



CAYMAN ISLANDS LEGISLATIVE ASSEMBLY

OFFICIAL HANSARD REPORT ELECTRONIC VERSION

2018/19 SESSION

21 November 2018

Fifth Sitting of the Second Meeting

(Pages 1-49)

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

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PRESENT WERE:

SPEAKER

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

MINISTERS OF THE CABINET

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

EX OFFICIO MEMBERS OF THE CABINET

Hon Franz Manderson, MBE, Cert Hon, JP	<i>Deputy Governor</i> , ex officio Member responsible for the Portfolio of the Civil Service
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ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

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

OPPOSITION MEMBERS

INDEPENDENT MEMBERS

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

APOLOGIES

Hon Samuel Bulgin, QC, JP.	<i>Attorney General</i> , ex officio Member responsible for Legal Affairs
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**OFFICIAL HANSARD REPORT
SECOND MEETING 2018/2019 SESSION
WEDNESDAY
21 NOVEMBER 2018
11:08 AM
Fifth Sitting**

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

The Speaker: Good morning.

We will call now on the Honourable Deputy Governor to say prayers.

PRAYERS

The Deputy Governor, Hon. Franz I. Manderson:
Good morning, let us pray.

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

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

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

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

The Speaker: Please be seated.
Proceedings are resumed.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

The Speaker: None.

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

The Speaker: We have apologies for late arrival by the Member for Savannah, and we have apologies from the Honourable Attorney General who is not able to be present due to duties overseas.

PRESENTATION OF PETITIONS

The Speaker: None.

Mr. V. Arden McLean, Elected Member for East End:
Mr. Speaker, I should've asked under the apologies. The Constitution is very specific that this Legislature is made up of 19 and 2 [totalling] 21. That is, the Deputy Governor as Ex-Officio Member and the Attorney General as an Ex-Officio Member; and we all know the reasons why, in particular, the Attorney General. It is specifically—if I may, sir—[so] that this House, is at all times with the availability of the Legal Advisor to Government and this Legislature. I should question: why in his stead, during his absence, there is not someone who can fill that responsibility and ensure that this House is legally convened?

The Speaker: Well, honourable Member, I sense the direction of your question. The House is legally convened with or without the Legal Advisor—if you want to call him that—or the Attorney General. Once we have a quorum, the House is legally convened.

I would suspect that we would be able to get any legal advice we needed. However, maybe the Honourable Deputy Governor can answer that question.

The Deputy Governor, Hon. Franz I. Manderson: Mr. Speaker, as the House may know, the Attorney General had to leave the Island quite quickly. It was not a scheduled trip. It is to represent the Cayman Islands overseas on business. Unfortunately, the Acting Solicitor General who would normally be here was already on vacation; so, both of them are not here. They are both standing by by their phones should the House need their assistance. We also have other Members of the Legal Department here to assist as well, but it is unfortunate, and we apologise that the Attorney General or the Acting Attorney General is not here.

The Speaker: Should the House require any advice that our lawyers on the Government side—the Premier, the Minister of Education, the Minister of Financial Services who are lawyers and yourself—

[Laughter]

The Speaker:—and myself included—cannot answer or the Government needs and we cannot answer, then the Premier and the Government will make available accordingly.

Next Item.

I understood your question though.

[Crosstalk]

PRESENTATION OF PAPERS AND OF REPORTS

CAYMAN ISLANDS GOVERNMENT PLAN AND ESTIMATES – 1ST SUPPLEMENTARY PLAN AND ESTIMATES FOR THE FINANCIAL YEAR: 1ST JANUARY 2018 TO 31 DECEMBER 2018

The Speaker: The Honourable Minister of Finance.

Hon. Roy M. McTaggart, Minister of Finance and Economic Development, Elected Member for George Town East: Thank you, Mr. Speaker.

Mr. Speaker, I beg to lay on the Table of this honourable House the first Supplementary Plan and Estimates for the Government of the Cayman Islands for the Financial Year that will end on the 31st December 2018.

The Speaker: So ordered.

[Pause]

The Speaker: Is the Honourable Minister speaking thereto?

Hon. Roy M. McTaggart: Very briefly, Mr. Speaker. I thank you.

Mr. Speaker in accordance with Standing Order 67(1) the first Supplementary Plan and Estimates document that has just been laid stands referred to the Finance Committee.

As the estimates will be considered in Finance Committee at the conclusion of the Second Reading of the associated Supplementary Appropriation Bill, that is further down on the Order Paper, I only wish to make very brief remarks in respect of the document that has been Tabled.

Mr. Speaker, the first Supplementary Plan and Estimates document is structured in the following way:

Section A of the document shows in respect of the specific appropriations being changed, the following information:

1. The amount of the original approved appropriation for a particular budget item;
2. The amount of the supplementary appropriation proposed for the particular budget item; and
3. The revised appropriation amount for the particular budget item.

Section B of the document contains the proposed changes to the Appropriation Law for the Financial Year ending 31st December 2018 and that Law was approved by the Legislative Assembly in November 2017.

Section C of the document shows the forecast financial statements for the financial year ending 31st December 2018.

Mr. Speaker, Honourable Members should use the first Supplementary Plan and Estimates as a document that provides more information to each of the items in the Schedule to the Supplementary Appropriation Bill for the 2018 Financial Year. That Bill appears further down on today's Order Paper.

Thank you very much Mr. Speaker.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: Can we have the suspension of Standing Orders?

Suspension of Standing Orders *Standing Order 23(7) and (8)*

The Premier, Hon. Alden McLaughlin, Minister of Human Resources, Immigration and Community Affairs, Elected Member for Red Bay: Thank you, Mr. Speaker.

Mr. Speaker, I move the suspension of Standing Order 23(7) and (8) in order that questions may be asked of Ministers after the hour of 11 o'clock.

The Speaker: The question is that Standing Orders be suspended in order for questions to be asked after the hour of 11 am.

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

AYES.

The Speaker: The Ayes have it.

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

QUESTION NO. 32 ALLOCATION OF ROAD REPAIR AND IMPROVEMENT BUDGET

The Speaker: The Elected Member for Newlands.

Mr. Alva H. Suckoo Jr., Deputy Leader of the Opposition, Elected Member for Newlands: Thank you Mr. Speaker.

