All of this is being driven by the same international initiatives that affect all of the financial centres and the key players in international finance.

Mr. Speaker, again, as the Premier has indicated, as it relates specifically to the EU listing process, the ultimate determination of the countries, of whether or not countries should be added or removed from the blacklist is a political one. So, the work continues.

Again, as history has shown us, these assessments, these initiatives will likely not stop here. That is the reality. That is the reality of the world that we live in; that is the reality of the industry that we are a dominant player in, and that is the reality that we have to continue to understand and accept will be the reality as long as we are involved and continue to be, and that is certainly our hope, determination and commitment to be.

We will likely need to continue to engage with the EU, the OECD and all other assessors of our jurisdiction for years to come. Mr. Speaker they started way before me in terms of my career in politics. Some of us, as we heard, cut our teeth as a result of these issues and some of us will cut our teeth in future as a result of these issues. But, Mr. Speaker that is the price we pay for being not just an international financial centre but a leading international financial centre, Mr. Speaker. And to borrow an expression that is often said by my good friend from the East, in many respects, we will always have a target on our backs. The reality is that we will always have to demonstrate in some respects, hyper compliance, in hopes of being seeing as compliant.

Some would argue that we appear to now be held to an even higher standard than our contemporaries and even our assessors. Some may argue that this is not fair; some may argue that this is unreasonable, and Mr. Speaker, it may very well be all

of that, but it does not change the fact that to remain competitive, to remain leaders in the world of international finance, we must continue to engage and to work to achieve compliance with the various international initiatives impacting the Cayman Islands.

So as we have done this year, we must make a good faith attempt and continue to make good faith attempts and to take best efforts to fulfil our commitments to develop and adopt legislation which not only embodies global standards but also seeks to ensure that the Cayman Islands continues to be a dominant and successful financial centre.

So, Mr. Speaker, In the face of what some people may see as adversity for the jurisdiction, I am reminded of the famous and poignant poem by Dr. Maya Angelou entitled "Still I rise". So, Mr. Speaker, if you would permit me to end my contribution with reading this poem as I believe it so very aptly embodies the Caymanian spirit, it embodies our financial services industry's resilience and ingenuity, and it embodies the Government's commitment to protecting and promoting the jurisdiction and the welfare of our people at all cost.

The Speaker: And it is a favourite of mine.

Hon. Tara A. Rivers: Mr. Speaker: "Still I rise"—

**"You may write me down in history
With your bitter, twisted lies,
You may trod me in the very dirt
But still, like dust, I'll rise.**

**Does my sassiness upset you?
Why are you beset with gloom?
'Cause I walk like I've got oil wells
Pumping in my living room.**

**Just like moons and like suns,
With the certainty of tides,
Just like hopes springing high,
Still I'll rise.**

**Did you want to see me broken?
Bowed head and lowered eyes?
Shoulders falling down like teardrops,
Weakened by my soulful cries?**

**Does my haughtiness offend you?
Don't you take it awful hard
'Cause I laugh like I've got gold mines
Diggin' in my own backyard.**

**You may shoot me with your words,
You may cut me with your eyes,
You may kill me with your hatefulness,
But still, like air, I'll rise.**

Does my sexiness upset you?

**Does it come as a surprise
That I dance like I've got diamonds
At the meeting of my thighs?**

**Out of the huts of history's shame
I rise
Up from a past that's rooted in pain
I rise**

**I'm a black ocean, leaping and wide,
Welling and swelling I bear in the tide.**

**Leaving behind nights of terror and fear
I rise**

**Into a daybreak that's wondrously clear
I rise**

**Bringing the gifts that my ancestors gave,
I am the dream and the hope of the slave.
I rise
I rise
I rise.**

Mr. Speaker, like Dr. Angelou, no matter what is thrown at us, no matter what comes our way, no matter what obstacle or opportunity, the Cayman Islands will rise. We have weathered the storms for decades. As a people and as a country, we are strong, confident and resilient. As our history has shown us, I firmly believe our future is bright.

Thank you, Mr. Speaker.

[Pause]

The Speaker: The question is that a Bill entitled The International Tax Co-operation (Economic Substance) Bill, 2018, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, may I have a division please?

The Speaker: Clerk, divide please.

The Clerk:

Division No. 21

AYES: 10

Hon. Alden McLaughlin
Hon. Moses I. Kirkconnell
Hon. Julianna O'Connor-Connolly
Hon. Roy M. McTaggart
Hon. Joseph X. Hew
Hon. Tara A. Rivers
Capt. A. Eugene Ebanks

NOES: 0

Ms. Barbara E. Connolly
Mr. David C. Wight
Mr. Austin O. Harris, Jr.

Abstentions: 2

Hon. Bernie A. Bush
Hon. D. Ezzard Miller

Absentees: 6

Hon. Dwayne S. Seymour
Mr. Alva H. Suckoo, Jr.
Mr. Kenneth V. Bryan
Mr. Christopher S. Saunders
Mr. Anthony S. Eden
Mr. V. Arden McLean

The Speaker: There was only one Member on the Opposition Side present and that was the Leader of the Opposition. The other Members' votes do not count.

[Pause]

The Speaker: The result of the Division: 10 Ayes, 2 Abstentions, and 6 Absentees.

The Bill has been passed.

Agreed by majority: The International Tax Co-operation (Economic Substance) Bill, 2018, given a second reading.

SECOND READING

COMPANIES (AMENDMENT) (NO.2) BILL, 2018

The Clerk: The Companies (Amendment) (No. 2) Bill, 2018.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers, Minister of Financial Services and Home Affairs: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the Second reading of a Bill entitled The Companies (Amendment) (No.2) Bill, 2018.

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

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I rise to present the Bill on behalf of the Government. It is a Bill that seeks to amend The Companies Law (2018 Revision) in order to satisfy the Cayman Islands Government commitments to the EU's Code of Conduct Group in connection with the European Union's list of non-cooperative jurisdictions for tax purposes and to

address recommendations from the OECD's global forum on transparency and exchange of information for tax purposes.

Before I speak to the Amendment Bill, I want to underscore the extensive consultation that the Ministry of Financial Services along with the Ministry of Commerce undertook in order to develop this Amendment Bill. The consultation process was outlined as I discussed earlier in relation to the presentation of the Economic Substance Bill, so I will not repeat those details.

As the Memorandum of Objects and Reasons (MOU) of the Bill states, the Bill seeks to make miscellaneous changes to the provisions relating to accounting records and exempted companies. Essentially, the Bill requires a company not regulated by the Cayman Islands Monetary Authority which keeps its books of account outside the Islands to provide its registered office at least annually or as often as directed, information regarding its books of account. But in this case, it is important to note that the impact on local companies (which already typically keep their books of account in the Islands) should be minimal.

The Bill, as I said, requires a company that does not already file its accounts with CIMA which keeps its books of account outside the Islands must provide its registered office with this information.

Mr. Speaker, Members of the honourable House may recall that in a statement I made in August of last year regarding Cayman's largely compliant rating issued by the Global Forum in its 2017 exchange of information on request peer review report, I noted that the Global Forum's practice of issuing recommendations to assess countries regardless of their ratings (in that case we were rated as largely compliant, as I said), did make some recommendations in order to further support compliance with international standards. So, for Cayman, the global forum made three recommendations, and one of which was to ensure that a system of monitoring of compliance with accounting record keeping requirements is in place and that Cayman ensures its monitoring and enforcement powers are sufficiently exercised and practiced to support the legal requirements which ensures the availability of accounting information in all cases. So, the proposed requirement in the Bill to provide information regarding books of account addresses this recommendation.

In addition, as discussed during my presentation of the economic substance Bill, to eliminate the EU's concern about allowing the incorporation of companies that are not allowed to operate in our local economy which is sometimes referred to as ring-fencing, The Government has committed to revising Cayman's exempted companies regime to allow these entities to operate in the local

economy, only if local participation requirements are met.

