



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2016/17 SESSION

17 March 2017

Ninth Sitting of the Third Meeting

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

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PRESENT WERE:

SPEAKER

Hon Juliana Y O'Connor- Connolly, JP, MLA
Speaker of the Legislative Assembly

MINISTERS OF THE CABINET

Hon Alden McLaughlin, MBE, JP, MLA	<i>The Premier</i> , Minister of Home Affairs, Health and Culture
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 Marco S Archer, MLA	Minister of Finance and Economic Development
Hon Osbourne V Bodden, MLA	Minister of Community Affairs, Youth and Sports
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	Deputy Governor, ex officio Member responsible for the Portfolio of the Civil Service
Hon. Samuel W. Bulgin, QC, JP	Attorney General, ex officio Member responsible for the Portfolio of Legal Affairs

**ELECTED MEMBERS
GOVERNMENT BACKBENCHERS**

Mr Roy M McTaggart, MLA	Second Elected Member for George Town
Mr Joseph X Hew, MLA	Sixth Elected Member for George 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

Hon Anthony S Eden, OBE, JP, MLA	<i>Deputy Speaker</i> , First Elected Member for Bodden Town
Mr Alva H Suckoo, Jr., MLA	Fourth Elected Member for Bodden Town
Mr Winston C Connolly, Jr., MLA	Fifth Elected Member for George Town
Mr D Ezzard Miller, MLA	Elected Member for North Side
Mr V Arden McLean, JP, MLA	Elected Member for East End

OFFICIAL HANSARD REPORT
THIRD MEETING OF THE 2016/17 SESSION
FRIDAY
17 MARCH 2017
11:08 AM
Ninth Sitting

[Hon. Anthony S. Eden, Deputy Speaker, presiding]

The Deputy Speaker: Good morning.

I will call on the Minister of Community Affairs and Sports to say prayers this morning.

PRAYERS

Hon. Osbourne V. Bodden, Minister of Community Affairs, Youth and Sports: Let us pray.

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

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

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

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

The Deputy Speaker: Please be seated.

The House is now resumed.

ADMINISTRATION OF OATHS OR AFFIRMATIONS

The Deputy Speaker: None

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

The Deputy Speaker: I give apologies for the late arrival of Madam Speaker.

PRESENTATION OF PETITIONS

The Deputy Speaker: None

PRESENTATION OF PAPERS AND OF REPORTS

The Deputy Speaker: None.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

QUESTION No. 38: UP-DATE ON THE RECRUITMENT AND PLACEMENT OF THE ADDITIONAL TEACHERS PROMISED FOR PUBLIC SCHOOLS

Mr. Alva H. Suckoo, Jr., Fourth Elected Member for Bodden Town: Mr. Speaker, if I may before we begin on that question.

The Deputy Speaker: Fourth Elected Member for Bodden Town.

Mr. Alva H. Suckoo, Jr.: Just a procedural question. I think we were supposed to have the Prison Director come back here to finish up on the supplementary for the question that I submitted. I have not had any update and was wondering if there was anything we could learn about that.

The Deputy Speaker: It is my understanding that he is not back on Island but the Deputy Governor may want to respond.

The Deputy Governor, Hon. Franz I. Manderson: Thank you, Madam Speaker *[sic]*

Mr. Speaker, my apologies.

The Deputy Speaker: No problem.

The Deputy Governor, Hon. Franz I. Manderson: I understand, he is no back and I will ask the clerk to relist the application for Monday. Thank you.

The Deputy Speaker: Honourable Member for North Side.

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

Mr. Speaker I beg to ask the Honourable Minister of Education, Employment and Gender Affairs the following question: Can the Honourable Minister give an update on the recruitment and placement of the additional teachers promised for public schools?

SUSPENSION OF STANDING ORDER 23(7) AND (8)

The Deputy Speaker: Before calling on the Minister, I call on the Leader, the Honourable Premier, to suspend Standing Order 23 (7) and (8) that questions may continue after the hour of 11 am.

The Premier, Hon. Alden M. McLaughlin: Mr. Speaker I beg to move the suspension of Standing Order 23(7) and (8), in order that questions may be asked after the hour of 11 o' clock.

The Deputy Speaker: The question is that Standing Order 23(7) and 0 be suspended so that questions may be asked after 11 am.

All those in favor please say Aye. Those against No.

AYES.

The Deputy Speaker: The Ayes have it.

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

The Deputy Speaker: I now call again on the Member for North Side.

Sorry, the Honourable Minister of Education at this time.

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

Mr. Speaker, the answer that is provided to me by my staff: 50 spots were approved which included 27 assistant teachers and 23 specialist staff. Currently, 40 staff members are in place and 10 specialist staff members remain to be appointed. These are— one numeracy coach; one English (as a second language) teacher; one teacher of divisionally impaired

and three occupational therapist assistants will commence employment August 2017. One speech and language therapy assistant to which an offer has been made and is expected that the candidate will accept and commence in August 2017.

Two educational psychologist posts were unfilled due to offers being declined. The posts were re advertised; interviews have been conducted and two candidates identified for those to be made this week. One school inclusion specialist teacher, key stage 1, and one teaching assistant behavior support, key stage 1.

The Deputy Speaker: Honourable Member for North Side, a supplementary?

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

Mr. Speaker, I wonder if the Minister can confirm how many, or if any of these teachers were assigned to the Edna M. Moyle Primary School.

The Deputy Speaker: Honourable Minister.

Hon. Tara A. Rivers: Mr. Speaker, from the information that I have provided thus far, as it relates to the response to intervention assistant teacher placements, I see that two of those assistant teachers were in fact allocated to the Edna Moyle Primary School.

The Deputy Speaker: Honourable Member for North Side.

Mr. D. Ezzard Miller: Through you, Mr. Speaker: Can the Minister confirm that those two teachers are still at the Edna M. Moyle Primary School?

The Deputy Speaker: Honourable Minister.

Hon. Tara A. Rivers: Mr. Speaker, unfortunately my staff is not here to provide the assistance that I would need, in order to answer that confirmation at this time. I would give an undertaking to provide that response in writing to the Member for North Side.

The Deputy Speaker: Any other supplementaries?
The honourable Member for East End.

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

Mr. Speaker, I wonder if the Minister could tell us of not only the Edna Moyle School in North Side, but what the distribution of those assistant teachers and teachers by school was.

The Deputy Speaker: Honourable Minister of Education.

Hon. Tara A. Rivers: Again, Mr. Speaker, I am relying on the information that I assume is reliably provided to

me, with respect to the distribution of the response to intervention of the assistant teachers that I spoke about.

The breakdown that I have, thus far, is as follows: Three to the Sir John A Cumber Primary School, two to the East End Primary School, three to the Bodden Town Primary School, three to the Savannah Primary School, two to the George Town Primary School, two to the Edna Moyle Primary School, two to the Red Bay Primary School, two to the Prospect Primary School. I cannot confirm at this time, whether that is the extent of them all but that is the information that I have to hand to be able to make that response.

[Pause]

The Deputy Speaker: Madam Clerk.
Honourable Member for East End.

Hon. V. Arden McLean: Mr. Speaker, I wonder if the Minister can say what she means by that she cannot confirm at this time, that being what she has. Does that mean that we don't know if it was actually so or that they are still there?

Hon. Tara A. Rivers: Mr. Speaker, these are the confirm positions that I am aware of, that were provided to me by the staff responsible for recruitment. What I am saying is that there may have been additional since this answer was prepared, there may have been additional recruitments that I may not be aware of and not in a position to give you that information at this time. That is what I meant.

The Deputy Speaker: Fourth Elected Member for Bodden Town.

Mr. Alva H. Suckoo, Jr.: Thank you, Mr. Speaker.

I wonder if the Minister could tell us how this recruiting was conducted, in terms of individuals who were already hired at the schools who may have been in a position to be moved up into some of these post that are required because they had the necessary training and experience. Are we looking to promote those and bring in people under them, so that they get an opportunity as well to advance?

The Deputy Speaker: Honourable Minister of Education.

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

From the information that I am aware of, as it relates to the policy generally, because it is certainly a policy that I have promoted and support, and that is succession planning. I know for some of the positions that we created in the system previously, that being, for example, the Special Education Needs Coordinators (SENCO) that acted as a specific opportunity for

the advancements of Caymanians in particular in the system.

I would expect that, that same model was considered, obviously, when it comes to recruitment of these additional positions. I do know first-hand because I have seen them in the schools, some of the additional assistant teachers, if not all, by and large, many of them are in fact Caymanians, so that is certainly something that we look to encourage, but again that is the extent of what we can do, is encourage, but again, that is the extent of what we can do to encourage as policy makers when it comes to recruitment.

Certainly, I know in the past when these positions have been created and allocated for specific purposes, again, drawing on the reference of the SENCOs [Special Education Needs Coordinators], those have, in fact, been succession planning type opportunities, where people move from being classroom teachers to taking on this particular specialist role and the training to go along with that.

The Deputy Speaker: If there are no further questions.

Madam Clerk.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Deputy Speaker: I call on the Leader of the Opposition.

Sorry, there are no statements.

PERSONAL EXPLANATIONS

OPERATION OF POLITICAL PARTIES

The Deputy Speaker: I now call on the Leader of the Opposition for a personal statement.

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

Mr. Speaker, as Leader of the Cayman Democratic Party and the Leader of the Official Opposition, I raise to make a personal statement in regards to a matter relating to the operations of political parties in this country.

Mr. Speaker, I was first elected in 1984 in a group called "Dignity" and I served with other several groups known as "Better Balance", and the "National Team", and up until 2001 when we formed the United Democratic Party.

Mr. Speaker, for years after 1972, Cayman contemplated a more progressive Constitution as well as making several attempts to obtain one. In 1989, 1990, Mr. John Jefferson Jr., the then elected Member for the district of West Bay, and myself, submitted a private member's motion to ask for a committee to

review the current Constitution, (the “current”, meaning the one at the time). The then Government also considered that area, as witnessed, when Mr. Benson Ebanks was a part of the said Government at the time, submitted a government motion to get the process going for a constitutional development. His motion superseded our private member’s motion, simply because it was brought on behalf of the Government that ensured business took precedence.

Their decision paved the way for Sir Fredrick or ‘Sleepy Smith’ as he was known, to develop a constitution. In those proposals, I sought to have a committee system of government, where every elected Member would be involved in the running of the various ministries and where there would be less adversarial politics. That recommendation was not accepted.

Mr. Speaker, that Constitution, included a whole range of changes made to the Government, such as, the creation of a Cabinet and ministerial posts, along with a Chief Minister who would head up the Government. My response towards those proposals was clear. I did not support any ministerial form of government with Cabinet Ministers and a Chief Minister without some kind of formal organisation to help guide how the new proposed system would operate and that the Constitution must make provisions for it. Therefore, there was no surprise that the House at the time failed to implement that proposed Constitution because the Government refused several key matters.

In 2000-2005 there was another development proposal for constitutional development, yet, those proposals also failed to be implemented. However, it was agreed that one proposal included those constitutional proposals was needed; the creation of the post of a formal Leader of Government Business, a Leader of the Opposition and a Deputy Leader.

Mr. Speaker, I became the first constitutional Leader of Government Business without executive power and the Honourable Kurt Tibbetts, the First Elected Member for George Town, became the first constitutional Leader of the Opposition. It was not until 2005 to 2009, that the then Government started a new constitutional process, which created the present Constitution. However, I must add that it is a Constitution that I never supported in its entirety.

I recognised in 2001 that the Cabinet ministerial system, with a formal head of the Government, required organisation in order to manage and run the country effectively, especially with this type of Constitution, a Cabinet and Ministerial Government, as it’s known in the Westminster form of Government and is directed by the United Kingdom to all of its Overseas Territories. Arguably, this type of Constitution prepares the citizens of a country to have an idea who would most likely be the Premier and the Leader of the Opposition before they even went to vote to elect a new Government.

After the 2000 election, there was confusion to say the least, to form a government of independents, but one where they didn’t believe or trust each other as they did not campaign together or share similar views. Such a confused attempt was because there was no cohesion and no planned policies in advance, so it failed. So, in 2001, when I became the Leader of Government Business, it was decided that a party would be created in order to operate effectively. This is because when a group campaign together on similar issues, discipline and the developing of policies could be supported and the country business could get done. This is why I supported the development of the party system here. As well, I understood that this type of system, as stipulated in our present Constitution, requires that the Westminster form of Government be followed. We must achieve organisation, Mr. Speaker and we must create an organised body to assist the operations of government.

Now, Mr. Speaker, I have never believed that a party system should be created so that it stifles elected Members of their individuality and responsibility to their constituencies. I have never supported that a party system be used in that manner. I encourage our party membership to always speak out, rise to any occasion when they felt strongly about a matter, and remind them that they must first of all hold their allegiance to the people that had elected them. That is their first duty. I, myself, was elected by the people of West Bay in a group and I have never forgotten it, for it is them who put me in these hallowed Halls, and it is them whom I serve, first of all, and I want to let them and everyone else know that I will never forget anyone. No matter which district they come from, if I can be of help of any of them, I do so.

Mr. Speaker, over these past 32 plus years, I have served in various groups and was elected to Executive Council with those groups, and I can tell this honourable house and this country that there were more powerful, more vindictive and more organised with overwhelming strength of the various leaders and other individuals, who, not only had power but money personally to back them. More so, many times over, than any party system in operation today.

Now, there is a serious attempt to discredit the party system in this country with the excuse that party system is what is causing the problems in the country. Many of the issues today are systemic and endemic, for well over 50 plus years, attitudes, prejudice, and lack of care for our own brothers and sisters has brought us, not like we are the worse country in the world, but has brought us the problems we have today. It is not the party system, Mr. Speaker; it is the individuals that people elect that do not care for the people in these Islands who are in need of some kind of help and assistance and give less representation than what is needed and expected of them.

Mr. Speaker, we only have to look back at the Government and the Opposition of 1996 to 2000 to

cement what I have been saying. This is because at that time there was so much ranker and bickering over the issues, one could virtually say that the then Leader of Government Business and the then Leader of Opposition had an all-out war. We all know as the people, who remember those days of what I am saying because they were very much involved in those times. There was no party system from 1972 to 1992 when there were discrimination and serious adversarial politics and hot battles fought with demonstrations all over this country. Therefore, to say now that it is parties causing the country problems, I strongly suggest that this is truly misleading and is providing misinformation in regards to political parties.

Mr. Speaker, if you look back at our election history, from elections after 1965 where, Mr. Speaker, so-called independent governments were dominant, one well knows that there was never more bitterness, anger and hatred that existed in this country from 1965 to 2000, and I would not be surprised if these sentiments still exist somewhere about. Mr. Speaker, this campaign against political parties is similar like the campaign about one man, one vote. It is being done to try to throw out the party system in order to get the independents elected where control is not in the assembly but resides somewhere else.

I would only like to ask the question: Who would control and how would they operate under the present system? That is my question. What are they going to do, throw out the Constitution? I stand here before you today, Mr. Speaker, to ring the warning bell. Yes, my party will support some independents in this election, those whom we feel have something positive to contribute, and no one need to question as to their contribution to this country and their sincerity and there are independents of that medal. I want to state loudly that the party system is not the problem that our country faces because of the one man, one vote, it must be asked; who will govern after May 24? The future of our country is at stake, far too much can be harmed for anyone to make the statement, that parties are not individuals who will push their wants and who will push their needs and who will push their stated positions. Yet, with no cohesive planning it can't be a one man show. The Constitution cannot run like that, Mr. Speaker, so then, when and if they join up together after an election, what are they then? Mr. Speaker, a party is a group of people who have joined together to try and make their plan work for the people of the country. That's what a party is.

This is what has irked me more than anything else—not them who are questioning now what I am saying. They mean nothing to me, Mr. Speaker; let them question. Recently, there was a public comparison of the Jamaica political system with ours here in the Cayman Islands; a public comparison. Mr. Speaker, I always appreciate good advice. But I know who is sincere and who is not. There is, as of now, no garrison community here. As of now! And I would rather

say that the one man, one vote single member constituencies that we are forced to develop, can likely become very much more problematic and dangerous than the present system that we operate here in Cayman. That is my opinion, and I have stated that often.

So, why is there a campaign to blame party systems in Cayman, why? There are people, whilst not standing for political office, want control. And there are people who do not like individuals who are in the parties, and then, there are those who some people do not appreciate, those who lead the parties. And there are those who do like the candidates in the parties, and so, they are prepared to say anything to disrupt and undermine our solid democracy existing in these Islands.

Mr. Speaker, party politics is not the problem, it is the people who are elected and do not care about the people they serve. And our community problems are some of those who are trying to be elected but have done nothing positive for their community and they blame the whole world and they blame the political parties.