Mr. Speaker, I rise to ask question number 32, in my name, to the Honourable Minister of Commerce, Planning and Infrastructure.

Can the Honourable Minister state what road repair and improvement budget has been allocated to each Constituency in the Cayman Islands for the current budget period, and what amount of these budgets have been used as of 31st October 2018?

The Speaker: The Honourable Minister of Commerce.

Hon. Joseph X. Hew, Minister of Commerce, Planning and Infrastructure, Elected Member for George Town North: Good morning, thank you Mr. Speaker. I thank the Member for the question.

Mr. Speaker, the answer is that the National Roads Authority (NRA) segregated its two-year budgets for district roads into essentially two one-year budgets. The total allocation for the fiscal year 2018 was \$1.6million and the total allocation or 2019 is also \$1.6million.

The \$1.6million budget for 2018 was broken down by districts and the amounts allocated for each district based on the stated condition of roadway segments in the NRA's Pavement Management Database. The amounts to be spent in each District for 2018 were planned as follows:

- East End \$150,000
- North Side \$225,000
- Bodden Town \$525,000
- George Town \$300,000
- West Bay \$400,000

Mr. Speaker, the NRA took the decision to start in East End and work its way west over the two-year period, which meant that it would not likely reach George Town and West Bay until late 2018.

In September 2018, the NRA opted to reduce the \$1.6million proposed spend to \$1.2million in order to help fund shortfalls in its **NRA 9 - Routine Maintenance** vote.

Mr. Speaker, the actual versus budgeted expenditure for the district roads as of September 30th is as follows:

	Budget	Invoiced to date
NRA 6 – East End	150,000	278,295.53
NRA 6 – North Side	225,000	222,447.71
NRA 6 – Bodden Town	525,000	546,108.19
NRA 6 – George Town	300,000	94,129.78
NRA 6 – West Bay	400,000	12,322.20

SUPPLEMENTARIES

The Speaker: Honourable Member do you have a supplementary?

Mr. Alva H. Suckoo Jr., Deputy Leader of the Opposition: Yes, Mr. Speaker.

I wonder if the Minister could state if any Capital allocations were made for the eastern districts for road work and repair.

The Speaker: The Honourable Minister.

[Pause]

Hon. Joseph X. Hew: Mr. Speaker, if you would indulge me to just confer with my staff.

[Pause]

The Speaker: The Honourable Minister.

Hon. Joseph X. Hew: Thank you.

Mr. Speaker, we do not have that information with us and I assume “capital” as in “capital works”. Yeah; I do not have that information with me. [If the Member wishes, we can get that information and respond to him later or in writing, either way.](#)

The Speaker: Member for Newlands.

Mr. Alva H. Suckoo Jr., Deputy Leader of the Opposition: Thank you Mr. Speaker.

Mr. Speaker, I wonder if the Minister could state whether or not he believes that the upcoming period with \$1.6million allocated to 2019 is going to be sufficient to cover the needs for road repairs throughout the eastern districts.

The Speaker: The Honourable Minister.

[Pause]

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

Based on the information I have been given, we do feel that the \$1.6 million is enough. In the instances where we—like in this period—found that we had to move some funds to deal with more urgent repairs in particular, after the rains et cetera, we had to move funds around and we have actually, since this question came in, re-appropriated funds to the District Road Works to continue through to the end of the year.

The Speaker: The Honourable Member for Newlands.

Mr. Alva H. Suckoo Jr., Deputy Leader of the Opposition: Thank you Mr. Speaker. I would like to thank the Minister for that answer and just to acknowledge that his team did a good job on the roads that they managed to approach or attack in Newlands.

My follow-up question is about the roads that have now been repaired in Newlands. There has been a delay in putting back speed bumps and I think some of the drains and so on that may have been filled over by, I guess, mistake.

Can the Minister give an update on when those things will be done? Because the issue I have in Newlands is that resurfaced roads encourage people to speed in certain areas and that is becoming a real issue in the constituency.

The Speaker: The Honourable Minister of Commerce.

Hon. Joseph X. Hew: Thank you, Mr. Speaker, and I thank the Member for the question.

Yes, we have had some delays. We have a long list of request for speed calming measures, et cetera. We also went back to the drawing boards on those as well because we have had some complaints over the type of traffic calming measures we were using, commonly known as 'speed bumps'. I have been reliably informed that the NRA has now agreed on the specific type that they will use, so if the Member would please just shoot me a quick e-mail on the areas that he has concerns with, I can make sure that they are on the list.

The Speaker: The Member for East End.

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

Mr. Speaker, I just want to clarify with the Minister. In the substantive question that asks for the road repair and improvement, is the Government considering them one and the same; road improvement versus road repair?

The Speaker: The Honourable Minister of Commerce.

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

To answer the Member for East End, no, we try to keep those separate.

To follow on, with the Honourable Deputy Opposition Leader, there was \$144,000 in hot mix reinstatement on the Seaview Road in East End that came from the NRA 14 vote.

The Speaker: The Member for East End.

Mr. V. Arden McLean: Mr. Speaker, can the Minister then tell us if this is repairs or does it also include improvements because that one that [he] just spoke of, the 144 [000], was that also repairs or improvement? Because the road in East End is what I was going to; there is a need for further improvements on the road, not repair, improvement.

The Speaker: The Honourable Minister of Commerce.

Hon. Joseph X. Hew: Thank you, Mr. Speaker. I thank the Member for the question.

The Member is correct. Sometimes we get to a road that the NRA initially goes to do repairs and realises that repairs would be senseless and actually end up doing a full improvement and realignment on the road, et cetera.

The Speaker: The Member for George Town Central.

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

Can the Minister say if there are any plans on repaving the McField Lane? Is it still on track for the end of this year?

The Speaker: The Honourable Minister of Commerce.

[Pause]

Hon. Joseph X. Hew: Mr. Speaker, I thank the Member for the question.

What we hope to achieve before the end of this year, McField Lane is not on that list, from an understanding that the end of this year is not the end of George Town works. It is what we have in the budget that we think we will complete by the end of this year.

On the list to be completed under this budget by the end of year in George Town Central are Avocado Lane and Grapevine Close.

The Speaker: Member for George Town Central.