So, Mr. Speaker, the Bill before us now allows for exempted companies that have applied for and that have been granted approval (because there is still a process that needs to be followed) to carry on business in the Islands as defined in the Local Companies Control Law (LCCL) and to conduct business on the Island. As you will see, Mr. Speaker, there is an accompanying piece of legislation which my colleague, the Minister of Commerce will be addressing after this one. As such, there are no advantages for exempt companies over ordinary companies, should exempted companies choose and when they are authorised to conduct business in the Island and so, the effect is that there would be a no better of a position than our local businesses in this regard.

Speaking briefly to the actual Bill itself, the clauses of the Bill is arranged in nine clauses.

Clause 1 provides for the short title and commencement of the legislation.

Clause 2 Amends section 2 of the principal Law to provide for a term 'carry on business in the Islands' to be construed in accordance with the Local Companies Control Law.

Clause 3 deals with the amendments to section 44 of the principal Law to allow for the inspection of the register of members of an exempted company that holds the licence to carry on business in the Islands under any applicable law.

Clause 4 of the Bill amends section 59 of the principal Law to require a company that keeps its books of account outside of the Islands in the form and manner prescribed to provide its registered office annually, or with such other frequency and within such time as may be prescribed, information regarding its books of account; and to provide that the requirement to file information regarding the accounts of a company under paragraph (a) does not apply to a company that complies with the requirement under any other regulatory law to file information regarding its accounts to the Cayman Islands Monetary Authority.

Again, as I said, the impact on local business to this change would be minimal, given that the local businesses would typically keep their books of account on the Island.

Clauses 5, 6, and 7 amend sections 163, 165 and 168 of the principal Law respectively as a consequence of section 174 amendments to the principal Law by clause 7. Amendments add a reference to a licence to carry on business in the Islands which section 174 refers in each of those sections of the principal Law, and it is anticipated that we will have a committee stage amendment dealing with this clause as well.

Clause 8 of the Bill repeals and substitutes section 174 of the principal Law, to permit an

exempted limited company to have a trade or business in the Islands. Again, there is a committee stage amendment with respect to this clause which we will discuss at a later time.

Clause 9 of the Bill amends section 239 of the principal Law to delete section 2 of that section which is now considered to be an obsolete provision.

Mr. Speaker, in closing, I want to once again thank the staff of the Ministry of Financial Services, the Ministry of Commerce, the financial services industry and the commerce stakeholders as well as the legislative drafting team of the Government and all others who assisted in the development of this Bill as part of Cayman's legislative package.

This concludes my presentation on the proposed Bill and I therefore commend the Companies (Amendment) (No.2) Bill, 2018 to this honourable House for passage.

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

The Honourable Leader of the Opposition.

Hon. D. Ezzard Miller: Thank you, Mr. Speaker. Again, just to raise a few questions:

In Clause 4 of the Bill where it talks about information regarding its books of account, was that meant to be audited accounts or does this mean that they can do a summary of their foreign accounts and where is the standard for those accounts going to be established? *[Is it going to be established]* in regulations or should it not be in the Law? And, should it not require some kind of audit certification that they are accurate to some level?

The other concern we have is that, as we understand it, what we are allowing an exempted company which cannot now do business in Cayman, is to apply for a LCCL so it can do business here, not related to its overseas business. The questions I have here, as I understand with an LCCL, the beneficial ownership is subject to public examination therefore, are we not here now, converting exempted companies ownership which is now secret to public inspection? If we are doing that, then we are doing for the UK what they want us to do for all companies.

Maybe we can find a way (I don't know and may have a suggestion later on) that we can preserve the confidentiality of the exempted companies' beneficial ownership under the Companies Law. Or are we going to address that in the LCCL? I think it might be more difficult to do it in the LCCL; it might be easier to do it in the Companies Law.

[Inaudible interjections]

Hon. D. Ezzard Miller, Leader of the Opposition: Those are the two concerns that we have because I believe those persons who have used 'exempted

company' have relied on that confidentiality to some extent and I do not want us to . . .

As long as the Government is comfortable that that is not going to happen and they can prevent it from happening, I believe that we have an obligation for those people who have so relied on that confidentiality to somehow protect it and retain it.

Thank you, Mr. Speaker.

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

I call now on the mover to exercise her right of reply.

Hon. Tara A. Rivers: Yes Mr. Speaker. If you would just give me one moment to confer with my team about one question in particular; the other one I can speak to directly but I just want to get clarification on one.

[Pause]

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

To answer the brief questions of the Leader of the Opposition, first of all, I want to thank the Member for his contribution in questions.

With respect to clause 4, there is not a requirement for audited accounts. There will be a prescribed form in regulations that prescribes the information that is needed but there is not a need for the accounts to be audited per se, because that was determined to be not required at this stage, in terms of the actual full blown audit. So, the information required will be prescribed in regulations.

As it relates to the question about allowing exempted companies to operate in a local economy, the Member is correct, but also, just to stress that this is an opt-in provision. This does not convert automatically all exempted companies; it is a conscious choice if they choose to do so. The understanding has always been that they choose to do so under essentially the same conditions as a local company. If we were not to require them to have the ability to inspect . . . they're registered members, so it is not like it is publicly displayed, but the same considerations and requirements that local companies would have to adhere to, the exempted companies who choose to opt into this regime, would need to also comply. Otherwise, we would be setting a situation where the exempted companies would have a preference over local companies and that certainly is not the situation that we are trying to create.

So, I hope that answers the Member's questions and I thank, as I said, the rest of the Chamber for the tacit support.

The Speaker: The question is that a Bill shortly entitled The Companies (Amendment) (No.2) Bill, 2018, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Companies (Amendment) (No.2) Bill, 2018 given a second reading.

SECOND READING

LOCAL COMPANIES CONTROL (AMENDMENT) BILL, 2018

The Clerk: The Local Companies Control (Amendment) Bill, 2018.

The Speaker: The Honourable Minister of Commerce.

Hon. Joseph X. Hew, Minister of Commerce, Planning and Infrastructure: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the Second Reading of a Bill entitled The Local Companies Control (Amendment) Bill 2018 to provide for exempted companies carrying on business in the Islands and for incidental and connected purposes.

The Speaker: Is the Honourable Minister speaking thereto?

Hon. Joseph X. Hew: Thank you, Mr. Speaker.

Mr. Speaker, I rise to present the Bill on behalf of the Government. It is a Bill that seeks to amend the Local Companies Control Law (2015 Revision), to remove the restriction on exempted companies from carrying on business in the Cayman Islands. Again, Mr. Speaker, I said to remove the restriction on exempted companies for carrying on business in the Cayman Islands.

The proposed amendments to the Law are as a result of the commitment given by the Cayman Islands to the European Union to address a concern regarding the differential treatment between exempt and ordinary companies.

Mr. Speaker, currently, the Local Companies Control Law (2015 Revision) prohibits exempted companies from carrying on business in the Islands. This restriction was put in place to provide a level of protection for Caymanians from external competition for business activities that Caymanians have the expertise and wherewithal to conduct. So, with this in mind, careful consideration was given to the amendments to the Local Companies (Control) Law during the consultations with the Ministry of Financial

Services, industry partners and commerce stakeholders to ensure that the amendments being proposed are appropriate for local business.

Mr. Speaker, it was agreed that the objectives to the amendments should be to:

1. Provide exempted companies with the option to conduct local business. However, this should be subject to those companies complying with the Local Companies Control Law and any other licensing requirement or relevant legislation.
2. To ensure that if an exempted company chooses to do business locally, they do not have an advantage over local companies.

Mr. Speaker, for clarity, the proposed amendments to the Local Companies (Control) Law (2015 Revision), would not affect those exempted companies that wish to continue carrying on business exterior to the Islands. The amendments only affect those exempted companies that wish to conduct business locally.

Mr. Speaker, as you are aware, currently, in order to carry on business in Islands, a company must be Caymanian controlled; at least 60 per cent of its shares must be beneficially owned by Caymanians and at least 60 per cent of its directors are Caymanians. Exempted companies that wish to conduct business locally, will be subject to these local participation requirements. Those exempted companies that do not meet these requirements must apply for a Local Companies (Control) License (LCCL).

There appears to be a concern that all exempted companies that wish to conduct business locally will be granted an LCCL. I would like to reassure the local business community and Members of this honourable House that each exempted company that wishes to conduct business locally and does not meet the local participation requirements, will need to submit an application for an LCCL.