Mr. V. Arden McLean: I see plenty of um in East End

Hon. W. McKeeva Bush, Leader of the Opposition: All over!

An Hon. Member: All over.

The Deputy Speaker: Honorable Leader of Opposition, would you like to circulate that to the...

Hon. W. McKeeva Bush, Leader of the Opposition: Yes Ma'am [*sic*]—Yes Sir. Sorry, Mr. Speaker.

The Deputy Speaker: Honorable Clerk.

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

Let them chew on that for a while.

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Deputy Speaker: None

RAISING OF MATTERS OF PRIVILEGES

The Deputy Speaker: None

GOVERNMENT BUSINESS

BILLS

SECOND READING

THE LEGAL PRACTITIONERS BILL, 2016

[Continuation of debate thereon]

The Deputy Speaker: Does any other Member wish to speak?

Honorable Member for East End.

PROCEDURAL MATTER—RECOMMITAL OF BILL

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

Mr. Speaker, I crave your indulgence to bring to your attention a matter that was raised on Wednesday by myself, concerning the recommitment of a Bill in this honorable House to the committee stage, and I was promised by the Speaker that it would be brought up on Friday morning and time would be allocated thereto, for further discussions on it.

The Deputy Speaker: Honorable Member for East End, my understanding is that certain information was provided to Madam Speaker. When she comes in we could look at that, as I have no information on that.

Mr. V. Arden McLean: Mr. Speaker, I appreciate that sir. Well, Mr. Speaker, I was provided with a letter sometime yesterday evening as well. But there are other matters that need to be addressed, because, as a representative, I really can't accept that things have been done here, that I may not have had the opportunity to deal with, and I think it needs to be dealt with. I am talking specifically about a bill that was put here and I don't know which one we had. Therefore, I am being deprived the right to debate that section of the bill, and here we are recommitting it when it is only the House that can do that.

The Deputy Speaker: Can we take a couple of minutes break? I understand that Madam Speaker has arrived.

We will suspend for five minutes.

Proceedings suspended at 11.25 am

Proceedings resumed at 11:30 am

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

The Speaker: Please be seated.

Proceedings are resumed.

Member for East End, although I was listening in my Chamber, would you kindly repeat your issue again?

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

Madam Speaker, I do apologise for holding up Parliament but, Madam Speaker, I received a letter last evening that was from the Governor on the 6th of January 2016—Am I seeing right? That must be a misprint. That is a mistake I guess . . . which says that—

The Speaker: Member for East End, you received a letter addressed to you?

Mr. V. Arden Mclean: No, Madam Speaker, it was addressed to your good-self.

The Speaker: And who did you receive it from, as I did not give it to you?

Mr. V. Arden Mclean: Madam Speaker, I received it from the staff of the Legislature.

The Speaker: Okay.

Mr. V. Arden Mclean: In particular, the Clerk. Okay.

As I was saying, Madam Speaker, it was from the Governor recommending the September 2016 Bill be reconsidered by the Committee on Bills, which I saw there on Wednesday. This is the Non-Profit Organization Bill 2016. It says: "I am writing to inform of my intention to return the Non-Profit Organization Bill to the Legislative Assembly pursuant to section 79 of the Constitution Order 2009. The incorrect (April) Bill was taken through the committee stage and thus some of the marginal notes were incorrect. A Schedule to the September Bill was also not considered by the Legislative Assembly. In the circumstances, I recommend that the September 2016 Bill be reconsidered by the Committee on Bills." [UNVERIFIED QUOTE]

With all due respect to the Governor, [section] 79 does not allow instructions from the Governor to this Legislature on how we deal with it. It allows that they recommend the changes necessary when Bills are returned but not how to arrive at those changes.

Madam Speaker, I don't know what is wrong with the Bill. I really don't know if there were two Bills; one incorrectly considered. Where did that happen? How did it happen? Were the Members, in this case, myself, given the correct Bill that was eventually . . . which Bill was I given? Was it April or September? Because, as a Member I am entitled to have the correct Bill to have it dealt with. If I am dealing with the correct Bill, how can a different Bill get to the Governor for assent? I don't know what is going on here and it appears as recommitment and no one is telling the Members what it is, except, last evening when I received this, is the first time I had knowledge of anything having gone wrong with the Non-Profit Organization Bill. I would respectfully ask that this be looked at, other than just putting it for recommitment to committee when there are two stages prior to that, which would

give me and all honorable Members the opportunity to debate and consider and review and submit amendments to whatever section that has been left out, because if no sections were left out, there is no need for it.

The Speaker: I recognise the Honourable Attorney General.

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

Madam Speaker, let me try and assist this honorable House as to how we arrive there. Madam Speaker, probably it is useful for me to correct the suggestion by the honorable Member about the direction of the Governor.

The Governor clearly says: "In the circumstances, I recommend"; the Governor didn't direct the House. "I recommend that the September Bill be reconsidered by the committee on Bills".

In the paragraph before that, the Governor sets out what the issues are that was brought to our attention. The incorrect April Bill was taken through the Committee stage and thus some of the marginal notes were incorrect. A Schedule to the September Bill was also not considered by the Legislative Assembly and it was on that basis that she returned the Bill Madam Speaker.

Madam Speaker, the Bill which was before the house, or should have been before the house; the proper Bill was a bill dated the 9th of September that was published as No. 12 in the Extraordinary Gazette, No. 71. The Bill was intended to replace the NPO Bill which was published on the 29th of April as Supplement No.2 with the Extraordinary Gazette No. 32. Somehow, the Bill was, however, read by the Clerk during the third reading and was taken through Committee. That was the Bill, Madam Speaker, which was subsequently forwarded to the draftsman for finalisation after the debate was concluded in this House.

Madam Speaker, while clauses in the September Bill are equal in numbers to the April Bill, the September Bill reflects amendments to a number of clauses of the April Bill, both in terms of the marginal notes and its content. And most importantly, Madam Speaker, a Schedule was also introduced in the September Bill which was not in the April Bill.

Madam Speaker, the April Bill was withdrawn by a way of a letter dated the 7th of September 2016 from the Honourable Minister of Financial Services, Honourable Wayne Panton. And, Madam Speaker, the letter speaks to several issues, but in addition to that he says: "With regard to the Non-Profit Organization Bill 2016, this Bill takes the place of the one previously filed with the Clerk's office". Madam Speaker, I am happy to make copies available. It was a letter from him when closing several bills, including a new Bill to the House

The Speaker: So ordered.

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, in relations to Committee, I mentioned that the Bill taken through Committee was the April Bill instead of the September Bill and whilst there were significant similarities between two Bills, one of the things that was noticeable about the September Bill which was not present in the April Bill that was taken through the House, was a schedule.

Madam Speaker, Standing Order 51(1) says: "**When a Bill is under consideration in committee the Clerk shall, unless the committee decides to have the bill read in any other matter, call the several clauses in order, by reading the number of each clause, and shall then refer to the Schedules in order, and then to the preamble if any, and lastly to the title. The Clerk shall place in the proper order any proposed amendments to the clause or schedule.**"

So, Madam Speaker, the Schedule in this Bill was not put to the Committee. In my possession I have the Hansard of the Committee and it speaks to all the clauses that were put and the discussion about where the foundation should be included in the Bill. It takes us, Madam Speaker, to clause 20 . . . wait a second, yeah. I crave your indulgence. Yes, all the way to clause 24, Madam Speaker, and the last thing that happened was that the Chairman put the question that clauses 22 through 24 stand part of the Bill. All those in favor please say Aye. Those against No—the Ayes have it. It was agreed that clauses 22 through 24 be passed.

The Clerk [then read the Title]: 'A Bill for a law to provide for the regulation of Non-Profit Organizations and for incidentals and connected purposes.' The Chairman then put the question that 'the Title stands part of the Bill. All those in favor, please say Aye; those against, No. The Ayes have it.' It was agreed that the Title stands part of the Bill.

That was the extent of the Committee stage on the Bill.

So, Madam Speaker, the April Bill was withdrawn, September Bill was substituted and the Honourable Minister, I confirm with him when he did his Second Reading, did this presentation using the September Bill that he submitted. And for clear inadvertence the April Bill was used to conduct the Committee stage. That is all it was. And the Governor, having been advised, recognised that the debate had taken place and the slip up seemed to have occurred at the Committee stage and hence her recommendation that the process begin at the Committee stage. That is the extent of what transpired. I hope that can assist, Madam Speaker.

The Speaker: Member for East End.

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

Madam Speaker, I thank the Attorney General for his explanation of what transpired. Now, Madam Speaker, it still hasn't answered my question, as to which Bill we had and whether we were privy to that Schedule that was left out and wherein we had the right to have that presented that to us.

Now, Madam Speaker, I know the Attorney General has said that the Minister had the right Bill. Well, Madam Speaker, on Wednesday we saw that. We have 8.5 by 11 here, while the Attorney General had the Data Protection Bill and we have yet to receive it, which is one year old.

In the circumstances, Madam Speaker, I think it's fair that the membership be given opportunity of this honourable House, to determine which Bill we consider because we will never get another opportunity to look at that Bill, except in committee.

Madam Speaker I submit that the process has to be that in accordance with section 79 [of the Constitution Order 2009] in this case, Madam Speaker, I had a look at the other occasion during my tenure that the Bill was returned. That was under refusal to assent the Terrorism Law and another one, wherein at the time, the Governor was Dinwiddy. And, I think—

The Speaker: ICTA [Information and Communications Technology Authority]

Mr. V. Arden Mclean: ICTA Law. It was where the state wanted the Governor to sign off on tapping of phones and we refused to do that and they had to assent thereto by Secretary of State, through the Secretary of State. Now, Madam Speaker, at that time, the Governor did not recommend to us to go back to Committee stage, even though that provision was removed and a separate provision was included. Whilst the Attorney General says that he wants to correct that I said, that the letter is in keeping with section 79 because it was only a recommendation and not an instruction.

Madam Speaker, certainly, section 79 does not provide for any recommendations to be sent by Governor or any Governor on how—

The Speaker: I recognise the Hon. Attorney General.

POINT OF ELUCIDATION

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, I hate to interrupt the honourable Member, but he needs to get a copy of the Constitution. It expressly says so.

[Inaudible interjection]

The Speaker: Honourable Attorney General, are you rising on a point of elucidation or Standing Order?

The Attorney General, Hon. Samuel W. Bulgin: Elucidation, Madam Speaker.

The Speaker: Member do you give way?

Mr. V. Arden Mclean: I was just about to read it, if he wants me to read it.

The Attorney General, Hon. Samuel W. Bulgin: Oh Okay.

[Inaudible Interjection]

Mr. V. Arden Mclean: Yeah. Yeah. Yeah. Yeah.

[Inaudible Interjection]

The Speaker: Member for East End.

Mr. V. Arden Mclean: Madam Speaker, I shall read "Return of Bills by the Governor", section 79(1): **"Where The Governor decides to return any Bill to the Legislative Assembly when it is presented for his or her assent, he or she shall do so within 60 days of receiving it, transmitting with it any amendments which he or she may recommend and the reasons for them, and the Assembly shall consider such recommendations."**

Madam Speaker, I am no lawyer like the rest over there.

Paragraph 2 in that letter I wrote, says exactly what has to happen. Paragraph 3 says, "In the circumstances, I recommend that the September 2016 Bill be reconsidered by the committee on Bills." The Constitution says nothing like that. No such thing that any Governor can recommend how to correct it. The Governor has every authority, with all due respect, to recommend the amendments be made but no authority to say how it should be done. That is my argument. Now, if I am wrong, then so be it, Madam Speaker.

So, that aside, Madam Speaker, we are, I am very concerned that for me, which Bill I had and why it was not explained to the Members of this House prior to, because, Madam Speaker, the Constitution also makes provision if the assent is refused, then, it must be discussed with the Members of this Honourable House. My concern is which of those Bills we had, and whether or not, in my mind, I have it clear that the Governor has no authority to tell us how to do it.

The Speaker: Honourable Member for East End, the House is in receipt of correspondence from a Jose Griffith and the Clerk, after consultation with the Chair, responded 2nd December 2016 at 4:09 pm, as follows: "Mr. Griffith, I note the contents of the memorandum dated the 2nd of December 2016 addressing the issue of the Non-Profit Organization Law, 2016. The memo states that it would be recommended to the Governor that the Law not be assented to and sent back to the

House for reconsideration. If this occurs, the House will be considering the same Bill that was passed, which is the Bill that was gazetted on the 29th of April 2016, which means all of the amendments including the ones made in the Bill gazetted on the 9th of September, 2016, will have to be brought to the Committee stage.

"The Bill gazetted on the 29th of April was properly before the House and went through the three readings and the committees and reporting stages and was passed by the House. There was no indication from the Honourable Minister, the Honourable Attorney General or yourself, during the reading of the clauses in Committee stage that the Bill was incorrect or that the clauses were wrong.

"Please advise how you would have the local standings to bring the Bill back for reconsideration. The best course of action would be to have the Bill which was duly passed on the 24th of October, 2016, repealed and replaced by a Bill which has all the amendments incorporated."

On the 14th of December from the Honourable Attorney General: "Good morning Ms. Zena and Sharon, thanks for the helpful note. Grateful if you'll clarify for me whether the April Bill was formally withdrawn and replaced by the September Bill. Also, given the position articulated by you, what do you say would be the status of the September Bill? Is it possible to simply ignore it as if it wasn't published? We are understandably anxious to find out the best permissible solution to this House."

On the 4th of January, from the Honourable AG to the Clerk: "Happy New Year and all the best 2017. I am following up on this discussion. You may recall that I inquired of you as of the status of the September Bill, which was gazetted and circulated to Honourable Members and, indeed, used by the Honourable Minister Panton during his presentation on the Second Reading. However, after careful consideration of the matter, following discussions with the Honourable Premier, Honourable Minister Panton we have concluded that the best legally permissible way to deal with this matter is to advise Her Excellency the Governor to invoke Section 79 of the Constitution and return the Law to the L.A with a recommendation that the correct bill (September Bill) used by Minister Panton to do his Second Reading, be recommitted to the committee for consideration as contemplated by the Standing Order. Grateful, therefore, if you would kindly advise of this intended course, Madam Speaker. Of course, the Governor, pursuant to section 79(2) of the Constitution, would write directly to Madam Speaker to so advise her, but grateful if in the meantime you can give advance notice." [UNVERIFIED QUOTES]

The Speaker: In the final piece of correspondence that I received was the one, which, I think, you have in your possession, which was from Her Excellency the

Governor, dated the 6th of January 2016, to the Honourable Speaker.

"Madam Speaker, re: the Non-Profit Organization Bill 2016. I am writing to inform you of my intention to return the Non-Profit Organizational Bill to the Legislative Assembly pursuant to Section 79 of the Constitution Order 2009. The incorrect 'April Bill' was taken through the Committee stage and thus some of the marginal notes were incorrect. A Schedule to the September Bill was also not considered by the Legislative Assembly. In the circumstances I recommend that the September 2016 Bill be reconsidered by the Committee of Bills." [UNVERIFIED QUOTE]

The next step I am aware of, Honourable [Members] of the House, is that on the morning, which, if the Member fails to recall at this time, when the Member for East End brought it to the attention of the House, that it was down for committee stage. On that particular Order Paper, as I sat here by my desk, I noticed it was down for the committee stage. As all Members would know, the Honourable Attorney General is a principal legal advisor to the Government and the Legislative Assembly and that was the advice that we followed and that's the advice we are still following.

Member for East End, do you have any further comment?

Mr. V. Arden Mclean: Madam Speaker, maybe my mind is too suspicious. When I see things I tend to question them most times to my own detriment, to my own chagrin, I guess.

Madam Speaker, it gets worse with all the correspondence you said, because the Clerk says it was the April Bill that was considered.

The Speaker: Member for East End, not the correspondence I said, the correspondence I've read. There is a distinction.

Mr. V. Arden Mclean: The correspondence you read; I do apologise.

Madam Speaker, I implore your good-self to deal with this matter.

The Speaker: Member for East End, the only access that I have to legal advice is that of the Honourable Attorney General. This Chair does not now, and mid-2013, had a budget for anything, including but not limited to, the seeking or accessing of limited advice. I have always heavily relied, depended and trusted the sage advice of the Honourable Attorney General. So, in imploring the Chair to do so, I can only go back to the Honourable Attorney General and we've already heard what his advice is. Unless there is a motion to vote to get legal advice otherwise, which I do not think is necessary, my hands are completely tied. So, unless you can add to the discussion, we will move on.

[Inaudible interjection]

The Speaker: I said that.

Mr. V. Arden Mclean: Madam Speaker, I know the Attorney General is the legal advisor to the House. However, I didn't ask for him to deal with it or to consult with him. He gave his advice already.

