



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2013/14 SESSION

10 April 2014

*Second Sitting of the Sixth Meeting
Cayman Brac*

(pages 753–806)

**Hon Juliana O'Connor-Connolly, JP, MLA
Speaker**

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PRESENT WERE:

SPEAKER

Hon Juliana Y O'Connor-Connolly, JP, MLA

MINISTERS OF THE CABINET

Hon Alden McLaughlin, MBE, JP, MLA	<i>Premier</i> , Minister of Home and Community Affairs
Hon Moses I Kirkconnell, JP, MLA	<i>Deputy Premier</i> , Minister of District Administration, Tourism and Transport
Hon D Kurt Tibbetts, OBE, JP, MLA	Minister of Planning, Lands, Agriculture, Housing and Infrastructure
Hon Osbourne V Bodden, MLA	Minister of Health, Sports, Youth and Culture
Hon Marco S Archer, MLA	Minister of Finance and Economic Development
Hon G Wayne Panton, MLA	Financial Services, Commerce and Environment
Hon Tara A Rivers, MLA	Minister of Education, Employment and Gender Affairs

EX OFFICIO MEMBERS OF THE CABINET

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

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Hon Anthony S Eden, OBE, JP, MLA	Deputy Speaker, First Elected Member for Bodden Town
Mr Roy McTaggart, MLA	Second Elected Member for George Town
Mr Winston C Connolly, Jr, MLA	Fifth Elected Member for George Town
Mr Joseph X Hew, MLA	Sixth Elected Member for George Town
Mr Alva H Suckoo, MLA	Fourth Elected Member for Bodden Town

OPPOSITION MEMBERS

Hon. W. McKeever Bush, OBE, JP, MLA	<i>Leader of the Opposition</i> , First Elected Member for West Bay
Mr Bernie A Bush, MLA	Third Elected Member for West Bay
Capt A Eugene Ebanks, JP, MLA	Fourth Elected Member for West Bay

INDEPENDENT MEMBERS

Mr D Ezzard Miller, JP, MLA	Elected Member for North Side
Mr V Arden McLean, JP, MLA	Elected Member for East End

**OFFICIAL HANSARD REPORT
SIXTH MEETING OF THE 2013/14 SESSION
THURSDAY
10 APRIL 2014
10:36 AM**

Second Sitting in Cayman Brac

[Hon. Juliana O'Connor-Connolly, Speaker, presiding]

The Speaker: I recognise the Honourable Leader of the Opposition to grace us with prayers.

Hon. W. McKeeva Bush, Leader of the Opposition: Thank you, Madam Speaker.

Before the Prayers, the [121st] Psalm:

I will lift up mine eyes unto the hills, from whence cometh my help.

My help cometh from the Lord, which made heaven and earth.

He will not suffer thy foot to be moved: he that keepeth thee will not slumber.

Behold, he that keepeth Israel shall neither slumber nor sleep.

The Lord is thy keeper: the Lord is thy shade upon thy right hand.

The sun shall not smite thee by day, nor the moon by night.

The Lord shall preserve thee from all evil: he shall preserve thy soul.

The Lord shall preserve thy going out and thy coming in from this time forth, and even for evermore.

PRAYERS

Hon. W. McKeeva Bush, Leader of the Opposition: Let us pray.

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

Bless our Sovereign Lady, Queen Elizabeth II; Philip, Duke of Edinburgh; Charles, Prince of Wales; and all the Royal Family. Give grace to all who exercise authority in our Commonwealth, that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members and Ministers of Cabinet and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office. All this we ask also, O Lord, that we remember all our people everywhere that all their hard times may be taken with strength, all

their good times with grace and, Lord, we ask that we do make these hard times better for all our people. All this we ask for Thy great Name's sake.

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

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

The Speaker: Please be seated.

Proceedings are resumed.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

BIRTHDAY GREETINGS

The Speaker: I have received no notice for apologies.

In order to set the tone a little bit different for today, I wish to recognise those Members . . . and from the information I received all Members present have celebrated birthdays, certainly since last May, but as recent as this week we had Counsellor Roy McTaggart celebrate his birthday. So, I am going to take the liberty to ask Tanya [Silakivai] if she would come at this time to sing a belated birthday [song] to Counsellor Roy, but based on the information, every Member here has celebrated a birthday since last May. And if you want a more current one, come back in six months and we will make arrangements for that.

Ms. Tanya, if you will come at this time, please.

[Singing]

[Applause]

The Speaker: Thank you, Ms. Tanya. And as I said, it was for all Members, even though a little bit late, but you all celebrated one since last May.

I recognise the Honourable Councillor.

Mr. Roy M. McTaggart, Second Elected Member for George Town: Madam Speaker, I could not let the occasion go by without saying thank you very much to everyone for those good wishes. I have never been serenaded like that in my life, especially by such a young lady as beautiful as she is. I thank her for her good wishes and the song, truly special and meaningful to me. Thank you all.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: I recognise the Honourable Premier who will be delivering three statements this morning.

The Premier, Hon. Alden McLaughlin: Madam Speaker, even though my birthday was a long time ago, and I don't celebrate them anymore at this point in my life, it really was lovely to hear such a beautiful voice.

VISIT WITH BARONESS WARSI

The Premier, Hon. Alden McLaughlin:

As the reputation of the Cayman Islands continues to improve under this Administration, we are finding ourselves involved in more and more positive global roles.

Such was the case when I was invited earlier this year to join the Global Islamic Finance and Investment Group, which was announced at the World Islamic Economic Forum in October last year. I wish to provide Honourable Members of this house and the wider public with a bit of background on this group.

In February of this year while in London to deliver the keynote address for the Chatham House Conference and appear on BBC's Hardtalk, I received an invitation to meet with the Right Honourable Baroness Warsi who is the Foreign and Commonwealth Office Senior Secretary of State and the chairperson of the group, and this allowed us to further discuss this invitation.

In accepting the invitation on behalf of the Cayman Islands, I happily joined others in the group such as Humphrey Percy, the CEO of the Bank of London and the Middle East; Bermuda's Premier the Hon. Craig Cannonier; Javed Ahmad, Managing Director of the Bank of Islam Brunei Darussalam; and others. Consequently, in March I again visited London, this time to attend a meeting of the Group.

Madam Speaker, please let me read briefly from the letter I received from the Right Honourable Baroness Warsi: "This ambitious Group brings together leading individuals in both industry and government to jointly set out a vision for the future of Islamic Finance in global markets." I share her view that if we

all work together, we can make concrete recommendations to government, regulators and the industry to help secure Islamic Finance's place within global cross-border finance and I have articulated this to her at our last one-on-one meeting during my most recent visit to London.

Madam Speaker, Global Islamic Finance and Investment holds great prospects. Ten of the world's 25 fastest growing markets are Muslim majority countries and globally, Islamic investments are set to grow by C\$2.4 trillion by the end of 2014. British landmarks, including the Olympic Village and the Shard skyscraper, have been financed with Islamic investments, as have Britain's first deep-sea container port and the Battersea power station.

Madam Speaker, there are many reasons for Cayman's popularity among Islamic investors. As a British Overseas Territory, the Cayman Islands is politically stable and its laws are based on the English common law system. Since English law is the preferred governing law for Islamic law finance transactions, it makes sense for the offshore element to be based on English law.

Cayman law recognises the concept of a trust and it has proved flexible in response to the needs of the growing Islamic finance industry. Companies are already permitted to register their names in Arabic as well as English in the Cayman Islands. Secondly, issuers could be categorised as mutual funds, meaning they would need to be regulated under the Mutual Funds Law.

Cayman is one of the largest banking centres in the world in terms of assets and has retained a rating of Aa3 from Moody's continuously since 2000. The outlook for the rating is stable, encouraging investors to have utmost confidence in the jurisdiction. Too, Islamic Finance is growing 50 per cent faster than conventional banking.

Cayman has a high standard of professional services with lawyers, auditors, trust companies and fund administrators familiar with complex cross-jurisdictional structures. Our banks have proven to be reliable and responsive and the local infrastructure for communications is sophisticated.

Those of us who attended the meeting worked to identify the key global opportunities and barriers facing Islamic Finance, both those currently in the market and those that may appear in the future. Madam Speaker, we came away with a number of concrete steps on which we agreed to take action. The first one was communication. We recognise the need to build greater understanding and better communicate the value of Islamic Finance. We agreed that a comprehensive analysis needs to be conducted on the current global market and a broad strategy developed to foster understanding and challenge any negative conceptions of Islamic Finance.

As for regulation, we acknowledge that Islamic Finance is a fast-developing industry that must op-

erate in different domestic and international environments. Baroness Warsi has outlined her intention to ask relevant stakeholders to consider how best to pool resources and share expertise on Islamic finance, possibly through a physical or virtual hub.

Madam Speaker, the group recognises the huge investment potential both outside of and within the Muslim world, where an estimated 72 per cent of Muslims don't use any banking services at all and that insurance and pension funds are underdeveloped across the Islamic world. As a group, we will consider an engagement strategy for potential investors looking at innovative Islamic Finance products for the tech savvy generation as well as long term and potentially big growth areas.

The group is going to meet on a bi-annual basis to drive progress and to continue to identify areas where collective action will lead to further opportunities. Madam Speaker, I have heard disparaging comments from some Members of this honourable House on the other side and the general public about Cayman's inclusion in the Global Islamic Finance and Investment Group. But I must tell you, for the Cayman Islands to remain a powerhouse in finance we must keep up with the times and embrace these opportunities. We did not become one of the largest, most respected Financial Service Centres in the world by ignoring the activities of the global market, and as long as this Government is in the seat, Madam Speaker, we will remain mindful of all that we need to do to restore the world's confidence in this great little country, the Cayman Islands.

LONDON OFFICE

The Premier, Hon. Alden McLaughlin: Madam Speaker, many will know that as of 31 March the contract between the Cayman Islands and the Director of the Cayman Islands Office in London headed by Lord Blencathra came to an end. Government began advertising for that position on Monday. The decision to end the contract was by mutual consent after a meeting I had with Lord Blencathra in London last month. I was accompanied by the Chief Officer in the Ministry of Home Affairs as well, who has responsibility for the Cayman Islands Government office.

While Lord Blencathra's company, Two Lions Consultancy Ltd., has had a contract with the Cayman Islands since 2011, recent amendments to the Code of Conduct for the House of Lords could be construed to be in conflict with his role as director of the Cayman Islands London Office. I want to make it clear, Madam Speaker, Lord Blencathra maintains that his efforts on behalf of the Cayman Islands Government over the course of his employment with the London Office in no way breached the Code of Conduct in effect at the time and that a previous investigation by the Lords Commissioner for Standards, Paul Kernaghan, concluded that there was, indeed, no breach.

In addition to his role as the Director of the London Office, Lord Blencathra also acted as a consultant to the Cayman Islands Government through his company, providing advice and guidance on a vast range of UK and EU matters.

Madam Speaker, it is critical that Government continues to have the benefit of proper advice on these matters in order to protect and promote the interests of the Cayman Islands. To that end, we are considering our options. The advice and guidance Lord Blencathra has given to Government over the years has been invaluable. We appreciate not only his service to the Cayman Islands, but also his gracious acknowledgement that we could not continue the previous relationship under the contract.

As I said before Madam Speaker, the directorship role is being advertised. The Members of this House and indeed the country can be assured that Government will diligently strive to hire the best person for the job and ensure that we receive the optimal level of service from the London Office, which serves an ever increasingly critical role in terms of supporting our relationship with the United Kingdom, other Overseas Territories, the European Union, and key international organisations.

The Premier, Hon. Alden McLaughlin: Madam Speaker, I have one final statement concerning the—

The Speaker: Honourable Premier, if I could just ask your indulgence. Could I ask the sound technicians if they could turn up the volume? I'm having some difficulty hearing the Honourable Premier. Sorry, Mr. Premier.

[Short pause]

The Premier, Hon. Alden McLaughlin: Madam Speaker, the final statement I have is concerning the Kernohan Lawsuit Settlement.

KERNOHAN LAWSUIT SETTLEMENT

The Premier, Hon. Alden McLaughlin: Madam Speaker, on March 4, 2014, Cabinet gave approval for the settlement of a claim brought by former Commissioner of Police Stuart Kernohan against the Government of the Cayman Islands and Mr. Martin Bridger, arising from the Police investigation known as 'Operation Tempura.'

Mr. Kernohan served as Commissioner of Police in the Cayman Islands from October 2005 until November 2008 when his contract was terminated. Mr. Kernohan was never charged with any criminal offence. Indeed the Grand Court, in two rulings on applications for a search warrant, ruled that Mr. Kernohan had not committed any offence. It should be clearly understood that the termination of Mr.

Kernohan's contract in November 2008 was not the result of any criminal conduct.

In May 2009, Mr. Kernohan issued civil proceedings claiming, amongst other things, breach of contract by the Government. Thereafter, there were intermittent attempts to settle the matter, including mediation in 2012, a process that had been recommended by the Grand Court. The failure to settle meant that the Government and Mr. Kernohan were obliged to continue with the necessary steps for trial—preparations that included certain interlocutory proceedings. This resulted in mounting legal expenses.

The Government retained leading UK Counsel to conduct the matter. He was initially instructed by Counsel in the Chambers of the Attorney General, but in more recent times by private Counsel. Mr. Kernohan was also represented by leading overseas local Counsel.

As may be expected, litigation of this nature can become very costly. Indeed, by the date of settlement, the Government had expended well over a million dollars in legal and related expenses, although the matter had not yet reached the trial stage, when these expenses were expected to increase significantly. It was anticipated that the trial would last as long as five weeks, with all the attendant expenses that those proceedings would involve.

Additionally, there was always the uncertainty of litigation. Had the Government been unsuccessful at trial, it would have been required to pay not just its own legal expenses, but also Mr. Kernohan's costs, which by that time would have been very substantial. Accordingly, after consultations between the Government's attorneys and Mr. Kernohan's representatives, it was agreed that it was in the best interests of the both parties that the matter be settled.

It should be understood that the settlement that has been reached is solely between Mr. Kernohan and the Government. Aspects of the case between former Commissioner Kernohan and Mr. Bridger are still pending. These outstanding aspects of the matter mean that there is not much that the Government can say about the case or the terms of the settlement. All I can say is that, after careful deliberation, the Government determined that the wisest course was to avert the mounting legal expenses associated with the case by negotiating a settlement, and averting also the risk of a finding against the Government, and that is what we have done.

Madam Speaker, the Government is aware of the calls for the terms of the settlement to be made public. This call is understandable given that public funds have been used to pay the settlement. However, as most lawyers will be aware, it is not uncommon for settlements of this type to be subject to confidentiality.

The terms of the Deed of Settlement with Mr. Kernohan include a confidentiality clause, and the Deed itself is incorporated into a court order. There-

fore, the Government is unable at this stage to divulge any more details about the terms of the settlement. Indeed, to do so would amount to contempt of court. We are, however, confident in saying that, given the amount that was being claimed against the Government, by settling the matter in the manner we did, and the time we did, we have managed to avoid incurring significantly more legal costs than if the matter had gone to trial.

Finally, Madam Speaker, I appreciate that a lot more needs to be said about this sad chapter in Cayman's history known as 'Operation Tempura' and I look forward with great anticipation to the day when a more fulsome statement can and will be made.

SHORT QUESTIONS

[Standing Order 30(2)]

The Speaker: I recognise the honourable Member for East End.

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

In accordance with Standing Order 30(2), I beg your permission to ask a few short questions.

The Speaker: Permission is hereby granted.

Mr. V. Arden McLean: Thank you.

Madam Speaker, I take note that the Premier in his statement said that most lawyers will be aware that it is not uncommon for a settlement of this type to be subject to confidentiality. Other people, are also aware of those things. In his statement he also said that we look forward to the day when a more fulsome statement can and will be made. I am wondering when, and under what conditions that statement, the more fulsome statement, will be made which would include the disclosure of the amount, because this is public money.

The Speaker: Honourable Premier?

The Premier, Hon. Alden McLaughlin: Madam Speaker, given the terms of the present court order, unless that order were varied, or the other party, meaning Kernohan, were to consent, we would not be able at any point to be able to disclose what that settlement sum is. There is a court order.

The Speaker: Member for East End.

Mr. V. Arden McLean: Madam Speaker, the only way a court order can be made is if it is agreed between two parties, if it is settled outside of court and both agreed to go back to the court, and part of the condition is that they will not make it . . . Can I then ask who requested that it remain confidential?

The Speaker: Honourable Premier? Obviously I am not privy to the conditions, but I am minded for you to wrap your mind around the fact that perhaps it may be *sub judice*. If you wish to answer you may proceed.

The Premier, Hon. Alden McLaughlin: Madam Speaker, I am advised not just by you (and I am grateful for that), but by the Attorney General, that not just the terms of the agreement but the negotiations leading up to the agreement are confidential and are covered by the terms of the order.

The matter is *sub judice* because there is still the outstanding matter between Kernohan and Bridger. So, there is not really much more that I can say about this matter. I understand the Member's concern and interest. It is justifiable. But I would ask him to appreciate the constraints under which I and the Government are operating in respect to this matter.

The Speaker: Member for East End?

Mr. V. Arden McLean: Madam Speaker, I appreciate that. I understand. But the concern that the country has is the amount of monies that were paid out of the Government's purse. The decision was made by Cabinet. There is one of two ways it can be done, Cabinet approves it, or tells the Governor to use the reserve powers. The Premier has admitted that the Cabinet—the political Cabinet, the seven Members on the Front Bench here—made that decision. The Attorney General can't make any decision to pay anything. He can negotiate; but the decision to use public funds comes from these seven Members right here.

Now, at some stage there has to be payment of that money. I am a representative in this country for the district of East End. When will I have to lend my approval, or my support, to pay this money? And when will the people know? Because this thing about confidentiality in it, I understand. But at some stage even if the case that is now pending between Kernohan and Bridger is over, are you telling me that we are going infinitum without making the people know how much was—

[Inaudible interjection]

Mr. V. Arden McLean: I don't know. That's what I am asking.

Will there be a time somewhere in the future when we are in our hammocks, or grey hairs tripping us down, when the people of this country know how much was paid to this former commissioner? Certainly, if it is a court order the executive of this country—maybe not this one, maybe another one—can go and alter that court order.

The Speaker: Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Speaker, I went to pains to explain that this is a court order. This Legislative Assembly, as powerful as you may think we are, is also subject to the law and to the rule of law. If the court issues an order which says that the terms of the settlement are confidential, there is nothing that this parliament can do to change that. It would require the agreement of the other side, or some compelling reason on an application by the Government to get the court to lift the confidential provision in the order. So, if I were to try now to tell the Member what is the amount, or any of us did so, we would be in contempt of court. I do hope I have made that plain enough.

The Speaker: I will allow one more question.

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

Madam Speaker, as much as the Premier thinks I don't understand, I do. But I am asking the Premier and the Government if it is the Government's intention to at some stage try and alter that court order in order so that the people of this country get knowledge of it. If I come into knowledge of it now, I can't disclose it either; I understand that. But . . . well, maybe I can. But my argument is—

[Inaudible interjection]

Mr. V. Arden McLean: You're sure I will? Of course I would. Let the people know. But I won't come in contact with it; the seven of you have in safekeeping.

Madam Speaker, what I am asking is if it is . . . and the Attorney General is just sitting there without even . . . I want to know where the advice is now. Can we not at some stage apply? It may not necessarily be granted, but we can apply. Yes. Whether you have agreement of the other party or not, is it the Government's intention when all of this is over to do that, to apply so that it can be disclosed?

The Speaker: Honourable Premier.

The Premier, Hon. Alden McLaughlin: Madam Speaker, that is not something we have had in contemplation. This agreement has just been made. The ink is still wet on the court order. That is something, I think, for consideration down the road. It was a condition of the settlement that the matter be kept confidential.

The Speaker: I recognise the Honourable Minister responsible for Education.

**NATIONAL WORKFORCE DEVELOPMENT
AGENCY**

Hon. Tara A. Rivers, Minister of Education, Employment and Gender Affairs: Thank you, Madam Speaker.

I wish to update this honourable House as to the work being done to address the challenge of unemployment. Through the work of the National Workforce Development Agency ("NWDA"), this Government is working to prepare and protect Caymanians so that they can partake in the economic opportunities that exist today in, and those that are being attracted to the Cayman Islands.

Over the past several months since taking office in May 2013, my Ministry has been engaged in the review of the work undertaken by the NWDA with a view to making the necessary changes that will ensure that this agency can fulfill its vision of being a valued partner and facilitator in the training, development and employment of Caymanians.

Through a review of the work of the NWDA Employment Services Unit, it was noted that a strong collaborative relationship with the Immigration Department and its boards is crucial to ensuring that Caymanians have a fair and equal opportunity in the recruitment process. During this review and in discussion with the immigration department it was further noted that the Immigration Department and its boards rely heavily upon the NWDA Employment Services Unit to provide the necessary information to make informed decisions regarding the granting or a refusal of work permits.