The grant of an LCCL is at the discretion of the Trade and Business Licensing Board. Each application is considered on its own merit and on a case by case basis. The Law requires the board, when considering an LCCL application, to consider the following criteria, Mr. Speaker:

- a. The economic situation of the Islands and the due protection of persons already engaged in business in the Islands.
- b. The nature and previous conduct of the company and the persons having an interest in that company, whether as directors, shareholders, or otherwise.
- c. The advantage or disadvantage which may result from that company carrying on business in the Islands.

- d. The desirability of retaining in the control of Caymanians, the economic resources of the Islands.
- e. The effort made by the company to obtain Caymanian participation.
- f. The number of additional people from outside the Islands who would be required to reside in the Islands if the application were to be granted.
- g. Whether the company, its directors and employees have and are likely to continue to have necessary professional, technical and other knowledge to carry on the business proposed by the company.
- h. The finances of the company and the economic feasibility of its plans.
- i. Whether the true ownership and control of the company have been satisfactorily established; and
- j. The environmental and social consequences that could result from the carrying on of the business proposed to be carried on by the company.

The board carefully considers each of these factors when making a decision to either grant or deny an application for an LCCL and it is required to have regard to the due protection of persons, and in particular, Caymanians already engaged in business in these Islands. The board also takes into account whether a business or proposed business of the applicant is one that is traditionally enjoyed primarily by Caymanians or is one which Caymanians have a substantial presence.

I can assure Caymanian business owners that the proposed changes to the legislation removing the restriction on exempted companies to operate in the Cayman Islands, subject to those companies complying with the Local Companies (Control) Law and any other licensing requirement or relevant legislation, will provide for the continuous protection of our country's business environment. And, Mr. Speaker, it will enable and promote Caymanians ability to compete in local commerce. In other words, it is not giving exempted companies a carte blanche invitation to trade locally. We are just simply removing the restriction that would not allow them to apply for an LCCL if they so choose.

Mr. Speaker, while amendments to this legislation are a part of the Cayman Islands decade old commitment to meeting global standards, my Ministry is equally committed to working with local business to ensure that there is a level playing field for all commerce. To ensure that exempted companies do not have an advantage over local companies, exempted companies that wish to conduct business locally, will also be required to follow the same rules as local companies.

Currently, under the Tax Concession Law (2018 Revision), exempted companies benefit from a

tax exemption certificate; however, local companies do not.

This Government intends to issue policy directions to the Trade and Business Licensing Board in accordance with the Law to require exempted companies that choose to apply for, and are granted a LCCL, to surrender their tax exemption certificates. This is intended to continue to keep that level playing field that I spoke to earlier.

Mr. Speaker, let me go through the clauses of the Bill quickly. The Bill is arranged into 12 clauses:

Clause 1 provides for the short title and commencement of the legislation.

Clause 2 seeks to amend section 2 (2) of the Law to make it clear that the expression "carrying-on business in the Islands" does not include the business of an exempted company with specified entities where the carrying on of business is in furtherance only of business carried on, on the exterior to the Islands.

Clause 3 seeks to amend section 4(1)(a) to make it permissible for an exempted company to carry on business in the Islands where it is empowered by its Memorandum of Associations to do so, and it is compliant with the requirement of section 5 of the principal Law.

Clauses 4, 5, 6, and 7 seek to amend sections 5, 7, 8, and 9 of the principal Law respectively, in order that those sections of the principal Law provide for exempted companies carrying on business in the Cayman Islands.

Clause 8 seeks to amend section 11 of the principal Law to change the reference to "the Governor" to references to "the Cabinet".

Clauses 9, 10, and 11, Mr. Speaker, seek to amend sections 14, 22, and 26 of the principal Law respectively in order that those sections of the principal Law provided for exempted companies carrying on business in the Islands.

Clause 12 seeks to make a general amendment to the Law to update the references to the Trade and Business Licensing Law to reflect the 2018 Revision of the Law.

So, Mr. Speaker, again, let me reassure Members of this House and the public, and in particular, the business community that no matter what requirements are required of us by any international authority, we, our Government, have the absolute right to decide who we license to trade in the Cayman Islands, and in the particular, to trade locally. That is the key, Mr. Speaker.

In conclusion, I wish to remind the local business community, and Members of this honourable House, that the purpose and intent of the Local Companies Control Law Revision is to provide a level of protection for Caymanians from external competition for business activities that Caymanians have the expertise and wherewithal to conduct. Even with the proposed amendments to the Law, this has not changed.

Mr. Speaker, my Ministry has carefully considered the amendments to the Law and its impact on local business and had in-depth consultation with major stakeholders to develop the proposed Bill.

I would like to thank my team in the Ministry for the hard work that they have put into this. And also, the Ministry of Financial Services, for this was truly a cross-ministry effort, and I would like to publicly thank the staff of both Ministries for their professionalism in the way in which they worked together to bring this important piece of legislation.

I know the Minister spoke earlier in one of her earlier presentations and said that there were over 100 persons involved in the consultation throughout the period, but the subcommittee that worked along with the team to develop this piece of legislation headed up by Mr. David Ritch, Mr. Abraham Thoppil, Mr. Nicholas Joseph, Mr. Paul Byles and Mr. Wil Pineau, I would like to thank them for their time and efforts as well.

With those few words Mr. Speaker, I would therefore commend the Local Companies (Control) (Amendment) Bill, 2018 to the honourable Members for passage.

Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak?

The Honourable Member for East End.

Mr. V. Arden McLean: Mr. Speaker, I hear the Minister placing some emphasis on matters that are concerning to me, in that, Caymanian companies will not be disadvantaged; particularly those where there is expertise and the wherewithal here to do whatever is being applied for. That in a nutshell was the genesis of this Law in 1971. I think there was a total repeal in 1971. Mr. Speaker, that is precisely why we went with an LCCL so that we could control those who were coming to this country and wanted to come in and conduct business in essence that we were not capable of carrying out.

When this Law was envisaged, people like Warren Connolly, Berkley Bush and the likes were Members of Ex-Co (Executive Council), but they understood that for this country to succeed there were certain requirements; that is, in particular, the utility industry. If we did not have means of communication out and into this country, the vision of a financial industry would have been for naught. They also understood that if the country did not have proper electrification (this is in the late 60s) . . . and, Mr. Speaker, I should point out here that government was doing the electricity at that time and could not keep it up. Government had a couple of copper wires strung through the middle of George Town and Mr. Scotland had a couple of copper wires strung thorough Bodden Town. The generating plant for Bodden Town is where the Police Station is now.

[Inaudible interjection]

Mr. V. Arden McLean: East End and North Side had zero. That is that zero now off of that 20. Nothing!

[Inaudible interjection]

Mr. V. Arden McLean: No, 71.

[Inaudible interjection]

Mr. V. Arden McLean: Clifton Hunter turned on that switch—71.

[Inaudible interjection]

Mr. V. Arden McLean: I remember that specifically when [Mrs.] Vernecia kept me out in the scouts to see those lights come on that night; o-h-h-h-h what a day that was in East End.

Mr. Speaker, they also understood that those little sand roads and the more recent advent of vehicle transportation into this country meant we need fuel to get from A to B. There was no company or any person suitable or qualified, (financially or otherwise), to produce or to bring telephone into the country, or to have that connection with the world where the fuel was being made in Trinidad and the southern coast of America (the gulf coast). So, they also thought of the fuel and they invited two companies to do it—Esso and Texaco; thus, the creation of these four companies to protect them and their investment because they were making that giant leap of investing in the Cayman Islands. Do you remember Maine that did the electricity?

Mr. Speaker, time moved on and we did not find out ourselves developing so fast and people wanted to utilise their properties that they were buying to build what we called skyscrapers then; four or five floors high. There were very few contractors in this country but importantly, it wasn't anyone to go that high. Mr. Speaker, we can remember all the hotels with only one or two floors on one side of it. So, in their infinite wisdom, they extended that offer to McAlpine and Asphaltic, thus the Glass House, thus the Legislature, thus the Court House, thus the Port, thus Scotiabank building that the Government has now acquired. That is the genesis of LCCL in order that we could build this country. There was not one hotel in this country was above two stores. Most of us will remember Galleon Beach—two floors, Pageant Beach—two floors. Do you know what the scaffolds were made of? They were out of two by four.