Madam Speaker, the fact that we are bringing a Bill back here for committal that Members have not had sight of—

The Speaker: Sorry for the interruption, Member. If I can crave your indulgence, I've asked my Clerk whether or not all Members have sight and she has informed me that all Members of this House were given copies of the September Bill.

Now, what I can ask the Honourable Minister for Financial Services is whether or not there have been any changes to the September Bill that was circulated. If there has, then I will ask for those to be circulated. If not, I am informed that all Members were given a copy. So, could you clarify whether you did not receive one?

Mr. V. Arden Mclean: Madam Speaker, this has been a long time between April and September. And Madam Speaker, the Clerk said that the Bill considered was the April Bill in that correspondence. Now, we are bringing a September Bill to get recommitted that didn't go through the readings.

The Speaker: Honourable Attorney General.

The Attorney General, Hon. Samuel W. Bulgin: Madam Speaker, I made it clear, quite clear, that I confirmed with the Honourable Minister of Financial Services that the Bill he used to do the Second Reading was the September 9th Bill. So, there was no issue about which Bill was used to do the Second Reading and I mentioned that the inadvertence seemed to happen at the Committee stage, hence the reason why it is being picked up from the Committee stage.

If the Honourable Member wishes to debate the marginal notes that were not in the April Bill and the Schedule to the Bill, then, clearly it is a matter for this House to resolve how to do so. I have no difficulty with that. But the Minister was quite clear, that the Bill he used to conduct his Second Reading was the September Bill which was published and which the Clerk confirms was circulated to all Members.

Mr. V. Arden Mclean: Madam Speaker.

The Speaker: Member for East End.

Mr. V. Arden Mclean: I have no knowledge of receiving two Bills. I know I had one. The Minister, like I said on Wednesday, the Attorney General had a gazetted

Bill for the Data Protection [Bill] which we do not have yet. We do not have a Bill for that. Nevertheless, he has it. Is this the same thing wherein the Minister had a Bill that we didn't have? That is all I am saying, Madam Speaker. And it is obvious there is material difference between those two Bills; the April and the September.

The Speaker: Member for East End, the Clerk has confirmed that it has been circulated to all Members. I am going to request the Sergeant to do two things—attend to the office of the Deputy Clerk and ask her for the copy of the September Bill, recirculate it to all Members of the House, particularly the Member for East End. Also, I want the email that was sent out to all Members attaching the Bill electronically and placed on my desk. Thank you.

Next item, Madam Clerk.

Did you read the Second Reading for the Legal Practitioners Bill?

[Inaudible interjection]

LEGAL PRACTITIONERS BILL, 2016

[Continuation of debate thereon]

The Speaker: I recognise the Honourable Minister of Financial Services, if he wishes to exercise his right of reply.

[Pause]

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

Madam Speaker, when I was considering the need to deal with the Legal Practitioners Bill that has been the subject of much effort over the last 15 or so years, to try to get a modern piece of legislation in place, which regulated and reflected the current realities of the practice of law in the Cayman Islands, I knew it wasn't going to be easy, Madam Speaker. I thought about all the reasons why it hadn't had any success in the past. But I have to say, Madam Speaker; I could not have anticipated that it would be as difficult as it has been.

Perhaps, it was my political naivety, but Madam Speaker, it has been a very difficult process and I can say that throughout that process—

The Speaker: Honourable Minister, if I could crave your indulgence, I wish the record to now reflect that for the second time the Bill in question is being distributed to Members in this House.

Please continue.

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

Madam Speaker, I was saying that, out of all stages of dealing with the Legal Practitioners Bill, whether it was the drafting of it, whether it was considering the positions from express by the Caymanian Bar Association and the Cayman Islands Law Society as the two agencies representing them, basically the key stakeholders in this Bill, we have attempted to ensure that we were getting support of those key stakeholders, understanding what the various concerns were from each perspective and trying to ensure that those concerns were reflected in a Bill which would serve the interest of the country; serve the interest of the financial industry; serve the interest of the profession; and equally importantly, Madam Speaker, serve the interest of Caymanian Lawyers; and even those Caymanians, Madam Speaker, who are interested in a career in the Law.

Madam Speaker, there is this perception that the Bill as published, as has been commented on, as has been debated, is a Bill which somehow causes or has affected the interest of people, Caymanians in the past. Madam Speaker, it is a Bill, not a law. It is a Bill which we hope to have as a law, which will affect the interest of the profession, the regulation of the profession of law and contribute to protecting and promoting the interest of Caymanian Practitioners going forward from today. This Bill could never have had any impact, Madam Speaker, on anything which has occurred in the past. So, Madam Speaker, we certainly recognise that. We recognise that what the Bill needed to reflect was how it would help going forward.

Madam Speaker, I think it is fair to say, that throughout the debate we've seen quite a range of perspectives on the Opposition bench, in terms of what their concerns were. Some were concern with the issue of the practise of Cayman Islands Law overseas, some were concerned . . . at least indicated in some respects that perhaps the Bill may have gone too far in terms of a protectionist approach or perspective. Some, Madam Speaker, perhaps thought that the Bill shouldn't go forward at all for a combination of those reasons.

But, Madam Speaker, I am happy that we are at a point today, where it seems that just about everybody, I would say the vast majority, I can't speak for all, based on those who have made indications either in debate or otherwise. But I think there is a view Madam Speaker, that there is now a view that is in support of the absolute need to have a Bill which will address the proper regulation.

[Inaudible interjection]

Hon. G. Wayne Panton: Sorry, a Bill today to put in place, a law, to reflect the proper regulation of the practise of the Cayman Islands Law as it exist today and to address concerns around the protection and promotion of the interest of Caymanians. And importantly Madam Speaker, to deal with this very vex-

ing issue of discrimination that we have heard so much about, for a long time. And we certainly had much in a way representation in the last 2 weeks Madam Speaker.

Madam Speaker, the Caymanian Bar Association and the Law Society first approached the Government with a joint position paper back in 2014 and did a presentation which they said, and we concluded subsequently, reflected a very significant change in what had transpired in the past and the positions taken in the past between the various associations.

I think it is fair to say, Madam Speaker, that it was clear, certainly to those of us who have been involved to some extent or another, and certainly, some of us have been quite a bit involved over the last 15 years in this initiative that the position of the Cayman Island Law Society had moved considerably in line with the concerns and the positions and the proposals from the Caymanian Bar Association. So, it was described as a C-Change, Madam Speaker. The terms of this joint position paper was described as a C-Change.

Madam Speaker, as I said, this was in 2014 when we considered the proposals from the Associations reflecting the interest of key stakeholders, and when I say "we", I am including all of the Members of the Government, front bench and back bench in 2014. We made proposals to modify their proposals too, essentially adding three additional policy points, and those are reflected in what was recently tabled Madam Speaker, in terms of the joint position paper.

Madam Speaker at that time, and I certainly had around that time and even subsequent to that time, spoken in this honourable House on the issues or the limitation that we had in terms of a significant legislative agenda, but significant constraints around drafting resources. And the reality of that and the recognition of that led us to an agreement that an outside consultant would be hired to draft the Bill and the draft was to be based on the joint position paper, the principles, the policy positions set out therein as modified by the Government. So, Madam Speaker, it was agreed by the Government at that time.

Madam Speaker, we also heard in the debate contribution, but quite often outside this honourable House as well, that that meant the Law was drafted by those whom it sought to regulate. That it was, I think the expression used was "self-drafted". Madam Speaker the approach that has been taken with this Bill in terms of meeting the needs for regulation of the profession, has been to treat it as a self-regulatory body which is not an uncommon thing. We had the very able contribution from the Minister of Education during her debate on the Bill, clearly indicating her experiences with Canada and there are other examples Madam Speaker. There are many other examples of professions around the world that are regulated in this way by self-regulatory bodies.

So, Madam Speaker we were seeking to have the self-regulatory body at the center of this Bill and, in fact, Madam Speaker, a very similar approach has been taken in relation to the accounting profession for similar reasons. Those similar provisions are reflected in the Accountants Law that we passed in this honourable House, I think, a year or two ago, a year and a half ago.

Madam Speaker, one of the significant reasons for having this approach with a self-regulatory body is to satisfy the requirements that I have outlined in the presentation of the Bill in relation to compliance with the FATF standards and the impending assessment that we will have later this year by the Caribbean Financial Action Task Force (CFATF), so the same approach was taken with the two main professions here; the accounting profession and the legal profession.

Madam Speaker, the self-regulatory body that is described in the Bill is to be called the Cayman Islands Legal Practitioners Association and its corresponding, or its analogist body under the Accountants Law is the Cayman Islands Institute of Professional Accountants (CIIPA).

One of the interesting differences, Madam Speaker, in the two situations is that whereas under the Accountants Law the membership of CIIPA is voluntary under this Bill the membership of the Cayman Islands Legal Practitioner Association would be mandatory. So, Madam Speaker, yes, we are talking and a self-regulatory body or mechanism in respect of the regulation of the practise of law and the practitioners of law. That is a recognised and well understood concept around the world.

Now, Madam Speaker, just as a demonstration of how this Bill is not a Bill, which is simply crafted or drafted by the profession that it is seeking to regulate, let me indicate that, in fact, the Legal Practitioners Bill, 2016, largely follows the recommendations which are set out in the 2007 Report of the Law Reform Commission (LRC). I think, that is a public document, publicly available. It has been available on the relevant website for some time or some years and I assume probably back to, approximately the date that it was published. So, Madam Speaker, I think it would be useful, with your permission to refer to the Law Reform Commissions Report, which is called the review of the...Sorry.

The Speaker: I was just going say so ordered. Go ahead.

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

—which is called “Review of the Law Regulating Legal Practitioners in the Cayman Islands”. This is the May 2007 Report. It says “Final Report No. 2”. I’m not sure what the number 2 means, but that is what it is.

Madam Speaker, in terms of introduction, I will refer to Paragraph 1.3 on page 4 of the report, which says: “**The recommendations for reform contained in this report and the annexed draft legislation are the combination of an in-depth legal research and deliberations as well as extensive consultations with all relevant stakeholders**”. So Madam Speaker the law reform commission certainly spent a lot of time looking at this issue, and as they indicate, their own words did a lot of in-depth legal research and deliberation and consultation.

Madam Speaker, the Executive Summary on page 5 says: “**The current law, the Legal Practitioners Law (2003 Revision) (“The Law”) was first enacted in 1969. While the Law has served its purpose well, developments with respect to the circumstances in which law is practised have changed significantly since its enactment. The jurisdiction of the Cayman Islands is now a sophisticated financial services center in which the services offered by lawyers are a crucial component to its continued success. With the exponential growth in the number of lawyers admitted to practise in the Islands and the establishment of foreign offices by local firms, new challenges in the regulation of the legal profession have also emerged. The Law therefore has several short comings that need to be addressed as a matter of urgency.**”

Madam Speaker, this is back in 2007, and so, 10 years ago. And, as we said, we’ve been trying to deal with this issue for nearly 15 years. I can say Madam Speaker, as a member of the Caymanian Bar Association as president for a period of time, the Caymanian Bar Association has been at the forefront of this initiative to try to address the deficiencies, the fact that the current law does not properly regulate the practise of law and every year that goes by, the issues simply become more complex.

The numbers of lawyers that perhaps are practising Cayman Islands law overseas, whether they are connected to Cayman Islands firms as we want to see, or whether they are simply off on their own, with or without a connection to other firms, it is not a desirable situation. Madam Speaker. And if there are concerns that adversely affects the interest of Caymanian lawyers, then, every year that goes by, that situation only gets worse. So, Madam Speaker that’s one of the reasons this Government decided that we needed to finally grab this issue by the horns and wrestle with it. Get gored, get trampled, get kicked, but it had to deal with Madam Speaker because it is essential to the jurisdiction. It is essential to the interest of Caymanian lawyers and those Caymanians who dream of a career in law, and it is essential to our financial service industry.

Madam Speaker, I just want to run through a few bullet points of the Executive Summary. Again,

from the Law Firm Commission report. It says in the first bullet point on page 5:

- **“One of the main deficiencies of the Law is the absence of a definition of the practice of law. Further, the Law contains few provisions relating to the discipline of practitioners. There is no official mechanism for a member of the public to make a complaint against an attorney under the legislation. The Law provides for suspension and striking attorneys-at-law off the Court Roll, with no intermediate sanction for professional misconduct. The Commission recommends that the Law be completely revised to provide for a more modern regulation of the practice of law in the Islands.”**

There, Madam Speaker, the attached as an appendix A to this report, a draft bill which reflected the points that they have made in this report; but I wanted to point out Madam Speaker that the Bill we have before us today, addresses all of the points that I have just raised, which they have set out in that first bullet point of the Executive Summary. So, it deals with a definition of the practice of law. It has considerable provisions dealing with discipline of practitioners. It has specific provisions dealing with this intermediate step between striking off as a final solution and the complaint originally being made, Madam Speaker. It deals with the ability for sanctions to be issued by a disciplinary tribunal. Ultimately, that could result in striking off, from the role and what we would typically refer to as disbarment. So, Madam Speaker of all those things, this bill seeks to address and is completely consistent with that bullet point.

The second bullet point Madam Speaker talks about:

- **“The commission recommends that there be an established a Complaints Committee for the purpose of receiving and considering complaints against any attorney-at-law, other than the Attorney General and a government attorney-at-law. The Commission also recommends an establishment of a Disciplinary Tribunal to hear complaints, referred to it by the Complaints Committee.”**

Madam Speaker, the Bill contains specific provisions dealing with this professional conduct committee. It also, contains specific provisions dealing with the Disciplinary Tribunal. So again, Madam Speaker, the Bill that we have before us is completely

in line with the principals and the mechanisms described by the Law Reform Commission in that second bullet point as being essential.

Madam Speaker the third bullet says:

- **“While the Commission agrees that all attorneys, including government attorneys, should be called to the Bar, have practising certificates and comply with the same Code of Professional Conduct, the Commission recommends that the Court should continue to be responsible for the discipline of government attorneys in order to avoid conflict of interest which may arise and which could hinder such attorneys in their work on behalf of the public. Government Attorneys will also continue to be subject to disciplinary proceedings under the Public Service Management Law 2006 and Regulations and the official corruption provision of the Penal Code (2006 Revision.)”**

Madam Speaker, again, the Bill has a Schedule, part 1 of schedule 2 to the Bill sets out a clear Code of Conduct. That Code of Conduct is the same Code of Conduct which has been developed a few years ago now and has been voluntarily adopted. I don't know if all firms, but certainly, many of the firms adopted that as a voluntary Code of Conduct. But, Madam Speaker, what the Commission was recommending in that report is essentially that it be a mandatory Code of Conduct. So, Madam Speaker the Bill is completely aligned with that provision as well.

The last bullet point on page 5 says:

- **“Currently there are persons employed as attorneys by the overseas affiliates or branches of law firms who are giving advice on the law of the Cayman Islands but who are not admitted to practise law in the Cayman Islands. The Commission, after much consideration, recommends that the Law provide that such persons be admitted to the local Bar but that, in order to maintain the credibility and integrity of the local practising certificate, such persons should be regulated. In determining the type of regulation to which these attorneys would be subject, the Commission took into account inter alia, the manner of which the United Kingdom regulates its overseas solicitors under the Solicitors' Overseas Practice Rules 1990. The**

Commission's aim is to ensure that those practising overseas will be regulated to the same standard as those practising locally, with the necessary modifications to deal with the differences in circumstances. . . ."

Madam Speaker, if it all sounds very familiar, it is because we have been reading and debating a Bill which says exactly the same thing. There is recognition that given the current construct of Global Financial Services, the reality that our business is global in nature. We cannot constrain an essential part of our financial services industry to the practice of law domestically only. We are a small territory; we are a small country in the Western Caribbean Sea and no matter what the technology is we are not going to be able to service our clients around the world, purely from within the Cayman Islands.

There has been a recognition of that need to the concept that we have to have and that it has been a good thing for Cayman Inc. in general to have overseas offices in those centres of commerce with lawyers on the ground who are able to meet the needs and the expectations of clients of the Cayman Islands, Madam Speaker.

Let me say, Madam Speaker, very importantly, to compete, to convince people in those locations, to switch to using the Cayman Islands, if necessary, as well, they're soliciting business, they're seeking to develop business, and they're seeking to get clients to utilise the Cayman Islands who may have been using other jurisdictions. They are there to service the needs of those clients who want someone on the ground to be able to sit across from them, discuss their legal issues, and meet in closing meetings to complete transactions. Madam Speaker, these things are typically called closing meetings. It is sometimes possible to fly up to New York, for example, to do closing meeting but it is not normal. Some clients, depending on the culture, don't like to do things using technology; they prefer a more personal approach. So, they want to have their advisors on the ground in front of them. It all means the Cayman Islands punch so far above its weight for a little jurisdiction in the Western Caribbean Sea, and we have become so dominant and we have become so prominent in financial services because we have been able to extend our presence globally through this sort of approach.