In response, my Ministry with the support of the Computer Services Department set out to expand the NWDA database to include an immigration interface which ensures that the Immigration Department and its boards have the information required in a timely manner to make informed decisions. The delivery of such a system was a major campaign promise and is absolutely essential, Madam Speaker, to enhance the collaboration, efficiency and effectiveness in the way these two agencies, the NWDA and the Immigration Department, interact with one another.

Madam Speaker, I am happy to report that on 25th February of this year (2014), my Ministry launched the NWDA Immigration Database Interface. Through a two-hour unveiling and training session, members of the Grand Cayman Immigration Department were introduced to and trained on the use of the new Interface. A subsequent meeting was held with members of the Grand Cayman Immigration Department on 1st April where they shared feedback on the use of the Interface. That feedback has resulted in some adjustments to the interface and changes to departmental procedures as we endeavor to ensure that we have a system that is fit for purpose. We anticipate another meeting with the members of the Grand Cayman Immigration Department in another three to four weeks to gather some more feedback which will inform additional tweaks to the system. We are very happy and encouraged that the immigration depart-

ment has been willing to engage in this level of collaboration, as it has facilitated the development of a system that meets the needs of all involved and has the necessary buy in of those it was designed to support.

In addition to the meetings which took place in Grand Cayman, Madam Speaker, on 20th March, representatives of the NWDA in my Ministry met with the Deputy District Commissioner and representatives of the Cayman Brac and Little Cayman Immigration Department to introduce them to the Immigration Interface. Those present stated that they could see the value of this interface and have committed to utilising it as a tool in the work permit process utilised here in Cayman Brac and Little Cayman.

Madam Speaker, I would like to note that in a recent press release the Chief Immigration Officer stated that she was happy with the collaboration between her department and the NWDA. She said that the online interface will make for a significant positive change in the way that Immigration and the NWDA work with each other and will increase a transparency of the work permit process. She too encouraged all employers and job seekers to take advantage of this system.

This interface, Madam Speaker, which is a component of the larger NWDA database, is designed to facilitate significant positive changes in the way that Immigration and NWDA work with each other, and is facilitating transparency in a work permit process. It is providing an efficient and effective way for employers to communicate efforts to higher suitably qualified Caymanians, and efforts to recruit suitably qualified Caymanians, and providing an effective and efficient way for the NWDA to provide information to the Immigration Department and its board that will allow for informed decisions to be made by them when processing such applications.

Madam Speaker, I would like to briefly share the steps involved in this new process as I feel that it will give a very valuable picture of the process that has been established under this Government's leadership:

- The employer registers a job with the NWDA.
- The NWDA database system runs a query to identify job seeking clients who are registered that broadly meet the requirements of the post as registered.
- The NWDA employment services officer reviews the matches for appropriateness and with authorisation from job seekers, refer candidates who are a reasonable fit for the post.
- NWDA job seeking clients are able to view job posts and have the options to self-refer.
- Employer clients receive notification of matches for persons who have self-referred or who have been referred by the NWDA.
- The employer client is responsible for reviewing all candidates and determining their suitability.

bility and taking the application process forward.

- The employer client is provided with a section on the database where they can record the outcome of each referral.
- If the employer client decides not to select the Caymanian and chooses to apply for a work permit, the Immigration Department and its boards will be able to pull up the referral record and view the list of persons who were referred or self-referred, the rationale by the NWDA and the reasons the company gave to explain why no suitable applicant was found.

This process, Madam Speaker, will ensure that the Immigration Department and its boards are aware of every person that was referred or self-referred and the outcome of the recruitment process.

It is important to note that there is no legislation to mandate employers to register their companies with the NWDA or post available jobs with the NWDA at this time. While this interface facilitates transparency in the work permit process, it only accomplishes this for jobs that are posted with the NWDA where persons have applied for the post through the NWDA.

What my Ministry has done is to create a valuable and critically important service and we are encouraging employers and job seekers to utilise it in the process of recruitment and job seeking. The approach right now is to create something that is useful to job seekers and employers, and we are inviting feedback as we further develop the system to ensure that it is fit for purpose.

In addition to the work being undertaken on the NWDA database, Madam Speaker, the Ministry has also been involved in the expansion of services of job seeking clients through our district outreach programme. The training and development unit of the NWDA has partnered with library services to deliver NWDA employment services at the district public library branches on a monthly basis. Through this opportunity Caymanians can meet with representatives of the NWDA at their district library for assistance with any activity related to job seeking, including registering with the NWDA, searching for jobs on the online portal, self-referring for jobs, resume writing and interview preparation. And it is important for me to recognise or to note, Madam Speaker, that the NWDA has been instructed to reach out to all MLAs as to when they plan to be visiting their respective districts in order to elicit their support in sending clients that they think may be relevant to such a service.

In response to feedback from employers and job seekers, we note that one of the challenges our country faces is the discrepancy between the skills and the employer's desires, and the level of skills present within a segment of our unemployed population. The Government recognises that in order to address this challenge there needs to be a focus on training

and development. In response, the Ministry is currently working on the intake and assessment process for job seekers who desire the support of an employment services officer as they engage in job seeking activities.

This is being designed in a comprehensive assessment that will include psychosocial assessment, mental health screening, career assessment and an assessment of employability skills. This process will help to identify the level and type of support and services required to move the job seeker closer to the job market. We anticipate that the intake and assessment process, Madam Speaker, will be implemented by the end of April 2014.

To support the intake and assessment process the Computer Services Department is building a professional development interface. This interface will be used to record the activities that the job seeker has committed to engage in as they address their respective barriers to employment. This interface will track the progress of job seekers and hold them accountable to engaging in the work necessary in order to address their respective barriers to employment. This interface will also facilitate the opportunity for online case management of individuals who are seeking support and services from multiple government agencies. It is anticipated that this interface will be launched, as I said, at the end of this month.

Madam Speaker, there is much more that I could share regarding the work that is being undertaken by my Ministry and the Government as a whole, as we work to address the challenge of unemployment. In the interest of time, however, I chose today to highlight some of the major projects that the Ministry has undertaken and has accomplished thus far as we work to ensure that the NWDA is positioned to fulfill its vision of being a valued partner and facilitator in the training, development and employment of Caymanians.

Thank you, Madam Speaker.

SHORT QUESTIONS

[Standing Order 30(2)]

The Speaker: I recognise the Honourable Leader of the Opposition.

Hon. W. McKeever Bush, Leader of the Opposition: thank you, Madam Speaker. I rise under Standing Order 30(2).

The Speaker: Permission granted to ask brief questions.

Hon. W. McKeever Bush, Leader of the Opposition: Thank you, Madam Speaker.

Madam Speaker, in regard to the registration of jobs with NWDA, it seems that it is all dependent on the employer registering a job with the NWDA. What

sort of process will ensure that the information given to NWDA is correct or not skewed?

The Speaker: Honourable Minister of Labour.

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

The process of registering also involves the Employment Services Officer reviewing [to] some degree the application from the employer to register their employment. However, the issue and the challenge to be recognised is that as the number of employers increase their registration—which we are hoping and which we are seeing—the ability to basically screen those employer registration applications becomes more challenging, given the number of persons that the agency currently has in order to do just that.

But there is some level of dialogue between employment officers and the employers with respect to the initial application by employers, or I should say registration, because there is no application process for them; it is a registration process. But the NWDA employment officers first review the registration before that information goes live, so to speak.

The Speaker: The Honourable Leader of the Opposition.

Hon. W. McKeeva Bush, Leader of the Opposition: Thank you, Madam Speaker.

That is what I am trying to ascertain. What is the process that the NWDA will utilise to ensure that the employer is giving the correct information to them? Their just getting the registration and checking from there, what happens? I mean if something is given . . . and we have known that to happen. I would think that we all understand that is why we are trying to do something like this. What happens then? That is what I want to find out. How can NWDA be able to verify?

The Speaker: Honourable Minister for Labour.

Hon. Tara A. Rivers: Thank you, Madam Speaker, and thank you for that question.

As was recognised, the issue of information coming forward has always been a challenge in some aspect, but the purpose of developing the closer link between the NWDA and Immigration is also helping to facilitate that because many employers register information with Immigration under their regime, and so there is an ability to do some cross referencing there as well with respect to what an employer will register with NWDA versus what they register with Immigration. So, there are those built-in checks and balances which we hope to utilise by having this closer collaborative effort.

But, of course, we have to recognise that the information provided, because there is no income tax reporting regime, there are no regimes that require certain information to be forthcoming, that information

is very much, to some degree, on an honour basis. That is just the way our economy is structured from that perspective. But I do take the point that we are looking at better facilitating that flow of information and verifying that.

But, as I said, there is a process where Immigration and the NWDA are now able to collaborate more efficiently and provide information in order to do those types of cross references and checks.

The Speaker: I recognise the Member for the district of North Side.

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

In her statement the Minister makes it clear that there is no legal requirement by any employer to follow this process. Can the Minister say if and when the Immigration Law Regulations and/or Directives will be amended to mandate and legally require this process to be followed? Otherwise, this is just a waste of paper and ink.

The Speaker: Honourable Minister responsible for Labour.

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

If I could be permitted to just add to what I said before about the other question. I was just informed that the actual coding that is used by Immigration and the NWDA is one and the same. So, that information is simultaneous, as I said.

But to answer the Member for North Side: The system that was designed was obviously designed with the current Immigration regime. So any discussion or any deliberation, any decisions taken by the Government to move the process forward, will need to be done just as that, by a collective. So I can tell you that, from the perspective of the Ministry of Employment, this is an area where we think that in order for this database to really be effective and to be utilised to the maximum potential it needs to become that clearing house where all jobs are registered.

The Speaker: Member for North Side.

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

Can the Minister say how the Government intends to enforce this process if it does not have the legal support of either Immigration regulations or Immigration directives? And what happens when an employer does not follow the process?

The Speaker: I recognise the Honourable Minister of Labour.

Hon. Tara A. Rivers: Madam Speaker, another important reason for having the collaborative effort between the NWDA and Immigration when processing or

looking at the unemployment situation and, conversely, looking at processing the work permit application, is for Immigration to be able to look without having to pick up the phone, without having to wait for somebody to get back to them through an email, or without having to have somebody directly available from the NWDA, at present at the board meeting, to be able to look on the database which they have access to in their offices to see how many Caymanians have registered with the NWDA for particular jobs that have particular skill-sets and have particular training.

So, if a company does not choose to register with the NWDA, the Immigration Department has the tools available at its fingertips to say, *Well, this permit . . . you know the decision made based on the permit will be determined by whether or not they can show and demonstrate that they have taken best efforts to find a suitably qualified Caymanian. And this too gives them the ability to say whether they have done that because they can see whether the company has or has not registered. Thank you.*

The Speaker: Thank you.

The Member for East . . . Honourable Minister of Labour, you had an addition?

Hon. Tara A. Rivers: Sorry, I didn't realise that the Member for East End had—

The Speaker: I recognise the Member for East End but before asking your question I would just like to acknowledge the smooth departure of the teacher and students from the Spot Bay Primary School. We didn't get a chance yesterday to entertain some of them. Ms. Tammy if you could pass the word forward that all Members of Parliament, Speaker and staff of the Legislative Assembly, are grateful for their active participation in how their government works.

Member for East End.

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

Madam Speaker, the Minister spoke of campaign promises, about this vexing issue of labour and immigration, work permits. I believe every one of us made promises—including her now . . . the PPM, the Progressives. And most of us, the majority of us, talked about the separation of Labour from Immigration—border control. I think the PPM even talked about investigating the viability of separating it, and so did I, quite strongly, where an agency would be developed to review all labour and registration of all unemployed and go through the whole process of interviewing with those prospective employees.

Is this the first step then towards the separation of those two entities? Because what I am hearing, and the Minister may correct me, is that the prospective employer can put reasons why there was no one suitable because they have to interview that prospec-

tive employee. But the authenticity of that is a little sketchy for me. How do we know that they didn't just put it up there? They interviewed the person but just put it up there.

So, is this the first step towards getting us to where we separate those two entities? We all agreed that Immigration should not be the labour access into this country by virtue of having the authority to issue work permits.

The Speaker: Honourable Minister for Labour.

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

To answer, I guess the latter part of the question first about whether or not this is the separation of the two or amalgamation of the two functions for between the two departments, as I said, this is definitely the first step in ensuring that the left hand knows what the right hand is doing when it comes to dealing with labour relations as it relates to employment in the country. Further discussions, obviously, will need to be had with the Government to see how and when we can move the process further forward. But this was a critical first step.

To address the concern that the Member had about the authenticity of other reliability, I guess, of the employers' comments as it relates to the interviews, as I outlined, we built in the system a section where the referring officer, the employment services officer, also has to state the reason why they think that this person is a suitable candidate for the position. So, in their referrals they have to give their reason. So again, Immigration Department will be better placed to have both sets of information and can then ask additional questions if need be or have further clarification if need be.

It deals with the concern that employers had as well about not getting suitably qualified individuals being sent for the job. So it takes a lot of the work up front where people have to go through the proper work with the Employment Services Agency. That's for those persons who are referred by the Agency. It also gives the opportunity for people to self-refer. Obviously, those individuals who self-refer would not have the added benefit of having had the referral notes by the officer to the employer.

The Speaker: I will allow this final question.

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

Madam Speaker, I know in other jurisdictions, such as Canada, the agency is a part of those interviews thereby there is no need to rely upon the prospective employers' notes or reasons why the person was not interviewed. I wonder if the Minister can tell us if that is something that we can, we should or we are considering.

I don't trust many of these prospective employers. I really don't. And many of us don't. But no-

body wants to say it. I'll say it. We have to make sure that we put the mechanism in place that Caymanians are employed, that we keep a close eye on it. I am wondering if that is anything we can do as an enhancement to the system because when Immigration looks there and says, *Well, the person was not qualified. We interviewed him and he could not answer these questions . . .* we're relying on that like we have always done. We advertise and the people came.

So, It is not filling the gap unless we put the mechanism in place to ensure that these people do not maintain the behavior that they have been doing for many, many years, and then applying for their work permit and getting it. Madam Speaker, I would ask the Minister if she could respond to that. Thanks.

The Speaker: Honourable Minister for Labour.

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

As I said in my statement, we are open to consider all suggestions and ways to move the process further to enhance the ability to deal with the issue of unemployment.

The other reality, or constraint, that is important to recognise is the sheer number of persons. Now I know when I first took office and discovered that there was one such person hired to do the role of the Employment Services Unit, it was unrealistic to expect that individual [to care for] that volume of work. Therefore, this Government took forward a decision to put these additional posts. And I am very happy that the House supported that. So we now have a unit that is still, in many instances, understaffed, but better staffed. A much better staff now than what we were. We have three employment services officers, a manager and an outreach coordinator with the prisons.

It is still more than double what we had before. But again, of course in this era of financial constraints and otherwise, we have to work with what we work with. But we are definitely putting mechanisms in place to make sure that the agency can deliver on what is being expected of them to ensure the efficiency and effectiveness, and to work towards moving the system forward in a positive way. And I think it was just important for me as Minister responsible to update this House as to the efforts that have been made already in that regard.

The Speaker: Honourable Minister of Education, I believe you have another statement for today.

SCHOOL DISCIPLINE AND STUDENT BEHAVIOUR

Hon. Tara A. Rivers: Yes Ma'am. Thank you.

Madam Speaker, I wish to update this honourable House on the Ministry's work to strengthen the way in which school behaviour and student discipline is managed in government schools.

This Government takes the matter of school safety very seriously. Since taking up office last year I have made a commitment on behalf of the Ministry responsible for Education and Government to be proactive in addressing the challenges faced by government schools so that teaching and learning is improved. So much so, that the mantra which I have already communicated to my staff at the Ministry, Department of Education Services, schools administration, teachers and other educators to be used when working to address issues faced in the school system is 'No Excuses - Just Solutions.'

Since taking office, my team and I have held extensive discussions with individual school PTAs, teacher representatives of the National Teacher Forum and the National Parent Forum, both launched in the latter part of 2013 under my leadership. We have also had visits to schools to listen to the concerns raised about school discipline and student behaviour, in particular the negative impact that a small number of students have on their schools. It is clear that we and our community all want schools that are safe, welcoming, supportive and inclusive learning environments.

Further to this, we must recognise our responsibilities to all our students including those who have difficulties and ensure that they have access to the right support.

The Ministry of Education already coordinates and has oversight of a number of proactive 'safe school' measures. However, these measures are also the subject of review to determine their effectiveness and to identify gaps that may exist. Behaviour and Education Support Teams (BEST) are in place across government schools and meet on a monthly basis. BEST teams undertake assessments for early indicators of being at-risk of negative outcomes and manage a wraparound student-centred approach that relies on inter agency partnerships and collaboration in order to be effective.

Crime prevention days were introduced last September to secondary school students and following their success were offered again this term to Year 8 students. There is a successful Extended After School Programme (EASP) that provides purposeful activities for students at the end of the school day. There are established supportive partnerships between my Ministry, the Department of Education Services, RCIPS and security firms to ensure that any incidents of violence in schools are dealt with appropriately.

During November 2013, Safe Management and Risk Reduction Training was developed and piloted with three schools and an adult training centre. Components of this training package have now been offered to relevant school staff to train colleagues within their schools, thus building capacity within the system to manage student behaviour more effectively.

The need to strengthen the provisions to address special education needs is vitally important. In November 2013, I asked the Senior Policy Advisor for Inclusion to draft an action plan to identify priority areas in relation to special educational needs. I also asked at that time for a specific review of processes to support the identification, assessment, monitoring and provision for students with behavioural needs.

From early in my tenure as Minister with responsibility for Education, I recognised the importance of and the need to strengthen the governance of behaviour management systems, both in schools and in the services that support schools; and the Ministry, the Department of Education Services and the schools, in collaboration with other stakeholders, have been charged with the responsibility to develop and implement a workable plan of action to address this fundamental issue and to increase accountability in the system. Further work is planned and underway in this regard.

The Government recognises that prompt actions need to be taken to address the concerns that have been raised about school behaviour and student discipline. Significant work is well underway to define key expectations and strengthen the way in which school discipline and student behaviour is managed going forward. Stakeholders, including parents and students, will be consulted and asked to provide feedback about the existing school code of conduct and home-school agreement. Working groups in the high schools have started to review their school policies with the aim of having fairly apportioned rewards and sanctions according to behaviours demonstrated. Further to this, a suite of national policy expectations and supporting guidance documents to support school based protocols are due to be finalised and published in the near future. These include, but are not limited to, an anti-bullying policy, dealing with complaints policy, and guidance on recording and reporting school safety incidents.

A campaign is planned to communicate key expectations about school discipline and student behaviour to the community during the lead-up to the start of the new school year. Key policy guidance is to be launched nationally at the start of term in August 2014, so that there are consistent standards across the country in relation to school discipline and student behaviour. The Ministry will be reaching out to all stakeholders to play their part to make this a reality at all schools, for all students.

However, it must be stated that some of the challenges faced by our school communities from those students who are struggling with severe, complex and significant behavioural and/or mental health issues go beyond the scope of my Ministry alone. These young people pose a risk to both their school environments and their community, and they require intensive and specific interventions to address their

needs. Unfortunately, there is a gap in suitable secure therapeutic accommodation for these young people.

We really must act with some urgency to address this matter. I will continue to lobby this Government, of which I am a part, to move quickly to develop a proper mental health facility suitable to address the mental health and wellness needs of a growing population of students. Schools alone are not equipped to deal with such cases.

In summary, my Ministry takes its responsibility to provide national expectations about school discipline and student behaviour very seriously, and acknowledges the important role government schools have in supporting students whilst they are being taught to accept responsibility for their own behaviour. I have specified before this honourable house the work that my Ministry has already undertaken and the work that is underway to strengthen expectations about school behaviour and student discipline and to fortify the governance of behaviour management systems. This reflects the Government's continued commitment to ensuring the safety and well-being of all students and staff.

Madam Speaker, I thank you.

SHORT QUESTIONS

[Standing Order 30(2)]

The Speaker: I recognise the Honourable Leader of the Opposition.

Hon. W. McKeeva Bush, Leader of the Opposition: Thank you, Madam Speaker. I rise under Standing Order 30(2).

The Speaker: Permission granted.

Hon. W. McKeeva Bush, Leader of the Opposition: Thank you, Madam Speaker.

Madam Speaker, the behavioural matters emanating from some students are not something inherent in the child because he comes to school and that is developed in the classroom, but is something affecting the child at home or other causes. Can the Minister say what kind of collaborative effort is made between the Ministry of Education and the Department of Family Services to deal with this at the home level so that it is effectively dealt with at the place where the problem with the child begins or is caused (that is, at home or through contact with peers or other such causes)?

The Speaker: Honourable Minister of Education.

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

The collaboration that currently exists is primarily facilitated by the BEST teams that I have spoken about recently. However, as I indicated, that system is also under review. I've asked for the staff in the

Ministry, in particular, to give me an update and to advise as to ways in which we can strengthen that type of relationship. As I understand it, the BEST system absolutely currently relies on the need to have that kind of collaboration and to have the availability of persons from the Department of Children and Family Services to facilitate the kind of home interventions that the First Elected Member for West Bay indicated.