In enters McAlpine and Asphaltic and we started getting "skyscrapers" under LCCLs. Today McAlpine has gone through, I believe, two generation of leaders. The grandson is now the leader of McAlpine. It was the grandfather in those days, in the 50s and the 60s. That has gone on for many years. I

know those first LCCLs were issued for 25 years and in recent times they are issued for 10 and 12.

Now, Mr. Speaker, an LCCL is equivalent to that entity being a Caymanian. Because the first thing they did was to advertise to say that they were asking for 60 per cent participation by Caymanians and if you have that, you don't need LCCL, you can go straight to the Trade and Business Licensing Law. So, you are holding an LCCL means you had no Caymanian participation. So, for all intents and purposes, that entity is now a Caymanian. Albeit, in the early days, they were issued restrictive to a particular thing that no one else was doing. That is the key. No one else in this country had the expertise nor the capability (financial or otherwise) to do that particular thing and it was beneficial to have those people here, that investment, in the interest of the overall good of this country; that is what it was for. Today, that does not seem to be the objective of these LCCLs.

Mr. Speaker, I said this earlier but I brought this up with the good Dr. Basdeo in the meeting that we had and, of course, he was unaware of the numbers of LCCLs that were currently on our books. Some other staff members were there and they excused themselves and went to check it. I understand that there is some 250 now (north of 250 . . . well, it is 251 or 255, I don't know).

My question is: if the Minister can tell me that all Caymanian businesses will be protected when the exempt companies are going to be issued that, why do we have so many? Or, they will now fall in the Cayman business? That was not the intent. How did we reach 250, I don't know. But is it that the Board being too indiscriminate? Indiscriminately issuing these things? Because certainly, I am here to say, it is my submission, Mr. Speaker, that you cannot . . . it is impossible to find 250 things to issue LCCL for, that Caymanians cannot do. It is impossible, absolutely and totally impossible. And I don't stand to be corrected; I know I cannot be corrected.

Mr. Speaker, it is my submission, Sir, that we are using the LCCL like we are using the Trade and Business License for Caymanians. We need to stop that. I don't know how the Premier is going to deal with this. He's going to have it on his shoulder to deal with this.

I will ask a question in the fullness of time as to when they were issued, how long they are for, what were their purpose and see what it is. But, Mr. Speaker, it is my understanding (and this is rumoured, I didn't get it from any anybody in the official domain) that people are coming in here and advertising for development and looking for Caymanian participation to build homes; their own homes! Mr. Speaker, we need only look at where these good ladies and gentlemen will be leaving from here tonight and going to tomorrow morning—the Government Administration building. That says to me that it was built by a company in this country; a legitimate LCCL company

which says to me that we have companies in this country already who can build their homes. Now, I don't know if that is correct, Mr. Premier, but it cannot be all of those, if that 250 is right—if that's right!

Mr. Speaker, anything you can think of, there are companies in this country already that can do that, therefore, the provisions of LCCL is for naught. We cannot afford to do that. Now, Mr. Speaker, those are my concerns.

I don't know how or what provisions we have in place to regulate and monitor this, to see that if they are given an LCCL:

1. It is one whereby there is no one else in Cayman that can do that job
2. It is monitored to see that they are doing that job and staying within those guidelines
3. That they are not using it for something else too.

This is not only in Grand Cayman but in Cayman Brac and Little Cayman as well. We have some of the best condo development in Cayman Brac, three stories. I do not think we go any higher than three or four up there. They are built by Caymanians. I would like to know what all these LCCLs are issued for. It cannot be gasoline because we already have that.

[Inaudible interjection]

Mr. V. Arden McLean: Christmas coming?

[Inaudible interjection]

Mr. V. Arden McLean: Mr. Speaker, what I am trying to do is to say to the Government that this needs to be checked out.

I fear anybody that you see as an exempt company . . . forget about the tax exemption, because there are many who do not even know what that means when we say 'tax exemption', they have to give it up. That means that we give them exemption from not paying taxes here for 25 years, 10, 15 years or whatever it is. They are going to have to give that up. Yeah, but absolutely so! I would like to think so. But I am concerned that if we have this amount of LCCLs and I think the Premier said he believes probably 20,000 companies would be affected with this, I don't know in what way. But certainly, it would have to be some of those exempt companies he is talking about because it is exempt companies that we are talking about here. The fact that this is an exempt company, they have some wherewithal. All I am asking Mr. Speaker is: can we not cut it off before having to go that distance? That is all I am asking because the Trade and Business License allows non-resident companies, non-LCCL Law Companies, and

exempt companies or limited liability companies to have a trade and business license now.

If it is a policy directive that this thing is being driven by to issue all these LCCL, we cannot make policy outside of the law, you know. He who wishes to make the rules needs to create a soap box and get there upon and hit the constituencies, win the races and join and occupy the real estate—the 19 pieces of real estate that is in here. That is where the rules are made; not on boards.

I want to know what those companies are. That is my concern. My concern is two-fold. I want to ask the Government to consider where we can stop to fulfil this requirement. I know that Dr. Basdeo is quite capable of stemming that so that we don't have to go into this. I know we are trying to fulfil these OECD requirements and EU requirements and this global thing, but what effect is it going to have on us?

I was never more shocked, Mr. Speaker, when I heard that it was 250 of them, I thought maybe 100. I don't know if they have all expired. I don't know what has happened to them. The Minister might be able to answer that when we respond but I have concerns. It is bad enough now, Mr. Speaker, that those holding companies are in the substance because what is happening is that people on work permits are creating holding companies, go and buy properties and by virtue of resolution of those companies they go and open bank accounts. That is where we need to watch out for that terrorism financing. That is where we need to keep our eyes open. And then they go into farming, which is, as we know, one of the sources of terrorism financing. Do you all think that we are immune from it? Don't for one second, should anyone think that we are still back in the days when our grandparents pledged allegiance to the Crown to King George and we were nice people like back then. We have opened our arms to people who are very capable of hiding whom or what they are; very capable.

Mr. Speaker, we had a man in East End who used to say, "wha good fi eat nah good fi talk". The same way, the Government has to keep certain confidentiality and can't make certain utterances, so do I; I fall in that as well. I have seen people in this country have assisted people in this country that we don't know who they are. They can get new passports in their country and I am not talking about those who are within short distance of the shores of this country, I am talking about those from far away.

If Reagan said anything well that is profound, he said "trust, but verify". And they look you straight in the eye and you don't know who they are. Many will call me what they may but I make sure I stand on my shadow in the midday sun. That is precisely the amount that I trust.

Mr. Speaker, I want to support the Government and especially when we have to acquiesce to those people so that our people can live.

Oh how I wish though that I didn't have to do that. But I want us to be mindful of the possibilities, the probabilities of what can happen here. But more importantly than that, we need to stem the tide that is going on now; that is the one that we need to shut out. I don't know who has these companies, you don't know. We hear people doing the developments and they are under house arrest all over the world and they this and they that. We need to put in a regime of regulation in this country and inspection through something. We still wear our hearts on our sleeves, by and large, that is who we are; we trust people.

[Inaudible interjection]

Mr. V. Arden McLean: Mr. Speaker, my used to be some time friend is asking me to wrap up because Santa Claus is coming.

[Laughter]

Mr. V. Arden McLean: Mr. Speaker, even as an adult, we believe in Santa Claus. We should never take that away from the kids in all of us.

[Inaudible interjection and laughter]

Mr. V. Arden McLean: Mr. Speaker, I asked the Minister just to address those matters with regards to the LCCL and I am not saying that we can affect it tonight through amendments but we need to address it. We need to seriously address this now.

Thank you.

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

If not, I will call on the mover for his right of reply.

Hon. Joseph X. Hew: Thank you, Mr. Speaker.

Mr. Speaker, I would like to thank Members for their tacit support and also the Member for East End for his comments. I will try my best, being conscious of the time as well, to address some of his questions.