Mr. Kenneth V. Bryan: Thank you, Mr. Speaker, and I also thank the Minister for the answer.

Can the Minister say whether or not the NRA has plans to do the improvements that have been gazetted for the widening of McField Lane? If I understand correctly, that road was gazetted a while back to be widened. Are there any plans on addressing widening of that area? The reason why I bring it up, Mr. Speaker, if you will allow... Yeah? Okay.

The Speaker: Honourable Minister.

Hon. Joseph X. Hew: Thank you, Mr. Speaker, and I thank the Member for the question.

This is another case of where we had a road—the McField Lane—down for repairs and we have now realised that we have to do a full improvement on that road; so in the next year's budget we will schedule for a full improvement on the road.

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

My second question was whether or not that improvement will include the widening element or just resurfacing.

The Speaker: Honourable Minister.

Hon. Joseph X. Hew: Mr. Speaker, I have been reliably informed that that includes widening.

[Inaudible interjection]

[Pause]

**QUESTION NO. 33
REQUIRED COMPLETION TIMES AND ESTIMATED
COSTS FOR CAPITAL INFRASTRUCTURE
PROJECTS IDENTIFIED IN THE EASTERN
DISTRICTS FOR GOVERNMENT TO IMPLEMENT
ITS NATIONAL TOURISM PLAN**

The Speaker: The Elected Member for Newlands.

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Thank you, Mr. Speaker.

I rise to ask question number 33, in my name, to the Honourable Minister of Tourism.

Can the Honourable Minister state what capital infrastructure projects have been identified to date in the Eastern Districts (Bodden Town, East End and North Side), which are considered necessary for Government to fully implement its National Tourism Plan; and what are the required completion times and estimated costs?

The Speaker: The Honourable Deputy Premier and Minister of Tourism and Transport.

Hon. Moses I. Kirkconnell, Deputy Premier, Minister of District Administration, Tourism and Transport, Elected Member for Cayman Brac West and Little Cayman: Thank you, Mr. Speaker.

Mr. Speaker, I thank the Member for the question. The answer: The following projects have been identified by the Government for the eastern districts.

Bodden Town

In Bodden Town, the Minister who spoke before me has looked over some of the capital works that will be needed for the new Mandarin project there.

Pedro St. James has a capital project which improves the restaurant that is onsite. I can also say that the tours have increased over 2017 by over five per cent and the updating of the restaurant was March 2019 and the capital expense was \$10,000.

East End and North Side

I capture East End and North Side together with the Botanic Park, one of the most exciting projects is the Children's Garden which will be accessible close to both areas. The tours for 2019 have increased by 15 per cent over 2017. The Children's Garden is \$1,200,000 in a capital project.

The Wreck of the Ten Sails' signage and Welcome Comfort Centre, June 2019, CI\$85,000.

North Side: Starfish Point Conference Centre, June 2019, CI\$99,000.

For all areas above we have been utilising the Department of Tourism to assist with the Marketing, assisting with Airbnb rentals and offering IT support for businesses that request assistance.

It is important to note that the National Tourism Plan is a fluid plan and therefore, my Ministry and the Department of Tourism will always be identifying items and moving the plan forward with action on those items.

Thank you, Mr. Speaker.

SUPPLEMENTARIES

The Speaker: Member for Newlands.

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Thank you, Mr. Speaker.

I have a follow-up. In relation to the Heritage House and the Nurse Josie Centre in Gun Square, I noticed the Minister hadn't mentioned that one, but I know we met there and he promised some assistance, so maybe he could give us an update on that.

The Speaker: Deputy Premier.

Hon. Moses I. Kirkconnell, Deputy Premier: Thank you, Mr. Speaker.

I want to thank the Member for actually reminding me of the very pleasant day we spent there together with other Members. A very strategic and interesting tourism product for the country.

The day we were there, the Director of the Department of Tourism and her team were also there, and she interacted and has since followed up with support; the offering of brochures and marketing support.

[I will endeavour to ask the Director for an update on that and supply it to the Member as well.](#)

The Speaker: The Member for Newlands.

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Thank you, Mr. Speaker.

With the exception of Pedro St. James is there any thought being given to any other attractions in the Newlands and Savanah area?

The Speaker: The Deputy Premier.

Hon. Moses I. Kirkconnell, Deputy Premier: Thank you, Mr. Speaker.

I will take a couple of minutes to talk about what I believe is an extremely important attraction for the Eastern Districts (Bodden Town, North Side, East End).

The identification of a Children's Garden at the Botanical Park is a destination tourism initiative. What this does, is the \$1.2 million is not going to be a \$1.2 million capital investment from government; it is going to be a partnership with private individuals as well.

In looking at the offering and the importance of this project itself, I gave you the example of an ongoing area where young people who are visiting the Island can come and enjoy. However, they won't come by themselves, they will come with their grandparents, their parents and brothers and sisters. When they get there—and I will list out the items—they are going to enjoy the youth of this Islands who are going to be there as well.

History shows us, Mr. Speaker, in a project like this, that this creates repeat business, it breaks down boundaries between the visitors and us, the Caymanian people, and it creates friendships that are generational lasting. The idea of putting this in that very strategic catchment area, between three districts, which will service that area and add to the tourism product, I think, is limitless to what it actually has to offer, from the product.

The project has:

- an outdoor classroom
- a whole garden landscape, including mounds and plants and trees; the site works is included in the clearing and filling
- a play-zone observation tower
- shaded areas for rest
- discovery pond
- environmental zone
- viewing of birds, bugs, lizard's area
- Butterfly House
- bamboo avenue area
- a kids' splash zone
- a tunnel run
- the accompanying landscape
- whole garden parameter fencing
- a grow zone
- signs and maps
- entryway and gazebo
- natural trees
- railway sleeper boxes
- sensory garden area
- cobblestone surface
- play-zone surface
- event lawn
- storage shed
- giant flower display area; and
- grow-zone perimeter landscaping.

Mr. Speaker, I think this is a very strategic way forward. I think it is going to be a tremendous benefit to the Eastern Districts of the Island.

The Speaker: The Member for Newlands.

Mr. Alva H. Suckoo, Jr., Deputy Leader of the Opposition: Thank you, Mr. Speaker, and I would like to thank the Minister for that answer and the effort being made.