So the issue of behavior and the manifestation of behavioural problems, as he rightly recognised, in many instances do not start at the school level; but it is the schools that are on the frontline of a lot of these issues. Definitely the Ministry of Education recognises the need to strengthen this collaboration between the Department of Children and Family Services, between the Health Services Authority with respect to mental health issues that we are seeing that a number of our students are facing. And so that is the only way that we can really address the problem in a holistic fashion and to say that the Government recognises that this is a priority and we are moving forward with trying to put things in place to address it.

The Speaker: Honourable Leader of the Opposition.

Hon. W. McKeeva Bush, Leader of the Opposition: Thank you, Madam Speaker, and I thank the Minister.

Is the Minister saying that this collaborative effort is not in place through BEST? I am not talking about just mental health, because from what I understand, from the complaints I get, it is not just a student with mental health, it is real serious behavioural problems, other serious . . . not that I am saying that mental health is not serious. That is just one aspect of it.

But for the home interventions (because that is what I am talking about), are you saying that that is not present in the BEST programme? That is what I am trying to find out. If it is, then you are saying that you are going to strengthen it so that the home interventions can be more effective?

The Speaker: I recognise the Honourable Minister of Education.

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

It is my understanding that these collaborative efforts are already in place with respect to the workings of the BEST team, because the BEST team represents persons from the Education Ministry, from the Children and Family Services Department and other key stakeholders in considering the issues of “at risk” children. So, the collaborative framework is there. But the concern is always whether or not the sufficient level of services is being delivered to the students in the most effective manner.

So, when I say that a review of this process has been called, it is because we need to determine whether or not the needs of these children are being adequately dealt with from a holistic perspective, in

the homes as well as in the schools. And so, the framework for dealing with this may evolve and change over a short period of time.

But to answer the question, we are in the stage of strengthening what currently exists and identifying where the gaps are and how we actually go about solving the problem to find the solution.

The Speaker: I will allow two more questions.

I recognise the Honourable Leader of the Opposition and then the First Elected Member for the district of Bodden Town.

Hon. W. McKeeva Bush, Leader of the Opposition: Thank you, Madam Speaker, and I thank the Minister.

While I dealt with the home intervention (because that is one aspect of the problem), we also recognised that there is a problem within the school itself. And the question I have is: How is the Ministry dealing with the complaints?

I know they receive them—I receive them and other legislators do—that teachers are not in tune, culturally, they’re not (to put the language simply) encouraging students and they use different things that aggravate (to put it simply) the child at school—the remarks made, that sort of . . . I spoke about this sometime ago in probably the very first session that the Minister attended of the House.

How are we recruiting? How are we determining who has the best fit to deal with our children, because that is a fact. The remarks made to students, whether it is pressure on the teacher of some kind or another why this is happening. But I do get complaints when I talk to children, and [it is] children at that age group, at high school level, that the teacher said this and this got them aggravated to the extent that they wanted to do something.

For instance, a child will say that a teacher said they shouldn’t be striving—they should be mixing cement. That sort of thing. What sort of effort is being made? What kind of attention is being paid to who we are employing and from where? Can they match the cultural difference and so on?

The Speaker: Honourable Minister of Education.

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

As I am sure the Member can appreciate, the nuances with respect to the employment strategies and the employment of the teachers do not necessarily fall within my ambit as Minister in that the actual recruitment and the hiring and firing is not something that I am intimately involved with in that process.

But with respect to the question of how do we deal with making sure that . . . well there are a couple of questions in there to deal with the complaints. As I spoke about, and as you see in this statement, there is an actual policy in the final stages of drafting which deals with the complaints and guidance on recording

such safety incidents. And the anti-bullying policy doesn't just relate to bullying of students against students, it would pertain to bullying of students to teachers and teachers to students and vice versa.

So, these types of policies are being developed as we speak. And the bullying of parents to teachers and the whole process of how do we interact with our children and how do we expect . . . and likewise, how our children interact with the system, is something that is currently under consideration and in its stages of development as a part of this whole review that was called in November 2013. Thank you.

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, I do know that you recognised another Member, but just one follow-up, if you may.

The Speaker: Please proceed, but please make it brief so that the other Member will have his opportunity.

Hon. W. McKeeva Bush, Leader of the Opposition: Oh yes Ma'am, we got the whole day. But I appreciate your time and indulgence.

Madam Speaker, I want to thank the Minister. However, I am absolutely knowledgeable to the extent that I recognise she is not in the recruiting or firing. None of us are, no elected Members. But what I am asking [about is] the policy because her policy should generate that sort of dynamics, that the teachers . . . wherever we get our teachers from, how are they interviewed? What is said to them? What is expected of them, besides just being a good teacher in the classroom?

I'm sorry, Madam Speaker, I'm trying not to be long but the fact is that there are nuances that I think policy can help to alleviate the problem with that aspect that I am talking about.

The Speaker: Honourable Minister of Education.

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

From a policy perspective, as Minister of Education and as a Government, I would expect (and when I say "as a Government" I am talking the collective of all of us in this honourable House) that the policy should be that we want to ensure that our students are taught by the best possible educators who are not just technically proficient in what they do, but also have the requisite skill set that is required, which is to be able to interact and engage with our students. From a policy perspective that is the focus when we look to hire professionals to work with our children, that they need to have the requisite ability to teach the material that they are entrusted to teach, but also to be able to engage with our students in a way that is positive and constructive.

So a big part of my direction in giving the staff the need to look at this kind of review of the system

we have in place now is to also look at the professional development aspect. Because, as with any profession, teachers also need to continue their training and their retooling in how to deal with circumstances which may not have been a reality when they first got their teaching certification. So, a big part of the strategy to address these issues also includes professional development which I have instructed needs to include more about dealing with students with behavioural issues and how to have conflict resolution and conflict management strategies. And I spoke about the training that is currently underway in that regard in my statement.

The Speaker: I recognise the First Elected Member for Bodden Town. Thank you for being so indulgent and if you wish to have an additional question, I will so allow.

Hon. Anthony S. Eden, First Elected Member for Bodden Town: Thank you, Madam Speaker. I will see.

I have spoken briefly to the Honourable Minister and the last Minister of Health and I had certain discussions. And I know there were certain advances in the area of autism. This is not specifically under Education all the time. It also touches health and also touches Children and Family Services. It certainly will need collaboration. I just wonder how that is being advanced at this time, because the process with this is a very expensive situation and a very traumatic and sad situation when discovered. I just wonder if she can share with the House the way forward as she may see it from her aspect with Education. It is a very complicated and very sad situation. Thank you.

The Speaker: Honourable Minister of Education.

Hon. Tara A. Rivers: Thank you, Madam Speaker, and thank you First Elected Member [for Bodden Town] for raising that issue.

That, essentially, is one of reason that strikes at the heart for the need to have this interagency collaboration in a way that is effective from a service delivery, but also from a financial perspective as well. As was rightly recognised the issue of autism is one that if detected early enough, and the right intervention is given, then the ability for those students to be able to cope with the challenges of life is greatly increased.

So, what we do at the Ministry currently is contract with a private entity to help assist with the identification of these issues in the student population. We also have the early intervention unit which works, I think, very closely in line dealing with some of these issues as well. But as I have stated previously, and will continue to advocate, we do need to look at these challenges that many of our students face as not a Ministry-of-Education issue in isolation, or a Ministry-of-Health issue in isolation. We need to find a mecha-

nism where we look at it from a holistic perspective as to what services each of these children needs in order to give them the best chance of having a successful and productive future.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 5/2013-14— AMENDMENT TO THE CUSTOM LAW (2012 REVISION)

The Speaker: Elected Member for North Side.

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

I wish to move Private Member's Motion No. 5/2013-14, Amendment to the Custom Law (2012 Revision), which reads:

WHEREAS the National Conservation Law, 2013 allows for the owners to purchase new equipment and tools as well as repair parts for the equipment and tools needed to fulfill the terms of a licence issued by the National Conservation Council;

AND WHEREAS the National Conservation Council is authorized to issue spear gun licence to Caymanians;

AND WHEREAS the Customs Law (2012 Revision) prohibit the importation of spear guns and parts for spear guns;

BE IT NOW THEREFORE RESOLVED THAT this Legislative Assembly consider amending the Customs Law to allow the importation of spear guns and parts by Caymanians under licence from the National Conservation Council.

The Speaker: Is there a seconder?

I recognise the Member for East End.

Mr. V. Arden McLean: Madam Speaker, I beg to second the Motion, even if I am the Second Member for North Side.

The Speaker: The question is: BE IT NOW THEREFORE RESOLVED THAT this Legislative Assembly consider amending the Customs Law to allow the importation of spear guns and parts by Caymanians under licence from the National Conservation Council.

The Motion is now open for debate. Does the Member wish to speak thereto?

Mr. D. Ezzard Miller: Yes, Madam Speaker.

The National Conservation Law, 2013, contains a provision in section 22(2)(d), which reads: **“the allowance for the purchase of new and replacement of parts on any and all equipment used to fulfil the purpose of the licence.”** That section of the National Conservation Law deals with the National

Conservation Council being able to license certain people to do certain things and to use certain equipment, like fish-pots, seines, and spear guns et cetera.

The purpose of this section of the National Conservation Law, 2013, is to reverse the policy of the Government and, in particular, the DoE, on the prohibition of the purchase of new spear guns and replacement parts for spear guns.

Madam Speaker, under my inquiries it appears that the prohibition for spear guns was enforced through two sections of the Customs Law. Section 12, which reads: **“(1) The import or export of- (a) base or counterfeit coin; (b) instruments and appliances for gambling; (c) all goods of which the import or export is prohibited or made an offence by any other Law; and (d) such other goods as may be prescribed by the Governor from time to time.”**

I believe that the part that was used to prohibit importation of spear guns was section 12(1)(c), because the National Conservation Law, if and when it comes into effect, will fall away . . . sorry, the Marine Conservation Law.

The other areas that I believe could be used if one gives it a very generous interpretation to stop the importation of spear guns and parts is section 6 of the Customs (Prohibited Goods) Order (2003 Revision), which reads: **“The import of bows, catapults or other manually operated weapons which are capable of projecting arrows or other missiles is prohibited, except that such objects may be imported, when accompanied by a permit signed by the Commissioner of Police, by a natural person in connection with his competitive sporting activities or the carrying on by him of activities relating to the cultural or historical aspects of weapons.”**

As I said, Madam Speaker, I do not believe that section 12 of the Customs Law will have any currency once the National Conservation Law comes into effect because the National Conservation Law does not prohibit the importation of spear guns in its current format.

I also believe it would have to be a very generous interpretation of the Regulations where we could say that, first of all, you classify “spear gun” as a weapon and it is capable of projecting arrows or other missiles. So you could import them, but it would only be under licence from the Commissioner of Police.

Madam Speaker, what I am asking the Government to do is consider amending section 6 of the Customs (Prohibited Goods) Order (2003 Revision), out of an abundance of caution so that it will not include the ability to prohibit the importation of spear guns and/or parts for the spear guns.

Thank you.

The Speaker: Does any other Member wish to speak?

I recognise the Honourable Minister responsible for the Environment.

Hon. G. Wayne Panton, Minister of Financial Services, Commerce and Environment: Thank you, Madam Speaker.

Just to give some brief context to the issue of spear guns and the impact of spear guns in relation to the marine environment, permit me to go through some of the historical records and perspectives in relation to the impacts that have occurred on our marine environment.

Between the 1970s and today we have lost about 70 per cent to 80 per cent of our hard coral cover. We have reefs that are impacted by algae. Because of the decline in habitat, we have lost significant numbers of our large fish. We have less diversity. We have the impacts of coral bleaching, which is another coral disease that is a greater impact, and an accumulating impact. We also have issues such as disease of certain other sea creatures that are part of the food chain, the sea urchins, the long spiny sea urchin, for example, is one. Over the last 40 years, this has led to a decline in habitat, a decline in numbers of fish.

The leaders of the country in the 1980s put in place the Marine Conservation Law because they anticipated and could foresee a continuing decline, continuing negative impacts, growth in population, development, on our marine environment. Spear fishing itself is a form of fishing which has a specifically high impact on the largest breeding fish, and it has been demonstrated through many studies to reduce the population of the large predatory species of fish, Snapper, Grouper, and other such large reef predators which are essential to maintaining the balance of the ecosystem of the reef.

Removal of these species has significant impacts in terms of the imbalance created. The largest species that are typically targeted by spear fishers are the size of the species that are the greatest producers of young that have the highest spawning potential output. So, all of that contributes to significant pressures. You have declining habitats, you have declining numbers of large fish. That has been the experience of the entire Caribbean in many areas where there are tropical reef systems and tropical reef fish.

Madam Speaker, it is against that backdrop that policies were developed, even as far back as the late 1980s, where the leaders of the country and those involved in supervising and ensuring that our marine environment was protected in some way, created policies that the Member for North Side referred to. Today, 40 years later, we are being asked to reverse the policy.

The Government is not unsympathetic to the perspective that we can consider something along these lines. But it has to be done in an appropriate way, Madam Speaker. The National Conservation Law is likely to be brought into effect very shortly. The National Conservation Council will be in effect under that. Obviously, part of the responsibility for the Na-

tional Conservation Council is to deal with marine conservation and related issues. As the Member pointed out, quite rightly, the effect of the National Conservation Law coming into effect will be to repeal the Marine Conservation Law.

The position in respect of spear guns does not have the clarity that we would like, normally, in these circumstances. But it is an issue that we will seek to address. The Government's position will be that the National Conservation Council will be encouraged to review the issue, develop a policy in relation to particularly the issue of spear fishing, and consider, for example, allowing specific areas in which spear fishing may be allowed to occur. Perhaps have programmes, for example, where old guns may be turned in and new guns are allowed to replace them on those licenses. So, the Government is not adverse to the concept. We are sympathetic to the issue. But we have to make sure that it is done in a responsible way given the fact that the marine environment has the challenges that we have clearly experienced and established.

Madam Speaker, the Customs Law, as the Member for North Side has articulated and pointed out in section 12, simply contains an omnibus position that the relevant case states that a prohibition on the importation under any other law is brought in under the Customs Law as well and enforced under the Customs Law. That is not something that we would want to change; we would want to leave an omnibus provision such as that alone. And I agree that it would be a stretch in relation to the 2003 Order, which the Member also referred to. That leaves us, really, with the position that there is no specific provision under the Customs Law which prohibits the importation of spear guns and parts, per se. The question is: what are the other relevant positions, for example, under the Marine Conservation Law?

The position from the 1980s and as recently as 2003 has been that the Marine Conservation Board which was created by the Marine Conservation Law has issued directives which have the effective regulation to control and deal with the licensing arrangement for spear guns, amongst other things, and to control the importation. Therefore, the directives having the effect of regulations under the Marine Conservation Law would, under the Customs Law (under that omnibus provision of section 12) be enforced as a prohibition on importation.

When the National Conservation Law is brought into effect, the Marine Conservation Law is to be repealed. However, there is a savings provision in section 52 of the National Conservation Law which provides that (and I am paraphrasing) the regulations (which would include the directives) will be saved under the National Conservation Law when brought into effect, until those regulations are changed and/or new regulations appointed or adopted pursuant to the National Conservation Law.

So, Madam Speaker, the position I am happy to confirm to the Member is that the Government will review the circumstances of this and will have the National Conservation Council pursue the adoption of appropriate policies and assessing in the right circumstances the issue of having new spear guns, of having specific areas in which, for example, as part of the discussion in relation to any enhanced Marine Park, having specific areas delineated for the purpose of spear fishing which reflect responsible policies. It would not be appropriate to simply take the position without further consideration that a policy which has been in effect for so long and which has unquestionable justification as to its origin, and perhaps likely even continuation, that it would not be appropriate to simply abandon that policy without further consideration, without further review by the Council to reflect the appropriate circumstances under which that might be done.

Our position, Madam Speaker, is that Private Member's Motion No. 5, seeking an amendment to the Customs Law, doesn't achieve anything and is defective to the extent that there isn't a specific prohibition under that law. On that basis, the Government's position is that we would not be accepting the Motion, but, as I have articulated to the Member and the seconder, we will review the position. As soon as the National Conservation Council is brought into existence we will ensure that this issue is taken under consideration and an appropriate policy is created and adopted which reflects appropriate circumstances, including consideration of the importation of new spear guns and parts following the normal licensing process.

[Inaudible interjections]

Hon. G. Wayne Panton: Madam Speaker, I hope that the Members of this honourable House will accept that the Government's position is not simply to take a position against the Motion and the premise of the Motion, in terms of the issue of spear guns and the importation of new parts.

The Speaker: Order!

Hon. G. Wayne Panton: But it is a matter that, given the context, given the history of the policy, that should be properly considered, and it is properly considered by the Conservation Council.

We are sympathetic to the issue and we will be encouraging the development of an appropriate policy to address this issue and, as far as possible, within the context of the realities that we face, allow spear fishing and the importation of guns which allow that to be done in a safe manner.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

I recognise the Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. That should be a lesson to all those in here who wait and try to wait out people. If you have something to say, get up and say it!

Madam Speaker, the Minister in his response to the Private Member's Motion [brought by the] Member for North Side, is a classic example of leading a one-arm lawyer on the one hand, and then on the other hand. It would have been half of it.

Madam Speaker, I am comforted by the fact that the Minister has given the country—not only the Member for North Side and me, but the country—a commitment that the Government will review it. But he says he is giving that assurance to my good friend and me. I wonder if he forgot that there were three people on his side that voted to get it into law. I hope he has given them the assurances too. But I didn't hear that.

[Inaudible interjections]

Mr. V. Arden McLean: I represent as many as you are trying to represent, Mr. Premier. I have a responsibility for all the districts.

Madam Speaker, the Minister said that the National Conservation Council will be encouraged to review and develop a policy and consider areas that spear fishing may take place. Now, I may be wrong, but as I recall, in 2003 the amendment . . . and that's a long time ago! My memory may be fuzzy, but in 2003 we put limits on spear gun catch. So I just don't understand how the Minister can tell us that as a result of the impact on the marine life from spear guns is the reason why we had to put those in, and they are in and it's still adversely affecting the marine life.

Madam Speaker, I don't want to say it is naught, but certainly you know that everybody purports to be an expert, or puts themselves out to be an expert. We listened to the experts in 2003 didn't we? And they said three fish of each species per day. And certain sizes we put in there as well. And a maximum of six fish, I think it was. So you would have to be in Northward looking at striped stars to have more conditions placed upon you as being a Caymanian. So I just don't understand how much further we are going to take that.

Then we are going to talk about restricting those of us (and I ain't speaking for me now, so I am using "us" so that you will know it is we Caymanians) who will spear fish. You got a couple out there who like it, you know. But there are restrictions now. That's why I said you would have to be in prison to have more restrictions on you.

[Inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, my good friend, the one who is the peacemaker, is trying to bring it down. He has this innate ability to do that.

[Inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, this is not a situation where going in one fell swoop and giving everybody spear gun licence . . . I think we discussed this already. We debated this already extensively. Right now I believe there are some 500 people in this country who hold—

[Inaudible interjection]

Mr. V. Arden McLean: Four [hundred] sixty-six? Four [hundred] and six? And my good friend told me this morning he got the number 496. The others must be gone then, or they took it away. But Jack Hunter told me he is number 496 this morning, didn't he? Anyway, the number is immaterial, but the fact is that those are people who we consider up-and-up Caymanians, good citizens, like the Sixth Elected Member for George Town who has a licence too. But, Madam Speaker, he can't bring in one rubber for it.

And I know, Madam Speaker, he didn't tell me, but he has to constantly oil that rubber so that it can maintain its consistency, elasticity, you know; whichever one it is. That is what we are trying to do, Madam Speaker.

I would consider the Sixth Elected Member for George Town a good Caymanian, upright, an up-standing citizen.

The Speaker: Who uses a spear gun—

Mr. V. Arden McLean: Amongst other things, but yes, Madam Speaker.

I can't say that I will, Madam Speaker, because I blow like 1932 Hurricane and get in my bathroom. But the Premier and I have young children and we would like to see them with this as well.

Everybody puts themselves out to be the expert. But we are experts too, Madam Speaker. We have expertise too, you know, in our knowing what our people need. I am saying all this to encourage the Government to look at this. We can't expect any different from the Minister because he is the lawyer by trade. And he is going to stand up and argue on the basis of one side against the other. They have, all of them, engaged—including your good self, Madam Speaker—in the acrimonious environment of a court where you do one side and you do the other (no disrespect). That is what that is about—argue one position against the other.

I don't have that luxury. I hear what people say. I see the practicalities in it, and I try to come here to advocate on their behalf. And I don't take one side or the other (well, most times).

[Laughter]

Mr. V. Arden McLean: The good thing about me, Madam Speaker, is that I don't tell my people on one hand and then on the other. And I know plenty of them out there who do that.

The Speaker: Is that your belief, Member for East End?