Earlier in the evening, the Member also made reference to section 18 of the TBL Law which speaks to exempted companies having trade and businesses licenses, and he is correct. Mr. Speaker, that is in the case where an exempt company wishes to have a local presence to conduct business in furtherance, and only in furtherance of their overseas business but not to conduct locally. So, it is a separate discussion.

[Inaudible interjection]

Hon. Joseph X. Hew: Mr. Speaker, the Member is correct, as of November 2018, [there are] 252 current LCCLs. Not all of the LCCLs we know are active. In

fact, we know with some LCCLs the companies are now Caymanian controlled but wish to remain under the LCCL regime. When I was Deputy Chairman of the Trade and Business Licensing Board many years ago, there was a company that became Caymanian controlled and wished to remain a LCCL and there was an objection from competitors. I remember that it went to judicial review and the company was allowed to remain under the LCCL regime even though it was Caymanian controlled.

[Inaudible interjection]

Hon. Joseph X. Hew: Pardon?

Mr. V. Arden McLean: Which Judge preferred that? Unna need get rid of him.

Hon. Joseph X. Hew: So, we know that there are LCCLs out there that are Caymanians controlled. We know that there are some that perhaps the projects or the business has not gotten started, but yet they continue to pay their fees.

Referencing back to my time on the Trade and Business Licensing Board, that was also one of the concerns; whether or not we should limit the time on the LCCLs, or at least, if we issue an LCCL for a development for instance, that we put conditions on there that they have to start the development within a period of time and they cannot just sit and wait until the economic temperature is right to start their developments. These are some of the things that we certainly can consider and would require a policy directive from the Government.

To speak to some of the other questions of the Member for East End: the bulk of the LCCL, some 132, are property purchases. Again, this is one of the opportunities for an exempt company that perhaps may wish to gain an LCCL to be able to purchase a building that they are in or perhaps purchase a couple of condos and invest in real estate. The property purchases, developers and managers of projects or the bulk of the LCCLs, 25 are financial services and commerce, 12 are airline, shipping or travel agents, 17 are hotels and the rest are made up of various others; fuel, health, entertainment (I would assume)—the cinema et cetera, and telecoms multimedia, to name a few.

As I mentioned earlier and as I listed, the board is charged with a list of criteria that they have to go through in considering every LCCL application. There are instances that may be unique and we talked about LCCLs just to hold, whereas some people would get a LCCL to own maybe two condos on the Seven-Mile Beach or to invest in the offices or buildings that they operate from. There is also perhaps circumstances I can think of, like publication companies that have an international agreement with an international telecom services and they provide publications for them and they want to operate local in

the Island and operate here as a part of their contractual agreement with the international company.

There are also circumstances where the majority of the development ones are those that are on the development side, and I can reassure the Member for East End that I do not see any construction companies listed as only having a . . . sorry, a civil engineer, quantity surveyor, building contracting architecture—a total of six in that category.

So, on that point, Mr. Speaker, perhaps it is time for the Government to take a policy decision, and I accept the Member's comments and will certainly have a look at it, investigate and get further details and discuss with my Government.

In conclusion, I just want to say and remind the general public in the local business community and Members in this House that the purpose and intent of the Local Companies (Control) Law is to provide a level of protection for Caymanians from external competition for business activities that Caymanians have the expertise and the wherewithal to conduct. Mr. Speaker, that includes these proposed amendments to the Law. The amendments do not change the duties and the charge that the Trade and Business Licensing Board has been given to protect local Caymanian businesses.

The Ministry has carefully considered the amendments to the Law and its impact on local business and have had an in depth consultation with major stakeholders in order to develop this Bill.

Again, I thank the Members for their tacit support and look forward to the passage of the Bill.

Thank you, Sir.

The Speaker: The question is that a Bill shortly entitled The Local Companies (Control) (Amendment) Bill, 2018, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Local Companies (Control) (Amendment) Bill, 2018 given a second reading.

The Speaker: The House will go into Committee shortly after a five minute break. When we return we shall go into Committee.

Proceedings suspended at 10:20 pm

Proceedings resumed at 10:34 pm

House in Committee at 10:34 pm

COMMITTEE ON BILLS

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

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

Would the Clerk please read the clauses?

INTERNATIONAL TAX CO-OPERATION (ECONOMIC SUBSTANCE) BILL, 2018

The Clerk:

Clause 1	Short title and commencement
Clause 2	Interpretation
Clause 3	Functions of the Authority

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

The Clerk:

Clause 4	Requirement to satisfy Economic substance test
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The Chairman: The Honourable Minister.

Hon. Tara A. Rivers: Thank you, Mr. Chair.

AMENDMENT TO CLAUSE 4

Hon. Tara A. Rivers: In accordance with the provisions of Standing Order 52(1) and (2), 1, the Honourable Minister of Financial Services and Home Affairs, give notice to move the following Amendments to the International Tax Co-operation (Economic Substance) Bill, 2018.

That the Bill be amended in clause 4 as follows: By deleting the words "in or from within" wherever they appear in that clause and substituting the word "in".

In sub-clause (7)(a) by deleting the words "and historically has been,"; by inserting after sub clause 7 the following clause "(8) A relevant entity that is carrying on more than one relevant activity is required to satisfy the economic substance test in relation to each relevant activity."

The Chairman: The amendment has been duly moved. If no Member wishes to speak, the question is that the amendment stands part of the clause.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 4 passed.

[Pause]

The Chairman: The question now is that clause 4, as amended, stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 4, as amended, passed.

The Clerk:

Clause 5	Guidance
Clause 6	Determination of whether economic substance test is satisfied.

The Chairman: The question is that clauses 5 and 6 do stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 5 and 6 passed.

Clause 7	Requirement to provide information
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The Chairman: The Honourable Minister.

AMENDMENT TO CLAUSE 7

Hon. Tara A. Rivers: Thank you, Mr. Chair.

That the Bill be amended in clause 7 as follows: In sub-clause 1(b) by inserting after the words "Islands" the words "and if so, shall provide appropriate evidence to support that tax residence as may be required by the Authority".

In sub-clause (4), in paragraph J(ii) by deleting the word "and" where it appears for the second time in that paragraph; and by renumbering paragraph "(l)" as "(k)".

The Chairman: The amendment has been duly moved. Is there anyone wishing to speak?

If not, the question is that the amendment stands part of the clause.

Hon. D. Ezzard Miller, Leader of the Opposition:

The only question I have is: Do we need to remove the semicolon after "Islands" if you are adding that new sentence?

The Chairman: Remember that we have given the Attorney General permission to do the usual clean up and that would be something unsubstantial.

[Inaudible interjection]

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 7 passed.

The Chairman: The question now is that clause 7, as amended, stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 7, as amended, passed.

[Inaudible interjection]

The Chairman: Only one.

Hon. D. Ezzard Miller, Leader of the Opposition: Oh, okay.

The Clerk:

Clause 8	Failure to satisfy economic substance test
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The Chairman: The Honourable Minister.

AMENDMENT TO CLAUSE 8

Hon. Tara A. Rivers: Thank you, Mr. Chair.

That the Bill is amended in clause 8 in subsections (2), (4), (10) and (11) by deleting the word "may" and substituting the word "shall".

The Chairman: The amendment has been duly moved. If no Member wishes to speak, the question is that the amendment stands part of the clause.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 8 passed.

The Chairman: The Amendment stands part of the clause.

The question now is that clause 8 as amended stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 8, as amended, passed.

The Clerk:

Clause 9	Appeal
Clause 10	Sharing of information
Clause 11	Confidentiality
Clause 12	Immunity
Clause 13	Misleading information
Clause 14	Offence by officers of a body corporate

The Chairman: The question is that clauses 9 through 14 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 9 through 14 passed.

The Clerk:

Clause 15	Regulations
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The Chairman: Honourable Minister.

AMENDMENT TO CLAUSE 15

Hon. Tara A. Rivers: Thank you, Mr. Chair.

That the Bill be amended by deleting clause 15(3).

Hon. D. Ezzard Miller, Leader of the Opposition: And what about adding the requirement of negative resolution by Parliament?