Mr. Speaker, we have the only two functioning District Councils in the country; in North Side, Bodden Town/Newlands—although not yet legitimised by the government but a semblance of a District Council, anyway.

I wonder if the Minister would be open to taking input from these two bodies because they are representative of the constituencies with regard to what can be done to develop tourism in those constituencies and surrounding areas.

If he would undertake to give me some sort of a timeline that we could work with to make representations on behalf of those constituencies.

The Speaker: The Honourable Deputy Premier.

Hon. Moses I. Kirkconnell, Deputy Premier: Thank you, Mr. Speaker.

Mr. speaker, let me mention that the Minister who is here, and is from the Bodden Town area brings us much information from the different districts—in the eastern districts and other areas of Cayman—and has also been supportive of the initiatives that we have.

I believe that we have proven that anything that you bring, that is good for tourism, we are very interested in how we can work to make that happen.

The Speaker: The Member for East End.

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

Mr. Speaker, I wonder if the Minister can tell us, for my own edification, the Wreck of the Ten Sail signage, and I see he has re-named it to "Welcome Comfort Centre", wow. The new deadline is June.

Was it not intended for that to be December or January to coincide with the awards on Heroes' Day because of it being seaman? I was working on that basis all along.

Hon. Moses I. Kirkconnell, Deputy Premier: Mr. Speaker, the Member for East End is very well aware of the progress that we have tried to go forward with this.

I believe that he has been involved with the plans that were drawn—they were shared with him—and the timing of when they went to planning. He is correct, they are budgeted for in this budget, and we have made every effort to try and have it ready. However, I don't think it would be realistic for me to bring the answer to the question, and say to you, although we have tried and you have tried with us, and we appreciate help and the input you have given on the different visits there but it is simply not going to be ready for December 2018.

The Speaker: The Member for East End.

Mr. V. Arden McLean: Mr. Speaker, I understand that. I have been involved there but I thought we would have

been able to get it by January Heroes' Days which was the original intent. I do know that only last week it went out to tender or something like that, but it is a small building really.

On a different note, the matter of tourism in the eastern districts, there has been a number of launch-ramp docks, being used for tourism purposes. I believe the Minister for Works would know something about this as well, but it appears like the docks are being used outside of the agreement that was made with the operators who use those docks. Can the Minister assure me that he can look into it and correct those matters please?

Hon. Moses I. Kirkconnell, Deputy Premier: Thank you, Mr. Speaker.

Mr. Speaker, I thank the Member for the question. He is correct and he brought it to my attention seven or eight months ago, the issue was...

[Inaudible interjection]

Hon. Moses I. Kirkconnell, Deputy Premier: Right; and we reviewed it at that time. [I give him the commitment that I would look into it again and get the information that is available for it and understand the issue...](#)

[Inaudible interjection]

[Long Pause]

QUESTION NUMBER 34 THE FIVE PER CENT IN THE COST OF LIVING INCREASE FOR CIVIL SERVANTS

The Speaker: The Member for George Town Central, question number 34.

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

I rise to ask question number 34 on the Order Paper, standing in my name.

Can the Honourable Deputy Governor say, how was the five per cent determined in the cost of living increase for civil servants?

The Speaker: The Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Mr. Speaker, thank you, and I thank the Member for the question.

Mr. Speaker, the Cost of Living Adjustments (COLA) are adjustments that are made to the salary scale of the Civil Service to offset the effects of inflation over a period of time. The assessment is performed by the Economic and Statistics Office (ESO) who measures changes in the Consumer Price Index (CPI) within the Cayman Islands. For consistency, the Civil

Service uses the mid-year, June CPI, to assess the impact of annual inflation.

Historically, COLA was awarded routinely, with adjustments made at least every two years. However, in 2010, when the full impact of the global recession was being felt locally, the Civil Service had to tighten its belt and adopt certain austerity measures. One of these measures was a salary cut of 3.2 per cent which reversed the Cost of Living Adjustment linked to the rise in the Consumer Price Index of 2007. This salary cut was in place for five years, during which time there were no adjustments to counter the cumulative effect of inflation between 2007 and 2015.

While these measures were difficult, they were a part of many decisive decisions that had been taken to shore up the Cayman Islands economy and to enable the Government to cease running an operational deficit and to achieve a robust financial position where it yielded healthy annual surpluses.

As the financial situation improved, the Government has been diligent in rewarding Civil Servants for their productivity gains. With respect to COLA, this has met an increase of four per cent awarded in 2015, followed by an increase of five per cent awarded this year, to bridge the gap that has been created. Also, when the government announced the COLA this year, it committed to reassessing, again in two years, with the next COLA assessment being due in 2020.

With the medium salary in the Civil Service being CI\$46,575 annually, the five per cent COLA equates to \$194 increase per month for the average civil servant. For many Civil Servants, this means they are better able to fund monthly expenses, such as a house mortgage. With prime interest rates increasing from 3.5 per cent in December 2015 to five per cent in June 2018, a mortgage payment of a \$200,000 loan over 25 years means an increase in payments from \$1,001 to \$1,169 a difference of \$168.

Simply put, the increases in our food costs, our mortgage rates, our utilities had moved on while our salary ranges had not. Bridging this gap has been a deliberate strategy to facilitate staff retention and to enable the Civil Service to effectively compete to attract the top talent.

The five per cent is based not only on the impact to salaries but in consideration of the hard work and dedication exhibited by Civil Servants each day.

We cannot forget the lessons of our past. Future awards of COLA will be determined by two key factors; first being an assessment of the Consumer Price Index movements over the period. The second factor is equally important, namely, the fiscal position of the Government. We must always strike a balance to ensure we are responsible in our approach and that the measures we adopt are sustainable. I want to thank the Government for the decisive steps it has taken to close the gap that existed in our earnings as compared to inflation and for their commitment to making the next assessment in 2020. This demonstrates responsible

stewardship in our commitment to being a good employer.

Thank you Mr. Speaker.

SUPPLEMENTARIES

The Speaker: Member for George Town Central.

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

Can the Honourable Deputy Governor, now say with confidence that all Civil Servants are up to par with the cost of living that they hadn't been getting over the last 10 and odd years?