Mr. V. Arden McLean: In their profession as a lawyer. But, Madam Speaker, it is my belief that that is how lawyers operate—on one hand, and then on the other hand. And that's how they have to do it so they can formulate their argument.

But, Madam Speaker, moving on from that moment now, I encourage the Government to do this because I think it is necessary. I really think it is necessary for us to get this. But there aren't many people . . . there won't be any clamour to have a spear gun licence. I don't think so. I think those, like the Sixth Elected Member for George Town, and the Fourth Elected Member for George Town too, the Fifth Elected Member for George Town, of course they are going to want to renew theirs. But, Madam Speaker, I don't see the problem with it. But, of course, the conservationists will.

Madam Speaker, even though we have all these restrictions on the use of spear guns in this country, we continue to try to legislate morality. And we cannot do it. I see the quizzical look on the face of my good friend, the Minister. What I am talking about, Madam Speaker, is if we tell you that you shouldn't do it, then you expect that you're not going to do it through legislation. I am saying enforcement, enforcement, of the laws.

We hope we can sit here, and all the experts hope the more they give us to legislate, the more we listen to them, particularly about the marine, and we legislate it, then all we are doing is turning Caymanians into criminals as soon as you have them do one thing outside it. The enforcement of the laws is more important, or as important as the legislation of the laws. You can't expect to say "no spear guns." People are still going to spear with makeshift spear guns who will never get a licence, but they are the ones who are depleting our reefs. That's what I am trying to say. We need to get people on the water.

And to the Minister, Madam Speaker, since I have been here, he's probably the fifth Minister that I have gone through with this. We have to stop paying lip service to this. Every one of us here, including those Members that I pointed out who probably have spear guns, are conservationists. But we cannot do it unless . . . and that's the fear the Government has—that we are going to destroy the environment. We can't sit in here and make laws and not put money

towards the enforcement thereof. That's where our problem happens.

Madam Speaker, I am an avid fisherman too. Recently I went in East End Sound. The Minister of Planning knows exactly what I am talking about, maybe one little bit. The Premier too. Up in Sand Bluff Sound the bottom was littered with conch, big broad-leaf conch. On occasion I went up there to get 10, my sons and I, in one spot. The two of them diving, 5 and 5; 10, we're gone. And to go up there now, Madam Speaker, it is like the Mojave Desert. Why? Do you think it is because of me picking up 10 and 3 or 4 more boats that go out once a month to pick up 5 or 10? No. It's the poaching, Madam Speaker. And I keep saying this.

We need to put the enforcement in place. We can talk till the cows come home. The Sixth Elected Member for George Town knows what I am talking about. Out there they are doing it. The out-of-towners swimming out with catch bag.

[Inaudible interjection]

Mr. V. Arden McLean: Onion sack, all those things. It doesn't make sense to talk about we're not going to accept this and we are not going to do that.

Minister, I am on the water every weekend (when I get a chance) that I don't have to be responding to you and the Premier. And, Madam Speaker, it is wrong. I am imploring this Government like I have done others. I implored the Leader of the Opposition as well. Put money on this thing. Boats, officers that are not driving around East End in big air-conditioned vehicles with logo on the side and driving out there and looking and them boys are hiding everything. Or North Side, for that matter.

[Inaudible interjections]

Mr. V. Arden McLean: And people have their own business and not doing the job of enforcing the Marine Conservation—

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, the Minister and the Government are responding to the abuse of the past. That's why the Minister is so reluctant, and the Government, to accept, to do something about giving the Caymanians an opportunity. We are looking at it from the perspective of the experts saying, *Because of this, because of that the destruction has happened.* The destruction has happened because there is no enforcement! That's what caused it.

[Inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, the Premier said that's the motion I should have brought. It's here now. He has to do something about it now. That's all.

How many times have I not said it?

Madam Speaker, since we have a commitment from them I am now encouraging . . . if it were my motion I would withdraw it now because the country has already heard that they have a commitment.

Madam Speaker, I understand the spawning potential of the fish and what have you. One of the problems in 2003 (to the Minister, through you, Madam Speaker) . . . we also legislated that anyone working on work permits—and all this is forever etched in my memory—must have licence to fish; they can't fish off the shore.

How many times have I had to call the Department of Environment to come pick some of these people up along High Rock by the Blow Holes taking all them [sea]-sucks and periwinkles and chiton?

[Inaudible interjection]

Mr. V. Arden McLean: Come on, Madam Speaker, that's them old sea duppies, they call them, and all that. It doesn't make sense.

That is where we get the adult population from—the little small fish. And then cocky-nanny and Angle Fish, they are eating them hand over hand, on one hand and then on the other.

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, that's where we need to enforce it.

Now I hear they are charging this man on the YouTube that nearly got eaten by a shark because he had one old thing on his spear—Lionfish. I hear they are putting him under arrest now too.

We brought a motion, Madam Speaker, for the Government to pay people to hunt Lionfish, like we did with the rabbit years ago. It was approved and it was torpedoed. It was speared by the DoE.

Hon. W. McKeever Bush, Leader of the Opposition: Don't castigate them now.

Mr. V. Arden McLean: Madam Speaker, that's what I am talking about. We need to stop. You think we don't know . . . I don't know, Madam Speaker. I mean, the Groupers in East End and Cayman Brac. The people in East End wrote the DoE asking for a meeting so that they could talk about it and put catch limits and certain times on them. They didn't even respond because they have the power. They exercise it against Caymanians. It is those same people who are ours you know. They are our people. They are not from some foreign land. When was the last time we travelled to Mars to bring back any green men here?

Madam Speaker, this is the problem in our country. We constantly try to legislate to stop who? Caymanians! It is not to facilitate them, to encourage them. We want our culture to exist forever, and we cut it off during our lifetime. That's what we are doing. We are cutting it off during our lifetime.

Oh, the Minister said that we don't want it to disappear during my lifetime. It is legislation preventing people and is cutting it off. We need to stop it. All we ever do is ensure that people can't do something. We never do anything to facilitate Caymanians doing what they want. If they want to dig out one pond we say no. If they want to knock down one thatch tree, we say no. We don't say that they can do this or that to facilitate Caymanians. This is the only country in the world that kills its own people. That is what is going to be extinct soon—

Hon. W. McKeeva Bush, Leader of the Opposition: People.

Mr. V. Arden McLean: People. I want to know what you are going to do about Marine Life and trees then, when we're all gone.

And I know extinction is forever, but the species that is closest to extinction in this country, Madam Speaker, is Caymanians.

We got more of us? You better try to go and make some.

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, I want the Government to know that I am not going out there destroying our culture. I want my children to know about it too. But at least give me the opportunity to teach them about it.

Everybody is a bad boy, is a bad Caymanian, something wrong with every one of us that nah inside ya. Every one of us outside has to do something bad against the environment. That's how we think! We need to stop that. It's more knowledge out there than there is in here, I can tell you that. Those are the same people who are going to fight to preserve the culture of this country. It's not us alone. We are not the only experts in this field. We just happen to go there and get their little pencil mark and come in here. It was 50-something who were vying for this job you know, and only 18 of us got it. You can put 18 into 50-something another time at least. So the chance of us being here is 1 in 3.

Light bulb?

Madam Speaker, I encourage the Government to proceed, but proceed on the basis that it is about us, it's about "we" the same people up in East End . . . I know you don't go there that often, Mr. Minister, but those same people up in East End are the same ones down in George Town where you come from, and Bodden Town. The same people! And up in

Cayman Brac and Little Cayman too, because we are a little distance away, it doesn't take anything away from us. Stop thinking about the court room. Let's get down to our people.

Thank you, Madam Speaker.

The Speaker: Thank you.

Before we take the luncheon break, I would just like to do a bit of housekeeping to remind and/or invite all Members and staff of the Legislative Assembly that the Agriculture Show Steering Committee is hosting a thank you reception at the Grounds (the Agriculture Grounds, I take that to be) this evening at 7:00 pm and you are all cordially invited and encouraged to attend.

We will now suspend for the luncheon break and reconvene at 2:15 pm.

Proceedings suspended at 12:50 pm

Proceedings resumed at 2:25 pm

The Speaker: Please be seated. Proceedings are resumed.

Before we took the luncheon break we were debating the Private Member's Motion. We are going to continue in that vein.

Does any other Member wish to speak?

I recognise the Fifth Elected Member for George Town.

**PRIVATE MEMBER'S MOTION NO. 5/2013-14
AMENDMENT TO THE CUSTOM LAW
(2012 REVISION)**

[Continuation of debate thereon]

Mr. Winston C. Connolly, Jr., Fifth Elected Member for George Town: Madam Speaker, I rise to add my contribution to Private Member's Motion No. 5/2013-14. I echo the pledge by the Minister of the Environment to look into the Motion and consider it, and to not support it at this time.

As the Member for East End stated, he is comforted by the commitment that the Government will review it. This is the same conversation I had with the Minister of the Environment, the [Third Elected] Member for Bodden Town. Having spoken to him about his policies, having put to him the cultural importance of Caymanians being able to use spear guns in a safe manner, and having him answer in the way he did, including looking at the specific areas for spear gun fishing and ensuring that we have responsible policies, I echo the Minister's response to the Motion.

It is a privilege to own a spear gun, but with that privilege comes responsibility. I don't have one, Madam Speaker, just for the record and for the Member for East End. But I did use a spear gun when I was growing up, so I remember fondly some of the

activities I did there. That's why when the Member for North Side brought the previous motion I supported him at that time, because it is very important to keep our cultural identity, especially in our fast-paced and ever-changing environment.

With that, Madam Speaker, I will end my contribution. Thank you.

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

I recognise the Fourth Elected Member for Bodden Town.

Mr. Alva H. Suckoo, Jr., Fourth Elected Member for Bodden Town: Thank you, Madam Speaker.

I also rise to give my contribution to Private Member's Motion No., 5/2013-14, Amendment to the Customs Law. I would like to start by giving some importance to the statistics that the Minister gave earlier. Since 1970 to today we have lost 70 per cent to 80 per cent of our reef cover. We have lost a significant portion of the large fish and the diversity on our reef, and we have seen the devastation caused by coral bleaching and the loss of certain species of sea life that have almost been decimated, wiped out by viruses, disease and so forth. And we have seen the impact of the lionfish. All of these in combination have put our marine life under serious threat. The last thing this Government would want to do is encourage any sort of activity that could worsen the situation.

I don't want to get into a science lesson here today, Madam Speaker, but we have to consider the biodiversity of the marine life, the marine environment, and understand that no matter how small and insignificant it may seem, every creature that is part of that ecosystem plays an important role from the top of the apex of the predators right down to the sea eggs. Understanding that all of these interact in relationship to what creates a healthy marine environment, we have to be very careful what action we take and what we allow.

The Government is charged with responsibility for protecting our marine life. I applaud the Minister for doing his job, and doing it in a manner that not only displays that he is fulfilling his duties, but going about it passionately. I think that we have to give him kudos for doing an excellent job thus far, especially in an environment where we are challenged most of the time to encourage economic growth and development as well. I think he is balancing that very well with his environmental responsibilities.

Madam Speaker, I have to also establish myself, maybe not as an expert in the field, or an expert witness in this case, but I am the grandson of the late Ernest Pearson, the nephew of Captain Andrew Pearson, the nephew of Terrance Pearson and McCrae Pearson—all seamen from East End.

Hon. W. McKeeva Bush, Leader of the Opposition: That's a reminder.

Mr. Alva H. Suckoo Jr.: I am proud of that fact. And I think that should establish me as someone who not only wants to protect the environment and the marine life, but someone who thinks that Caymanians also need to enjoy it and reap the benefits of it as well. I am not biased in any way, and I am trying to be as fair and open-minded as possible bearing in mind the responsibilities we all have as legislators to the people of this country and to our environment.

The Minister explained earlier that this Motion is difficult for us to support because, fundamentally, there is no section of the Customs Law that can be amended to achieve the goal of the Motion. Unfortunately, I cannot say that I would give the Motion my support because there really is nothing to be achieved by doing that and Members on the Government side are all committed to supporting the Minister in taking this forward and achieving what has been asked for through the National Conservation Law and the National Conservation Committee.

Madam Speaker, it is no secret that I have lobbied constantly (and the Minister can confirm that) to preserve spear fishing for responsible and law abiding Caymanians. I myself enjoy spear fishing. For the record, I don't own a spear gun, but I have enjoyed spear fishing in the past. Anyone who has experienced the thrill of taking a deep breath, taking a drop and going down and finding a fish and being able to spear that fish and bring it back to the surface, take it home and consume it, knows what I am talking about. It is part of our culture and history and something that we have to preserve. But I am only committed to doing that if we are responsible in doing that.

There is no secret, I think, in my support. I supported an earlier amendment to the National Conservation Law to allow spear fishing. I have faith in the Law and I have faith in the department and in the Minister that this will be done properly. He has given his commitment and I can confirm (in response to the question by the Member of East End earlier) that he has committed to me and my other two colleagues who supported the amendment. So I have no concerns with that, Madam Speaker.

As Councillor for Sports I am also looking and investigating different ways that spear fishing can be part of our sports tourism development. It is something that is growing worldwide in popularity, and it is an activity that is attracting a lot of younger adventure-seeking tourists who want to visit locations where they can participate in sports like spear fishing. It might be a thrill sport for some, but it is a new source of tourism product/revenue that we should also investigate. As Councillor for Sports I would like to do that in working with the Minister. There are ways that we can allow sports spear fishing and still remain environmentally conscious.

Madam Speaker, when we look at firearms generally, we have a regime that is heavily regulated, controlled and monitored. We don't hear very often of crimes being committed with legally owned firearms. I think that is where we need to get to in respect to spear fishing as well. We need to ensure that we regulate, control, monitor and (I agree with the Member for East End) enforce. That is one of the answers.

I am therefore committed to working with the Minister to ensure that any implementation of regulations and policies is fair and effective and will allow us to preserve this Caymanian tradition for future generations. I am unable to support the Motion as presented on the basis that it would not be achieving what I think is the spirit of the Motion, and I give my commitment to continue working with the Minister for something that I strongly believe should be preserved for future generations.

Thank you, Madam Speaker.

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

I recognise the Sixth Elected Member for George Town.

Mr. Joseph X. Hew, Sixth Elected Member for George Town: Thank you, Madam Speaker. I felt that I had to rise today to offer my brief comments on this, especially since my good friend, the Member for East End, decided to single me out and say that he knew I was a spear fisher. I believe that is because he has been the recipient of some of my fish in the past.

[Laughter]

Mr. Joseph X. Hew: But, Madam Speaker, my commitment and my age have perhaps slowed down my spear fishing and I would implore the Member for East End to perhaps invite me to go fishing with him. Maybe I will find a new hobby.

Madam Speaker, as you have heard, the Government is minded to review and consider the changes to the regulations which would allow licensed spear fishermen (and perhaps women) to purchase new guns and new parts once the National Conservation Council has been formed. I believe that the Minister will, in fact, carry out his word in this manner. He has been very open in his discussions with those of us who have enjoyed spear fishing and perhaps grew up with it as part of our day-to-day activities during summer and on Easter weekend.

Madam Speaker, I learned to spear fish from my older brothers, in particular the one closest to me in age who spearfished with a group of his peers, including the Minister. So I know that the Minister of the Environment was an avid spear fisherman in his younger days as well. Madam Speaker, I am also man enough to stand here and admit that I may not have

been as open-minded toward the Minister's views on the conservation side of the argument. And whereas perhaps I thought I was a responsible and maybe a little bit better spear fisherman than others, because I dove deep and I got the biggest fish, I have come to understand that that may be the most damaging practice of spear fishing, that of culling the major spawners which are responsible for the reproduction of most of the reef fish that we see. So I am very cognisant of that and I am man enough to stand here and say that I did not understand that aspect of it over the years as I campaigned with various Governments to review the laws regarding importation of spear guns and spear gun parts.

Madam Speaker, for me it is very important that, yes, I would like to take my 16 year old out and teach him how to spearfish and allow him to enjoy that if he chooses. But it is equally as important to me that my 6 year old have the opportunity to snorkel and enjoy the beautiful fish that we see today. That is on the other hand. So, I accept that we have to be responsible about this. But we have to consider all aspects.

I also agree with the Member for East End that we do have to not just pay lip service, but put some money where our mouths are when it comes to enforcement. As the Member said, it is not the responsible persons or citizens of this country that are doing the damage, but it is those that have never been licensed—and will probably never get licensed—who will go out and risk the fines and penalties involved in illegal spearfishing because they know that they stand a good chance of not being caught.

I would also like to ask the Minister to consider that if, in fact, we are allowed to import parts and new spear guns that it is in trade off, especially in the case of a new spear gun, for your old one. Also, that the fees and duties associated with it do not go straight into the government's coffers, but go towards a fund for the conservation and perhaps enforcement when it comes to spearfishing.

Madam Speaker, I am also minded as we were just [presented with] plans for the Dilbert Marina, and after yesterday's debate, that we should also listen and pay attention to Mother Nature. I learned to spearfish on Boggy Sand Road, in West Bay, an area called "Slippery Edges." I remember getting my first little three-prong lobster gun and going out and shooting a hogfish, which is probably about the easiest fish in the sea to shoot. And I will never forget that, Madam Speaker. I was so proud that I went out and got my first fish. I took it home and I cooked it and I ate it. I did not share that one!

But, Madam Speaker, when I visit Slippery Edges today and Seven Mile Beach as a whole, I see the damage that the seawalls have done along the coastline. The beach along Slippery Edges used to be beautiful, then you get out to the rocks and you used to slide on the rocks and lift your legs so you don't go

into the sea eggs and get over them and then swim around and come back. Today, during certain times the rocks are now up to the seawalls and in some areas of Seven Mile Beach you literally have to walk in the water to get around the seawalls that were built too close to the shore, in my estimation.

Madam Speaker, and honourable Members, I say that [to say] that we also have to pay attention to the statistics that the Honourable Minister of the Environment shared with us today with the depleting health of the reef and the fish that inhabit that reef. If we ignore these signs we will eventually pay the price. So I ask that we consider this and we strike a balance, as we did yesterday, between the environment and development of our people and our country.

I am cognisant that we have a lot of work left to do over the next two days so I will end my debate with that comment. Thank you.

The Speaker: Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Last call, does any other Member wish to speak? [pause]

If not, I will call upon the Member for North Side, if he wishes to exercise his right of reply.

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

There is an old saying that sometimes the end justifies the means. I notice that the Government is saying that they are not going to support the Motion because there is no need to amend the Customs Law, or they don't want to amend the Customs Law. But, Madam Speaker, the idea that the Customs Law would need amendment came from them when we won the motion on the amendment to the National Conservation Law.

[Inaudible interjection]

Mr. D. Ezzard Miller: I did look at the law. And I still say that, given the opportunity, the DoE, I am certain, can find a way to apply section 6 of the prohibitive regulation to superguns. Listening to the Minister in response to the Motion, I know that his information comes from that same Department of Environment. Much of what has happened to the reef and reef fish cannot be attributed to spear guns, or helped by a ban on spear guns, because the ban on spear guns has been in place from 1987. All of these things that have happened to the reef have happened with the ban on spear guns.

Hon. W. McKeeva Bush, Leader of the Opposition: Correct.

Mr. D. Ezzard Miller: The other curious thing, Madam Speaker, and this is a new development in the DoE, is that these people have the ability to change their justifications and their argument to suit what they want.

That is the same body that recommended (when the Government at the time was considering putting a limit on fish with spear guns) that they had to be above a minimum size. And the restriction was that you can't shoot fish with a spear gun below a certain size. Now we hear today that the fear of spear guns is because you are going to get big fish, the fish that do all the breeding. But we didn't hear that before. And the rest of his Government is committing to review the prohibition on spear guns. But I am a little concerned that it has not been made absolutely clear that that review is going to be from the point of view to enable Caymanians to be licensed with spear guns (those who don't have a licence now) and to be able to buy new spear guns. I just want to record that . . . and the Minister is shaking his head.

I apologise if I misinterpreted his commitment and I am glad to see that the commitment by him and his Government is that the basis of the review and the objective of the review is to enable Caymanians under a proper administrative regime who do not have a licence for spear guns now, to apply and get licensed for spear fishing, and to get new spear guns and to get parts for those spear guns. And for those who currently have a spear gun licence to be able to replace their old antiquated, outdated, dangerous spear guns with new spear guns. I don't have a problem if they have to turn in the old one to get a new one, I agree with that.

[Inaudible interjection]

Mr. D. Ezzard Miller: Oh yes, he is shaking his head. I'm getting it right now. I apologise for misinterpreting his original proposal that it might not necessarily have been positive and in order to facilitate and enable Caymanians to be able to get this licence.

Nothing in this new policy development is going to consider, and in any way inhibit, any qualified Caymanian from getting a spear gun licence and being able to get new spear guns and new parts.

[Inaudible interjection]

Mr. D. Ezzard Miller: I just apologised that I misinterpreted it. I just want to record quite clearly what the Government's position is.