The Chairman: The Honourable Premier, perhaps you need to . . .

Hon. D. Ezzard Miller, Leader of the Opposition: If you are deleting clause [15, subsection] (3) now, we have to put in a new clause [15, subsection] (3) that says, "These regulations are subject to negative resolution of parliament."

The Chairman: The Honourable Attorney General.

Hon. Samuel W. Bulgin, Attorney General: I just want to go back to clause 8(11) for a little. Minister, is that "may" being changed to "shall" as well, if I understand it?

Hon. Tara A. Rivers: Yes, Mr. Attorney General; that was the recommendation put forward.

Hon. Samuel W. Bulgin, Attorney General: And the effect of that is that the Grand Court "shall"—

Hon. Tara A. Rivers: Make an order that they see fit.

Hon. Samuel W. Bulgin, Attorney General: No, that cannot be right. The EU cannot tell you to do that. It has to be "may".

Hon. Tara A. Rivers: Well, Mr. Chair, I certainly will defer to the Attorney General on that point. So, if we need to revisit that clause. . .

[Pause]

Hon. Samuel W. Bulgin, Attorney General: In sub-clause (1).

Hon. Tara A. Rivers: So, Mr. Chair, for clarity, obviously, following the advice of the Attorney General, if we —

Hon. Samuel W. Bulgin, Attorney General: So, for [subsections] (2), (4), (10), it is fine, but for subsection (11), it has to be permissive, it cannot be "shall"—

Hon. Tara A. Rivers: To leave it as is?

Hon. Samuel W. Bulgin, Attorney General: So, it has to be "may", yeah.

Hon. Tara A. Rivers: Yes.
As I said, I will certainly defer to our—

The Chairman: I know that we usually—

Hon. Samuel W. Bulgin, Attorney General: So, you cannot direct the Grand court—

The Chairman: It is the usual thing that we always use the word "may". When I saw it, I thought it was something that was being asked of the Government to do.

[Inaudible interjection]

The Chairman: Honourable Premier, once you do not have a problem with the people overseas; that is what I am speaking to.

The Premier, Hon. Alden McLaughlin: Mr. Chair, regardless of what problem we have with them, if the Attorney General says that we cannot direct the Grand Court in that way, then we cannot direct the Grand Court in that way. I accept his advice.

The Chairman: It is up to the Government. I am only the Chair.

Hon. Tara A. Rivers: Yeah, I appreciate that, Mr. Chair, and I certainly, as I said, would also defer to the Attorney General's advice on that and if that is the advice of our learned Attorney General in the position of the Cayman Islands, the way it works, then I think that is what we have to go with. So, Mr. Chair, I am not sure how we need to go back to . . . do we need to revote?

The Chairman: Honourable Minister, if you are going to remove "shall" then, you would do an amendment.

[Crosstalk]

The Chairman: Honourable Minister, you will have to ask for that amendment.

RE-COMMITTAL OF AMENDMENT TO CLAUSE 8

Hon. Tara A. Rivers: Thank you, Mr. Chair, and I thank you for your guidance.

Mr. Chair, I ask that the amendment previously approved be recommitted to this Committee for subsequent amendment and approval.

The Chairman: For the word to be deleted . . .

Hon. Tara A. Rivers: Yes, and if . . .

[Inaudible interjections]

The Chairman: There are a lot of people talking at once though, so let us make sure that —

Mr. V. Arden McLean: Mr. Chairman, if the Minister reads it over and takes out “and” and the “11”, that is all.

Hon. Tara A. Rivers: So, Mr. Chair, I again, in accordance with the provision of Standing Order 52(1) and (2), I, the Honourable Minister of Financial Services and Home affairs do give notice by moving the following amendments to the International Tax Co-operation (Economic Substance) Bill, 2018, by removing the addition of sub-clause (11), pursuant to clause 8, and instead, have clause 8 be amended as follows: by amending sub-clauses (2), (4), and (10) by deleting the word “may” and substituting the word “shall”.

The Chairman: The amendment has been duly moved. The question is that the amendment stands part of the clause.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 8 passed.

The Chairman: The question now is that clause 8, as amended, stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 8, as amended, passed.

The Chairman: If there is any doubt here, we give the Attorney General who says that we can't . . .

[Inaudible interjection]

The Chairman: I thought it would be a good safeguard to do so.

The next one, Clerk.

The Clerk: Did we take . . .

The Chairman: Yes.

[Short pause]

The Chairman: The Leader of the Opposition.

Hon. D. Ezzard Miller, Leader of the Opposition: I want to ask the Minister to consider having deleted [clause 15, sub-clause] (3), to reinsert a new [sub-

clause] (3) that reads: “Regulations made under this Law shall be subject to negative resolution of the Legislative Assembly.”

The Chairman: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Chairman, the proposal, as I understood it, which started with the Deputy Leader of the Opposition, the concern was about Cabinet having the ability to regulation to create criminal offences which he said was objectionable, and that this is a power that should remain with the Parliament. It was to that that I was responding when I agreed, off mic, to go along with the suggestion about a negative resolution. The suggestion from the legal draftsman was that we could just delete that offending provision, which is what is proposed now. I did not understand that there was a broader proposal for all the regulations to be subject to negative resolution. If I had understood it that way, I would have said that we could not agree because there are logistical issues involved which create problems in meeting the requirements, in terms of time, and timing for the European Union.

The Minister can best explain all that because I do not have that kind of detail in front of me but that is the principal reason, and we did accept the concern about the ‘criminal offences’ bit.

The Chairman: The question is that the amendment to clause 15 stands part of the clause.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 15 passed.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 15, as amended, passed.

[Short pause]

The Clerk:

Clause 16

Savings, transitional and consequential provisions

The Chairman: The question is that clause 16 stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 16 passed.

The Clerk: The Schedule

The Chairman: The Minister.

AMENDMENT TO THE SCHEDULE

Hon. Tara A. Rivers: Thank you, Mr. Chair.

That the Bill be amended in the Schedule as follows: In the definition of the words "Cayman Islands core income generating activities"- by deleting the words "in or from within" and substituting the word "in"; by paragraph (c)(i) by deleting the word "and" and substituting the word "or"; by deleting paragraph (f)(i) and substituting the following subparagraph "(i) predicting or calculating risk or oversight of prediction or calculation of risk;"; by inserting after the definition of the words "parent company" the following definition "'pleasure vessel" has the meaning given to that expression by section 2 of the Merchant Shipping Law (2016 Revision);"; in the definition of the words "relevant entity" in paragraph (c), by deleting the words "whose business is centrally managed and controlled in the Islands, unless the company is tax resident outside the Islands" and substituting the words ",unless its business is centrally managed and controlled in a jurisdiction outside the Islands and the Company is tax resident outside the Islands"; by inserting after the definition of the words "scheduled agreement" the following definition: "'seafarer recruitment and placement service" has the meaning given to that expression by the Maritime Labour Convention, 2006"; by deleting the definition of the words "shipping business" and substituting the following definition: "'shipping business" means any of the following activities involving the operation of a ship anywhere in the world other than in the territorial waters of the Islands or between the Islands -

- a. The business of transporting, by sea, passengers or animals, goods or mail for a charge;
- b. The renting or chartering of ships for the purpose described in paragraph (a);
- c. The sale of the travel tickets and axillary ticket related services connected with the operation of a ship;
- d. The use, maintenance or rental of containers, including trailers and other vehicles or equipment for the transport of containers, used for the transport of anything by the sea; or

- e. The functioning as a private seafarer recruitment and placement service, but does not include a holding company business or the operating of a pleasure vessel;"

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

If not, the question is that the amendment stands part of the clause.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to the Schedule passed.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: The Schedule, as amended, passed.

The Clerk: A Bill for a Law to provide for an economic substance test to be satisfied by certain entities; and for incidental and connected purposes.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

COMPANIES (AMENDMENT) (NO. 2) BILL, 2018

The Clerk:

Clause 1	Short title and commencement
Clause 2	Amendment of section 2 of the Companies Law (2018 Revision) - definitions and interpretation
Clause 3	Amendment of section 44 - inspection of the register
Clause 4	Amendment of section 49 - accounts and audits

Clause 5 Amendment of section 163 - what companies may apply to be registered as exempted companies

Clause 6 amendment of section 165 – declaration by proposed company

The Chairman: The question is that clauses 1 through 6 do stand part of the Bill.