The reason I asked the question, Mr. Speaker, is because I have heard so many civil servants say that different years they didn't get it or they skipped this year or that year. I just want to know that we can confidently say that we are up to par now on where they should be with respect to the cost of living, in respect to their salaries, and that can help me with my follow-up question.

The Speaker: The Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Mr. Speaker, we are not, we have not caught up with the CPI but that is the reason why the Government has committed to do another COLA in 2020.

Just to say that we wanted to give a number that was going to be meaningful to Civil Servants. We didn't give 2.5 per cent or three per cent. I think the Government was very responsible and did the appropriate thing in awarding a five per cent. That means—and I gave the example of the mortgages—that even a civil servant who has had a mortgage, their COLA adjustment will allow them to meet their new payments and have a bit left over. We wanted to give something that was substantial and meaningful to Civil Servants, but we also had to be mindful that we had to keep money in the bank for that rainy day; so we couldn't give the full amount that we needed to do at this time, but again, the Government has committed to review it in 2020.

The Speaker: The Member for George Town Central.

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

If the Deputy Governor is aware, can he say, if there is an increase of the CPI between now and 2020, will the outstanding back up along with if there is an increase in the CPI, be both considered within that assessment at that time if the Government is in a financial position to do so?

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson:

Yes, Mr. Speaker.

We will present to the Government where we are with the CPI, including this year and how far we are

behind. The Government will get the full picture and will be able to make an informed decision. There has been no one saying the civil servants don't deserve this, what we are saying is that it has to be done in a responsible manner and I think everyone accepts that.

The Speaker: The Member for George Town Central.

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

I agree with the sentiments from the Deputy Governor. Those questions are going to get to this last question here which is, is there a guideline, policy, or schedule that we examine this every year or every two years and if there is one, what is it?

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Mr. Speaker, as I said in my substantive answer, the previous policy was every two years; that had been halted because of the global financial crisis but I do believe that we are now back on track to reviewing the COLA every two years and that is the commitment that the Government has given.

The Speaker: The Member for George Town Central.
Last supplementary.

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

Can the Deputy Governor say if he is aware that the formula used by the Economics and Statistics Office to determine the percentage is also afforded to the authorities in the country for them to determine their requests for a cost of living approval by the Cabinet?

The reason is that some authorities who have applied have been asked to present their reason for applying for it and what formula they used.

Hence, I just want to know whether the Economic and Statistics Office, which obviously has specialists in these offices to determine these percentage and these numbers, that that expertise has been awarded to the authorities to determine that as well to help them with their application to justify their want or need for an increase.

The Speaker: Honourable Deputy Governor.

The Deputy Governor, Hon. Franz I. Manderson: Mr. Speaker, yes that information is available. It is actually public knowledge, so yes, they would have that information in putting forward their request to Cabinet.

[Cross talk]

The Speaker: Item 7.

STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: I have received a statement from the Honourable Minister of Education.

Hon. Juliana Y. O'Connor-Connolly, Minister of Education, Youth, Sports, Agriculture and Lands, Elected Member for Cayman Brac East: Thank you, Mr. Speaker. Good Morning.

Mr. Speaker, on behalf of the Coalition Government, it heartens me to deliver this statement to the honourable House regarding achievements in education since January of this year.

I am quite excited about a number of achievements, and I am indeed grateful for this honourable House and for the commitment that is given to Education.

Mr. Speaker, we are all well aware that education does not happen without support and resources. There are many systems and processes that happen behind the scenes that allow the staff to do their job of teaching, and the children to do their job of learning. One such behind-the-scenes development is technology, which improves the works supporting education.

DocuWare software has been implemented to improve the efficiency of the processing of the work orders from our schools. This is to be extended to the registration of students, transcript applications, invoicing for outsourced contractors and application for use of our various facilities. This is an ongoing process to improve and to modernise our current mode of operations for improved customer services and transition to a more paperless state.

The Education Department is continuing collaborative work with Department of Education Services (DES) units and principals to increase their inputs in the budget process, ensuring that each principal has more of a say in requests made, specifically for their respective schools, to address the needs of their own unique population.

Staff Enhancement

Mr. Speaker, as this honourable House was informed in the First Session, there has been an increase in teachers' salaries. We know how important teachers are to the lives of our children, and the future of our beloved country. This planned increase in salary, with a further increase in September 2020, will find no teacher employed in the Cayman Islands government system earning less than CI\$5,000 per month. This increase will be a component in facilitating retention of staff who make a positive contribution to the lives of our children and the atmosphere of our schools. It will also help to make the vocation more appealing to our Caymanians, and to give the country a stronger standing

when advertising positions in a competitive market. In keeping with this commitment to educators in our classrooms, there has been a commitment to also review the salaries of other staff, including but not limited to senior management staff in our schools.

We have also taken steps to strengthen the leadership in our schools. One important step is that, now, all schools will have at least one, non-teaching Deputy Principal. With the current senior management structure in place, monitoring and support of effective teaching, and in turn student progress in all our schools can be enhanced.

Mr. Speaker, as we all know, a new and much needed facility is in the works for the secondary education in George Town. There has been further progress towards the construction of the much anticipated John Gray High School. This facility will serve the people of this country well. In fact, as we speak, the Cayman Islands Classic Basketball Tournament is being hosted in the completed John Gray High School gymnasium, completed by the previous administration. In order to ensure that the facility is managed and that there is an active person on the ground, a Facilities Superintendent was appointed specifically for the new John Gray gymnasium.

Our education system caters to children of varying abilities and needs. To ensure that we offer the very best service possible to all of our children, there has been a number of additions and initiatives over this last year. For example, all primary school Special Education Needs Coordinators have now been certified, Read and Recovery teachers. They are now able to provide this intervention for younger learners who find themselves having extreme difficulty with early reading. These staff members are now specially trained to work individually with students at their acquired intensity and duration. Research of this programme promises that about 75 per cent of these children who receive this intervention, achieve grade-level standard. I am sure we can all agree, the importance of this certification for the staff. I am also sure that we will remember the support I received with additional posts for our children with special educational needs. The recruitment for these posts are ongoing and some have already been assigned to our children. I am positive that these posts will go a long way in improving the access to education for our children with special education needs.