The concern I have is restrictions on where spear guns can be used. Under the current proposal for the revision of the marine parks, which already prohibits the use of spear guns, there ain't going to be many areas left where you can spearfish. So if the restricted areas are confined to those areas that will be proposed as no-take zones, I don't have a problem with that. But if you are going now to say that in addition to the 300 per cent increase in area of the marine parks as proposed we are going to further restrict those areas where people can spearfish, I have some concerns.

Madam Speaker, I am happy that the Government has committed. I don't have a problem with them voting against the Motion if they so chose. That's all right. I'm satisfied that I have achieved what I set out to achieve and I want to thank the Government and I want to congratulate the Government, and I want to show my appreciation to the Government that we are going to review the regime about spear guns and it is going to be an enabling act to allow Caymanians who do not currently have licence for spear guns to get spear guns under proper administrative . . . and to be able to get parts for them.

Thank you, Madam Speaker.

The Speaker: The question is: BE IT NOW THEREFORE RESOLVED THAT this Legislative Assembly consider amending the Customs Law to allow the importation of spear guns and parts by Caymanians under licence from the National Conservation Council.

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

Ayes and Noes.

Hon. W. McKeeva Bush, Leader of the Opposition: Can I have a division, Madam Speaker?

The Speaker: I believe the Ayes have it.
Yes, you can have a division.

Hon. W. McKeeva Bush, Leader of the Opposition: If the Ayes have it, then I don't want a division. We don't need to divide.

[Inaudible interjections]

Hon. W. McKeeva Bush, Leader of the Opposition: The Ayes have it.

Some hon. Members: No.

Hon. W. McKeeva Bush, Leader of the Opposition: No? You better call a division, because she said so.

The Premier, Hon. Alden McLaughlin: You called the division.

Hon. W. McKeeva Bush, Leader of the Opposition: I didn't call anything.

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

The Speaker: Most certainly, as I did hear more Ayes. So I am more than happy to call a division so that I can be satisfied.

[Inaudible interjection]

The Speaker: Can I just remind Members that when they are voting to please vote into the microphone so that not only will I hear it, but so we can have an accurate record.

The Clerk:

Division No. 15

Ayes: 5

Hon. W. McKeeva Bush
Mr. Bernie A. Bush
Capt. A. Eugene Ebanks
Mr. D. Ezzard Miller
Mr. V. Arden McLean

Noes: 11

Hon. Alden McLaughlin
Hon. Moses I Kirkconnell
Hon. D. Kurt Tibbetts
Hon. Osbourne V. Bodden
Hon. G. Wayne Panton
Hon. Marco S. Archer
Hon. Tara A. Rivers
Hon. Anthony S. Eden
Mr. Winston C. Connolly
Mr. Roy M. McTaggart
Mr. Alva H. Suckoo

Abstention: 1

*Mr Joseph X Hew

**Mr. Joseph X. Hew: Madam Speaker, because I am a licensed spear gun holder I thought it best that I abstain from the vote.*

The Speaker: The results of the Division: 5 Ayes; 11 Noes, and 1 Abstention.

Negated by majority on Division, Private Member's Motion No. 5/2013-14 failed.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

CONTRACTS (RIGHTS OF THIRD PARTIES) BILL, 2014

The Clerk: The Contracts (Rights of Third Parties) Bill, 2014

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

EXEMPTED LIMITED PARTNERSHIP BILL, 2014

The Clerk: The Exempted Limited Partnership Bill, 2014.

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

REPORTING OF SAVINGS INCOME INFORMATION (EUROPEAN UNION) (AMENDMENT) BILL, 2014

The Clerk: The Reporting of Savings Income Information (European Union) (Amendment) Bill, 2014.

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

STOCK EXCHANGE COMPANY (AMENDMENT) BILL, 2014

The Clerk: The Stock Exchange Company (Amendment) Bill, 2014.

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

BUILDING SOCIETIES (AMENDMENT) BILL, 2014

The Clerk: The Building Societies (Amendment) Bill, 2014.

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

TAX INFORMATION AUTHORITY (AMENDMENT) BILL, 2014

The Clerk: The Tax Information Authority (Amendment) Bill, 2014.

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

DIRECTORS REGISTRATION AND LICENSING BILL, 2014

The Clerk: The Directors Registration and Licensing Bill, 2014.

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

BILLS

SECOND READING

CONTRACTS (RIGHTS OF THIRD PARTIES) BILL, 2014

The Clerk: The Contracts (Rights of Third Parties) Bill, 2014, Second Reading.

The Speaker: I recognise the Honourable Minister of Financial Services.

Hon. G. Wayne Panton: Madam Speaker, thank you.

I beg to move the Second Reading of a Bill entitled The Contracts (Rights of Third Parties) Bill, 2014.

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

Hon. G. Wayne Panton: Yes, Madam Speaker, thank you.

I rise to present The Contracts (Rights of Third Parties) Bill, 2014, on behalf of the Government. It is a Bill to make provision for the enforcement of contractual terms by third parties.

Madam Speaker, this Bill makes provisions that would allow persons who were not parties to a contract (what we would typically refer to as "third parties") to be able to enforce rights given to them in a contract which exists between two or more persons.

This is not presently allowed under Cayman Islands law which specifies that it is only those persons who are party to a contract who can enforce the right that is set out in that contract. And the concept and principle is called a privity of contract, Madam Speaker, the arrangement of the clauses in the Contracts (Rights of Third Parties) Bill, 2014, is as follows:

Clause 1 provides the short title and commencement.

Clause 2 sets out the definitions.

Clause 3 specifies the types of contracts to which the Law might apply.

Clause 4 provides for the right of a third party to enforce a contractual term, provided that a contract specifically provides in writing that he may. A term of a contract purporting to confer a benefit on a third party will not, in and of itself, be sufficient to enable the third party to enforce the term. So there has to be a specific opting in for the benefit to exist.

Clause 5 provides for the variation and rescission of a contract where a third party has a right to enforce a term of the contract.

Clause 6 provides for defences available to the promisor, i.e., the party who is promising to perform the obligation.

Clause 7 provides for the enforcement of contracts by the promisee.

Clause 8 provides for the protection of the promisor from double liability.

Clause 9 provides for exceptions so that no right is conferred on a third party by clause 4 in the case of a contract on a bill of exchange, promissory note or other negotiable instrument.

Clause 10 contains supplementary provisions relating to third parties.

Clause 11 contains various arbitration provisions.

Madam Speaker, by way of example in terms of contracts that this might apply to, which Members may be familiar with: One example is a real estate contract where the purchaser agrees to pay in part the

commission for the sale. Although the agent is likely to have a separate contract with the seller, he is unlikely to have a contract with the purchaser. At present, the agent would not be able to enforce a claim for his commission as he would not be a party to the typical sales contract.

In the context of the tourism related industry, a watersports company, for example, might have on its standard form contract with its clients, an indemnity for any losses caused as a result of a client's negligence. Now, in a situation where the client runs a jet ski into an employee of the watersports company who, as a result, suffers losses due to medical expenses and loss of pay due to being off work, the company itself hasn't suffered a loss so it can't claim under the indemnity. The employee can't claim because he is a third party. So this sort of contract could take advantage of the Contracts (Rights of Third Parties) Law when it is in effect.

Madam Speaker, this Bill is regarded as a companion piece at this point to the Exempted Limited Partnership Bill, as it is another scenario in which those rights might exist, and in which, as Members will subsequently hear from me on that Bill, those rights are typically in existence under United States Law. But because they don't exist under Cayman Islands Law, a lot of the users of this jurisdiction using our Exempted Limited Partnership structures have to be advised that there is no ability for third parties who are given a right under Exempted Limited Partnerships to enforce that right.

Madam Speaker, the Bill is fairly brief. I will indeed be brief, and conclude my presentation on the Bill at this point. Thank you.

The Speaker: Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Last call, does any other Member wish to speak? [pause]

If not, I will call on the Honourable Minister to exercise his right of reply.

Hon. G. Wayne Panton: Thank you, Madam Speaker.

I am happy for the tacit support of the honourable Members of this House on this Bill and refer to being put to the vote.

The Speaker: The question is that a Bill shortly entitled The Contracts (Rights of Third Parties) Bill, 2014, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Contracts (Rights of Third Parties) Bill, 2014, given a second reading.

SECOND READING

EXEMPTED LIMITED PARTNERSHIP BILL, 2014.

The Clerk: The Exempted Limited Partnership Bill, 2014.

The Speaker: I recognise the Honourable Minister of Financial Services.

Hon. G. Wayne Panton: Thank you, Madam Speaker.

I beg to move the Second Reading of a Bill entitled The Exempted Limited Partnership Bill, 2014.

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

Hon. G. Wayne Panton: Thank you, Madam Speaker.

I rise to present the Bill on behalf of the Government. It is a Bill for a Law to Repeal the Exempted Limited Partnership Law (2013 Revision) and make further provision for the regulation of exempted limited partnerships.

The changes proposed to be adopted to the Cayman Islands Exempted Limited Partnership Law have been and are widely anticipated in the financial services industry. This has been a matter that has been under discussion for better than a year, probably as much as two years now. It is driven by demand from the most regular users of this jurisdiction's financial services product and is expected to significantly enhance the popularity of the Cayman Islands as a jurisdiction in which to do and establish private equity funds in particular.

Madam Speaker, the arrangement of the clauses in the Exempted Limited Partnership Bill, 2014, is set out as normal, being in the Memorandum of Objects and Reasons for the Bill. As the Bill is to repeal and replace the existing Exempted Limited Partnership Law, the list of clauses is rather extensive. So rather than go through each one, I propose to offer further explanation on the overall intent of the proposed changes to assist Members.

Madam Speaker, the changes proposed are intended to provide the Cayman Islands with a product that is state of the art; a law that is able to deal with the increasing complexity of transactions undertaken in the Cayman Islands in a way that affords partners and their financiers the key benefits of flexibility and certainty. The introduction of provisions relating to the registration of foreign limited partnerships, the strike-off and potential reinstatement of exempted limited partnerships, the payment of fees in relation to the migration of exempted limited partnerships are concepts which have been introduced, and fees which

will provide entirely new revenue sources for the Cayman Islands in the context of this product.

Madam Speaker, for some years the financial services industry in Cayman has interacted, discussed and canvassed the views and opinions of users of the Cayman Islands Exempted Limited Partnership. Similarly, the service providers, on-shore counsel and managers have been canvassed and the current Bill before this honourable House today is a reflection of the outcome of all of those discussions.

It is recognised that the current exempted limited partnership regime is not as flexible as Delaware Law, for example, which is recognised as one of the significant exempted limited partnership regimes in the financial services world. That is a concern for our service providers, a concern for on-shore legal counsel, and it is one of the reasons behind this Bill being proposed.

The Martial Islands are an example of a jurisdiction that has pursued and enacted legislation which is basically identical to the Delaware statute. They have included in that the recognition of all decisions of Delaware courts past, present and future. So they are trying to emulate what is a very familiar product. By doing that they are trying to compete with the Cayman Islands Exempted Limited Partnership, which is a very popular product as well. But we have to bring it more in line with the concepts as set out in the Delaware Exempted Limited Partnership Law because those are concepts that the financial services industry, the private equity managers, all want in terms of flexibility and in terms of improved certainty.

Madam Speaker, the proposal and recommendation that the ELP [Exempted Limited Partnership] Law be amended was originally made by the Financial Services Legislative Committee in order to achieve the following key objectives:

- 1) To meet the market-led demand that the law does not unduly restrict the ability of partners to determine for themselves, by agreement, their rights and obligations as between themselves.
- 2) Also, it is to offer partners greater flexibility to use a variety of different management and ownership structures and to permit partners to amend those structures more efficiently.
- 3) To account for changes to the commercial environment in which exempted limited partnerships are currently used and to introduce innovations that offer greater flexibility to carry out a broader range of partnership transactions.
- 4) To cure areas of ambiguity or uncertainty in the existing law as well as common law and to provide greater certainty and consistency of advice in this jurisdiction.
- 5) To promote consistency with the provisions of Delaware Law so that Cayman

limited partnerships, which are often used by offshore managers in parallel with their Delaware limited partnerships, have similar concepts, similar principles that promotes greater acceptance of our financial product.

Madam Speaker, the Bill was published in the *Gazette* on the 21st of February 2014. Because the initial consultation period had been conducted back in 2011, members of the broader financial services community were invited to consider the published Bill in its current form and to comment further. These comments were received by my Ministry and members of the Financial Services Legislative subcommittee dealing with this Bill specifically.

The comments have resulted in a number of proposed committee stage amendments. It is worthwhile understanding that while the changes proposed to be made to the published Bill are perhaps more extensive than one might normally expect, it is somewhat inevitable, given the considerable interest taken by practitioners in the Exempted Limited Partnership Law and the significance of this product in the market.

The amendments are not, of themselves, terribly substantive or material, but they are considered necessary for the production of a final product that is refined, that will withstand scrutiny, and meets the expectations of managers and investors and, of course, reflects the Government's desire to ensure that we are as consultative as possible on all Bills that come before this honourable House and specifically on issues with some degree of complexity.

Madam Speaker, it has been some time since the original Exempted Limited Partnership Law first placed Cayman at the forefront of tax mutual limited partnership structures, particularly for private equity investments globally. Since that time Delaware Law, on which it was originally based, has been developed further by legislative action and further judicial development. Similarly competitive jurisdictions have arisen. I gave an example earlier. There have been others who have replicated some of the concepts of Delaware Law, replicated our existing Exempted Limited Partnership Law. So these changes proposed to be made to the existing ELP Law will, in our view, play a very significant role in maintaining Cayman's preeminent position as a jurisdiction of choice for the establishment of limited partnerships.

Madam Speaker, I would like to take an opportunity to thank the members of the Financial Services Legislative Committee and the subcommittee dealing with this specifically. They have put in a lot of time and effort. This sort of cooperation between the private sector and Government will certainly help us to ensure that our financial services industry and the financial services product and the laws which form a part of that are as the cutting edge and as leading in the industry as possible.

That concludes my presentation. And I therefore commend the Exempted Limited Partnership Bill, 2014, to the honourable Members of this House for passage.

The Speaker: Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Last call . . . I recognise the Second Elected Member for George Town.

Mr. Roy M. McTaggart, Second Elected Member for George Town: Thank you, Madam Speaker, just a few words to contribute to this important piece of legislation before this honourable House this evening.

Madam Speaker, I rise to lend my support to the passage of this Bill and commend it to the Members of this honourable House. As the Minister so ably put forward, this legislation is very much demand driven by the financial services industry, together with the contractual rights of third parties legislation which also received its second reading.

The country has had an Exempted Limited Partnership [Law]. At the time it was originally passed it was on the leading edge of financial services products that helped to drive the industry here in Cayman. But I think over the years it has become dated. As the Minister mentioned, other countries have updated their legislation, others have instituted more modern legislation that I think was eating in and eroding the importance and the popularity of the Exempted Limited Partnership Law that we had in place. So it very much is a timely exercise to update our legislation.

I think this legislation has had very wide consultation with and advice from the private sector to the point that I believe that it will restore Cayman and all legal framework to the forefront of the demand for this type of product. As a result, I think it will improve and contribute greatly to the revenue of this country. I think that the popularity and use of this type of structure will once again be regained and allow Cayman to thrive.

With those few words, Madam Speaker, I am happy to commend this legislation to this House. I recommend it, and I look forward to supporting it when the time comes for the vote. Thank you.

The Speaker: Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Last call; does any other Member wish to speak? [pause]

If not, I will call upon the Honourable Minister if he wishes to exercise his right of reply.

Hon. G. Wayne Panton: Madam Speaker, I would just like to say thank you to the Member who has risen in support of it from George Town. I don't think there is much more I can add to it. Thank you

The Speaker: The question is that a Bill entitled Exempted Limited Partnership Bill, 2014, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Exempted Limited Partnership Bill, 2014, given a second reading.

SECOND READING

REPORTING OF SAVINGS INCOME INFORMATION (EUROPEAN UNION) (AMENDMENT) BILL, 2014

The Clerk: The Reporting of Savings Income Information (European Union) (Amendment) Bill, 2014.

The Speaker: I recognise the Honourable Minister of Financial Services.

Hon. G. Wayne Panton: Thank you, Madam Speaker.

I beg to move the Second Reading of a Bill entitled The Reporting of Savings Income Information (European Union) (Amendment) Bill, 2014.

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

Hon. G. Wayne Panton: Thank you, Madam Speaker, just very briefly.

I rise to present the Bill on behalf of the Government. It is a Bill for a Law replace the word "Governor", which is defined as "Governor in Cabinet", with the word "Cabinet" (following the 2009 constitutional changed) wherever it appears in the Law.

It would also transfer responsibility for certain functions from the Financial Secretary to the Minister charged with the responsibility for Financial Services; and for incidental and connected purposes.

Section 54(1) of the Cayman Islands Constitution Order 2009 provides that the Governor shall charge any Minister with responsibility for the conduct of any business of Government, including responsibility for the administration of any department of government. And further to the May 2013 general election, the Ministry of Financial Services [DIGITAL SKIP] are evolving financial services matters.

Included in the *Gazette* notice as part of this Ministry is the agency known as the Tax Information Authority.

Section 4 of the Reporting of Savings Income Information (European Union) Law is proposed to be amended such that responsibilities as the Competent Authority will be changed from the Financial Secretary

to the Minister for Financial Services in keeping with the responsibility given to the Minister on the creation of the Ministry.

Madam Speaker, I said I would be brief. I think that concludes my presentation on the proposed Bill. I commend the Reporting of Savings Income Information (European Union) (Amendment) Bill, 2014, to this honourable House.

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

I recognise the Elected Member for East End.

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

I rise to . . . basically I have some questions, really, to see if the Minister can clarify some things for us in his response, particularly for me.

Since 2009 the Premier and I have been fighting for some type of omnibus bill to stay in concert with section 5 of the Cayman Islands Constitution where it says: **“Subject to this section, the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.”**

Now, at the time when the Premier and I started that battle we didn't realise how much up-hill it was going to be. But we were told that there was no need for it. We insisted that there was, and for it to go through and engage students or [other] additional help in the drafting office to get these things changed.

I take note that we have three amending bills to do the same thing. I do appreciate that the Ministry that is sponsoring this Bill was created during the term of this Government. There has never been a Ministry of long existence. We always had the Financial Secretary, but then the Constitution carved out a Minister of Finance. This Government has created one for Financial Services to split those two because they were always one and the same.

I can appreciate this Minister now trying to regularise that. But I don't know if the Government can give us any assurance when that is going to come, because if it wasn't necessary then, I don't know why we are only bringing three of them to change the “Cabinet.” And, in particular, it was about “Governor in Cabinet” to “Cabinet”—“Governor” meaning, “Governor in Cabinet” to “Cabinet” . . . Madam Speaker, the fight that we were on, or the proposals that we were making (because the word “fight” seems to be quite derogatory in here).

There are many other pieces of legislation which require these changes. Is it okay for the others to be left the way they are? Or is it only because there is a new Ministry of Financial Services that it is a requirement? We are some five years on into our Constitution and, Madam Speaker, I do believe the Consti-

tion needs review now and changes, where necessary, because we have had it for quite some time. I don't know if the Premier or the Attorney General will let us know, if these are so important, why not the others? What's the difference between these being brought now and others not being brought?

And then we always argued that we could have brought a Bill to change everything, and then as the revisions come up there would be changes on that basis. So I think it would be in the interests of us all to find out exactly what is transpiring here and I am sure, hopefully, the Premier will let us know what has transpired.

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

I recognise the Honourable Premier.

The Premier, Hon. Aiden McLaughlin: Thank you, Madam Speaker.

Madam Speaker, I obviously support the Bill that is being brought by the Honourable Minister. I only rise to address the concern raised by the Member for East End with respect to the change of “Governor” to “Cabinet” in all existing laws where it refers to the decision making of the Cabinet, hitherto known as “the Governor in Cabinet.”

Madam Speaker, section 5 of the Constitution deals with existing laws and the impact of the constitutional changes on those. It provides in subsection (1): **“Subject to this section, the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.”**

So, the omnibus legislation that the Member spoke about is really unnecessary. That provision that I just read from the Constitution has the same effect that omnibus legislation would have. There is no absolute requirement for this legislature to make amendment to the respective laws to effect that change. As the Member has suggested the change could be made when the laws are being revised. All that is happening now is because this new legislation is being brought or amendments are being brought, we are taking the opportunity now to just make those changes in the actual legislation.

When other laws call for revision that change will be made, or if it happens that amendments are being brought to the House, we will take the opportunity then to make the changes on paper. But in actuality the changes have already been brought into effect from the date the new Constitution came into effect, which I think was 8 November 2009.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: The 6th of November (I am being corrected) 2009.

The Speaker: Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Final call, does any other Member wish to speak? [pause].

If not, I will call upon the Honourable Minister responsible for Financial Services if he wishes to exercise his right of reply.

Hon. G. Wayne Panton: Madam Speaker, thank you. I appreciate the tacit support of the House as well as the clarity sought by the Member for East End.