All those in favour, please say Aye.

Hon. Tara A. Rivers: Mr. Chair, sorry. Just for absolute clarity, I think that the—

[Pause]

Hon. Joseph X. Hew: For the amendment of section 44 - inspection of the register, I am sorry, I heard you say “45”. I have 44 written in mine as long as you have . . . number 3?

The Chairman: No, you said 44—amendment of section 44?

Hon. Joseph X. Hew: Yes, okay.

The Chairman: And she said that, “44”.

Hon. Joseph X. Hew: Okay.

The Chairman: That is what I heard.

Hon. Joseph X. Hew: No problem, I just want to confirm. I heard 45, so I just wanted to confirm.

The Chairman: Okay.

[Pause]

The Chairman: The question is that clauses 1 through 6 do stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through to 6 passed.

The Clerk:

Clause 7 Amendment of section 168 – annual return

The Chairman: The Honourable Minister.

AMENDMENT TO CLAUSE 7

Hon. Tara A. Rivers: Thank you, Mr. Chair.

In accordance with the provisions of Standing order 52(1) and (2) , I, the Honourable Minister for Financial Services and Home Affairs give notice to give the following amendments to the Companies (Amendment) (No.2) Bill, 2018, that the Bill be amended by deleting clause 7 and substituting the following clause: “The principal Law is amended in section 168 by inserting after the words “each exempted company” the words “that does not hold a licence to carry on business in the Islands to which section 174 refers”.

The Chairman: The amendment has been duly moved. Does any Member wish to speak thereto?

The question is that the amendment stands part of the clause.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 7 passed.

The Chairman: The question now is that clause 7, as amended, stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 7, as amended, passed.

The Clerk:

Clause 8 Repeal and substitution of section 174 - prohibited enterprises

The Chairman: The Honourable Minister.

AMENDMENT TO CLAUSE 8

Hon. Tara A. Rivers: Thank you, Mr. Chair.

Mr. Chair that the Bill be amended in clause 8 by deleting subsection (3) of the proposed section 174 and substituting the following subsection “(3) An exempted company that holds a licence to carry on business in the Islands under any applicable law, shall from the date of issue of such licence, continue for all purposes as if incorporated and registered as an ordinary resident company under and subject to this Law the provisions of which shall apply to the Company and to persons and matters associated with the company as if the company were incorporated and registered under this Law, except as provided in

section 7(1)(a), 8(1) and (4), 13 (1)(a), 26(3)(a), 30(3), 31(1), 41(2), 42, 50(2), 166, 169, 175 or 252(2).”

The Chairman: The amendment has been duly moved. Does anyone Member wish to speak?

The question is that the amendment stands part of the clause.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Amendment to clause 8 passed.

The Chairman: The question is now that clause 8, as amended, stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 8, as amended, passed.

The Clerk:

Clause 9	Amendment of section 239 - limitation on rights of dissenters
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The Chairman: The question is that clause 9 stands part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clause 9 passed.

[Pause]

The Clerk: New Clause 2A.

The Chairman: The Honourable Minister.

NEW CLAUSE 2A

Hon. Tara A. Rivers: Yes, Mr. Chair.

That the Bill be amended by inserting after clause 2 the following clause (and this is the title, I guess): “Amendment of section 41 - annual list of members and return of capital, shares, calls, etc. 2A the principal Law is amended in section 41(1) by inserting after the words “exempted company” the

words “that does not hold a license to carry on business in the Islands to which section 174 refers”.”

I have another insertion but do we vote on that one first before or —

The Clerk:

New clause 2A	amendment of section 41 - annual list of members and return of capital, shares, calls, etc.
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The Chairman: No. We are doing new clauses and perhaps the Honourable Minister read the last new clause?

Hon. Tara A. Rivers: I read the first one, Mr. Chair; the 2A, but I was not sure if we needed to vote on that one first before I read the other one.

The Chairman: Yes.

Hon. Tara A. Rivers: Okay.

The Chairman: The question now is that this New Clause 2A be read a second time.

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

AYES.

The Chairman: The Ayes have it.

Agreed: New Clause 2A given a second reading.

The Chairman: The question now is that the clause be added to the Bill as clause number 2A and that the subsequent clauses be renumbered accordingly.

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

AYES.

The Chairman: The Ayes have it.

Agreed: New clause 2A added to the Bill and the subsequent clauses renumbered accordingly.

The Clerk: New clause 8A.

The Chairman: The Honourable Minister.

NEW CLAUSE 8A

Hon. Tara A. Rivers: Thank you, Mr. Chair.

That the Bill be amended by inserting after clause 8, the following clause (and this is the title): “Amendment of section 182A - exempted company may apply to be registered as a special economic zone company; 8A the principal Law is amended in

section 182A (1) by inserting after the words “an exempted company” the words “that does not hold a license to carry on business in the Islands to which sections 174 refers”.

The Clerk:

New Clause 8A Amendment of section 182A - exempted company may apply to be registered as a special economic zone company.

The Chairman: The question now is that the New Clause be read a second time.

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

AYES.

The Chairman: The Ayes have it.

Agreed: New Clause 8A given a second reading.

The question is that this clause be added to the Bill as clause 8A and that the subsequent clauses be numbered accordingly.

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

AYES.

The Chairman: The Ayes have it.

Agreed: New Clause 8A added to the Bill and the subsequent clauses renumbered accordingly.

The Clerk: A Bill for a Law to amend the Companies Law (2018 Revision) to make miscellaneous changes to the provisions relating to accounting records and exempted companies; and to provide for incidental and connected purposes.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 2018

The Clerk:

Clause 1	Short title and commencement
Clause 2	Amendment of section 2 of the Local Companies (Control) Law, (2015 Revision) - definitions and interpretation
Clause 3	Amendment of section 4 - circumstances in which local business may be carried on
Clause 4	Amendment of section 5 - provisions to be complied with by local companies
Clause 5	Amendment of section 7 - return of shareholdings to be made before commencing business and annually
Clause 6	Amendment of section 8 - allotment and transfer of shares
Clause 7	Amendment of section 9 - directors may make enquiries
Clause 8	Amendment of section 11 - granting and revocation of licence
Clause 9	Amendment of section 14 - company to supply information relating to control
Clause 10	Amendment of section 22 - regulations
Clause 11	Amendment of section 26 - offences
Clause 12	General amendment

The Chairman: The question is that clauses 1 through 12 stand part of the Bill.

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

AYES.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 12 passed.

The Clerk: A Bill for a Law to amend the Local Companies (Control) Law (2015 Revision) to provide for exempted companies carrying on business in the Islands; and for incidental and connected purposes.

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

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

AYES.

The Chairman: The Ayes have it.

Agreed: Title passed.

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

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

AYES.

The Chairman: The Ayes have it.

The Bills will accordingly be reported to the House.

Agreed: Bills to be reported to the House

The Chairman: The House will now resume.

House resumed at 11.14 pm

The Speaker: Please be seated.
Report on Bills.

REPORT ON BILLS

INTERNATIONAL TAX CO-OPERATION (ECONOMIC SUBSTANCE) BILL, 2018

The Clerk: The International Tax Co-operation (Economic Substance) Bill, 2018.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I am to report that a select Committee of the whole House has considered the Bill shortly entitled The International Tax Co-operation (Economic Substance) Bill, 2018, and it was passed with amendment.

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

COMPANIES (AMENDMENT) (NO.2) BILL, 2018

The Clerk: The Companies (Amendment) (No. 2) Bill, 2018.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker I am to report that a select Committee of the whole House has considered the Bill

shortly entitled The Companies (Amendment) (No.2) Bill, 2018, and it was passed with amendment.

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

LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 2018

The Clerk: The Local Companies (Control) (Amendment) Bill, 2018.

The Speaker: The Honourable Minister of Commerce.