Madam Speaker, the reality is, it's not just the \$30 million or \$35 million worth of revenue of our ability to exist and operate in these global centers of commerce and sources of work for the Cayman Islands. It is not just the direct revenue that Government gets out of it. Yes, that is important but what is equally important and perhaps even more important, is all of the indirect benefits that the Cayman Islands get. Every deal involves the use of other service providers in the Cayman Islands and there is value to them for

that. Every entity that is set up, Madam Speaker, are not managed overseas, they are managed here in Cayman. Those things generate jobs for Caymanians, careers for our Caymanians, Opportunities for our Caymanians to get educated to pursue, not just law but other careers within the financial service industry. These are the types of things this drives, Madam Speaker. So, it has been a struggle to get people to understand that while on the face of it there may be a negative reaction to the concept of lawyers' practising Cayman Islands law overseas, the concept is what has made Cayman a success. It is what has propelled us over the last 22 years from the time we first had a law firm opening an office overseas, and, as it happened it was in Hong Kong. It is one of the things that really set us apart, Madam Speaker. Although, to be honest that move, there was no preemption in that. There was no leading the pact in that. That was a competitive response to what was happening elsewhere, and if the Cayman Islands had not responded in that way, Madam Speaker, we would have lost out.

Madam Speaker, we have benefitted from mistakes that other jurisdictions have made and we learnt from those mistakes in the past. The challenge for us now, is while we are trying to ensure that we are properly regulate that we don't repeat of those mistakes or make any mistakes that have a similar negative effect on this critically important industry to this country. Broadly, the financial services industry generates somewhere in the region of . . . well, let me say its 40 plus percent. Some will argue it's higher. Certainly if you add in all the indirect benefits it is going to be a lot higher and it may well be above 50 percent of our GDP. It is a similar perspective in terms of all of the direct revenue to the Cayman Islands Government. And it drives and provides job growth and opportunities for thousands of Caymanians Madam Speaker, not just as lawyers, not just as other professionals like accountants, but every sphere of activity around the operation of those types of businesses, to banks, trust companies, directorship services, fund admin; there is a wide plethora of businesses that benefit and then, we have of the service companies that provide services to those.

So, Madam Speaker this is an integral, critical, important, and is the most significant industry in this country and, I think, it is probably an understatement to simple say it is critical. It is essentially what we are as a country in terms of the success we have had as a country and if we think about the revenue that is generated, Madam Speaker, it pays for education; it pays for health care in relation to indigents; it pays for our infrastructure spending; our roads and the community services we provide to our people. So, I can't overstate how important it is, and certainly, what can't be overstated either, is the extent of which the profession of law, the practise of Cayman Islands Law is a critical underpinning part of the foundation of the financial services industry. And the fact that we

have law firms that have offices overseas that are practising Cayman Islands Law, drives so much of that business and has been a part of the huge growth and success that we've had in the last 20 or 30 years.

Madam Speaker, I think if I can't convince those listening, that that is a reality, I won't ever do so. But the reality is that while that has been a critical part of our success, what we have not done is recognise, and perhaps not that we haven't recognised it because we have, but not realise the critical need for us to regulate it properly, to ensure from a protection of a reputation perspective that we have proper regulation in place.

The Speaker: Honourable Minister, can you indicate how much time you had remaining so I can put lunch in perspective.

Hon. G. Wayne Panton: Madam Speaker, I'm at your disposal. We can take a break but I would like an indication on how much time I do have remaining at this point.

The Speaker: Madam Clerk.

Hon. G. Wayne Panton: I certainly won't be finished anytime shortly.

The Speaker: You have one hour and fifteen minutes remaining.

Hon. G. Wayne Panton: Thank you, Madam Speaker. If you would wish to take the break at this point, I'll be happy. Thank you.

The Speaker: We will now take the luncheon break and reconvene at 2pm.

Proceedings suspended at 12:53 pm

Proceedings resumed at 3:02 pm

The Speaker: Please be seated. Proceedings are resumed.

I recognise the Honourable Minister of Financial Services with one hour and fifteen minutes remaining.

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

When we took the break I was referring to the Law Reform Commission Report called the Review of the Law, Regulating Legal Practitioners in the Cayman Islands from May 2007.

Madam Speaker, I think what I last referred to was the Commission taking into account the manner in which the United Kingdom regulates its overseas solicitors under the Solicitors' Overseas Practice Rules 1990, and referring to the Commission's aim,

which was to ensure that those practising overseas would be regulated to the same standard as those practising locally with the necessary modifications to deal with this differences in circumstances.

Madam Speaker, it went on to say that the Commission therefore recommends the following minimum conditions for acceptable system of licensing of non-resident attorneys. They have set this out in bullet point form again, which I plan to go through.

The first bullet point says:

- **“There must be a substantial nexus within the jurisdiction and for this purpose the definition of a recognized law firm shall apply to firms where the majority of partners or persons holding equity interest in the firm are Caymanian or persons ordinarily resident in the Island who practise primarily in the Islands. Alternatively, at least half of the attorneys employed by the firm must be ordinarily or practise primarily in the Islands.”**

So, Madam Speaker, this concept they talk about, this substantial nexus, this is the concept that is represented in this Bill that has been published, that we have been commenting on. That is reflected in the definition of qualified firm in the concept of a qualified firm that is set out in the Bill.

Madam Speaker, the alternative which they set have set out is that at least half of the attorneys employed by the firm must be ordinarily resident or practise primarily in the Islands. Madam Speaker that too in principal is reflected in this Bill in the form of clause 68 ratio, which effectively tries to maintain a one to one ratio, so that the substance of a firm and versus its overseas offices or affiliates are roughly the same in the Cayman Islands versus the totality of presences overseas. So, if a firm in Cayman has 100 lawyers, they could conceivably have ten offices overseas with 10 lawyers practising Cayman Law. And in terms of the reference with 100 lawyers, Madam Speaker, that was designed to also include, to have sorry, to have article clerks counted as an incentive to hire and train more people.

But the point Madam Speaker is that this concept is reflected in this first bullet point and while they are talking about a nexus or an alternative being half of the attorney's as resident are working the Cayman Islands, we have combined both. We have taken both concepts there to build around this nexus point, to build this connection to Cayman and to maintain the economic substance in Cayman. So, the Bill reflects both of those concepts.

The next bullet point Madam Speaker is:

- **“A partner of the firm will be required to report on any significant unresolved complainant or disci-**

plinary action against the non-resident attorney outside of the Cayman Islands that comes to his knowledge; a failure to report will render a partner liable to discipline for professional misconduct.”

The Bill, Madam Speaker, contains provisions which deal with partners being responsible to check, and make certain declarations to the Council.

There is another, the third bullet point Madam Speaker is:

- **“The non-resident attorney will be required, like all other attorneys, to file an annual certificate of good standing (if available) or an affidavit certifying that he has not been the subject of disciplinary sanction by any disciplinary body outside the Cayman Islands that would be considered professional misconduct in the Cayman Islands, before a practising certificate can be issued and the giving of false information will be an offense and the grounds of for a finding of professional misconduct.”**

Again, Madam Speaker, this concept is reflected in the Bill, in principal, around the requirements and the documentation that is required to be filed, in particular the affidavit needs to be sworn when one is applying for admission as an attorney-at-law in the Cayman Islands. And certainly, if there is a misrepresentation contained in that documentation, in particular, the affidavit, one could be subject to disciplinary proceedings or it could be consider professional misconduct which ultimately could lead to even striking off if it is serious enough.

The next point, Madam Speaker, is:

- **“The Complaints Committee, may, if it deems necessary, carry out onsite visits to the jurisdictions in which the non-resident is practising to interview complainants and witnesses . . . “**

Madam Speaker, I won't read the read of that because I can say that those provisions are not specifically covered in the Bill, but there are provisions which allow for the Council to be able to make rules around issues like this, and it is certainly entirely possible for the Council having being empowered to make those sort of rules to create that type of regime for those type of inspections and reviews to be carried out.

Madam Speaker, the last bullet point on page 6 refers to:

- **The non-resident attorney like the resident attorney will be subject to Rules of Conduct set out in Schedule 5 . . . (this was reference to Schedule 5 to the Bill in which they have promulgated and attached to the report.). Such rules would include provisions similar to those set out in the Solicitors' Overseas Practice Rules 1990. . . .”**

That means, Madam Speaker, they would be subject to discipline. Again, Madam Speaker, the concept behind the bill that we have been debating is that all attorneys who are practising Cayman Islands Law, wherever they are in the world, would be subject to a requirement to have a Cayman Islands Practising Certificate and subject to the disciplinary process.

Madam Speaker, on page 7 of the report there is a reference to an exam requirement. I won't bother to read these through in details. They are a bit longer. The second bullet point deals with a probationary attorney and that seeks to address a situation where, once the law is commence, there is a business continuity process, where persons who may be practising Cayman Islands law would be able to continue doing something during that period of time. Perhaps not the full practise of Cayman Islands Law so that they are given the time and the businesses are given the time to have them come to the Cayman Islands to be admitted and file the relevant documentation prior to that. So, Madam Speaker, all of these things reflect and I would say the rest of the bullet points on that page 7 of the report contain concepts which are similar in principal to what is contained in the Bill Madam Speaker.

Madam Speaker, it is useful to indicate who the members of the Law Reform Commission were in 2007 at the time this report was prepared. The report shows the Chairman as Mr. Langston Sibblies; the members as Mr. Ian Pageant-Brown, Mrs. Eileen Nervik, Mrs. Cheryl Richards, Mr. Andrew Jones and the director Ms. Cheryl Ann Neblett. Now, Madam Speaker, we know that all of the individuals, Chairman and members are now Queen Counsels (QC) in the Cayman Islands. So, certainly the membership of that Council was a fairly significant membership that I can say, I suppose with the exception of Mr. Jones who was a previous partner in one of the big law firms, the vast majority of them are not people that anybody could point to and suggest some sort of potential conflict and as subsequently a judge, Mr.. Jones is certainly someone who understands the issues of conflict.

I make that point, Madam Speaker, simply to say that these are forks, these are people who are serving the country on the Law Reform Commission, trying to ensure that the issues in relations to the regulation of the practice of law are dealt with appro-

privately and they are taking their job very seriously and making the necessary investigations. And for effectively the report that they have provided on the variety of points I have been through and demonstrated the alignment with the concepts and the principles which are set out in the Bill, Madam Speaker, I think it is very clear that we could almost say the members of the Law Reform Commission were originators of the concepts that are set out in the Bill; at least in so far as putting it in a report ten years before the current Bill is actually being debated in this honourable House, Madam Speaker.

So, Madam Speaker, I think where we are at with that, is that this perspective particularly after the view that, or the information that the drafting of the Bill was not a cost to Government and was paid for by industry representatives. I think this really clarifies the picture that whatever you may want to think in respect to that and normally Madam Speaker you don't look a gift horse in the mouth. Certainly, we thought that with the Bill being aligned with the report to that extent, there shouldn't have been a risk, that there was a view that somehow the Bill was being crafted in a way that benefitted the agencies or key stakeholders. I think that is very clear.

Madam Speaker, I also want to touch very briefly the information or the opinion and the very significant and valuable contribution made by the Honourable Attorney General on Tuesday evening when he added his contribution to the Bill. I think he was very clear for the first time in probably the history of discussion on this issue in the Cayman Islands, of his opinion on the question of whether law firms were committing some sort of offence under the existing law; in doing what was necessary to promote the interest of the jurisdiction and respond to competitive pressures, that by having officers overseas, was not a breach of the current law at all. It reflected what we have been saying and the Bar Association has been saying for many years now, that it is a gap in the Law, it is a lacuna, and it is not in the interest of the jurisdiction, it is not in the interest of Caymanians and Caymanian Practitioners to have that continue. Certainly, Madam Speaker, it was one of the driving impetuous items that I listed. I think it was three of them that I listed when I presented the Bill.

I think the Honourable Attorney General and his contribution certainly also spoke, Madam Speaker, to the whole question whether there could be some sort of conspiracy and he was very clear in his opinion that that couldn't be the case either.. So, Madam Speaker, I hope that issue has been clarified by the perspective and opinion offered by the Honourable Attorney General on this issue will be put to bed as an issue for discussion, or by us passing this Bill and relegating the issue to an issue of the past, Madam Speaker.

Madam Speaker the Law Reform Commission report didn't obviously deal with what I indicated earli-

er, which is this difficult and vexing issue of addressing this discrimination issue that we have now heard about in more detail recently and we've heard or certainly had indications of, for many years now.

Madam Speaker the amendments we were proposing, go a lot further than even what the Bill contains at this point to ensure the further protection and promotion of the interest of Caymanian practitioners, and I'll spend a few minutes just outlining those Madam Speaker. But I always wanted to address this issue of grandfathering what was described in some of the contributions on the Bill. The concept of grandfathering is one which involves typically the implementations of new standards or qualifications and people or practitioners who might be engaged in that area and somehow are allowed to grandfather or to transition into a legitimate licensed role to continue what they have been doing, without actually complying with the stated qualifications and provisions. And, Madam Speaker, that is absolutely not the case in relation to this Bill. The concept of grandfathering is found absolutely nowhere in this Bill and it is an unfortunate misrepresentation of what it actually says.

Madam Speaker, I touched on the Law Reform Commission's report and their recommendations in terms of being able to transition from, as a business continuity process, the transition of being unlicensed and uncertificated into a regulated and licensed practitioner. And that is all that the Bill does, Madam Speaker; it deals with a transition process which is controlled by the Council.

Madam Speaker, what is the underlying factor at this point, in relation to this issue? It is that the standards, the qualifications requirements that are in the Bill will apply across the board Madam Speaker, irrespective of whether you are within the Cayman Islands practising Cayman Islands law or outside the Cayman Islands. The standards, the qualifications they are going to be the same and very importantly, anyone who seeks admission to practise Cayman Islands Law; if you are going to do it in the Cayman Islands, you are going to come to the Cayman Islands and you're going to stand in front of the judge. The judge will access your qualifications, he will be able to look you in the eye and decide whether you are a fit and proper person and you have met the qualifications and the requirements and admit you. If he decides otherwise, he won't admit you. Hopefully, it's not that embarrassing a situation where he is standing there and he does that. It would be an indication on the papers alone, that those conditions haven't been met.

Madam Speaker, the same requirement will apply on the basis of the terms of this Bill to those who are overseas. They have to come to the Cayman Islands. They have to, all of them, whether you are in Cayman or overseas, comply with this concept of a four month period of supervision, plus pass an exam set by the Legal Advisory Council in the Cayman Is-

lands, to better ensure that applicants have a solid understanding of a relevant Cayman Islands legal principles, the time they are admitted to practise. So, Madam Speaker, there is no question, there is no grandfathering, there is absolutely no exemptions in terms of someone who is going to be practising Cayman Islands Law from the private sector perspective.

There was also a question raised in relation to the post qualification experience, Madam Speaker, and I would simply say that the transition provision for initially 3 years PQE to 4 years PQE, as set out, I think, in clause 34, was simply a transition provision. It was to allow any scenarios where negotiations were ongoing with individuals on the basis on the existing policy requirement of 3 years PQE, and before the 4 year was implemented.

Madam Speaker, we have proposed, as a part of the committee stage amendments, a change to simply require four years from the start. I mentioned earlier that the local Bar, the Caymanian Bar Association and the Cayman Islands Law Society were very clear in their representations to the Government in terms of the support and acceptance by their membership. I certainly asked them very specifically to give me confirmation in writing that, that was the case and that was provided, Madam Speaker. So, it is very clear that the Government felt that the key stakeholders in terms of industry representatives were reflecting to us that the terms of the Bill and its concepts and mechanisms were supported by those key stakeholders. Obviously, Madam Speaker, it was equally clear that it wasn't supported by everybody, but certainly what was represented was, that there was sufficient support that they could confirm to us that their associations had the necessary acceptance.

Madam Speaker, there was a comment made about immigration requirements and getting around immigration requirements in terms of the proposed one to one ratio in clause 68, which I have mentioned earlier. That, Madam Speaker, as I said, that concept reflects a concept which was suggested as an alternative in the Law Reform Commission report of 2007; which concept was reflected in the Bill. So, surely Madam Speaker, it wouldn't be the intention of those members of the Law Reform Commission to suggest that, that sort of mechanism was designed to get around immigration requirements at all. And that doesn't really reflect the motives or motivations of the drivers of business decisions for law firms, and yes, while the practice of law and those in it, that is an honorable profession. These days it is a business as well, Madam Speaker, and sometimes there are managers of those businesses who are not attorneys themselves. So, they make business decisions on the bases of business realities and business drivers with a view to ensuring that they have a business that is on solid ground, it generates income and net revenue for the business and it has continuity and it has substance and ability to work through any perceived

threats and take advantage of opportunities. So, Madam Speaker those are not decisions that are taken lightly.