I will just add my contribution to the clarity provided by the Premier. This was an opportunity to make certain amendments in addition to the primary amendment being sought under this Bill to remove the reporting to the Financial Secretary, as it was originally set up, to pass it directly to the current and responsible Minister and Ministry. I simply took advantage of the opportunity to add in the change to deal with the change being discussed between the two Members, changing "Governor in Cabinet" to the correct reference of "Cabinet" as established by the 2009 Constitution.

With that, I thank you very much, Madam Speaker.

The Speaker: The question is that a Bill shortly entitled, The Reporting of Savings Income Information (European Union) (Amendment) Bill, 2014 given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Reporting of Savings Income Information (European Union) (Amendment) Bill, 2014, given a second reading.

SECOND READING

STOCK EXCHANGE COMPANY (AMENDMENT) BILL, 2014

The Clerk: The Stock Exchange Company (Amendment) Bill, 2014.

The Speaker: I recognise the Honourable Minister of Financial Services.

Hon. G. Wayne Panton: Thank you, Madam Speaker. I feel like a bit of a yo-yo this afternoon, getting up and down.

I beg to move the Second Reading of a Bill entitled The Stock Exchange Company (Amendment) Bill, 2014.

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

Hon. G. Wayne Panton: Thank you, Madam Speaker.

I rise to present the Bill on behalf of the Government. It is similar to the change made to the previous Bill, to change the reference from "Governor in Council" to "Governor in Cabinet." As I explained in relation to the other Bill, there are a number of laws which make reference to the "Financial Secretary" as having responsibility for various matters relating to financial services. With the establishment of the current Financial Services Ministry, this area of responsibility should be specifically addressed to the Minister responsible. Therefore there is a need to clarify that.

Section 3 of the Stock Exchange Company Law makes provision for the appointment of individuals to the Stock Exchange Authority. It is proposed that the Minister with responsibility for Financial Services be given the authority to recommend individual members for appointment for Cabinet's consideration. It further proposes to amend section 14(2), such that the Chief Officer for Financial Services will approve the appointment of auditors for the Cayman Stock Exchange. In addition, a further amendment to section 14(8) would provide that the Minister should be responsible for the tabling of annual reports for the Stock Exchange Company in this honourable Legislative Assembly.

Madam Speaker, that very briefly concludes my presentation on the proposed Bill, and I commend this Bill to this honourable House.

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

If not, I will call upon the Honourable Minister of Financial Services. Your ups and downs keep getting shorter and shorter!

Hon. G. Wayne Panton: Yes, Madam Speaker, thank you.

I appreciate the tacit support of this honourable House. Thank you.

The Speaker: The question is that a Bill shortly entitled the Stock Exchange Company (Amendment) Bill, 2014, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Stock Exchange Company (Amendment) Bill, 2014.

SECOND READING

BUILDING SOCIETIES (AMENDMENT) BILL, 2014

The Clerk: The Building Societies (Amendment) Bill, 2014.

The Speaker: I recognise the Honourable Minister for Financial Services.

Hon. G. Wayne Panton: Thank you, Madam Speaker.

I beg to move the Second Reading of a Bill entitled The Building Societies (Amendment) Bill, 2014.

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

Hon. G. Wayne Panton: Thank you, Madam Speaker.

I present the Bill to this honourable House on behalf of the Government. It is a Bill to amend the Building Societies Law (2010 Revision) to remove the obligation that is now placed on the Cayman Islands Monetary Authority to gazette the accounts and statements of building societies, and to place the onus of gazetting those accounts and statements on the building societies themselves rather than the Authority.

The Bill seeks to amend the Law which places an obligation on the Authority to gazette the accounts. This is not only incongruent with the Authority's role under all other regulatory laws, but it is also entirely anomalous. In that regard, the continued existence of this obligation on the Authority also carries with it the potential to continuously place the Authority in an undesirable position of having to act in a way which may be inconsistent with its overall mandate and wider regulatory obligation to its licensees. Any obligation to gazette the accounts and statements should be more properly vested in and be the sole responsibility of the building societies themselves.

Madam Speaker, the detailed amendments being proposed in the Bill are as follows:

Clause 1 of the Bill makes provision for the short title of the legislation.

Clause 2 would amend section 21 of the Building Societies Law (2010 Revision) which places the obligation on the Authority to gazette the accounts and statements of any building societies. This clause would place an obligation on each building society registered which would now be the responsibility of

themselves for the publication of their own accounts and statements.

Madam Speaker, the objective of the Bill can be expressed and has been expressed briefly and that will conclude my contribution on it.

I commend this Bill to this honourable House for passage. Thank you.

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

If not, I will once again call upon the Honourable Minister of Financial Services to exercise his right of reply if he still wishes.

Hon. G. Wayne Panton: Thank you once again, Madam Speaker.

I thank Members for their tacit support. Thank you.

The Speaker: The question is that a Bill shortly entitled the Building Societies (Amendment) Bill, 2014, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Building Societies (Amendment) Bill, 2014, given a second reading.

SECOND READING

TAX INFORMATION AUTHORITY (AMENDMENT) BILL, 2014

The Deputy Clerk: The Tax Information Authority (Amendment) Bill, 2014, Second Reading.

The Speaker: I recognise the Honourable Minister responsible for Financial Services.

Hon. G. Wayne Panton: Thank you, Madam Speaker.

I beg to move the Second Reading of a Bill entitled The Tax Information Authority (Amendment) Bill, 2014.

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

Hon. G. Wayne Panton: Thank you, Madam Speaker, just very briefly.

Consistent with a few of the other Bills discussed this afternoon, the objective of this Bill is to

transfer responsibility for certain functions from the Financial Secretary to the Minister charged with responsibility for Financial Services and for incidental and connected purposes.

Similarly, it also takes advantage of the opportunity to make a change . . . pardon me, Madam Speaker, this is not one of those Bills to which that is relevant.

Madam Speaker, section 4 and section 16 of the Tax Information Authority Law are proposed to be amended, such that responsibilities of the Tax Information Authority would be changed from the Financial Secretary to the Minister of Financial Services. That is the sole change contemplated in this Bill, Madam Speaker. That will conclude my very brief presentation and I commend the Tax Information Authority (Amendment) Bill, 2014, to this honourable House for passage.

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

If not, I will once again call upon the Honourable Minister of Financial Services to exercise his right of reply.

Hon. G. Wayne Panton: Thank you again, Madam Speaker.

Again, thanks to Members for their tacit support of this Bill.

The Speaker: The question is that a Bill shortly entitled the Tax Information Authority (Amendment) Bill, 2014, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Tax Information Authority (Amendment) Bill, 2014 given a second reading.

SECOND READING

DIRECTORS REGISTRATION AND LICENSING BILL, 2014

The Deputy Clerk: The Directors Registration and Licensing Bill, 2014.

The Speaker: I recognise the Honourable Minister of Financial Services.

Hon. G. Wayne Panton: Thank you.

Madam Speaker, I beg to move the Second Reading of a Bill entitled The Directors Registration and Licensing Bill, 2014.

The Speaker: The Bill has been duly moved. Does the Honourable Minister wish to present the Bill at this stage?

Hon. G. Wayne Panton: Yes, thank you, Madam Speaker.

I rise to present the Bill on behalf of the Government. It seeks to make provision for the establishment of a registration regime for directors and a licensing regime for what are considered professional directors, as well as corporate directors of mutual funds regulated under the Mutual Funds Law (2013 Revision) and persons to whom section 5(4) of the Securities Investment Business Law (2011 Revision) applies, as well as for incidental and connected purposes.

Madam Speaker, there are currently no licensing or registration requirements imposed on natural persons who act as directors of entities registered with the Cayman Islands Monetary Authority. In contrast, Madam Speaker, companies that provide directorship services must be licensed while the directors of licensees must be approved by the Cayman Islands Monetary Authority [CIMA]. This regulatory gap is inconsistent treatment between individuals and entities that carry on similar activities in this space. This has resulted in challenges for CIMA in supervising and sanctioning individuals who are considered to be unsuitable to be directors of regulated entities.

Madam Speaker, in an effort to address this gap, CIMA has been preparing a number of initiatives to increase the strength of the current regulatory framework. The first of these initiatives was an independent survey on corporate governance commissioned by CIMA and conducted by Ernst and Young between January and February 2013. This survey provided CIMA with information from investors, industry service providers and directors themselves on the key issues of corporate governance in the Islands.

Some of the key findings of the survey include that directors' expertise and knowledge and independence are at the heart of corporate governance concerns and issues and are considered to be the most important element by those polled. Further, a finding was that directors needed to ensure they had sufficient time to apply themselves to every board and this was an issue which was of concern to a large majority of stakeholders and, in certain cases, even directors themselves.

Madam Speaker, investors in Cayman Islands registered regulated funds are increasingly demanding more information to assess the robustness of corporate governance standards and frequently they do not receive the requested information for due diligence purposes. This is another key finding of the

survey. Another is that while divided on whether setting a limit on the number of directorships held would be beneficial to the mutual funds sector where those in support of a limit were more in favour of a limit based on manager relationship.

Those stakeholders who were polled, who wanted more transparency on the number of directorships held by directors providing those services, two-thirds preferred that this be divulged by way of a CIMA managed database. So that was another key finding of the survey.

In December 2013, CIMA issued a statement of guidance on governance for regulated mutual funds on corporate governance. This statement of guidance was developed based on substantial industry input and has resulted in a strengthening of the standards expected from regulated mutual funds.

Madam Speaker, this Bill represents another element to the enhanced oversight of directors of mutual funds which are regulated under our Mutual Funds Law (2013 Revision), as well as directors of persons which are registered as excluded persons under the Securities Investment Business Law (2011 Revision). In the past 18 months at least three proposals to enhance the oversight of directors in the Cayman Islands were presented to the Cayman Islands Government. As a consequence, the Government established a working group to examine the question (the previous Government some 18 months ago) of increased oversight of directors and the committee. The working group was composed of representatives from across the financial services industry and also included representatives from the Cayman Islands Monetary Authority as well as the Ministry responsible for Financial Services. That has continued to this day.

Madam Speaker, in September 2013, Cabinet gave approval for the Monetary Authority to issue drafting instructions for a Bill to address this issue. Consequently, the Bill before the House this afternoon was produced (that is, the Directors Registration and Licensing Bill, 2014).

The Bill is arranged in six parts. Part I deals with clauses 1 through 3 which address the short title, commencement, interpretation and application of the Bill. In particular, clause 3 limits the application of the legislation to directors, professional directors and corporate directors of mutual funds registered under the Mutual Funds Law (2013 Revision). It also limits it to companies to which section 5(4) of the Securities Investment Business Law (2011 Revision) applies.

Part II includes clauses 4 through 8 and sets out a regime for the registration of directors and allows CIMA to refuse registration in limited circumstances, let's say very limited circumstances. It also provides for consequences for directors acting without being duly registered.

Part III includes clauses 9 through 15 and provides for the licensing of professional directors and

those are directors who act for more than 20 what are defined as "covered entities" which include registered and regulated funds and the section 5(4) of the Securities Investment Business Law company. This Part also allows CIMA to refuse to license professional directors in this category in certain circumstances as it did with Part II.

Part IV of the Bill permits the licensing of companies seeking to act as corporate directors and clauses 16 through 21 set out this regime as contemplated.

Part V of the Bill sets out the powers and obligations of the Cayman Islands Monetary Authority and provides tools for the Cayman Islands Monetary Authority to take enforcement action against directors who are not in compliance. These provisions are set out in clauses 22 through 25.

Finally, Part VI of this Bill, which includes clauses 26 through 28, allows for appeals against certain decisions of CIMA and permits the Cabinet to create appropriate regulations pursuant to the Bill when it becomes Law.

Madam Speaker, this Bill will be subject to a number of proposed committee stage amendments. While the working group I referred to earlier has put in a tremendous amount of time and effort and consideration, I would be remiss if I didn't thank them immensely for the efforts they have made in respect of this. We have also consulted extensively with key industry associations to gauge policy or operational concerns. The comments we have received up until very, very recently will be proposed subsequently after full consideration by the working group. They are unfortunately somewhat extensive, but they are certainly regarded as necessary.

The timeframe in respect of this Bill within which we have been operating has been fairly tight. And combined with the newness of getting this previously non-existent regime set up in the best possible way to achieve its objective without creating a situation of impairing our competitive advantage in relation to the mutual funds industry, which the public of the Cayman Islands and certainly honourable Members of this House are aware that the Cayman Islands is a leading jurisdiction globally in this area.

Madam Speaker, in conclusion, I commend this Bill, the Directors Registration and Licensing Bill, 2014, to honourable Members of this House for passage. Thank you.

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

I recognise the Fifth Elected Member for George Town.

Mr. Winston C. Connolly, Jr.: Thank you, Madam Speaker.

I rise to add my contribution to this Bill, the Directors Registration and Licensing Bill, 2014, brought by the Minister of Financial Services.

Madam Speaker, while I have heard the Minister responsible talk about the wide discussions with industry, having spoken to some of them, I have some concerns that not all the points will have been taken on. That being said, I understand there will be a number of changes at the committee stage which will address some of them. So, that being said, I do think that the Bill is a good first step, but it needs to better reflect industry practice, industry concerns. I would like to point out some of the things that were raised with me for the committee stage amendments. I hope that the Minister and his working group will take some of those into consideration.

Although it has not been raised from the working group's comments, I spoke with a number of institutional investors and directors and there was a concern over the threshold number of 20 which made someone a "professional" director. That being said, having spoken to someone as recently as an hour ago, they can live with that number. The reality of it is that the number of directorships versus the number of relationships is the matter that they had some concerns with because industry practice is leaning towards numbers of relationships. And before I go into that long explanation, I will just say that the director I spoke to said that the number is the number and although not reflective of industry practice, we can live with it.

In the Bill itself, though there are some issues with what people would consider penal sanctions to a certain degree, looking at page 9 of the Bill, [clause] 4(5), again, I think that these should be further discussed at the committee stage review and changed then. But what was raised to me, and which I agree with, was the penalty of a fine of \$50,000 and imprisonment for 12 months, or both, where the director is acting without being registered. The change that was presented to me is that that should be up to \$50,000.

[Inaudible interjection]

Mr. Winston C. Connolly, Jr.: That is how it is understood?

[Inaudible interjection]

Mr. Winston C. Connolly, Jr.: Okay. Excellent! Thank you, Attorney General.

On page 10 of the Bill, and again I may be corrected but I will raise it regardless: [Clause] 6(4) . . . the point raised here is that this, again, could be overly harsh because if someone, for example, forgot to change an address they were going to get a \$20,000 fine. But I have just been told, again by the Minister, that these have now been considered and will be addressed at committee stage.

There is also, further on that, page 10, in [clause] 8, where it discusses the consequences of refusal of registration. It doesn't give a right of appeal. That is concerning because if the Authority refuses to register then there should be some sort of appeal process that a director can go through and have their side of the coin aired.

On page 11, [clause] 9(6) . . . it was suggested that at the committee stage, again, a fund manager—

[Inaudible interjection]

Mr. Winston C. Connolly, Jr.: Going back to subsection (6), the definition of "fund manager" is, in my opinion, necessary, Madam Speaker. And I would suggest that at committee stage that be defined as a manager, advisor, sponsor or promoter of a regulated mutual fund.

Madam Speaker, [clause] 11(2) was also raised by the concerned parties to me, and that is on line two, the words "sufficient capacity." There is no definition of the word "capacity." I would take that to mean some ability to deal with the number of directorships that director has undertaken. But there isn't a definition of that in the Bill which I think would be helpful.

Madam Speaker, those were the direct comments that I had in terms of the Bill itself, generally. I think the Minister raised this point during his introduction; that the industry has felt that a CIMA managed database for a fee would have sufficed in this instance. I think that the Bill, if it is seeking to regulate directors and their actions, in light of recent court cases, including *Weaving [Weaving Macro Fixed Income Fund v. Peterson and Eckstrom]*, is a positive for the industry if we don't go too far.

Madam Speaker, one point in my review of the legislation that I would also raise is that of how it refers to sister legislation, including the Mutual Funds Administrator Licence and the Companies Management Licence, as they are treated the same under this proposed Bill. I fear that unless addressed at the committee stage, we might actually lose revenue instead of gaining revenue. I would put it to the Minister that we at least look at that and drill down on that so we don't have any unintended consequences; that people can opt out and go for the cheaper route.

I don't know what the fees are. I don't know what the exact fees are in the regulation, but I just wanted to raise that point, that we shouldn't have unintended consequences when we pass this, or if we are minded to pass this Bill.

Madam Speaker, having spoken to the Minister this morning, I am satisfied that he has taken my general observations on board. He has said that there will be committee stage changes which we have discussed, although not at length, in general. And I am satisfied that what will happen is a further review to

ensure that all i's are dotted and that all t's are crossed in having the Minister meet as recently as this week with other industry professionals and also taking on board the comments from the working group and the comments coming through caucus.

Madam Speaker, I will leave my other contributions for committee stage and will support this Bill brought by the Minister. Thank you.

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

If not, I call upon the Minister responsible for Financial Services if he wishes to exercise his right of reply.

Hon. G. Wayne Panton: Madam Speaker, thank you.

Let me say I appreciate the support shown by Members of this honourable House. I would like to thank the [Fifth Elected] Member for George Town for his comments. I would like to assure him and all Members that but for a logistical issue the amendments will be to hand and already I anticipate will be to hand very quickly.

I would like to confirm and assure Members of this House that there are going to be some significant amendments to the Bill in committee stage. I would hope that any concerns which the Member for George Town has will be addressed at that time.

Madam Speaker, I know there are a number of concerns. They have been expressed consistently in relation to one particular point which is on the drafting style where there is a reference to an offence having been committed and a specific penalty. The practice nowadays (in relation to the drafting style) is to simply say that the penalty is a fixed amount. So in some cases you will see in the Bill a reference to the penalty shall be \$10,000. That effectively means *up to*. So if there is an offence and there was to be a prosecution, the fine could be \$1.00. It isn't a fixed fine of \$10,000. The Member for George Town raised that. I know he had some clarification from the Honourable Attorney General. I wanted to simply pass that along to other honourable Members of the House that this is simply a point of drafting style and that is the effect, the meaning of that. It doesn't mean there is a fixed fine for any single offence.

Madam Speaker, with that, I will draw my contribution to a close and thank you very much.

The Speaker: The question is that a Bill shortly entitled, The Directors Registration and Licensing Bill, 2014, be given a second reading.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: The Directors Registration and Licensing Bill, 2014 given a second reading.

The Speaker: Members, we are just a few minutes shy of the hour of interruption. But I would ask your indulgence for the Honourable Premier to move the suspension now. Otherwise, if we go into Committee, I have to come back in the House, move the suspension, and go back down.

Honourable Premier?

SUSPENSION OF STANDING ORDER 10(2)

The Premier, Hon. Alden McLaughlin: Madam Speaker, I move the suspension of Standing Order 10(2) to enable the House to continue proceedings beyond the hour of interruption.

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

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 House will now go into Committee to consider the various Bills.

House in Committee at 4.34 pm

COMMITTEE ON BILLS

[Hon. Juliana Y. O'Connor-Connolly, Chairman]

The Chairman: Please be seated.

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

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

CONTRACTS (RIGHTS OF THIRD PARTIES) BILL, 2014

The Clerk: The Contracts (Rights of Third Parties) Bill, 2014.

Clause 1	Short title
Clause 2	Interpretation
Clause 3	Application
Clause 4	Rights of third party to enforce contractual term

Clause 5	Variation and rescission of contract
Clause 6	Defences
Clause 7	Enforcement of contract by promisee
Clause 8	Protection of promisor from double liability
Clause 9	Exceptions
Clause 10	Supplementary provisions relating to third party
Clause 11	Arbitration provisions

The Chairman: The question is that clauses 1 through 11 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 11 passed.

The Clerk: A Bill for a Law to make provision for the enforcement of contractual terms by third parties; 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.

EXEMPTED LIMITED PARTNERSHIP BILL, 2014

The Clerk: The Exempted Limited Partnership Bill, 2014

The Clerk: Clause 1 Short title.

The Chairman: If there is no debate, the question is that clause 1 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 1 passed.

The Clerk: Clause 2 Interpretation.

The Chairman: I believe the Honourable Minister has given approval for an amendment. Would you move it at this time please?

AMENDMENT TO CLAUSE 2

Hon. G. Wayne Panton: Thank you, Madam Chair.

In accordance with the provisions of Standing Order 52(1) and (2), I, Wayne Panton, Minister responsible for Financial Services, give notice to move the following amendments to the Exempted Limited Partnership Bill, 2014, that the Bill be amended in clause 2 as follows: In the definition of the words "public in the Islands" by inserting before the words "any company acting as general partner of a partnership", the words "a foreign limited partnership registered under section 42,".

The Chairman: Does the Minister have any further comment?

Hon. G. Wayne Panton: Madam Chair, this proposed amendment corrects the definition of the term "public in the Islands" to exclude a foreign limited partnership registered under section 42.

The Chairman: Once the Honourable Minister has indicated that his comments have been concluded, I will move to the next step.