Hon. Joseph X. Hew: Thank you, Mr. Speaker.

Mr. Speaker I am to report that a Committee of the whole House has considered the Bill shortly entitled The Local Companies (Control) (Amendment) Bill, 2018, and it was passed without amendment.

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

The Honourable Premier.

Suspension of Standing Order 47

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I beg to move the suspension of Standing Order 47 in order that the Bill may be taken through three readings in one Sitting.

The Speaker: The question is that Standing Order 47 be suspended in order to take the —

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I should amend that to say that “the Bills” (because there are three of them) may be taken through three readings in one sitting.

The Speaker: The question is that Standing Order 47 be suspended in order to take the Bills through three reading stages.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended.

THIRD READINGS

INTERNATIONAL TAX CO-OPERATION (ECONOMIC SUBSTANCE) BILL, 2018

The Clerk: The International Tax Co-operation (Economic Substance) Bill, 2018.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that the Bill shortly entitled The International Tax Co-operation (Economic Substance) Bill, 2018, be read a third time and passed.

The Speaker: The question is that a Bill entitled The International Tax Co-operation (Economic Substance) Bill, 2018, be given a third reading and passed.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The International Tax Co-operation (Economic Substance) Bill, 2018, given a third reading and passed.

COMPANIES (AMENDMENT) (NO.2) BILL, 2018

The Clerk: The Companies (Amendment) (No. 2) Bill, 2018.

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move that the Bill shortly entitled The Companies (Amendment) (No.2) Bill, 2018, be read a third time and passed.

The Speaker: The question is that a Bill entitled The Companies (Amendment) (No.2) Bill, 2018, be given a third reading and passed.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Companies (Amendment) (No.2) Bill, 2018, given a third reading and passed.

LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 2018

The Clerk: The Local Companies (Control) (Amendment) Bill, 2018.

The Speaker: The Honourable Minister of Commerce.

Hon. Joseph X. Hew: Mr. Speaker, I beg to move that the Bill shortly entitled The Local Companies (Control) (Amendment) Bill, 2018, be read a third time and passed.

The Speaker: The question is that a Bill entitled The Local Companies (Control) (Amendment) Bill, 2018 be given a third reading and passed.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Local Companies (Control) (Amendment) Bill, 2018, given a third reading and passed.

The Speaker: The Honourable Premier.

ADJOURNMENT

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker.

Mr. Speaker, I move the adjournment of this honourable House sine die.

Before I sit down, Mr. Speaker, on behalf of the Government, I want to thank the Opposition for agreeing to this Meeting on short notice and to dealing with these important Bills.

I also especially want to thank the team from the Ministry of Financial Services and Legal Drafting for the incredible work that they have done; the commitment, the dedication that they have put in to getting us to this point. Words cannot begin to express my gratitude and indeed the gratitude of the Nation, I believe.

CHRISTMAS GREETINGS

The Premier, Hon. Alden McLaughlin, Elected Member for Red Bay: Mr. Speaker, it is beginning to look a lot like Christmas even if for us in here it might not feel a lot like Christmas. I just want to take this opportunity at this late hour approaching 11:30, to, on behalf of the Government, wish all of our constituents and all the people of these Islands a wonderful blessed Christmas and a most prosperous New Year.

For a more fulsome Christmas message, I think from all of us, one should tune in to Radio Cayman and CIG TV over the course of the Christmas period. I know it has been traditional for Members to give constituents their greetings via this medium and from this Chamber, but given the lateness of the hour, I hope we can all agree that on behalf of the Government, I will do so as Premier, and on behalf of the Opposition, The Leader of the Opposition will do

so and I know, Mr. Speaker, you would like to do so as well.

Mr. Speaker, finally, I should have mentioned earlier, thanks again to the private sector group; the hundred-plus individuals who assisted us with getting to this point with respect to the Economic Substance Bill, and the related Bills. They too have put in tremendous amount of work and dedication and demonstrated the same commitment to get us here. I think that is an excellent example of public/private partnership, if I have ever seen one.

So again, Mr. Speaker, all the very best to all within the sound of my voice and all the very best to all of my colleagues in this Legislative Assembly. Thanks also to the hardworking staff led by the Clerk, for the tremendous work they have put in over the course of this year and for staying with us until so late again tonight.

The Speaker: The Leader of the Opposition has agreed to give . . .

Hon. D. Ezzard Miller, Leader of the Opposition, Elected Member for North Side: Thank you Mr. Speaker. Let us take the opportunity to wish all Members of this House a Merry Christmas and a happy and prosperous New Year. We all trust that the actions we have taken today will lead to more prosperity next year.

I also take the opportunity on behalf of the Opposition to wish all Caymanians and residents a merry blessed and joyous Christmas but particularly our constituents and also to the staff and to thank them for all their help during the year, particularly from my point of view of the helpful Public Accounts Committee, and the work that we were able to achieve. I wish everyone a Merry Christmas and a happy and prosperous New Year.

The Speaker: The Member for George Town Central.

Mr. Kenneth V. Bryan, Elected Member for George Town Central: Thank you, Mr. Speaker.

I too want to send my wishes to constituency and the Cayman Islands but before I do so, if you would allow me just a quick moment to highlight the passing of a great individual in our community, Ms. Mazie Ebanks, and I want to send my condolences on behalf of this whole honourable House. I know many of us in this House may know her. She was the sister of the well-known JP, Lewis Ebanks and the mother of Ms. Alice O'Neil. So, that family may be going through some difficulty and I ask us all to send our prayers on behalf of this honourable House to that family as they go through this difficulty.

That being said, to everyone, I wish you all a safe, happy and healthy Christmas and don't be afraid to have the extra slice of cake for all of those who are listening; we can work it off next year. Feliz Navidad,

Maligayang Pasko and happy holidays and Merry Christmas to everybody in the Cayman Islands.

The Speaker: Personally, and on behalf of my wife and my family, I want to extend greetings to each one of you Members and your families, but of course, I do so to all my constituents in West Bay, friends and supporters throughout our three Islands, and of course, to all civil servants, but particularly those who are in the House tonight at this late hour, we pray for a good Christmas for each one of you.

I want to thank those of you who came to my 39th senior's Christmas party on Saturday and actually the first for my new constituency of West Bay West for that evening. This has been a busy year, a time when we have some successes and some disappointments as well. We recognise those that hurt for different reasons and, as good representatives, we try to help but we cannot help everyone.

The Coalition Unity Government, I consider, has been helping those individuals. Many persons' personal financial circumstances have improved because we have a better economic environment, but again, we still cannot cure all the needs in the country.

I have always lived in hope, lived with hope, because I believe in a higher being and that my God is always in control and when needs arise, he will deliver. I have always had the hope that things would get better.

We live in a good country and we must give God thanks for all he has done for us in the past year and hope for all he will do for the year ahead. I do not know about all of you, but I have only spent one Christmas in my 63 years off this land. I just love my Cayman Christmas. But while we have our disappointments I do nag a little bit. I have a brand new 8 pounds, 15 ounces baby boy—grandson that is (let me correct that). And there too is my hope for the future. I would not spend Christmas anywhere else, as the old Jamaican festival song says: "*No way no better than Yard*".

So, amidst the evil of the world that exist, and some bad mindedness in our own land, we look forward to the Christmas Day and Christmas week with hope and respectful celebrations knowing full well that things already better.

If I were in a singing mood I would sing that song for you, things already better.

We have just determined new legislation that will bring change. Let us continue to pray, hope, and work together that God, in his mercies, will continue to guide and direct our ship of state; direct the corporate minds and our individual selves so that we continue to build our nation in this New Year ahead and perhaps a new dispensation.

I am called to repeat: "***I said to the man who stood at the gate of the year, give me a light that I may tread safely into the unknown.***"

The reply: ***“Go out into the darkness and put your hand into the Hand of God. That shall be to you better than light and safer than a known way.”***

May you all have a safe and blessed Christmas, as we wish the same for our people.

The question is now, that this honourable House do stand adjourn sine die.

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

AYES.

The Speaker: The Ayes have it.

Our honourable Assembly stands adjourned.

At 11:33 pm the House stood adjourned sine die.