Madam Speaker there is also the provision which we have included in committee stage amendments, which relates to an important issue for us, which came about because of the consultation process that the Bill went through subsequent to publication. And some of those issues relate to concerns about ensuring the sustainability and the development of the local bar and balancing those interests appropriately against the need to ensure that sophisticated clients and users of this jurisdiction who, let's face it, oftentimes are very high value transactions that they are seeking to get some resolution of a dispute in relation to; that those people have access to who they think are the best people to help them resolve these significant issues for them. But it is our concern Madam Speaker to seek to ensure that there is an appropriate balance and that we try to seek a situation where the sustainability in development of the local Bar.

Madam Speaker, that resulted in significant consultation with members of the judiciary and others to try to ensure that when an application is made for limited admission or to deal with specific matters for particular clients, that the judges have the necessary tools available to them to balance those interest appropriately, so that, if they think in the circumstances they are not satisfied that the local Bar could not handle the matter, there is a construct, there are tools available to them in which to base a decision around that. Equally, if they are satisfied on the circumstances of the application and representation made, these issues could be appropriately resolved by giving admission to the specialist applicants, Senior Counsellor or otherwise that are seeking to be admitted.

So, Madam Speaker those are concerns that the Government had in relation to that area and it is something we were concerned about dealing with, very specifically. I am just covering a number of points Madam Speaker that I don't want to go into broad detail on the Bill in terms of responding to every single point that was made.

Madam Speaker, one moment please.

[Short pause]

Hon. G. Wayne Panton: Just wanted to add, Madam Speaker, on the issue on the discussion about overseas offices and lawyers practising Cayman Islands Law overseas. One of the other drivers Madam Speaker is that over the last 30, 35 years—

The Speaker: You have 45 minutes remaining.

Hon. G. Wayne Panton: Thank you Madam Speaker. I appreciate that.

What we have had is a shift from a scenario where 80 per cent of the work was sourced from North American based clients who are obviously either on or within a couple of hours our time zone, to a scenario, Madam Speaker, where it is actually in some cases less than 50 per cent. On average, I guess you can say it is 50/50. What that reflects is the level of growth of business, in terms of the sources of business in other parts of the world; particularly in the Asian markets. So, that is just another underlining factor Madam Speaker, as to why there is more of a driver for overseas offices, simply because a lot of the source of businesses is just not in this time zone any longer. So, Madam Speaker I hope with those remarks that there is clarity around the way the Bill was drafted, why it has the terms it has, why it is essential to address the needs of the industry to have those practising Cayman Islands law overseas, properly regulated.

Now, Madam Speaker, that gets on very quickly to the issues of discrimination that we have heard about. I've talked about it to some extent. These are very vexing and frustrating concerns and issues. In the past we have not had people step forward to any extent, certainly not very willing, as we have all heard, to step forward and to identify themselves. That has certainly changed. I remember in our discussions in the past, even at our caucus discussions over the last two years, the comments about a group of Caymanian lawyers who were complaining about different things. But Madam Speaker, they never came, they never identified themselves, didn't make any clear representation to the Government. Perhaps they made some representation to certain people in the Government at the time but they did come and present their concerns and their issues to the Government or even myself, Madam Speaker.

Madam Speaker, it's difficult to know if there are issues we need to address in respect to that, without that sort of clarity. But we know one thing, Madam Speaker, there isn't a magic wand to address these issues, there isn't necessarily a silver bullet because we are talking about behaviors, we are talking about cultures in some cases. Madam Speaker let's be very clear, it is not a pervasive thing, certainly from my perspective across all firms that are engaging in the practice of law in the Cayman Islands. Not to a significant level or consistent level. You may have some in some and more in others. But, Madam Speaker, whatever it is, we have to be concerned about it. We have to ensure and it is not right that there isn't clarity around how you progress in a law firm, how you get to partnership. That needs to be a well understood process. I think for some firms, I'm sure and know for some, there is clarity, there is an understanding, I have heard of others, which I don't specifically know about, that that is less so. That it is effectively almost as clear as mud, Madam Speaker. So those things, those types of things should not be allowed, should be clarity around that. And we have

included provisions, Madam Speaker, in the committee stage amendments, which seek very specifically to address those types of issues..

Just very quickly run through the important aspects of the committee stage changes that we were proposing. Madam Speaker, in terms of the Council, while originally there were two members of the Council who are going to be appointed by representatives from small firms being less than five members, there's a proposed change and that included sole practitioners. There has been a proposed change to have sole practitioners on the Council.

[Short pause]

Hon. G. Wayne Panton: Madam Speaker, there are a number of committee stage amendments which relate to the Council. There is a proposal that it should be an all Cayman, or an all Caymanian Council. There is the section 36 provision dealing with limited admission to ensure that there is a balance between the interest of the client and the interest of local Caymanian practitioners at the Bar.

Madam Speaker, importantly there is another provision we sought to do, which was to ensure that sold practitioners got a very real benefit in the form of a reduction in their cost of the practising certificate and that was down to \$650 from the current level, Madam Speaker of 2000.

Madam Speaker, just skipping to some very important aspects, we also included commitments which were previously discussed by the Fifth Elected Member for George Town and some of the firms, I think, over the last year and a half, two years. Originally, those commitments were agreed to be the substance of regulations, but they have been elevated, Madam Speaker, to the actual Bill in the form of an addition as a Schedule 3. Those commitments deal with access of Caymanians to the profession, the support and availability to get scholarships, training and progression. It is backed up very much by significant penalties if there is a failure to adhere to those commitments..

I know it is often said that this is a House of Politics and we have had our share of that, Madam Speaker, but I have to say that while we may engage in Politics in here, the people of this Country out there don't care about the politics. They care about what we can all do, working together to address solutions for their issues and their concerns. So, they expect us to work together. Madam Speaker I didn't come here to be engaged in politics, I've always tried to avoid that and try to do what I have to do in order to achieve the best for this country and the people.

So, Madam Speaker I am happy at this point to be able to say that, after trying a few times, we have all sat down, Members from both sides of this honourable House, and spent the better part of about 8 hours or thereabout, working through concerns and

perspectives and committee stage amendments that have been proposed. I think we have reached an agreement as to how we will go forward with the committee stage amendments. Madam Speaker, it means that some of these committee stage amendments are going to have to be drafted fairly quickly, while others will be accepted; some from both sides. And Madam Speaker, none of us are going to get everything perhaps, that we wanted on either side. But I have outlined why it is so critical to have a Bill like this done and I am happy to say Madam Speaker that the Members on the other side; the Independent Members, the official opposition members participated in the discussions. Perhaps, not completely in terms of one person who left a bit early, but there was a definite desire to work together to achieve what's best for the country and to get a Bill like this done.

So, Madam Speaker, with your permission I would to just go through what was agreed in terms of high-level principles, if that is okay.

The Speaker: Once you keep it general and don't through committee stage [INAUDIBLE]

Hon. G. Wayne Panton: That is correct, Madam Speaker, and thank you very much for your guidance.

So, Madam Speaker, I think what I can say is, the sort of first broad principle is that the operation of the Bill and the commitments bolted together will create an environment where over the next decade and a half, Caymanians will have the opportunity to come into the industry, to be trained; and those who are in the industry to be further trained and developed; to ensure that there are very strong and capable associates—people who are capable of being partners and equity partners in these firms, Madam Speaker; assuming they are prepared to do the work because it is not an easy path. It is not at all, and I can tell you that, certainly from my perspective, there are things I perhaps regret having to spend so much time doing work, as oppose to more important things, but that's just the way it is. Sometimes, there are compromises you have to make.

So, Madam Speaker, having that environment means that over the next fifteen years we want to see a majority of Caymanians being engaged as owners and controllers of Cayman Islands law firms. That is a very significant step and it is one that we don't take lightly. It is one that has been driven by, obviously, the concerns that have been expressed by those people finally coming and putting their names forward and saying *Yes, I have concerns and I have issues*. But it isn't a light step, Madam Speaker; it is something that we need to, as I said earlier, we can't subject ourselves to the mistakes of others in the past without learning from them and I think this is a proposal which we seek to have a very positive effect on the opportunities and the interest of our Caymanian people; our Caymanian hardworking practitioners, but we have to

constantly keep it under review to make sure it is having the positive effects that we want. And that is where we're at as a group here today. We feel this is a necessary approach, Madam Speaker. But it does behoove us to continue to ensure that it will have the impact that we want, without having any undue negative ramifications.

Madam Speaker, in addition to that sort of broad concept, we'll have to have what is typically referred to as a cure period of perhaps two years. We will need to have a scenario where the Council of the Cayman Islands Legal Practitioners Association will have to have the ability to grant exemptions if it is evident that firms are, despite their best efforts, not quite making, fulfilling these obligations of a majority of Caymanian ownership.

That is a similar concept, Madam Speaker, to what exist under the Local Company's Control Law (LCCL) at this point. But there is a big difference, in that the Council will be in a much better position with professional knowledge and understanding as to how to make these types of decisions in the best of all concerned, including the viability of law firms and the interest of Caymanians who are partners and who seek to be partners.

Madam Speaker, broadly, there was a second point in relation to the Council, the composition of the Council. Again, as I outlined briefly when I touched on our committee stage amendments, there is a proposal that those be all Caymanians. The way we seek to do that, is to have two nominations for each of the fee bands that exist in the current fee band schedule that relates to operating licenses, and have those which is basically by the number of lawyers in the law firms. So, to have each of those bands nominate two people to Cabinet and Cabinet ultimately make the decision between that; one from each of those bands, so they decide which of the two nominations they want to appoint to the Council, Madam Speaker. And I think that combines the democratic process of the firms making their nominations and Cabinet ultimately taking, at least one of those.

There is also a provision or a discussion of—and this may not be in the committee stage amendments—membership fees around the Cayman Islands Legal Practitioners Association being increased in certain cases to allow for an element of those fees to fund continuing professional education training, Madam Speaker. The thinking is that it is done through the Truman Bodden Law School, because, obviously, that is a very significant institution in the Cayman Islands and it is appropriate that it be involved and provide the venue with that sort of training, and the funding to deal with the necessary supplies around that, which can come from these extra fees that are levied in terms of the CILPA membership fees.

Madam Speaker, there is an agreement that the current four years PQE provision, as I mentioned earlier, in the committee stage amendments, will

stand. Again, there is an acceptance of the Schedule 3 commitments that are set out in the committee stage amendments to be added to the Bill, which I think add a lot to it. There is also an agreement that there be a reference to the whistleblower legislation, which is included at least by reference in this Bill, at committee stage, so that, it is clear that any of those who have been involved in stepping forward and identifying themselves as people who have concerns about the circumstances in which they have been treated, are not in any way affected by that in terms of any subsequent moves. That's a very important thing for us. It cannot be allowed to happen where people are affectively blackballed or punished in some way, Madam Speaker. So, we want to have a reference to that, even though, perhaps, the Whistleblower Law as it would apply very specifically in this sort of instance.

Madam Speaker, those are broadly the agreements that have been reached in respect of how we move forward with committee stage amendments. We've agreed some other, let's say, more minor ones that have merit and we will have an agreed form of committee stage amendments which reflect these broad principles, Madam Speaker.

I think, Madam Speaker, what we have seen over the last two weeks, reflects a need for us to take very seriously, some of the concerns that have been expressed, not just in relation to this profession or industry or business in terms of the broad of financial services industry, but industry and businesses generally. Because there have always been concerns expressed, particularly, in the last 5 to 10 years that we have scenarios where jobs are advertised overseas well before they are advertised locally. Madam Speaker, we must have a situation where our people in the Cayman Islands are aware of these opportunities, at least contemporaneously or the same time as anyone else. So, we need to put some regulations around those issues to address those.

Madam Speaker, I would certainly like to thank all Members of this honourable House for the time we have spent in deliberating this Bill, considering the options to move forward and get to a point where we can get a Bill in place which serves the interest of the country and which serves the interest of the industry, the profession, and serves the interest of our people in the Cayman Islands.

As I said earlier, Madam Speaker, it has been a difficult process; it has been a difficult journey dealing with this Bill. Yes, I have had situations where I have been personally attacked, and others have been. But I think, Madam Speaker, this has come from all quarters. I'm not talking about within this House. To be fair, this is an issue that has been discussed in all corners and we need to move forward and meet the needs of the Cayman Islands Madam Speaker. As I said before, I recognise this is a House of politics. I try not to take these things personally but I am concerned with making sure that we have a Bill that works for

everybody; that works for the Cayman Islands; protects our Financial Services industry and furthers our interest and the interest of our people. And that it ensures the legal profession can continue to be that integral consistent, strong underpinning of all of the financial services industry in helping to maintain and build upon the jobs, the opportunities, the level of business that comes into this country and the revenue which this country derives from it, which is so important in assisting our people in this country by giving the Government the ability to provide the level of services that we do for our people.

So, Madam Speaker, again, I'd certainly like to thank those Members on the other side of the House, the Independent Members—the Fifth Elected Member for George Town, Fourth Elected Member for Bodden Town, the Member for North Side, the Member for East End and the Third Elected Member for West Bay, the Fourth Elected Member for West Bay, the First Elected Member for Bodden Town, although, I don't think he went through the burden of the meeting last night. But, certainly, Madam Speaker, the Leader of Opposition was there for part of the meeting as well. They've all played an important role in the discussion with us on this side of the House, Madam Speaker. We are all very grateful, that we are at a point where we have an agreement that we can move forward and deliver something which we feel is in the best interest of this country; the best interest of the industry; and the best industry of the Cayman Islands and its people. Thank you very much.

The Speaker: The question is that a Bill shortly entitled The Legal Practitioners Bill, 2016, be given a second reading.

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

AYES.

The Speaker: The Ayes have it, I believe

The Premier, Hon. Alden McLaughlin: Madam Speaker, given the historic nature of this Bill, may I ask for a division?

The Speaker: Madam Clerk, please call a Division.

DIVISION NO. 34

AYES: 17

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
Mr. Roy M. McTaggart

NOES: 0

Mr. Joseph X. Hew
 Hon. W. McKeeva Bush*
 Mr. Bernie A. Bush
 Capt. A. Eugene Ebanks
 Mr. Alva H. Suckoo, Jr.
 Mr. Winston C. Connolly, Jr.
 Mr. D. Ezzard Miller
 Mr. V. Arden McLean*
 Hon. Anthony S. Eden

ABSENT: 0

The Speaker: The result of the division is as follows:
 17 Ayes.

Accordingly, the Bill is carried.

Agreed by Majority: The Legal Practitioners Bill given a second reading.

SECOND READING

SUPPLEMENTARY APPROPRIATION (JULY 2013 TO JUNE 2014) BILL, 2016

~and~

SUPPLEMENTARY APPROPRIATION (JULY 2014 TO JUNE 2015) BILL, 2016

~and~

SUPPLEMENTARY APPROPRIATION (JULY 2015 TO JUNE 2016) BILL, 2016

The Clerk: The Supplementary Appropriation (July 2013 to June 2014) Bill, 2016; the Supplementary Appropriation (July 2014 to June 2015) Bill, 2016; the Supplementary Appropriation (July 2015 to June 2016) Bill, 2016.

The Speaker: The Bills have been duly acknowledged.

I recognise the Honourable Minister of Finance to move the Bills.

Hon. Marco S. Archer, Minister of Finance and Economic Development: Thank you Madam Speaker.

Madam Speaker I beg to move the Second Reading of Bills entitled The Supplementary Appropriation (July 2013 to June 2014) Bill, 2016; the Supplementary Appropriation (July 2014 to June 2015) Bill, 2016; and the Supplementary Appropriation (July 2015 to June 2016) Bill, 2016.

Thank you Madam Speaker.

The Speaker: The Bills have been duly moved. Does the mover wish to speak to these three Bills?

Hon. Marco S. Archer: Thank you, Madam Speaker, I do.

Madam Speaker, this Bill arises due to a requirement in The Public Management and Finance Law, otherwise known as the PMFL. Honourable Members are aware that circumstances will arise during the course of a financial year. This necessitates changes to the Appropriation Law passed by the Legislative Assembly for any particular financial year. Oftentimes, Madam Speaker, the circumstances require prompt action and the prompt action means that Government does not have the luxury of seeking prior approval of the Legislative Assembly and Finance Committee before expenditure needs to be incurred.

Madam Speaker, this scenario or occasion was envisaged when the PMFL was drafted and the specific section, section 11 of the Law, was formulated as a solution to circumstances that require very prompt action. The PMFL allows cabinet, within limits, to incur expenditures that are not already approved by the Legislative Assembly and are not incurred in annual Appropriation Laws. The limits imposed by section 11(5) of the PMFL are that the expenditure should be no more than 5 per cent of budgeted executive revenues for a particular financial year.