Hon. G. Wayne Panton: Madam Chair, thank you. I have no further comments in respect to that proposed amendment.

The Chairman: Does any other Member wish to speak to the amendment as proposed? [pause]

If there are no further comments, 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 2 passed.

The Chairman: The question is that clause 2, 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 2 as amended passed.

The Clerk:

Clause 3 Saving of rules of equity and common law

Clause 4 Constitution

Clause 5	When licence not required
Clause 6	Name and registered office
Clause 7	Establishment
Clause 8	Registrar

The Chairman: Does any other Member wish to speak? If not, the question is that clauses 3 through 8 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 3 through 8 passed.

The Clerk: Clause 9—Registration

AMENDMENT TO CLAUSE 9

The Chairman: Honourable Minister, I have given approval to clause 9.

Hon. G. Wayne Panton: Thank you, Madam Chair.

In accordance with the provisions of Standing Order 52(1) and (2), I, the Minister responsible for Financial Services, give notice to move the following amendment to clause 9 (1)(e)(ii) by inserting after the words “in the case of a” the words “general partner which is a”.

Madam Chair, the reason for that is that this amendment corrects the unintended omission to the type of general partner to be registered under this Law and the requirement for registration. I have nothing further to add in respect of that.

The Chairman: Does any other Member wish to speak?

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 clause 9 passed.

The Chairman: The question is that clause 9, as amended, stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 9 as amended passed.

The Clerk:

Clause 10	Changes in registered particulars
Clause 11	Failure to file statement
Clause 12	Copies of certificates

The Chairman: If no Member wishes to speak, the question is that clauses 10 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 10 through 12 passed.

The Clerk: Clause 13—Express fees

AMENDMENT TO CLAUSE 13

The Chairman: Honourable Minister, have given approval for amendment to clause 13.

Hon. G. Wayne Panton: I move an amendment to clause 13(1)(a) by inserting after the words “under section 9” the words “or section 42”.

The reason for that is that it allows the expressed registration of a foreign limited partnership as well as an exempted limited partnership under this Law.

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 13 passed.

The Chairman: The question is that clause 13, 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 13 as amended passed.

The Clerk:

Clause 14	Modification of general law
Clause 15	Agreement may specify delegation of authority

Clause 16	Property
Clause 17	Rights, property and proceeds to vest in incoming partner
Clause 18	Transactions with the exempted limited partnership
Clause 19	General partner to act in good faith
Clause 20	Liability of limited partner
Clause 21	Accounts
Clause 22	Information regarding condition of partnership
Clause 23	Differences decided by general partner
Clause 24	Establishment, regulation of boards, committees

The Chairman: The question is that clauses 14 through 24 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 14 through 24 passed.

The Clerk: Clause 25—Failure to perform.

AMENDMENT TO CLAUSE 25

The Chairman: Honourable Minister, I have given consent to amend clause 25.

Hon. G. Wayne Panton: As Minister responsible, I move to amend clause 25(1) by deleting the words “other obligations” and substituting the word “obligations”; and by deleting the words “and those” and substituting the words “then those”.

This amendment simply seeks to provide clarity to this clause in dealing with the failure of a partner to perform his obligation under the Law.

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 25 passed.

The Chairman: The question is that clause 25, 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 25 as amended passed.

The Clerk:

Clause 26	Agreement as to benefits
Clause 27	Execution considered valid
Clause 28	Power of attorney

The Chairman: The question is that clauses 26 through 28 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 26 through to 28 passed.

The Clerk: Clause 29—Register of limited partnership interests.

AMENDMENT TO CLAUSE 29

The Chairman: Honourable Minister, I have given approval for amendment to clause 29.

Hon. G. Wayne Panton: Thank you.

As Minister responsible I would like to amend clause 29(3) by deleting the words “place where the register” and substituting the words “place where the register or record”; and this amendment seeks to permit the records of addresses to be inspected at the place where they are maintained if this is different from the place in which the Register of Limited Partners is maintained.

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 29 passed.

The Chairman: The question is that clause 29, 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 29 as amended passed.

The Clerk: Clause—30 Maintenance of records.

The Chairman: I also gave approval to amend clause 30.

Honourable Minister.

Hon. G. Wayne Panton: I am obliged, Madam Chair.

As Minister responsible I move the proposed amendment to clause 30(1) by inserting after the words “country or territory” the words “that the general partner may determine,”.

This amendment clarifies that it is the general partner that may determine in which country or territory the records of the partnership will be maintained.

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 30 passed.

The Chairman: The question is that clause 30, 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 30, as amended, passed.

The Clerk:

Clause 31	Registration of security interests
Clause 32	Transfer of partnership interests
Clause 33	Proceedings

The Chairman: The question is that clauses 31 through 33 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 31 through 33 passed.

The Clerk: Clause 34—Return of contributions.

AMENDMENT TO CLAUSE 34

The Chairman: Honourable Minister, I gave approval to amend clause 34.

Hon. G. Wayne Panton: As Minister responsible I move the amendment to clause 34 by deleting sub-clause (4).

The reason for that . . . Madam Chairman, this sub-clause provision is being moved to another section and will be the subject of an amendment that we will be subsequently considering. It is simply being relocated to better clarify its effect.

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 34 passed.

The Chairman: The question is that clause 34, 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 34, as amended, passed.

The Clerk: Clause 35—Manner in which partnership may not be dissolved.

AMENDMENT TO CLAUSE 35

The Chairman: An approval to amend clause 35 has also been given.

Honourable Minister.

Hon. G. Wayne Panton: As Minister responsible I move the amendment to clause 35 (a)(iii) by inserting after the words “limited partner or a” the word “limited”; and by inserting after the words “partnership of, any” the word “limited”.

This seeks to correct an unintended omission and is a clarification that the terms used are in relation to a limited partnership specifically.

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 35 passed.

The Chairman: The question is that clause 35, 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 35, as amended, passed.

The Clerk: Clause—36 Dissolution.

AMENDMENTS TO CLAUSE 36

The Chairman: Approval has also been given to amend clause 36.

Honourable Minister.

Hon. G. Wayne Panton: As Minister responsible I move the amendment to clause 36 (unfortunately there are a number of these).

Firstly, in sub-clause (1) by inserting after the words “partnership shall be” the word “voluntarily”;

In sub-clause (2) by deleting the words “provisions of section” and substituting the words “provisions of subsection”;

In sub-clause (3) by deleting paragraph (d) and substituting the following paragraph: “(d) except for sections 123, excluding subsection (1)(b) and (c), 129, 140, 145, and 147 of the Companies Law, Part V shall not apply to a voluntary dissolution and winding up under subsection (1);”;

[Pause]

Hon. G. Wayne Panton: Madam Chair, I apologise for the brief interruption.

Madam Chair, the fourth amendment to clause 36 is in sub-clause (3)(e) by deleting the words “dissolution and”;

Madam Chair, I think the specific amendment proposed a moment ago may have the words switched around. It should say, “and dissolution” as opposed to “dissolution and”.

The Chairman: Would you repeat that please?

Hon. G. Wayne Panton: The Roman iv proposed amendment to clause 36, reads (as filed) in sub-clause (3) . . . and I know it says (3)(e). That is an inaccurate reference. It is simply sub-clause (3). And as noted in the file notice the change is “by deleting the words ‘dissolution and’” and I am indicating that the words seem to have been switched around and

should read, in fact, “and dissolution”. So I need to propose an amendment to that effect.

The Chairman: So I take it that you are moving that sub-clause (3)(e) by deleting the words “and dissolution” as opposed to how it now appears “dissolution and”?

Hon. G. Wayne Panton: Madam Chair, the reference to (3)(e) is incorrect. It should simply be a reference to sub-clause (3). And the exact wording is proposed to be—

[Inaudible interjection]

Hon. G. Wayne Panton: Madam Chair, I apologise for the confusion. There are so many of these amendments.

Madam Chair, apologies.

Roman iv of the amendments listed for clause 36 is, in fact correct, as fully set out. That amendment is to sub-clause (3)(e) by deleting the words “dissolution and”. The confusion is that we have missed an amendment to clause 36(3) which would seek to delete the words “and dissolution.” So simply that the words are very similar, switched around, and the references are very similar. I apologise for the confusion.

I would ask or seek leave to propose an amendment to clause 36(3), where it appears in the penultimate line the words “and dissolution”—

[Pause]

Hon. G. Wayne Panton: I am obliged to the Honourable Attorney General and the Chair for assistance.

Madam Chair, as Minister responsible I beg to move an amendment to clause 36(3).

The Chairman: Permission granted.

Hon. G. Wayne Panton: Or more properly, clause 36, sub-clause (3), be deleting the words “and dissolution.”

The Chairman: The question is that clause 36(3) stand part of the clause—

[Pause]

The Chairman: The question is that clause 36(3) be amended by deleting the words “and dissolution.”

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 36(3) amended.

The Chairman: Honourable Minister, you can continue now with the rest of your amendments.

Hon. G. Wayne Panton: Thank you. Again, I apologise to Members for the confusion.

As Minister responsible, I now propose to move the amendment to sub-clause (3)(e) by deleting the words "dissolution and".

The Chairman: The amendment has been moved. Does the Member wish to expound further?

Hon. G. Wayne Panton: Madam Chair, I was hoping that we could complete the remainder of the proposed amendments to clause 36.

The Chairman: Yes, please proceed.

Hon. G. Wayne Panton: And then I will indicate just in general the rationale for the amendments.

In relation to the listed item Roman v, I am proposing an amendment to sub-clause (3)(g) by deleting the words "or a creditor" and substituting the words ", creditor or liquidator";

In respect of item Roman vi which relates to a proposed amendment to sub-clause (4), by inserting after the words "any order" the words "or direction";

Further, in relation to Roman item [vii], the proposed amendment is by deleting sub-clause (6) of clause 36 and substituting the following sub-clause: "(6) Where an exempted limited partnership is being wound up and a liquidator is appointed, the Registrar shall within 28 days of the appointment be notified of the name and business address of the liquidator."

The item listed as Roman viii (it may show on the Members' list as a duplicated Roman vii) reflects an amendment proposed to sub-clauses (10), (11) and (12) to renumber those sub-clauses as (11), (12) and (13), respectively. What is shown in the Bill as (10), (11) and (12) are proposed to be renumbered as (11), (12) and (13), respectively. And inserting after sub-clause (9) the following sub-clause: "(10) The winding up of an exempted limited partnership shall be deemed to commence upon the earlier to occur of any of the following—

- (a) the passing of a resolution for winding up;
- (b) subject to sub-section 9, the automatic wind up date;
- (c) the expiry of the period fixed for the duration of the exempted limited partnership by the partnership agreement;
- (d) the occurrence of an event provided by the partnership agreement upon which the exempted limited partnership is to be wound up; or
- (e) where a winding up order has been made, the presentation of the petition for winding up.";

Madam Chair, I appreciate Members' bearing with me on these lengthy amendments to clause 36, as proposed.

In clause 36, the next proposed amendment is in relation to sub-clause 10 by deleting paragraphs (a) and (b) and substituting the following words: "the date falling ninety days after the service of notice of an event of withdrawal."

In relation to the final sub-clause amendment proposed for clause 36 is in sub-clause (12), by deleting the words "or a creditor of the exempted limited partnership pursuant to subsection (3)(g)" and substituting the words ", creditor or liquidator of the exempted limited partnership pursuant to subsection (3)(g)"; and after the words "pursuant to" by deleting the word "section" and substituting the word "sub-section".

Madam Chair, clause 36 deals with the winding up provisions in respect to a partnership. 1) In summary, the proposed amendments are intended to clarify which provisions apply to voluntary winding up and which apply to official winding up and specifically that the Companies Winding up Rules as they may be amended from time to time will apply to an official as well as a voluntary winding up; 2) that section 36(1) is intended to apply to a voluntary winding up only; 3) the references to dissolution have been removed, as these are redundant; 4) the ability to make an application to the court for orders and directions has been extended to a liquidator, as well as a partner or creditor, as has the ability to contest who shall wind up the partnership.

Fifth, section 129 of the Companies Law, providing the voluntary liquidator can apply to the court for directions is expressly extended to voluntary winding up.

Sixth, in relation to clause 36(6) this amendment provides that when an exempted limited partnership is being wound up the Registrar must be notified within 28 days of the appointment of a liquidator. So those significant amendments to clause 36 are explained by those comments. I hope Members are able to follow that.

[Inaudible interjection]

The Chairman: If there is no debate, the question is that the amendments as put out and explained on clause 36 stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 36 passed.

The Chairman: The question is that clause 36, 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 36, as amended, passed.

The Clerk:

Clause 37	Registrar may strike off register
Clause 38	Tax undertaking
Clause 39	Annual return
Clause 40	Re-registration
Clause 41	De-registration pursuant to partnership agreement
Clause 42	Registration of foreign limited partnerships

The Chairman: If there is no debate, the question is that clauses 37 through 42 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 37 through 42 passed.

The Clerk: Clause 43 De-registration for continuation in another jurisdiction.

AMENDMENT TO CLAUSE 43

The Chairman: I have given approval for an amendment to clause 43.

Honourable Minister.

Hon. G. Wayne Panton: Thank you.

As Minister responsible I move to amend clause 43 in sub-clause (2)(c)(i) by deleting the word “proposed” and inserting after the word “dual” the word “foreign”; and in sub-clause (2)(d) by inserting after the words “any jurisdiction” the words “and no time or event has occurred upon which the applicant partnership is to be wound up”.

This section applies to the new ability for a partnership to transfer to another jurisdiction. Under the Companies Law there is a concept of a transfer by way of continuation which simply means they can relocate to another jurisdiction in the same way as an individual could move his residence. So it is replicating the concept under the Companies Law and the amendments simply seek to make minor clarifications to the administrative process and to make clear that the supporting affidavit is to be given by the applicant. Thank you.

The Chairman: If there is no debate, 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: Amendments to clause 43 passed.

The Chairman: The question is that clause 43, 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 43, as amended, passed.

The Clerk: Clause 44—Certificate of de-registration

AMENDMENT TO CLAUSE 44

The Chairman: I have given approval for an amendment to clause 44.

Honourable Minister.

Hon. G. Wayne Panton: Thank you.

Members will be happy to know that we are nearing the end of these proposed amendments.

In respect to clause 44(1), I move to amend in sub-clause (1) by deleting the words “an applicant” and substituting the word “a”; and by deleting the words “applicant partnership” wherever they appear and substituting the words “the partnership”.

[Pause]

Hon. G. Wayne Panton: Apologies, Madam Chair.

The second proposed amendment to clause 44 is in sub-clause (2) by inserting after the words “satisfied the de-registration” the word “requirements”.

The third proposed amendment to clause 44 is in sub-clause (4) by deleting the words “an applicant partnership under section 41” and substituting the words “a partnership under section 41”; and lastly in sub-clause (5) by inserting after the words “to an applicant” the word “partnership”.

Those amendments seek to clarify the administrative process by which the Registrar confirms de-registration of partnerships under clauses 41 and 43. I hope that provides sufficient clarity for Members.

The Chairman: If there is no debate, the question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 44 passed.

The Chairman: The question is that clause 44, as amended, stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 44, as amended, passed.

The Clerk: Clause 45—Notice of de-registration.

AMENDMENT TO CLAUSE 45

The Chairman: I have given approval for an amendment to clause 45.

Honourable Minister.

Hon. G. Wayne Panton: Thank you.

I move to amend clause 45 by deleting “termination of registration of an applicant” and substituting the words “termination of registration of a”.

The reason for the proposed amendment is simply to clarify the administrative process by which the Registrar gives notice of de-registration of the partnership under sections 41 and 43.

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

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

Ayes.

Agreed: Amendment to clause 45 passed.

The Chairman: The question is that clause 45, 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 45, as amended, passed.

The Clerk: Clause 46—Certificate of good standing.

AMENDMENT TO CLAUSE 46

The Chairman: I have given approval for an amendment to clause 46.

Honourable Minister.

Hon. G. Wayne Panton: Thank you.

I move the amendment to clause 46 by deleting sub-clause (1) and substituting the following: “(1) The Registrar may on application made by- (a) an exempted limited partnership; or (b) a foreign limited partnership registered under section 42, issue a certificate of good standing to the exempted limited partnership or the foreign limited partnership that is in good standing in accordance with subsection (2).”

This amendment allows the Registrar to issue a certificate of good standing to a foreign limited partnership which is registered pursuant to clause 42.

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 46 passed.

The Chairman: The question is that clause 46, 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 46, as amended, passed.

The Clerk:

Clause 47 Electronic business

Clause 48 Regulations

Clause 49 Recovery of penalties

Clause 50 Repeal of the Exempted Limited Partnership Law (2013 Revision) and savings

The Chairman: The question is that clauses 47 through 50 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Clauses 47 through 50 passed.

The Clerk: A Bill for a Law to repeal the Exempted Limited Partnership Law (2013 Revision) and to make further provision for the regulation of exempted limited partnerships; 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.

REPORTING OF SAVINGS INCOME INFORMATION (EUROPEAN UNION) (AMENDMENT) BILL, 2014

The Clerk: The Reporting of Savings Income Information (European Union) (Amendment) Bill, 2014.

- | | |
|----------|--|
| Clause 1 | Short title |
| Clause 2 | Amendment of the Reporting of Savings Income Information (European Union) Law (2007 Revision) - substitution of the word "Cabinet" for the word "Governor" |
| Clause 3 | Amendment of section 4 of the Reporting of Savings Income Information (European Union) Law (2007 Revision)- Competent Authority |

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

The Clerk: A Bill for a Law to amend the Reporting of Savings Income Information (European Union) Law (2007 Revision); 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.

STOCK EXCHANGE COMPANY (AMENDMENT) BILL, 2014.

The Clerk: The Stock Exchange Company (Amendment) Bill, 2014.

- | | |
|----------|---|
| Clause 1 | Short title |
| Clause 2 | Amendment of section 3 of the Stock Exchange company Law (2001 Revision) - Stock Exchange Authority |
| Clause 3 | Amendment of section 14 – accounts of the Council, etc. |
| Clause 4 | Amendment of section 19 – exemption from civil liability and indemnity |

The Chairman: The question is that clauses 1 through 4 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 4 passed.

The Clerk: A Bill for a Law to amend the Stock Exchange Company Law (2001 Revision); 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.

BUILDING SOCIETIES (AMENDMENT) BILL, 2014.

The Clerk: The Building Societies (Amendment) Bill, 2014.

- | | |
|----------|---|
| Clause 1 | Short title |
| Clause 2 | Amendment of section 21 of the Building Societies Law (2010 Revision) – societies shall make annual audits and statements of the funds to the members |

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 and 2 passed.

The Clerk: A Bill for a Law to amend the Building Societies Law (2010 Revision), to enable a society to publish its accounts and statements; 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.

TAX INFORMATION AUTHORITY (AMENDMENT) BILL, 2014

The Clerk: The Tax Information Authority (Amendment) Bill, 2014.

Clause 1 Short title

Clause 2 Amendment of section 4 of the Tax Information Authority Law (2013 Revision) - Tax Information Authority

Clause 3 Amendment of section 16 of the Tax Information Authority Law (2013 Revision) - authentication of official documents

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 1 through 3 passed.

The Clerk: A Bill for a Law to amend the Tax Information Authority Law (2013 Revision); 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.

DIRECTORS REGISTRATION AND LICENSING BILL, 2014

The Clerk: The Directors Registration and Licensing Bill, 2014.

Clause 1 Short title and commencement

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 1 passed.

The Clerk: Clause 2—Interpretation.

AMENDMENT TO CLAUSE 2

The Chairman: I have given approval for an amendment to clause 2.

Honourable Minister.

Hon. G. Wayne Panton: In accordance with Standing Order 52(1) and (2), I, Wayne Panton, as Minister responsible for Financial Services, give notice to move the following amendments to the Directors Registration and Licensing Bill, 2014, specifically in relation to clause 2:

In the definition of the word “authorised insurer” by deleting the word “authorised” and moving the definition of the word “insurer” to the correct alphabetical position.

In the definition of the words “covered entity” by deleting the words “section 5(4)” and substituting the words “paragraphs 1 and 4 of Schedule 4”.

By inserting, in the correct alphabetical sequence, the following definition: “fund manager” means a person providing investment management services or investment advisory services or a promoter under the Mutual Funds Law (2013 Revision).

By deleting the following definition: “overseas regulatory authority” means—

[pause]

Hon. G. Wayne Panton: I apologise for that short delay, Madam Chair. The notice of amendment refers to the full description of the definition of “overseas regulatory authority” and we are simply seeking to delete the entire definition so I would not propose to read through the full definition. It’s being deleted.

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 2 passed.

The Chairman: The question is that clause 2, 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 2, as amended, passed.

The Clerk: Clause 3—Application.

The Chairman: The question is that clause 3 stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 3 passed.

The Clerk: Clause 4 Prohibition from acting as a director unless registered.

AMENDMENT TO CLAUSE 4

The Chairman: Permission has been granted to amend clause 4.

Honourable Minister.