All staff in our education system are important, and all staff have impact on our children's experience at school. Considering the research surrounding professional development an Effect Size teacher assistant training is being facilitated over a period of 10 weeks and includes opportunities for the participants to gain new knowledge and skills, collaborate with each other, reflect on their experiences and learning, and tap into resources of efficacy. The sessions are two hours long, commencing at 2:15 pm until 4:15 pm. We have had very positive feedback from participants and principals alike. There are currently 24 participants from various

primary schools. The participants will complete sessions on a variety of topics, including promoting and supporting positive behaviour; supporting inclusion and literacy, information and communication technology (ICT), and numeracy in the classroom. Even though this cohort has only had a few sessions, they have already requested part two of the training, which may be delivered using an online service through the Commonwealth Trust. These support staff are well on their way to adding to their already valuable contributions to our children's learning.

In addition to other planned staff development, there were specific opportunities for Primary Specialists to aid in the development in common schemes of work. This work will help to further the assurance of the children in all our government primary schools and they are receiving a consistent education across these said schools. Their knowledge and skills are taught in a sequence which will allow them to build on past knowledge.

Mr. Speaker, please allow me to end this segment of my statement with the good news that there has been an increase in Caymanian appointments at the beginning of this school year. To our cadre of personnel, there has been added one Caymanian Principal, one seconded Caymanian Deputy Principal and three newly qualified Caymanian teachers. As mentioned previously, we hope to attract more Caymanians to the teaching profession. I feel that these appointments demonstrate that Caymanians are still interested in this noble profession, and indeed have room to grow within our system. We wish each appointee the very best of everything as they develop in their careers and make positive impacts in our education system.

Mr. Speaker, just as we in the Ministry, and Department of Education endeavour to improve education, we also acknowledge the hard work of the staff interacting with our children each and every day.

Programmes and Support

There are a number of programmes and supports in place for our children. The literacy Response to Intervention (RTI) is one such important support programme. This has made considerable impact on literacy achievement of our students needing additional support since its inception in 2015. As of June 2018, approximately 84 per cent of students enrolled in the Levelled Literacy Intervention at Key Stage 1 and Key Stage 2 were recording as having made progress on an average of half-a-year to one-year's growth. Similarly, at Key Stage 3, approximately 79 per cent of the students made a quarter-of-a-year to a half-year's growth during the six-month intervention cycle.

During 2017/2018, 100 per cent of the 89 students selected out of a cohort of 402 Year 2 students recorded growth in their literacy learning.

Most students with a completed series of lessons, the growth was outstanding with 88 per cent of

students making substantial to accelerated progress and 12 per cent making limited progress. The literacy RTI has yielded more noteworthy results in spite of the framework being in its fledgling stages. With improved consistency in school based management, of the RTI framework, and improved fidelity in the administration of interventions, the literacy RTI is projected to yield even greater results.

The maths recovery intervention commenced in Year 3 as well, thus expanding the number of student who will be able to benefit from this said intervention.

The Shining Stars Key Stage 1 unit was established to cater to students in the younger age group who require more therapeutic intervention. It is therefore anticipated that this unit will help our children from a younger age to self-regulate, learn meta-cognitive skills, and be more prepared for learning and social interaction when they return to the regular catchment area schools. We look forward to celebrating the success stories that will come from this specialised unit.

Mr. Speaker, as you know, the National Science Educational Strategy has also been developed and is now in the beginning phases of implementation. This strategy is quite important, as it will help to highlight science in our education system and indeed the wider community. The strategy consists of three goals which will guide all leaders and teachers in ensuring improvement in the provision of science education. Careers related to science are on the rise. This strategy will also help to ensure that our children are best prepared for these future career options.

While our children are in our care and in our schools, we must do our best to ensure that they not only learn, but indeed that they are kept safe. The Business Services Unit training, supported by the Child Protection [Unit], for some 450 third-party contracted employees began in March and continued until this month. This was a massive undertaking but it demonstrates the commitment of the Coalition Government to the future of education and our children in general.

Support for all of our children is more evident when we can have achievements such as those of the group of seven students from our Lighthouse School who were successful in obtaining Level 1 in City & Guilds. This is an historic accomplishment. These students are now attending the Cayman Islands Further Education Centre (CIFEC) along with their peers, and from all reports, they are doing extremely well and are a wonderful addition to the life of the school.

When we can celebrate accomplishments such as these, by the most vulnerable learners in our education system, we can rest assured that the hard work of all involved is paying off. We will continue to follow up on these students and will celebrate with them as they continue to grow from strength to strength.

Mr. Speaker, to continue on regarding the Lighthouse School, which is not only a beacon to the children and families they serve but is now also proven to be a leading force in our system, the Performance

Indicators for Valued Assessment and Targeted Learning (PIVATS) system which is used [there] to monitor progress and plan forward for each student has become further embedded. Training was completed by all staff at the Lighthouse School on this progress monitoring tool. All staff can now use the PIVATS to compare the progress of their students with other Special Education Needs schools internationally. This programme then gives the Lighthouse School a consistent framework to monitor the progress of our children, and it is a clear pathway when planning the future stages for these students.

Mr. Speaker, I trust that Members of this honourable House will join me in commending the leaders, the staff and the students of the Lighthouse School on lighting the way for persons with special needs in our country.

Cayman Brac has also been involved in this progress as it relates to special needs provision. The Beacon Learning Centre has been established now to fill the gap in service of the provision for children who require a more intense and specialised programme that could be provided in our mainstream schools in Cayman Brac. This newly established service is catering to the needs of a number of reception and primary school-aged children and improvements in the children's overall development is already being reported.

In closing, please allow me to extend my sincere appreciation to the Coalition Government for supporting my education team and enabling us to make a positive contribution in all of our children and for those who serve them tirelessly every day. I trust that we will all continue to make our children a priority as we build together a stronger and better Cayman Islands.

Thank you, Mr. Speaker.

[Desk thumping]

PERSONAL EXPLANATIONS

The Speaker: None.

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: Honourable Members, I have received word of the passing of the son-in-law of the former Speaker, Ms. Mary Lawrence; he resided in Tampa. We want to extend our condolences to the former Speaker and her family.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: None.

GOVERNMENT BUSINESS

BILLS

FIRST READING

SUPPLEMENTARY APPROPRIATION (JANUARY 2018 TO DECEMBER 2018) BILL, 2018

The Speaker: The Bill has been read a first time and is set down for the Second Reading. I always think that goes without saying but...