Madam Speaker, the original budgeted executive revenue for the 2013/14 financial year, was CI\$612.1 Million. The limit established pursuant to section 11(5) of the PMFL for Cabinet approved expenditure. That translates to CI\$30.6 million being the limit, established by section 11(5) of the Law. Whenever the Cabinet is asked to approve supplementary expenditures, ministries, portfolios and offices are advised to, as far as possible, put forward expenditure reductions to mitigate or to counter balance any increase in expenditures that the Cabinet is being asked to approve. The aim, Madam Speaker, is wherever possible to arrive at a net zero requests. However, this is not always achieved and sometimes net positive supplementary expenditure request will arise.

In terms of operating expenditures for the 2013/14 financial year, the net of increases and decreases to supplementary expenditures approved by Cabinet was a very modest \$34,519.

There are also changes to equity investments and executive assets. Equity Investments is a term used to denote investments by central government in its ministries, portfolios and offices and its statutory authorities and government owned companies or otherwise known as SAGC's. The amounts so invested by central government are typically used to acquire fixed assets; those being long term assets, Madam Speaker. Those assets are owned by the individual ministry, portfolio, office or SAGC. Executive Assets is a term used to denote the creation or acquisition of fixed assets such as roads, shelters and buildings that are not considered as owned by an individual ministry portfolio, office, or SAGC, but rather, are owned by the Government as a whole.

Madam Speaker, with respect to equity investments and executive assets, the net increase approved by Cabinet was a rather small \$38,850. And during the 2013/14 financial year, the appropriation with respect to personnel loans was reduced by \$85,000. Therefore, the supplementary request in the 2013/14 Appropriation Bill is significantly less than the \$30.6 million that the PMFL allows for that financial year. It demonstrates, Madam Speaker, that a Cabinet was prudent in its supplementary expenditure approvals.

Madam Speaker, the Bill before the House is very simple. It consists of three main parts: clause 1 gives the name of the proposed law; clause 2 speaks to the appropriation authority of the Cabinet and 3, the Schedule to the Bill which shows the individual items of appropriation changes the Legislative Assembly is being asked to approve.

Madam Speaker, I respectfully ask all Honourable Members to support the Bill for the 2013/2014 financial year ending June 30th 2014.

Madam Speaker, with respect to the 2014/15 financial year, as with the 2013/14 financial year, this Bill arises due to a requirement in the Public Management and Finance Law. Madam Speaker, this being the 2014/15 financial year I'm onto now; the previous one being the 2013/14. The PMFL allows Cabinet to incur expenditure of no more than 5 per cent of budgeted executive revenues for the 2014/15 financial year. Madam Speaker, as the original budgeted executive revenue for the 2014/15 financial year was \$624.9 million, the limit established for Cabinet approved expenditure was \$31.2 million according to Law.

In terms of operating expenditure for the 2014/15 financial year, the net of increases and decreases to supplementary expenditure approved by Cabinet was an increase by \$10.2 million, Madam Speaker, broken down as follows.

The three main items that dominated this \$10.2 million were:

1. Approximately 1.5 million was requested with respect to services to refugees. And, Madam Speaker we would know that we have a regular flow of refugees from our neighboring island nation.
2. \$1.7 million was approved as a supplementary expenditure for preparedness and response to the Ebola Virus disease.
3. \$5.4 million dollars was approved to cope with the tertiary care at various local and overseas institutions for health care of indigents, seamen and veterans that are referred overseas. That one is otherwise known as output NGS-55.

These three items account for \$8.6 million of the total \$10.2 million, relating to operating expenditures.

With respect to equity investments and executive assets, the net increase approved by Cabinet was a modest increase by \$1.2 million dollars. During the 2014/15 financial year, the loans made category within the Appropriation Law was reduced by a very small amount, Madam Speaker of \$12,000. Therefore, the supplementary request in the 2014/15 Appropriation Bill is significantly less than the \$31.2 million allowed by law within the financial year. And it shows, once again, that the Cabinet was prudent in its supplementary expenditure approvals.

Again, I respectfully ask that Honourable Members will support the Bill for the 2014/15 financial year supplementary appropriations.

Finally, Madam Speaker, with respect to the supplementary appropriations for (July 2015 to June 2016) Bill, 2016, again, Madam Speaker, it is required by the Public Management and Finance Law, that being section 11(5). Again, the PMFL allows Cabinet to incur expenditure of no more than 5 per cent of budgeted executive revenue for the 2015/16 financial year.

Madam Speaker, as the original budgeted executive revenue for the 15/16 financial year was \$628.2 million, the limit established by law for Cabinet approved expenditure was \$31.4 million. In terms of operating expenditure for the 2015/16 financial year, the net of increases and decreases to supplementary expenditures approved by Cabinet was an increase of \$13.9 million. This overall amount of \$13.9 million is dominated by three items:

1. Approximately \$2.9 million as requested with respect to services for irregular migrants; that being the Cuban refugees.
2. \$1.4 million was approved as a supplementary expenditure for mosquito control services in the fight against the Zika Virus. And we recall that we had approximately 20 cases at last count.
3. \$5.9 million dollars was approved to cope with the tertiary care at various local and overseas institutions for health care of indigents, seamen and veterans that are referred overseas. Again, that is NGS-55.

These three items account for \$10.2 million of the total \$13.9 million relating to operational expenditures.

With respect to equity investment and executive assets, the net increase approved by Cabinet was a very modest \$2.1 million. Therefore, the supplementary requests in the 2015/16 Appropriation Bill are significantly less than the \$31.4 million that the PMFL allows for the financial year. And it shows again, Madam Speaker, that the Cabinet was prudent and the supplementary expenditure approvals. I respectfully ask all Honourable Members to support the Bill.

Thank you, Madam Speaker.

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?

If not, I will recognise the Honourable Minister of Finance, should he wish to reply.

Hon. Marco S. Archer: Thank you Madam Speaker. Just to thank all Honourable Members for their tacit support of the Appropriations just mentioned.

Thank You.

The Speaker: The question is that Bills shortly entitled the Supplementary Appropriation (July 2013 to June 2014) Bill, 2016; the Supplementary Appropriation (July 2014 to June 2015) Bill, 2016; and the Supplementary Appropriation (July 2015 to June 2016) Bill, 2016, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Supplementary Appropriation (July 2013 to June 2014) Bill, 2016; the Supplementary Appropriation (July 2014 to June 2015) Bill, 2016; the Supplementary Appropriation (July 2015 to June 2016) Bill, 2016 given a second reading.

SECOND READING

UTILITY REGULATION AND COMPETITION (AMENDMENT) BILL, 2017

The Clerk: The Utility Regulation and Competition (Amendment) Bill, 2017

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

Hon. D. Kurt Tibbetts, Minister of Planning, Agriculture, Lands, Housing and Infrastructure: Thank you, Madam Speaker.

Madam Speaker, I was pondering here and I am going to be dealing with these five or six Bills, hopefully, in short order here. But just before I do that, I would certainly not wish to attract your ire or for you to think for one minute that I disrespect the person or the post. So therefore, I will humbly ask if you would allow me exactly ninety seconds to speak to an issue which is not concerning this Bill. And it will not take long and it will not attract any debate.

Mr. V. Arden McLean, Member for East End: You hope.

[Laughter]

The Speaker: The question is that the Honourable Minister wishes to have . . . 120?

Hon. D. Kurt Tibbetts: Yes, no more.

The Speaker: —seconds to deal with a matter not presented on the Bill.

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

AYES.

The Speaker: The Ayes have it.

Please proceed accordingly, Minister.

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

Madam Speaker, I simply wish to say, because I suddenly realised that while I was in the middle of the fray with the long and arduous task of arriving at the completion of the Second Reading of the Legal Practitioners Bill, I hadn't spoken at length and I don't intend to make that attempt.

What I want to say, Madam Speaker is that I thank God my faith has been restored—

Hon. Anthony S. Eden, First Elected Member for Bodden Town: Amen!

Hon. D. Kurt Tibbetts: —in the membership of this honourable Legislation Assembly. I have to be totally honest with you and say that there were times during this whole affair when I wanted to do what the Honourable Deputy Speaker and I make a joke about sometimes—“I w-a-a go home”.

Having said that, I want to extend my personal thanks to all of those Members, who at the end of the day accepted that this was bigger than any one of us individually, and it was all about what was in the best interest of the people and the country and we rose to the occasion and accomplished just that.

Madam Speaker, I am confident that we will see it through to the end, where a new law can be put into effect. And I trust that enough lessons have been learned within and without these hallowed Halls, to ensure that stability prevails and our Caymanian people can hold their heads high and be proud.

Thank you.

The Speaker: Minister, I wish also, to note and to thank the Members of the honourable House that nobody stood up on a point of order, and that he was not resurrecting debate but because of the role in which he played, I allowed it to go on, not knowing the content of it. But I wish to say Honourable Minister, the First Elected Member for Bodden Town, Leader of Opposition, that although Cayman does not yet have the Noble Peace Prize, if there were such a thing, that as far as the Chair could observe, it should be awarded to you three in this particular thing. That is not say-

ing that other Members did not have a particular role, but sitting from a periphery, I think that the valiant effort that was made by all Members, the Chair certainly appreciates and would ask Members to so use it as a forward precedence.

Honourable Minister of Infrastructure.

[Applause]

Hon. D. Kurt Tibbetts: Madam Speaker, thank you, thank you, and thank you. And I know that when you say it, you call three bodies. When I say it, I can exclude myself and still call three bodies because that would be inclusive of your good-self.

Madam Speaker, I beg to move the Second Reading of the Utility Registration. . . No, the Order Paper is not correct . . . the Utility Regulation and Competition (Amendment) Bill, 2017.

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

Hon. D. Kurt Tibbetts: Yes, Madam Speaker.

Madam Speaker, Members will recall that at our last Meeting, we passed the Utility Regulation and Competition Law. And, Madam Speaker, there were several companion pieces of amending Legislation to the ICTA [Information, Communication and Technology Authority] Law, the ERA [Electricity, Regulatory Authority] Law and I did say—

[Inaudible interjection]

Hon. D. Kurt Tibbetts: I corrected it, I said Regulation.

Madam Speaker, as I was saying, I did say that there was a few other companion pieces of legislation to complete the puzzle, fit the picture out, and I am ever so grateful to have the opportunity now to hopefully get these passed.

The first one is that I am doing the Second Reading to now, Madam Speaker, is a simple amendment and the amendment is fairly clear in the Memorandum of Objects and Reasons of the Bill. And it reads: "This Bill seeks to amend the Utility Regulation and Competition Law 2016, to change the respected designations of two members of the Board of Directors of the Utility Regulation and Competition Office (URCO)." The following changes are what we wish to make:

- a. The Designation Executive Director of Information will be changed to Executive Director of Information and Communications Technology
- b. The Designation Executive Director of Energy would be changed to Executive Director of Energy and Utilities.

Madam Speaker, those very minor changes to the law are simply to apply correct names to the two titles that are referred to in the Bill.

I trust that Members will see it fit to give their support.

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?

Honourable Minister for Infrastructure, do you wish to exercise your right of reply?

Hon. D. Kurt Tibbetts: No, Madam Speaker, except to say a very special 'thank you' to Members, and I hope that I can say this for the next five Bills, that we will be able to get them passed. Some of them are a little bit longer than others and we do have a few committee stage amendments. But I do appreciate with the tacit support of Members.

The Speaker: The question is that the Bill shortly entitled The Utility Regulation and Competition (Amendment) Bill, 2017, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Utility Regulation and Competition (Amendment) Bill, 2017, given a second reading.

SECOND READING

WATER SECTOR REGULATION BILL, 2017

The Clerk: The Water Sector Regulation Bill, 2017.

The Speaker: The Honourable Minister responsible for Infrastructure.

Hon. D. Kurt Tibbetts: Madam Speaker, I wish to move the Second Reading of a Bill for a Law to provide for the regulation of the Water Sector by the Utility Regulation and Competition Office and for incidentals and connected purposes.

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

Hon. D. Kurt Tibbetts: Yes, Madam Speaker, just craving your indulgence.

[Pause]

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

Madam Speaker, if we examine our Order Paper, we will see that the next four Bills are all related to the Water Sector and that is, combined, they are to facilitate the change of regulation of the Water Sector from the Water Authority of the Cayman Islands (that is the economic regulation from the Water Authority of the Cayman Islands to URCO or off reg as the office has been dumped.

The Water Sector Bills which I am now bringing, Madam Speaker, are part of a slate of Bills to complete the merger of the utilities regulatory functions, under the Utility Regulation and Competition Office; and thus finalise its position as the entity with regulatory oversight for the Island's utilities sectors. This, Madam Speaker, is one more step in the Government's agenda to drive the regulatory reform agenda. In the passage of the URCO, ICTA, ERA and the Dangerous Substance (Amendment) Bills, which were done at the last Meeting of the House, we emphasised that this new regulatory framework consolidates an environment that fosters sustainable growth and innovation. The reform also affords us the opportunity to build regulatory capacity, which will address the changing needs of consumers, promote competition and also assist in addressing the gap between development and commercial opportunities.

Madam Speaker, the Water Sector Bill seeks to finally remove any perception whatsoever, that the Government's own water producer and supplier, the Water Authority of the Cayman Islands, is in anyway conflicted in regulating other operators within the Sector. The removal of its function in legislation as an economic regulator is a key strategy that will allow the Authority to focus on its core business of water production and supply and also, its water resource regulatory functions. And so, I am happy, Madam Speaker, to bring these Bills, albeit one by one, to the Floor of this honourable House.

Madam Speaker, the first one, which I just moved the Second Reading for, the Water Sector Regulation Bill, 2017, makes provision for the regulation for the water sector by the Utility Regulation and Competition Office, which was established under Section 4 of the Utility Regulation and Competition Law 2016.

The Bill provides for the economic regulation of service providers of water and waste water services. It also provides for promoting the development and deployment of new technologies in water supply and waste water services, where such technologies will, in the long term, bring economic benefit for the economy of the Islands and financial advantages to consumers.

I want to just point to this honourable House, what I consider to be some of the significant components of the Bill. For instance, Madam Speaker, it is important to note in the definitions, the term service provider includes both the Water Authority and concessionaires. This is the mechanism by which the Wa-

ter Authority is brought under the regulatory supervision of the Office. The intent being, that off-reg will issue an administrative determination that will set out the framework that the Authority would be regulated.

In Part 2 of the Bill, clause 3 confers a number of powers on URCO, including, the power to monitor and regulate the tariffs, the rate structures and the terms and conditions for water and waste water services charged to customers. The Office is required to carry out its powers in a manner that is consistent with the general regulatory principles, which are set out in the Schedule.

Part 3 of the Bill contains clauses 4 -13 and deals with water supply services and waste water services to third parties. Under this part, Madam Speaker, the following provisions apply:

- Unlicensed persons are prohibited from providing water supply or waste water services to third parties;
- It is mandatory for a person who has entered into a concession agreement with the Government to apply to the Office for a licence.
- It is also mandatory for a person who has entered into a concession agreement with the Government and has been granted a concession to supply potable water or waste water services to a defined geographic area, to apply for a service provider licence. For example, the Water Company supplying a certain geographical area in West Bay will fall under this category and will have to make their application. A service provider licence is valid for the duration specific in the relevant concession agreement.

Madam Speaker, let me take this opportunity to say, that while there has been ongoing battles to get that specific matter sorted out and getting that licence regularised, URCO will now be with proper framework legislation, that they will then be able to deal with this matter and bring it to conclusion.

- A licensee is also prohibited from assigning a licence without the Office's consent. So, in other words, if some bright soul bought out Cayman Water Company, they would not be able to pass their existing license, once they do have a licence to supply potable water to that certain geographical area. They would not be able to pass that on without the consent of the Office.
- The renewal of a service provider licence is subject to the terms set out in the relevant concession agreement.

- A service provider licence may be modified with the mutual consent of the relevant licensee and the Office. And a service provider is required to pay regulatory fees to the office.
- The Office is empowered to take possession of water or waste water infrastructure in certain cases. For example, where there is a fundamental breach of a licence, the procedures will be set out in the regulation to be developed later, and a register of concession agreements and licences is to be kept.

So, Madam Speaker, just so we can understand clearly, where it is that the Office is empowered to take possession of water or waste water infrastructure in certain cases where there would be a fundamental breach of the licence—and, as I said, the procedures would be set out in regulations which are being prepared as we speak—this would only happen in extreme circumstances but the reason why we want this in this legislation, is so that we do not have the franchise area, for instance, being totally without water or waste water services at any one point in time, because of a breach by way of the licensee, at which point in time, one may have, meaning the office, may have to step in and take over the operations for continuity of service, even if it is on a temporary basis.