Hon. G. Wayne Panton: Thank you, Madam Chair.

I propose to amend clause 4 as follows: In sub-clause (1) by inserting before the word “person” the word “natural”; and by deleting the words “shall not act” and substituting the words “shall not, subject to subsection (4), act”.

In sub-clauses (2), (3) and (4), by deleting the words “a person” and substituting the words “a natural person” and in sub-clause (3) by deleting the words “on or after that date act in that capacity” and substituting the words “act in that capacity on or after that date”.

In sub-clause (5), by inserting before the word “person” the word “natural”; and by deleting the words

“and to imprisonment” and substituting the words “or to imprisonment.”

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 4 passed.

The Chairman: The question is that clause 4, as amended, stands part of the Bill.

Agreed: Clause 4, as amended, passed.

The Clerk: Clause 5—Application for registration.

AMENDMENT TO CLAUSE 5

The Chairman: Permission has been granted to amend clause 5.

Honourable Minister.

Hon. G. Wayne Panton: Thank you, Madam Chair.

I propose to amend clause 5 by deleting sub-clause (4) and substituting the following sub-clause: “(4) Upon submitting an application for registration to the Authority, an applicant may continue to act as a director of a covered entity until the applicant is registered by the Authority under section 6 but that applicant shall, in the time prescribed, cease to act as a director of a covered entity if, for any reason, the application for registration is refused.”

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 5 passed.

The Chairman: The question is that clause 5, as amended, stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 5, as amended, passed.

The Clerk: Clause 6—Registration by the Authority.

AMENDMENT TO CLAUSE 6

The Chairman: Permission has been granted to amend clause 6.

Honourable Minister.

Hon. G. Wayne Panton: Thank you, Madam Chair.

The proposed amendment to clause 6 is in sub-clause (3) by deleting the words “upon which” and substituting the words “provided to”.

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 6 passed.

The Chairman: The question is that clause 6, as amended, stands part of the Bill.

Agreed: Clause 6, as amended, passed.

The Clerk:

Clause 7	Authority may refuse to register
Clause 8	Consequence of refusal of registration

The Chairman: The question is that clauses 7 and 8 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 7 and 8 passed.

The Clerk: Clause 9 Prohibition from acting as professional director unless licensed.

AMENDMENT TO CLAUSE 9

The Chairman: There is an amendment to clause 9.
Honourable Minister.

Hon. G. Wayne Panton: Thank you, Madam Chair.

The proposed amendment to clause 9 is, firstly in relation to sub-clause (1) by deleting the words “No person” and substituting the words “No natural person”; and secondly, by deleting the words “unless

that person” and substituting the words “unless, subject to subsection (4), that person”.

The proposed amendment in sub-clauses (2), (3) and (4), by deleting the words “a person” and substituting the words “a natural person”.

The proposed amendments are to delete sub-clauses (5) and (6) in their entirety; and to renumber sub-clauses (7) and (8) as sub-clauses (5) and (6);

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 9 passed.

The Chairman: The question is that clause 9, 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 9, as amended, passed.

The Clerk: Clause 10 Application for a licence as a professional director.

AMENDMENT TO CLAUSE 10

The Chairman: There is an amendment to clause 10.
Honourable Minister.

Hon. G. Wayne Panton: I propose amend clause 10 in sub-clause (4), by inserting after the words “but that applicant shall” the words “in the time prescribed”.

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 10 passed.

The Chairman: The question is that clause 10, 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 10, as amended, passed.

The Clerk: Clause 11 Licensing by the Authority.

AMENDMENT TO CLAUSE 11

The Chairman: There is an amendment to clause 11.
Honourable Minister.

Hon. G. Wayne Panton: With your permission, Madam Chair, in clause 11 the proposed amendment is by deleting by deleting sub-clause (2) and substituting the following sub-clause: "(2) The Authority may not grant a licence to an applicant unless it is satisfied-

- (a) that the applicant has sufficient capacity to carry out the applicant's duties as a professional director; and
- (b) that the applicant is a fit and proper person for licensing as a professional director."

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: Amendments to clause 11 passed.

The Chairman: The question is that clause 11, 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 11, as amended, passed.

The Clerk: Clause 12 Determination of fitness and propriety.

AMENDMENT TO CLAUSE 12

The Chairman: There is an amendment to clause 12.
Honourable Minister.

Hon. G. Wayne Panton: I propose to amend clause 12 by inserting before the word "person" the word "natural".

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 12 passed.

The Chairman: The question is that clause 12, 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 12, as amended, passed.

The Clerk: Clause 13 Consequence of refusal to licence a professional director.

The Chairman: The question is that clause 13 stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 13 passed.

The Clerk: Clause 14—Licence fees.

AMENDMENT TO CLAUSE 14

The Chairman: There is an amendment to clause 14.
Honourable Minister.

Hon. G. Wayne Panton: Thank you.

The proposed amendment to clause 14 is in sub-clause (3) by deleting the words "upon which" and substituting the words "provided to".

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 14 passed.

The Chairman: The question is that clause 14, 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 14, as amended, passed.

The Clerk: Clause—15 Insurance.

AMENDMENT TO CLAUSE 15

The Chairman: There is an amendment to clause 15. Honourable Minister.

Hon. G. Wayne Panton: Thank you.

The proposed amendment to clause 15 is by deleting the word “maintain” and substituting the words “be covered by”; and deleting the words “authorised insurer” and substituting the word “insurer”.

NEW CLAUSE 15A

Hon. G. Wayne Panton: A further amendment is by inserting after clause 15 the following clause: Exemption from licensing 15A. (1) A director of a covered entity who is a natural person and is a director, an employee, a member, an officer, a partner, or a shareholder of a holder of a companies’ management licence or a mutual funds administrators licence is not required to be licensed as a professional director but is required to be registered under section 6.

(2) A director of a covered entity who is a natural person and is a director, an employee, a member, an officer, a partner, or a shareholder of a fund manager of a mutual fund regulated under the Mutual Funds Law (2013 Revision) and that fund manager is registered or licensed by an overseas regulatory authority listed in the Schedule, is not required to be licensed as a professional director if the person- (a) acts as a director for a covered entity by virtue of the person’s relationship to that fund manager; and (b) is registered pursuant to section 6.”

The Chairman: I will put the question that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it. The amendments as they relate to clause 15 stand part of the Bill.

Agreed: Amendments to clause 15 passed.

The Chairman: There was also a new insertion. I will put the question that clause 15A, be added to the Bill, and if there were any [consequential] renumbering it be done accordingly.

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

Ayes.

The Chairman: The Ayes have it. Clause 15A is added to the Bill.

Agreed: Clause 15A passed and that the subsequent clauses be renumbered accordingly.

The Clerk: Clause 16—Corporate directors.

AMENDMENT TO CLAUSE 16

The Chairman: There is an amendment to clause 16. Honourable Minister.

Hon. G. Wayne Panton: The proposed amendment to clause 16 is by deleting the words “shall not act” and substituting the words “shall not, subject to section 21, act”.

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 16 passed.

The Chairman: The question is that clause 16, 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 16, as amended, passed.

The Clerk: Clause 17 Application for a licence as a corporate director.

AMENDMENT TO CLAUSE 17

The Chairman: There is an amendment to clause 17.

Hon. G. Wayne Panton: Thank you.

The proposed amendment is firstly, by deleting sub-clause (2) and substituting the following sub-

clause: “(2) The Authority may not grant a licence to an applicant unless it is satisfied— (a) that the applicant has sufficient capacity to carry out the applicant’s duties as a corporate director; and (b) that the applicant is a fit and proper person for licensing as a corporate director.”

Secondly, in sub-clause (5)(a) by deleting the word “his” and substituting the words “the applicant’s”.

Thirdly, in sub-clause (6), by inserting after the words “but that applicant shall” the words “in the time prescribed”; and

Fourthly, in sub-clause (8), by deleting the words “upon which” and substituting the words “provided to”.

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 17 passed.

The Chairman: The question is that clause 17, as amended, stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 17, as amended, passed.

The Clerk: Clause 18 Consequence of refusal to license a corporate director.

The Chairman: The question is that clause 18 stands part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clause 18 passed.

The Clerk: Clause 19 Corporate director licensing regime.

AMENDMENT TO CLAUSE 19

The Chairman: There is an amendment to clause 19. Honourable Minister.

Hon. G. Wayne Panton: Thank you.

In respect of clause 19 I propose firstly to amend the same by inserting after sub-clause (1) the following sub-clause: “(2) A corporate director is not required to be registered under section 5 of the Securities Investment Business Law (2011 Revision) where that registration is required solely as a result of registration as a foreign company pursuant to subsection (1)(a).”

Secondly, renumbering sub-clauses (2), (3) and (4) as sub-clauses (3), (4) and (5).

Thirdly, in sub-clause (3) by deleting the word “licensed” and substituting the words “registered or licensed”.

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 19 passed.

The Chairman: The question is that clause 19, 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 19, as amended, passed.

The Clerk: Clause 20—Further requirements.

AMENDMENT TO CLAUSE 20

The Chairman: There is an amendment to clause 20.

Hon. G. Wayne Panton: The amendment is by deleting sub-clause (1) and substituting the following sub-clause: “(1) The subsidiary whether wholly owned or otherwise of a-

- (a) corporate director;
- (b) the holder of a mutual funds administrators licence; or
- (c) the holder of a companies’ management licence, that is appointed to act as a director of a covered entity shall be licensed under this Law unless that subsidiary holds a mutual funds administrators licence or a companies’ management licence.”

In respect of sub-clause (2) the amendment is to delete the word “maintain” and substituting the words “be covered by”; and lastly, by deleting the word “authorised”.

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 20 passed.

The Chairman: The question is that clause 20, 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 20, as amended, passed.

The Clerk: Clause 21—Transition of corporate director

AMENDMENT TO CLAUSE 21

The Chairman: There is an amendment to clause 21.
Honourable Minister.

Hon. G. Wayne Panton: Thank you.

The proposed amendment in clause 21 is by deleting the words “whether or not registered as an ordinary resident company under the Companies Law (2013 Revision) shall within six months of the commencement of this Law, take” and substituting the words “who prior to the date of commencement of this Law, is a corporate director of a covered entity shall not be in contravention of this Law if that corporate director, within six months of the commencement of this Law, takes”.

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 21 passed.

The Chairman: The question is that clause 21, 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 21, as amended, passed.

The Clerk: Clause 22—Duty to maintain register.

AMENDMENT TO CLAUSE 22

The Chairman: There is an amendment.
Honourable Minister.

Hon. G. Wayne Panton: In clause 22 by deleting the words “limited to the (a) name and address; (b) location of the registered office; (c) date of registration or the date on which a licence was issued, whichever is applicable; and (d) any other information that may be prescribed.”

And substituting the following “limited to—(a) the name and address; (b) the location of the registered office; (c) the date of registration or the date on which a licence was issued, whichever is applicable; and (d) any other information that may be prescribed.”

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 22 passed.

The Chairman: The question is that clause 22, 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 22, as amended, passed.

The Clerk: Clause 23—Powers of the Authority.

AMENDMENT TO CLAUSE 23

The Chairman: There is an amendment to clause 23.
Honourable Minister.

Hon. G. Wayne Panton: The proposed amendment to clause 23 is by deleting paragraph (1)(b) and substituting the following paragraph: "(b) examine the capacity of registered directors, professional directors and corporate directors to carry out their duties and responsibilities as directors of covered entities and to give directions where necessary;"

Secondly, in relation to paragraph (1)(e) by deleting the words "or any of the Laws of the Islands".

Thirdly, in relation to sub-clause (2), by deleting the words "documents and to furnish" and substituting the words "documents that the Authority may reasonably require and to furnish".

In sub-clause (5) by deleting the word "whoever" and substituting the words "A person to whom subsection (2) applies who"; and deleting the words "liable on summary conviction to a fine of ten thousand dollars and to imprisonment for six months, or on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for five years" and substituting the words "liable on summary conviction to a fine of ten thousand dollars or to imprisonment for six months or to both, or on conviction on indictment to a fine of one hundred thousand dollars or to imprisonment for five years or to both".

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 23 passed.

The Chairman: The question is that clause 23, 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 23, as amended, passed.

The Clerk: Clause 24—Additional powers of Authority.

AMENDMENT TO CLAUSE 24

The Chairman: There is an amendment to clause 24. Honourable Minister.

Hon. G. Wayne Panton: In clause 24 in paragraph (1)(e) by inserting after the words "registered director"

the words ", professional director or corporate director".

In paragraph (2)(a) by inserting before the word "director" the word "registered".

In sub-clause (3), by deleting the words "registration of a director or revoke a licence of a professional director or corporate director" and substituting the words "registration of a registered director or revoke the licence of a professional director or a corporate director".

In sub-clause (4) by deleting the words "surrender his licence or registration upon application to the Authority" and substituting the words "surrender the registration or licence of that registered director, professional director or corporate director upon application to the Authority".

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 24 passed.

The Chairman: The question is that clause 24, 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 24, as amended, passed.

The Clerk: Clause 25—Publication of revocation.

AMENDMENT TO CLAUSE 25

The Chairman: There is an amendment to clause 25. Honourable Minister.

Hon. G. Wayne Panton: My proposed amendment is by deleting clause 25 and substituting the following sub-clause: "25. Whenever the Authority suspends or cancels a registration or suspends or revokes a licence under section 24, notice of the cancellation, suspension or revocation shall forthwith be gazetted."

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 25 passed.

The Chairman: The question is that clause 25, 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 25, as amended, passed.

The Clerk: Clause 26—Appeals.

AMENDMENT TO CLAUSE 26

The Chairman: There is an amendment to clause 26.

Hon. G. Wayne Panton: The proposed amendment is by deleting clause 26 and substituting the following clause: "Appeals 26. (1) Where, in respect of a person who is a director of a covered entity upon the date of commencement of this Law, in this section referred to as an "existing director", the Authority -

- (a) refuses to register the existing director as a director pursuant to Part II of this Law; or
- (b) refuses to grant a licence to the existing director pursuant to either Part III or Part IV of this Law, then the Authority shall give the existing director who is the subject of the refusal, in this section referred to as 'the refusal', written notice of the refusal together with reasons for the refusal, in this section referred to as 'the refusal notice'.

"(2) The existing director who is the subject of the refusal may, within fourteen days of the receipt of the refusal notice, provide a written notice to the Authority requesting reconsideration of the refusal, in this section referred to as a 'reconsideration request', which shall include a response to the reasons set out in the refusal notice."

The Chairman: The question is that the amendments stand part of the clause.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Amendments to clause 26 passed.

The Chairman: The question is that clause 26, 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 26, as amended, passed.

The Clerk:

Clause 27	Offences by corporations
Clause 28	Regulations

The Chairman: The question is that clauses 27 and 28 stand part of the Bill.

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Clauses 27 and 28 passed.

The Clerk: Schedule List of Overseas Regulators.

AMENDMENT TO SCHEDULE

The Chairman: There is an amendment to the Schedule.

Honourable Minister.

Hon. G. Wayne Panton: The proposed amendment to the Schedule, by deleting the heading of the Schedule and substituting the following: "LIST OF OVERSEAS REGULATORY AUTHORITIES"; and by deleting paragraph 9 and substituting the following: "French Autorité des Marchés Financiers (France) (AMF)".

The Chairman: The question is that the amendments stand part of the—

Mr. V. Arden McLean: Madam Chair.

The Chairman: Sorry.

Member for East End?

Mr. V. Arden McLean: Thank you.

Just to ask the Minister, we have a list of the regulators here. Is that subject to change? And how do you arrive at those? Could it not be a longer list, or is it just that these are the countries we deal with?

The Chairman: Honourable Minister?

Hon. G. Wayne Panton: Madam Chair, I beg one moment to get some clarity on that.

The Chairman: Certainly.

[Pause]

Hon. G. Wayne Panton: Madam Chair, may I ask the Member for East End to repeat his question for clarity?

The Chairman: Member for East End.

Mr. V. Arden McLean: Thank you.

I was just asking the Minister, this list of regulators, is it a defined list that we will not change it again, or is this subject to change?

Hon. G. Wayne Panton: Madam Chair, the list of regulators set out in the Schedule may be amended by Cabinet as the need arises. If the Member will look at clause 9(8) of the Bill, it provides that the Cabinet may by order amend the Schedule.

Mr. V. Arden McLean: [Clause] 9(8)?

Hon. G. Wayne Panton: Clause 9(8)—

The Chairman: Page 11.

Hon. G. Wayne Panton: —under Part III, bottom of page 11.

The Chairman: Member for East End?

Mr. V. Arden McLean: Well, Madam Chair, the reason I did it was . . . under miscellaneous the Cabinet can make regulations, but the Law prescribes that the Cabinet may by order amend the Schedule. So that is [clause] 9(8). I didn't—

Hon. G. Wayne Panton: Madam Chair, I am not hearing the Member too well. I think his microphone might be too—

Mr. V. Arden McLean: You can't hear me, of all the people?

Hon. G. Wayne Panton: That is unusual.

Mr. V. Arden McLean: What he said?

[Inaudible interjection]

Mr. V. Arden McLean: You want me to turn this off?

The Chairman: Member for East End we're going pretty good.

Mr. V. Arden McLean: No, I just wondered if he wanted me to turn the microphone off.

The Chairman: We want the wider Cayman Islands to also hear what you are saying while in Cayman Brac.

Mr. V. Arden McLean: Okay.

Madam Chair, I didn't see that; it was an oversight on my part. It's just that if it was to be amended, how would you amend, or add anyone or take someone off. So that was my question. It was an oversight on my part.

Hon. G. Wayne Panton: Okay. Thank you. So you have clarity on your question now?

Mr. V. Arden McLean: Yes.

Hon. G. Wayne Panton: Thank you.

The Chairman: The question 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: Schedule, as amended, passed.

The Clerk: A Bill for a Law to make provision for the establishment of a registration regime for directors and a licensing regime for professional directors and corporate directors of mutual funds regulated under the Mutual Funds Law (2013 Revision) and persons to whom section 5(4) of the securities investment business law (2011 Revision) applies; and for incidental and connected purposes.

The Chairman: Honourable Minister.

AMENDMENT TO TITLE

Hon. G. Wayne Panton: The final amendment is in relation to the long Title, by deleting the words "section 5(4)" and substituting the words "paragraphs 1 and 4 of Schedule 4".

With that, that completes the proposed amendments in respect to the Directors Registration and Licensing Bill, 2014.

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, as amended, passed.

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

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

Ayes.

The Chairman: The Ayes have it.

Agreed: Bills to be reported to the House.

House resumed at 6:21 pm

The Speaker: Please be seated.

The House is resumed. I recognise the Honourable Premier, hopefully with an adjournment.

ADJOURNMENT

The Premier, Hon. Alden McLaughlin: Thank you, Madam Speaker. Yes, it's been a long day, but I think a productive one and I am grateful to Members for how well everyone has contributed and worked together and cooperated to get through today. I am grateful to you, Madam Speaker, and the Clerk because the business of Committee is quite tedious. You all have stayed there and staunchly gone through what was a very thick set of amendments.

So, Madam Speaker, we now have left for tomorrow only the Government Motions and the Third Readings of the Bills. I am hopeful that we should be able to get through those by mid-day tomorrow.

So, Madam Speaker, I now move the adjournment of this honourable House until 10:00 am tomorrow.

The Speaker: Thank you, Honourable Premier.

Before [putting the question] I would just like to remind Members that the Agriculture Show Steering Committee is holding a Thank you Reception at the Agricultural Grounds on the Bluff this evening at 7:00 pm, and you are all cordially invited. Tomorrow afternoon I understand . . . morning time?

[Inaudible interjection]

The Speaker: Morning?

Out of an abundance of caution, I invite the Honourable Minister of Sports to advise you of an announcement that at first I thought it was April Fool's day, but perhaps he can clarify.

Hon. Osbourne V. Bodden: Thank you, Madam Speaker.

As Minister of Health and Sports, with this group I have here I am trying to encourage them into a healthy lifestyle (some of them; some are very good). But seriously, just in the interest of some fun, tomorrow morning we are going to go up to the field on the Bluff and, with the help of Mitchum and some of the Brac guys, I think we are going to have a little scrimmage, for those who are up to it. I have invited . . . some have been shopping for shoes and shorts, and some have had them shipped up or flown up. But it should be fun. Anyone who wants to have a good laugh, please come out. I look forward to a little camaraderie in the morning before the House resumes.

[Inaudible interjection]

Hon. Osbourne V. Bodden: At 7:30 am. We will be out of there by quarter to nine, so we'll have a shower and get here on time.

Thank you.

The Speaker: Thank you, Honourable Minister.

Since the Speaker has to be neutral, I will be a cheerleader. But I will volunteer Tanya who is a national football player and Tonga to play on the Government's side or Opposition if we have enough for two sides.

Having said that, on a more serious note, I will now put the question to adjourn this honourable House until 10:00 am tomorrow.

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

Ayes.

The Speaker: The Ayes have it.

At 6:25 pm the House stood adjourned until 10:00 am, Friday, 11 April 2014.