SECOND READINGS

CUSTOMS AND BORDER CONTROL BILL, 2018

The Speaker: The Honourable Premier.

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

I beg to move a Bill for a Law to establish the Customs and Border Control Service; to repeal the Customs Law (2017 Revision); to repeal parts VI, VII and VIII of the Immigration Law (2015 Revision); and for incidental and connected purposes.

[Laughter and crosstalk]

The Speaker: The Bill has been duly moved.

Is the Honourable Premier going to speak?

[Long Pause]

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker, for your indulgence and that of Members while I sought to find my speaking notes.

As I have already discussed the Government's broader policy shift as it relates to border control and migration management, the introduction of the Customs and Border Control Bill, 2018 is in furtherance of those aims. As part of the Government's commitment to strengthening our national security framework, as it relates to border protection and public safety, the Customs Department is being merged with the Border Control elements of the Department of Immigration into a single new entity called the Customs and Border Control Service. The merger will take effect on the 1st January 2019.

Mr. Speaker, the merger of our two primary Border Control Agencies into a single Customs and Border Control Service will create a platform to, among other things:

- More effectively continue the Border Control transition from the traditional gatekeeper approach to an intelligence-led risk management strategic approach at our borders;
- Achieve greater operational efficiencies by utilising advanced technology and smarter staff deployment;

- More efficiently facilitate legitimate trade and low-risk passengers, while simultaneously, more robustly, confronting national security threats such as drugs and firearms
- Prepare for a single check point at the border for the majority of passengers and goods, while at the same time establishing a more robust secondary examination environment for those high-risk passengers and goods; and finally,
- Ultimately increasing our detection rate and revenue collection.

The Customs and Border Control Bill establishes the Customs and Border Control Service as a statutory body. Essentially, the Bill joins the Customs Law, in its entirety, with parts of the Immigration Law relating to entry and landing, visas, asylum and matters relating to deportation.

Some key points of the Bill are as follows:

- The Bill provides for the Director of Customs and Border Control to assume the responsibilities, powers and functions previously vested in the collector of customs;
- It provides for the Director of Customs and Border Control to assume the responsibilities, powers and functions previously vested in the Chief Immigration Officer as it relates to matters concerning entry and landing;
- It provides for integrated border security service;
- It harmonises references to Customs Officers and Immigration Officers as necessary to allow the delivery of the organisation's integrated remit;
- It creates the ability for the Customs and Border Control Service as the organisation responsible for border management to take decisions relating to granting or refusal of permission to enter the Islands; and
- It specifies arrangements for appeals against decisions of Border Control Officers.

Although this Bill will officially establish the new Customs and Border Control Service on the 1st January 2019, there remains much work to be done after that date to complete the full merger and re-engineer our border control business processes. The merger is therefore a multiyear project, as it has been in other countries who have undertaken this exercise.

With a Bill of this size it is inevitable that mistakes will be made and matters overlooked. Further amendments will be required to this Law in due course to address issues that have come to light since the Bill was tabled. One issue that has already been identified is the need to provide the power for Border Control Officers to impose fines administratively in lieu of court proceedings for offences relating to overstay and illegal landing.

Mr. Speaker, the Government has received technical advice and guidance from our border control colleagues in the United Kingdom and the United States and we are most grateful for that. While Cayman is a much smaller jurisdiction, many of the considerations associated with a merger of this nature are similar from country to country. The difference is simply one of scale. As one would expect there is a tremendous amount of training and cross-training that must be undertaken by this new Agency in order to incrementally and efficiently bring about the changes that are envisioned for what will ultimately be a world class border control service.

The acquisition and use of the right technology is also key to accelerating and completing this transition to an intelligence-led risk management strategic approach. An important consideration in that regard is the rapid pace at which the technology is advancing. Government must be careful not to invest in technology that cannot be enhanced efficiently because it will become obsolete very quickly.

There has been a tremendous amount of regional interest in this merger and I have every confidence that many other Caribbean countries will seek to emulate the Cayman project.

I am aware that the Honourable Leader of the Opposition has raised some concerns in the local media, concerning the merger of our Customs and Immigration Departments into a single Customs and Border Control Service. I wish to address them at this point because the Government does not believe that his concerns are valid.

Two primary concerns were raised in the local media by the Honourable Leader of the Opposition; the first was with respect to the revenue collected by the existing Customs Department and his belief that this should not be left to the new Customs and Boarder Control Service because it is a law enforcement agency and should not be collecting revenue.

My first observation on that is that the existing Customs Department is also a law enforcement agency and is in fact also one of the primary revenue collection agencies of the Cayman Islands Government and has been so since its inspection. The Department has very ably executed these dual roles over decades and we expect that this will continue under the Customs and Border Control Service.

My second observation on this issue is that the Government did in fact consider whether we should separate the Revenue Collection aspect of the existing Customs operations from the Customs and Boarder Control Service. We took advice from the Customs Department and others and decided not to separate these functions for the following reasons: the majority of what we consume in Cayman is imported in packages, parcels and containers. Each import presents the opportunity for some form of threat to our national security and the evasion or attempted evasion of import duty.

During the process of collecting import duty, the Customs Department employs a number of strategies and practices, including the examination of documents to identify high risk imports in order to select them for secondary examination; and the Revenue Collection and Border Control functions with respect to imports are so closely connected and integrated, in terms of processing, that to separate them would inadvertently create a gap in our national border control strategies. If the functions were separated, with different agencies being responsible for each one of them, once the import duty is paid, a high risk import could be released to the importer prematurely before it is inspected by Customs and Border Control. Furthermore, this separation of functions was originally done when the United Kingdom executed a similar merger and they have also advised us that the separation was a huge mistake and that they would not recommend that we do so.

The second concern raised by the Leader of the Opposition was that the merger would undermine the successes already being realised in the early stages of transition from the traditional gatekeepers' approach to the intelligence-led risk management approach.