Madam Speaker, Part 4 is comprised of clause 14 and deals with the interconnection of water supply or waste water systems and provides for the operators to interconnect their systems when mutually agreed.

Part 5 deals with consumer protection and it also provides for the office to prescribe standards of performance in connections with the provision of water supply and sewage services to customers.

In clause 16, this addresses the issue of data protection and requires service providers to maintain strict confidentiality in respect to consumer information.

Part 6 of the Bill, contains clauses 17 through 22 inclusive, which are the miscellaneous provisions. Clause 17 creates an offence of malicious damage to property in respect of damage to apparatus relating to the collection and treatment of waste water.

Clause 18 makes provision for a compensation order by a court in any case where a person is convicted of an offence under the legislation.

Moment of interruption—4:30 pm

The Speaker: We have reached an hour of interruption.

I recognise the Honourable Minister of Planning, or the Deputy Premier (either one), to move the motion for the suspension of Standing Order (10(2).

SUSPENSION OF STANDING ORDER 10(2)

Hon. Moses I. Kirkconnell: Thank you, Madam Speaker.

Madam Speaker, I move the suspension of Standing Order 10(2) in order for the House to work past the hour of interruption.

The Speaker: The question is Standing Order 10(2) will be suspended to allow the House to work beyond an hour of interruption.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: Honourable Minister for Infrastructure, please continue.

Hon. D. Kurt Tibbetts: Thank you.

Madam Speaker, clause 19 makes a provision with respect to consultation by the Central Planning Authority with the Water Authority or a concessionaire, if they are in receipt of plans for the construction, reconstruction or extension of a building in their respected service areas.

In addition, service providers are required to deposit with the office, maps showing public water supply and public sewage lines owned or operated by the service providers.

Finally, Madam Speaker, the Schedule sets out a framework of general regulatory principles to guide the Office and emphasises the important principles of sustainability, stability, transparency and predictability in the discharge of its function.

So, Madam Speaker, this Bill to provide for the regulation of water, of the water sector, by URCO, is certainly one which we are seeking approval for in the Legislative Assembly. And, Madam Speaker, let me just say this for everybody's clear understanding: the Bills as I bring them forward, Members will note that there have been committee stage amendments proposed to these Bills and the simple truth of the matter was, because of the time line in getting the Bills here within the 21 day timeline, there was some consultation which took place subsequent to that and we certainly did not want to not pay attention to those points brought out by stakeholders and hence the reason for the committee stage amendments.

So, I trust that members can see the wisdom and bringing this Bill and that they will be able to support it through to it becoming a law, thank you.

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

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

Hon. D. Kurt Tibbetts: You want this? You don't need this.

[Laughter]

Hon. W. McKeeva Bush, Leader of the Opposition: I need it.

Hon. D. Kurt Tibbetts: Alright.

Hon. W. McKeeva Bush, Leader of the Opposition: Because I don't have any technocrats behind me.

Mr. D. Kurt Tibbetts: You want me to send them over there?

Hon. W. McKeeva Bush, Leader of the Opposition: I don't think they will help at this point.

[Laughter]

Hon. W. McKeeva Bush, Leader of the Opposition: They could have been, I suspect if we had that kind of system where Opposition was informed but we come here to listen, sounds like.

Madam Speaker, I paid attention to this and the truth is, I pay attention to all Bills but normally I leave that to people like the Member of East End who deals with utilities a lot. But because I have been chairman of the Water Authority before and Minister responsible and because our public water system in West Bay, in my constituency is done by a private company, I made some observations and, of course, did have some concerns indicated to me by private sector.

Madam Speaker, the definition of administrative determination, perhaps should be looked at to, referred to the definition of that term in the Utility Regulation and Competition Law 2016, in the same manner at the Water Authority Amendment Bill does. Since the definition, as it stands, contains the term 'sectoral participant' which is not defined in this Bill but which is defined in the Utility Regulation and Competition Law, 2016.

I see the gentleman smiling; it must be that he had notice of some of these things before.

Hon. D. Kurt Tibbetts: You got it.

Hon. W. McKeeva Bush, Leader of the Opposition: Well, as I said, concerns were raised to me and so the Minister can explain. That would be the right thing.

I had to wonder though if the Authority or a concessionaire should be changed in the definition of "RCAM" because a distinction is made between the two, in terms of administrative determination. In that

respect, Madam Speaker, it is different from the definition of Public Water Supply System.

In clause 5, Madam Speaker, while it makes sense, I think, for any permits issued to supply defined developments by the Authority, should be converted into operator licences issued by the Office. And I should ask: Why is there a need for the Authority to continue to be involved in issuing permits for that purpose going forward?

Again, Madam Speaker, the principle point for my thinking, anyway, of the water laws, is to remove the Authority from regulating water supply and waste water licences. It also appears that they have now removed the need to have a concession for an operator license and so, to that extent, Cabinet might be removed from the picture and I would ask that they tell me whether that is a fact or not.

The proposed amendments in Clause 10, Madam Speaker, are, I think, somewhat problematic for several reasons:

- a. The current provisions in respect of compulsory divestiture, probably or broadly reflect the provisions of section 27 of the ERA Law. And we understood that one objective of that exercise was, so far as possible, to standardise the mode or regulation of service providers in the various sectors. Subject regulation—

Hon. D. Kurt Tibbetts: What section is that?

Hon. W. McKeeva Bush, Leader of the Opposition: It is clause 10 I am speaking to, but section 27 of the ERA Law.

Hon. D. Kurt Tibbetts: Okay.

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, subject regulations by the Office.

- b. The proposed amendment seeks to remove the basis on which the licences undertaking is valued from the law and put it in regulations, which do not seem yet to exist. And I would need to know that as well. Perhaps they might have it in draft form but we certainly don't know about it. So, we would not have any idea of the proposed content.
- c. The proposed amendment moves from divestiture of the assets of the licence to the land or works own or operated by the service provider licencee.

The respective terms appear to be very different in scope and I am puzzled by the intended purpose of this change.

- d. The power to compulsorily divest the land or works of the licensee would no longer merrily be on the basis that the licence has expired, but also, when the licence is revoked while not allowing for any appeal against revocation and more alarming I think, when needed for a public purpose.

The nature of those concessions, Madam Speaker, is that they serve a public purpose. So, the result of that provision would or might give the Government the power to do whatever at will, with a privately owned business, which is operating on the basis of a concession granted by the Government, without that business having being in breach of any term of its licence or provision of any law and independent of any state of emergency.

Madam Speaker, we don't have many laws to go by in this instance, because this is the first . . . Sorry?

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: You know you didn't.

Mr. V. Arden McLean: They did a good job.

Hon. W. McKeeva Bush, Leader of the Opposition: Well, we will listen to you when you come next now.

Hon. V. Arden McLean: You taking it all from me.

Hon. W. McKeeva Bush, Leader of the Opposition: No, no, no.

[Inaudible Interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: But, as I said, we are just fresh as a country going into Laws like this and we talked about the Public Utility Commission for years. When I was a Minister in the 90s—

[Inaudible Interjection]

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

No, I said we have talked about it for years.

When I was Minister in the 90s of the Water Authority and the Port Authority, and also on the Airports Authority, which is really not a Utility, but I also served on the CUC Board for a number of years. And Madam Speaker, we don't want to say it's draconian but it goes much further, for instance, than the Land Acquisition Law where land may be compulsorily acquired, for example, to build roads.

I believe it is unprecedented in our local legislation. As I said, we don't have much to go by, but we

do have some regulatory laws that we can go by and we have regulatory laws to be applied by the Office. And I would think that the private sector is going to find that totally unacceptable.

An Hon Member: Find what?

Hon. W. McKeeva Bush, Leader of the Opposition: What I just said.

[Laughter]

Hon. W. McKeeva Bush, Leader of the Opposition: And propose—

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: The Minister needs to direct his questions, Madam Speaker. His technocrat is listening. And you just let me put my view forward. I made myself clear, because I don't hide anything, Madam Speaker. It is not something I usually speak on, although I served for a long time on the board and as the Minister. But I do have some concerns. We have the Water Company only that serves us in West Bay; only one, and I have to be concerned about that.

I want to make sure that I, as a Member of the House, and the Minister, we are on all fours in trying to get what is best when we go to the Utilities Commission to regulate it. We want the best.

In the proposed clause 12(4), the words, "whomsoever it deems appropriate", I wonder if that is what you want and whether that could be replaced by the competent operator, which picks up on the terms used in clause 12(1).

In the proposed clause 12(6), the appointed operator would only be liable for damage occasion to the assets of the licensee, if it arises from their gross negligence or willful instruction. Madam Speaker, this is a novel formula for an exclusion or limitation or liability clause, from what I know about some of those areas in law, when you are dealing with such things and those kinds of . . .

The Speaker: Honourable, Leader of the Opposition, you said [clause] 12(4)?

Hon. W. McKeeva Bush, Leader of the Opposition: [Clause] 12(6)—the appointed operator will only be liable for damage occasion to the assets.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: That's not the same Bill?

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: That's the same Bill we talking about.
[Inaudible interjection]

Hon. D. Kurt Tibbetts: Madam Speaker, if the Member will allow me, just to be helpful.

The Speaker: Honourable Minister for Infrastructure.

Hon. D. Kurt Tibbetts: I think Members have some proposed committee stage amendments for this Bill. And, I think some of what the contribution is being made is speaking to those committee stage amendments. That is why they are not found in the Bill itself.

Hon. W. McKeeva Bush, Leader of the Opposition: Because they are amendments to come.

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: For those who are today paying close attention to me and listening to me today, it is proposed clauses...

Hon. D. Kurt Tibbetts: Committee stage Amendments.

Hon. W. McKeeva Bush, Leader of the Opposition: Yes; that I am speaking to at this point.

Hon. D. Kurt Tibbetts: So, we really aren't debating them right to the minute?

Hon. W. McKeeva Bush, Leader of the Opposition: Huh?

Hon. D. Kurt Tibbetts: We're really not debating them right to the minute; just saying.

Hon. W. McKeeva Bush, Leader of the Opposition: Well we aren't supposed to...

Hon. D. Kurt Tibbetts: I'm not arguing with you.

Hon. V. Arden McLean: Thank you.

Hon. W. McKeeva Bush, Leader of the Opposition: Well, we aren't supposed to get to them before we get to them. But I was so caught up in it that I thought that I would put my views on it, and if the Speaker allows and don't stop me on the basis of the Orders because I am speaking before we get to it.

[Laughter]

The Speaker: That is a very good effort Leader of the Opposition, but you know only so much I can allow. I have allowed, so please continue to disallow. You can do it.

Hon. W. McKeeva Bush, Leader of the Opposition: Madam Speaker, the truth is I will wait. I'll have more scope in the committee stage to ask some questions.

Madam Speaker what I am concerned with most of all, that whatever Government is doing, we are not going to hamstringing business to the point that . . . because we do need to regulate; that we all know. But that is not going to raise cost at the bottom end, meaning that Cayman Water Company is going to be regulated.

I am hoping and what I am saying is that we don't get to the point where they are going to come back and say we have to raise cost because of what Government has done, and so we can't do anything about that. You know and I know that is sung in good tune.

Hon. D. Kurt Tibbetts: That's a song that they sing.

Hon. W. McKeeva Bush, Leader of the Opposition: Yes! And that is all that I am saying because I can tell you, I pay enough water bills for people down there already. Just like some, you all pay on this end, and we don't need to get to the point where it is going to go higher. And that is what I am hoping that with the regulation, will come a point where you are digging in deep enough to say like we say to CUC, *Enough is enough. You can only get this much out of it now.*

Hon. D. Kurt Tibbetts: That is exactly right.

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

At the end of the day, Madam Speaker, and I know you had this Ministry as well and you know some of the problems we have faced. So, you are not unfamiliar with it. And so, Madam Speaker, if the House does not carry on too long, and I don't know if we will get to these tonight, but I will leave the balance of the . . . I wouldn't seek to—

[Inaudible interjection]

Hon. W. McKeeva Bush, Leader of the Opposition: We won't get it tonight?

Hon. D. Kurt Tibbetts: Committee stage?

Hon. W. McKeeva Bush, Leader of the Opposition: No, no, tonight is Friday night, please don't. Please don't.

So, Madam Speaker, I will leave my thoughts at that point and wait until when we get to the Committee stage.

The Speaker: Does any other Member wish to speak?

I recognise the Member for East End.

Hon. W. McKeeva Bush, Leader of the Opposition:
I know you don't need this.

[Inaudible interjection]

Hon. V. Arden McLean: Thank you, Madam Speaker.
Madam Speaker, I guess I should declare my hand; I have concerns about all of these Bills that are related to water production. And, Madam Speaker, I should say I have similar concerns as the Leader of the Opposition on these committee stage amendments and the like. I also have concerns of the Water Company remaining a regulator. I have serious concerns with that.

Hon. W. McKeeva Bush, Leader of the Opposition:
The Water Authority.

Hon. V. Arden McLean: Yeah.

Madam Speaker, like the Leader of the Opposition said, we have talked about a Utilities Commission forever. Your good-self, the Leader of the Opposition, the current Minister, myself, my predecessor; we have talked about it forever. But what I am seeing here, with all due respect, Madam Speaker, do not achieve what our dreams were, and I can speak specifically to mine, which was that we would have a regulator that regulated everybody. A commission that regulated everybody, but when you intersperse some of our operators as partial regulators, we have a problem.

Well, Madam Speaker, for fear of breaching the protocols, the Water Authority still has certain controls on water and waste management. And allowing them to issue license and for such, has to be of concern. It is not about the necessary abilities of people; it is about the conflicts that will arise between the office of the Utility Regulation and Competition Office.

For instance, Madam Speaker, a simple one is the Regulation and Utility and Competition Law does not include in it the type of mechanism they're using for rates. It doesn't. Now it is represented in the Water Authority and it is represented in the Waste Sector Regulation Bill. Those are the ones that should be regulated by the Regulation and Competition Office. I don't know if there is anything wrong with the "RCAM" [rate cap adjustment mechanism] being put in here, but certainly it must be in the Regulatory Bodies Bill in order that its enforceable and I refer to the Office as the Regulation and Competition Office.

Madam Speaker, it was all well and good when I did the ERA because that was for a specific utility and it would have been well to put in the Water Authority Law, and this Law if we did not now have an overarching office.

[Inaudible interjection]

Hon. V. Arden McLean: Pardon me?

[Inaudible interjection]

Hon. V. Arden McLean: Okay.

[Inaudible interjection]

Hon. V. Arden McLean: The Minister has indicated that it comes in the regs but the Competition Law has been in place a long time.

An Hon. Member: Which one?

Hon. D. Kurt Tibbetts: URCO?

Hon. V. Arden McLean: URCO or . . .

Hon. D. Kurt Tibbetts: Long time? [INAUDIBLE] didn't come into being until the 16th of January.

Hon. V. Arden McLean: Oh yeah?

Hon. D. Kurt Tibbetts: Yeah.

Hon. V. Arden McLean: That's when cousin went—

[Laughter]

Hon. D. Kurt Tibbetts: No your point is valid, but I am just explaining to you why—

Hon. V. Arden McLean: But Madam—

Hon. D. Kurt Tibbetts: Go ahead.

Hon. V. Arden McLean: Madam Speaker, if we're going to move forward with the rate structure calculator that I developed 2005 to 2009, we need to have put that in there if that is going to be a standardised thing across the board—RCAM. If that is going to be our way forward to calculate rates for utilities and, Madam Speaker, RCAM is only the concept. The numbers can change whenever you so choose. But if that's the system we are going to use then it needs to be in the Law with the regulation saying that those quantities may be moved, depending on the type of utility. For instance, the CPI [Consumer Price Index], we apply, I think, 40 per cent of the US one and then we remove certain things out of the CPI.

[Inaudible interjection]

Hon. V. Arden McLean: Consumer Price Index. That's one of the numbers we use in the formula on RCAM. And if we're going to, different utilities will require different aspects of the CPI being removed before it is supplied to the calculation. So, it needs to be put in law, if that's the way forward because right now, we could very well have a situation where the Office

has no means of manipulating that or if they try to manipulate it they get objection thereto.

Madam Speaker, I know when I reach the Water Authority Bill I will have much more to say but I am a little concern about some of these provisions wherein the Water Authority continues to have part of their enforcement abilities. I am very concern about that because there is going to be conflicts between the Water Authority and the overarching arm. And I am not asking anybody. I am speaking from experience, as a Minister with constitutional responsibility. I've had my difficulties with the utilities, especially when they were provisions in the Law. For instance, can only give general direction and not on a particular matter that is being considered.

The difficulties I'm talking about, not face on difficulties, but resistance. And I can just imagine, and not all of the people were of that mindset, but I could just imagine people considered an office that is considered unequal but really supposed to give direction. We have to be careful we don't go one step forward and two steps backward in this business. There needs to be a regulator that all others must listen to. This isn't equal among men—*this is not equal among men*. This is one of many and the decisions must be made there. There is no shared division decision possibility. That is why, Madam Speaker, all our lives we have had difficult in the fuel industry, because there were no one person making decisions on what needed to happen. There is nothing easier, Madam Speaker, than utilities and application of formulas. Liars can figure but figures don't lie.

Hon. D. Kurt Tibbetts: Depends whether you're an accountant or not.

Hon. V. Arden McLean: Well, if you're an engineer, they don't lie! If you're an engineer, they don't lie! When they present themselves you can depend on it; accountants might be a different thing.

[Inaudible interjection]

Hon. V. Arden McLean: 2 plus 2 can equal anything you want it to be. But when it comes to engineering that has to be four or you're going to mash up whatever it is. There is no maybe or perhaps. And therein lies my great concern about this—one person. You don't need two, three people to say that those are the numbers. You need the other person to tell you what the parameters are. But the same results will be achieved.

Madam Speaker, I want the Minister to think about what I just said. I'm not here criticising; I'm trying to avoid what I see as a possible difficulty down the road. I see it and I feel it.

Hon. W. McKeeva Bush, Leader of the Opposition: Can you tell me which section you're talking about?

Hon. V. Arden McLean: Madam Speaker, it's—

Hon. D. Kurt Tibbetts: I'm not asking specifically, I am just trying to get a feel for exactly what you're referring to.

Hon. V. Arden McLean: I see the amendments and that's what I'm trying to—

Hon. D. Kurt Tibbetts: Okay.

Hon. V. Arden McLean: I am trying to work around without getting the Speaker to come down on me with a ton of bricks.

The Speaker: You're saying you're not being transparent, Member for East End?

[Laughter]

Hon. V. Arden McLean: Well I am trying to, through you, Madam Speaker, talk to my good friend the Minister but I don't want to go directly into it. And it's about those amendments that I see coming there that is going to cause a little hiccup and that kind of thing.

The Speaker: Honourable Minister for Infrastructure on a point of elucidation.

POINT OF ELUCIDATION

Hon. D. Kurt Tibbetts: Yes Ma'am. Madam Speaker on a point of elucidation, just so the Member will know that before we go to actual committee stage, I am quite happy to sit with the Member or any other Member who wishes to sit along with the technical staff so we can hear what those concerns are, to ensure. I'm not trying to cut the debate but just to be able, because the concern the Member raised seems to span across more than one of the Bills. So, because of that is why I am making the offer, which would be, not in the Chamber here and before we actually get to committee stage with them. I am saying I am happy to do that so we can get a clear understanding.

The Speaker: Honourable Minister for Infrastructure, I thought while you were in an offertory mode that you were going to do an adjournment but I was anticipating.

Hon. V. Arden McLean: Let's adjourn now.

The Speaker: Honourable Member of East End.

Hon. V. Arden McLean: Madam Speaker, I can move the motion?

Hon. D. Kurt Tibbetts: No. At least let me wind this one up.

The Premier, Hon. Alden McLaughlin: Yeah.

Hon. V. Arden McLean: Okay.

Madam Speaker, I am happy to sit with the Minister. I hope, let me put it on the record, the Premier said that we got to wind this one up, then we going home. Madam Speaker it has been a l-o-n-g week. It has been very long, even the Premier has bloodshot eyes from this week. So do I; all of us.

[Inaudible interjection]

Hon. V. Arden McLean: Madam Speaker, I am happy to sit with the Minister and go over some of these things that we want. But I am not sitting with him to go over that fuel one because that fuel one has some difficult provisions that I can't. I guess we will have to deal with that too, Madam Speaker.

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?

If not, I call upon the Honourable Minister for Infrastructure.

Hon. V. Arden McLean: They want to go home, that's why they won't speak.

Hon. D. Kurt Tibbetts: Thank

Hon. V. Arden McLean: As soon as you wind-up, say, "Madam Speaker, in addition, I move the adjournment of this honourable House." Don't make Alden get up here.

[crosstalk]

Hon. D. Kurt Tibbetts: Madam Speaker, first of all, let me say that I am quite happy, and as the Honourable Member for East End has intimated, we can, Monday morning spend a few minutes to go over those concerns to make sure that we are on all fours. There are a couple of points I want to make based on what the Honourable Leader of the Opposition has said and what the Member of East End said.

Madam Speaker, the Leader of the Opposition spoke to the fact that because of the Utilities Regulation and Competition Office becoming a reality, that the franchise holder in his district would not be raising the water rates. I want to say publically that it is our intention to get to the point, by a way of URCO to be able for those rates to be lowered, not to be increased. And the points that were being raised, regarding the committee stage amendments, Madam Speaker, not to make a cloud out of anything, but those points were sent to my technical staff a half hour ago. So, we certainly did not have chance . . . they were sent from private sector. So, we have not

had a chance to look at them. We've had more than one meeting with stakeholders on it. We are certainly willing to look anything that is new again, although, we thought we had gotten to the end of the road, but if not, that's okay. This is about getting it right. So, we will look at them and I just wanted the Honourable Leader of the Opposition to know that.

The point about RCAM, Madam Speaker, if the Member looks at the Water Sector Bill in the definition section, he will see RCAM in bold letters, down on the bottom of page 9. It says RCAM means "the mechanism for determining and modifying prices for services rendered by the authority or a concessionaire to consumers, as approved by the Office and specified by the Office in administrative determination issued by the Office in respect of the authority or in a licence issued by the Office to a concessionaire." And just so the Member will know,—and perhaps we can broaden the perspective and discussion on that on Monday morning—each Bill refers to RCAM, and the Member is right—

[Inaudible interjection]

Hon. D. Kurt Tibbetts: —RCAM is a principle, not necessarily of the formulae being the same. So, we can talk about, but I just wanted—

[Inaudible interjection]

Hon. D. Kurt Tibbetts: I understand. I understand, so we can go through all of that.

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Madam Speaker, I know it is getting late and perhaps if we got for this one, the Second Reading completed, I'm in the hands of all. I would have liked to do one more but what I don't want to do, Madam Speaker, is to cause any consternation at this time at a Friday afternoon because things have gone so well. So, let me anticipate, Madam Speaker—

[Inaudible interjection]

Hon. D. Kurt Tibbetts: Let me anticipate, Madam Speaker, that Members would be quite willing to vote for this, although, there are some committee stage amendments and then, on Monday morning we can have a discussion with the honourable Member for East End and whoever else wishes to be a part of that discussion. We can go through that to make sure we are on all fours when we come to the committee stage amendments. Thank you Madam Speaker.

[Inaudible interjection]

The Speaker: The question is the Bill shortly entitled the Water Sector Regulation Bill, 2017, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Water Sector Regulation Bill, 2017, given a second reading.

Hon. V. Arden McLean: Madam Speaker, unless someone else has something, I don't have a problem with them going through the water ones. I have difficulties with the fuel one.

Hon. D. Kurt Tibbetts: It is only the water ones I want to—

Hon. V. Arden McLean: The fuel ones have some serious problems with it.

[Inaudible interjection]

Hon. V. Arden McLean: In my debate to come.

The Speaker: Honourable Members, in order to facilitate this request in the interest of time, the Honourable Deputy Premier and myself will wish to vacate the Chamber at this time and I ask my Deputy to take the Chair, as neither of us owns a private jet and we would seriously like to get home this weekend.

[Inaudible interjection]

The Speaker: Honourable Deputy Premier.
Members please stay in your seats. Thanks.

[Pause]

[Hon. Anthony S. Eden, Deputy Speaker, presiding]

The Deputy Speaker: Please be seated.
Proceedings are resumed

SECOND READING

WATER AUTHORITY (AMENDMENT) BILL, 2017

The Clerk: The Water Authority (Amendment) Bill, 2017

The Deputy Speaker: Honourable Minister.

Hon. D. Kurt Tibbetts: Thank you.

Mr. Speaker, I beg to move the Second Reading of a Bill for Law to amend the Water Authority Law

(2011 Revision) as a consequence of the establishment of the Utility Regulation and Competition Office; to transfer the Water Authority's economic regulatory responsibilities to the Utility Regulation and Competition Office; and for incidental and connected purposes.

The Deputy Speaker: Does the Minister wish to speak, thereto?

Hon. D. Kurt Tibbetts: Yes, Mr. Speaker.

Mr Speaker, the Water Authority (Amendment) Bill 2017, amends the 2011 Revision Law as a consequence of the establishment of the Utility Regulation and Competition Office. The Water Authority's economic regulatory responsibilities would be transferred to that Office.

Hon. W. McKeever Bush, Leader of the Opposition: I thought we were not doing anymore this evening.

Hon. D. Kurt Tibbetts: These will just breeze right through. Everybody else agreed.

Clauses 4 and 5 respectfully repeal section 6 and 7 of the principal Law to remove a number of the Authorities Regulatory powers, for example, the power to monitor and regulate the tariffs, rate structures and terms and conditions for water supply and waste water services charged to consumers.

Similarly, clause 7 of the Bill repeals the Water Authority's power to make regulations in respect to certain matters.

Mr. Speaker, may I just have one minute sir?

[Pause]

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

Mr. Speaker, as I was saying, clauses 4 and 5 respectively, and clauses 6 and 7 are repealed. Clauses 6 and 7 of the main Law are repealed by clauses 4 and 5 to remove a number of the regulatory powers of the Authority, such as, the power to monitor and regulate the tariffs, the rate structures and terms and conditions for water supply and waste water services charged to consumers.

Similarly, clause 7 of the Bill repeals the Water Authority's power to make regulations in respect to certain matters.

Clause 9 contains certain transitional provisions of importance; are the provisions addressing any ongoing negotiations between the Water Authority and the concessionaires and providing for an orderly transfer of these matters to the Office.

Mr. Speaker, the Bill also provides for the Authority to collect statutory fees, to fund its statutory functions, such as those of water resources manager. This provides a transparent mechanism to separate its billings to consumers for the billing of water supply services as distinct from its regulatory duties.

So, Mr. Speaker, this is just one more chain, or rather one more link, in the chain of transfer, with regards to these series of water bills, which will allow the Utilities Regulation and Competition Office to take charge of the economic regulation of the water sector, and I do trust and hope that Members will see it fit to support the Bill.

Hon. W. McKeeva Bush, Leader of the Opposition: Hurry up nah!

The Deputy Speaker: Does any other Member wish to speak?

I call on the Honourable Member for East End.

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

Mr. Speaker, when I was speaking earlier, here is where the things are that I picked out. Under the ERA [Electricity Regulatory Authority], CUC [Caribbean Utilities Company] could not set rates without first submitting all the returns to the ERA that would first approve it. There are no specific provisions here. The only thing we are doing is changing clause 7(4) to say: "Right now the Authority may exercise its power to fix rates by reference to such matters and may adopt much methods and principles for the calculation and in position of the charges as it appears to the Authorities to be appropriate, but rates and changes for the provision of water supply and waste water services shall not be fixed or imposed without the prior written approval of the Office".

Now, what is the Office using? What will the Office use to determine that the rates are correct? You have a needs report; you have your last returns and what have you. These are the things that I am extremely concerned about. I'm very concerned about it. What is the Water Authority going to do, just send something that says . . . the Office needs to scrutinise it like the ERA used to do. And the submission that goes there, what is the submission? In the ERA it says what the submission must be. Those are the things I have grave concerns about because it is in the interest of the people.

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

If no other Member wishes to speak, does the mover of the Bill wish to exercise his right of reply?

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

Mr. Speaker, I am very cognisant of the Member's concerns that he is raising but I say to him, once more, that when we got through each of these Bills in tandem, he will see very clearly that all of the concerns that he speaks to are met.

In the previous Bill that we just discussed, that is, the Water Sector Regulation Bill, is where the provisions for setting rates are located.—

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

Hon. D. Kurt Tibbetts: In the previous Bill.

Hon. W. McKeeva Bush: Yes, and I said that—

Hon. D. Kurt Tibbetts: So...

[Inaudible Interjection]

Hon. D. Kurt Tibbetts: Mr. Speaker, let me just say this: I certainly don't have a problem with the Member airing his concerns but I am certain, because I understand where he is coming from quite well. I am certain when we go through one by one all of these . . .

Hon. W. McKeeva Bush, Leader of the Opposition: You understand quite well but are you going to do anything to help us?

Hon. D. Kurt Tibbetts: That is the whole intention sir.

Hon. W. McKeeva Bush, Leader of the Opposition: Okay Bobo—

Hon. D. Kurt Tibbetts: I don't want you cursing me when I'm not here.

Hon. W. McKeeva Bush, Leader of the Opposition: Let's go.

Hon. D. Kurt Tibbetts: So, Mr. Speaker, I will record the concerns but say to the Member that when we go through all of the Bills together, I think the picture will be a lot clearer. So, I trust we can go to the vote now.

The Deputy Speaker: The question is that a Bill shortly entitled the Water Authority (Amendment) Bill 2017, be given a second reading.

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

AYES.

The Deputy Speaker: The Ayes have it.

Agreed: The Water Authority (Amendment) Bill, 2017 given a second reading.

SECOND READING

WATER (PRODUCTION AND SUPPLY) (AMENDMENT) BILL 2017

The Clerk: The Water (Production and Supply) (Amendment) Bill, 2017.

Hon. D. Kurt Tibbetts: Madam Speaker . . . Mr. Speaker, forgive me sir.

The Deputy Speaker: No problem.

Hon. D. Kurt Tibbetts: I beg to move the Second Reading of a Bill to amend the Water (Production and Supply) Law, 2011, as a consequence of the establishment of the Utility Regulation and Competition Office; to transfer the Water Authority's licensing responsibilities to the Utility Regulation and Competition Office; and for incidental and connected purposes.

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

[Inaudible interjections]

Hon. D. Kurt Tibbetts: Mr. Speaker, the amending Bill seeks to transfer the power to grant and issue licenses under this Law, from the Water Authority to URCO. And you will note, Mr. Speaker, the amendment stipulates that the Cabinet shall consult with the Water Authority, but that it may consult with the Office in seeking advice on the grant of concessions. This maintains the Water Authority's statutory duty as an advisor to Cabinet on these matters, and is simply the purpose of this amending legislation. And in advance, just wish to thank all Members for their support.

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

If no other Member wishes to speak, does the mover of the Bill wish to exercise his right of reply?

The question is that the Bill shortly entitled The Water (Production and Supply) (Amendment) Bill, 2017, be given a second reading

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

AYES.

The Deputy Speaker: The Ayes have it.

Agreed: The Water (Production and Supply) (Amendment) Bill, 2017, given a second reading.

WASTE WATER COLLECTION AND TREATMENT (AMENDMENT) BILL 2017.

The Clerk: The Waste Water Collection and Treatment (Amendment) Bill, 2017.

The Deputy Speaker: I call on the Honourable Minister.

Hon. D. Kurt Tibbetts: Thank you.

Mr. Speaker, I beg to move the Second Reading of the Waste Water Collection and Treatment (Amendment) Bill, 2017.

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

Hon. D. Kurt Tibbetts: Yes Sir.

Mr. Speaker, these amendments are aimed to transfer the power to grant and issue licences under this Law from the Water Authority to the Utility Regulation and Competition Office. And the amendments stipulates, once again, Mr. Speaker; that Cabinet shall consult with the Water Authority but may consult with URCO in seeking advice on the grant of Concessions and this maintains the Water Authority's statutory duty as an advisor to Cabinet from these matters. Once again, Mr. Speaker, I trust that Members will see it fit to support the Bill.

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

If not, does the mover of the Bill wish to exercise his right of reply?

The question is that the Bill shortly entitled The Waste Water Collection and Treatment (Amendment) Bill, 2017, be given a second reading.

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

AYES.

The Deputy Speaker: The Ayes have it.

Agreed: The Waste Water Collection and Treatment (Amendment) Bill, 2017, given a second reading.

Hon. D. Kurt Tibbetts: Mr. Speaker.

The Deputy Speaker: I now call on the Honourable Minister for the adjournment of this honourable House.

ADJOURNMENT

Hon. D. Kurt Tibbetts: Thank You.

Mr. Speaker, I beg to move the adjournment of this honourable Legislative Assembly until 10 am, Monday.

An Hon. Member: Sharp.

Hon. D. Kurt Tibbetts: I'm told to say 'sharp'.

The Deputy Speaker: Very good.

The question is that this honourable House do now adjourn until 10 am Monday.

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

AYES.

The Deputy Speaker: The Ayes have it.

At 5:46 pm the House stood adjourned until 10 am, Monday, 20 March, 2017.