Mr. Speaker, the Government, the Customs Department and the Department of Immigration are very confident that not only is this concern invalid, but that the merger will in fact have the opposite effect and will provide a more solid foundation for the new intelligence-led risk management approach to border control. Mr. Speaker, when you consider that we are merging all of the Border Control functions of these two Agencies, including their existing intelligence units, you will begin to appreciate that this merger, coupled with focused intelligence and risk management training and the opportunity for smarter staff deployment will create the platform for more effective border control in these beloved Islands of ours.

I hope that what I have said gives the Leader of Opposition the comfort he needs for his side of this honourable House to support the Customs and Border Control Bill.

Mr. Speaker and honourable Members will appreciate that the scale, scope and complexity of national security is transforming. The Customs and Border Control Bill with further support the Government in providing the public with a modernised border security framework to manage inherent security risks and to improve national security.

I commend this Bill to the House and thank all parties involved in bringing these Bills as a package—this one, the one that has gone before, and the one that is to come—which will help the Government in achieving its vision of a modernised border protection strategy.

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

The Member for East End.

Mr. V. Arden McLean: Mr. Speaker, I thank you.
Just give me a chance to...

[Pause]

Mr. V. Arden McLean: Mr. Speaker, I rise to make a contribution to the Bill, which its objective is to merge the Customs [Department] and part of the Immigration Department into a new regime to control the borders of the country.

I believe I should start by saying that, again, I have over the years advocated for amalgamation of something, so we can bring them into greater focus and concentration on the objectives of those different entities. Mr. Speaker, but I should also say that this is a case where we are venturing into a new jurisdiction and we all know that when we venture into something new it takes a while to get it to the point where we envision. Mr. Speaker, I believe the vision has been around for a while, the Government is now bringing that vision into focus. Anyone can have a vision, it's a matter of getting the job done and making sure that vision becomes a reality; comes to fruition through action.

[Inaudible interjection]

Mr. V. Arden McLean: I am not very good on compliments.

[Laughter]

Mr. V. Arden McLean: I believe if you are paid to do the job, then you get the job done or get out. That is my view; so if the Premier is looking for compliments for his people and himself, then yeah, I guess a little bit; they are deserving, they are deserving, but he has been there five years too. I am putting my caveat on it.

Anyway, yes Mr. Speaker. There are a couple of things that I want to address in the Bill that I see have fallen short of my expectations.

I know we copied and pasted a lot of the Immigration Law and just brought it over, which is fine with a few minor changes, but again, I thought that maybe this was a perfect opportunity for us to capture some of the other things that are necessary for the proper implementation of this new entity. This new entity that we are, and will be, extremely dependent upon, because for too long we have proffered different positions on how our borders should be protected. We have made numerous complaints about the lack thereof over many years. To that end, as a Member of Cabinet, I was the one who went the farthest with the Coast Guard—creation of the Coast Guard—which we had envisioned then and started with the helicopter and the boats; and my good friend the Collector of Customs, the Member for Savannah, the Premier and the now departed first Elected Member for George Town.

An Hon. Member: You mean departed from the House.

Mr. V. Arden McLean: Departed from amongst us and may he go far.

[Inaudible interjection]

Mr. V. Arden McLean: Departed from this Legislature, from being any part of Cabinet or anything of that nature.

The amount of criticism we took for that and today we hear the public giving such kudos because of the abilities of that helicopter and what it now means, not only to the security, but to the inter-Island emergency lifts and the likes. Mr. Speaker, maybe we deserved those criticisms to some extent, but not all of it, because we allowed someone else to determine what type of helicopter we got and we had extreme expenditures at that time to get it up to scratch.

Having said that, I believe I should also put the marker down now, that the Government has indicated that their intent is to buy another helicopter, and I want the Government and the country to know that I am going to unconditionally support that proposal but the condition is, the two must be available; and there is a caveat on my support, and that is that it must be brand new. We cannot go through the same hiccups we had with this one to get it up to scratch; it must be brand new, and it is to my understanding, without having any real knowledge of cost of helicopters, it is between \$8 million to \$10 million.

When we did the boats and the helicopter, between 2005 and 2009, my constant response to those who criticised me was, *please give me the cost of one life; one resident life*. Just give me a cost on that, but no one could come up with a figure on that and they never will. If the \$8 million [or] \$10 million is brought here for approval to purchase a new helicopter, then I am all in on that; and when I give my commitment I give it.

I also understand that they have boats that have been repaired and the likes and I will touch on that because it is also an integral part of this border control that I have my concerns with, that it is not represented in this Bill. There were two announcements made simultaneously, the one with Charles Clifford being Head of the Border Control and the young man from Bodden Town, Scotland being Head of the Coast Guard. When I saw that announcement, I immediately had hopes that I had lived long enough to see two senior, young Caymanians—well that is all relative when it comes to the one that was Minister about “young”. But I immediately had hopes, I guess it is of grandiose, that all of a sudden we got two young Caymanians who are going to be responsible for that coordination of protecting this country; at long last. Only to have one of the greater disappointments of my life when I learned that the Coast Guard is still going to be controlled by virtue of

section 55 of the Constitution. That sort of took something away from it but I immediately—

[Inaudible interjection]

Mr. V. Arden McLean:—tried to get back and get some positive thoughts in my head again subsequent to that. I believe I have reached a point where I want to give it that opportunity to succeed because I guess having worked with one of those gentleman, and the other one I know from family and friends and watching him, I have a lot of confidence in these two individuals that this is going to work. However, I know it is going to take a while and it is going to be important for us, all of us—not this honourable House, this entire country—to give those two new Agencies/Regimes the opportunity to work because we have to manage expectations, Mr. Speaker.

The Speaker: Honourable Member, let's take a break there.

I will suspend proceedings until 2:15 pm.

Proceedings suspended at 12:45 pm

Proceedings resumed at 3:29

(Continuation of debate thereon)

The Speaker: Proceedings are resumed. Please be seated.

The Elected Member for East End continuing.

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

Mr. Speaker, I would appreciate if I could get an indication of how much time I have left; not that I am going to use all of it.

[Pause]

The Speaker: An hour and 45 minutes.

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

The Speaker: That is the time on the books.

Mr. V. Arden McLean: I won't be long Mr. Speaker.

When we took the luncheon break I was on the issue of expectations that the people will have about this Border Control. We—I guess by nature—love to have these catchy nomenclatures that tend to inspire people for these laws; Border Control. It sends a certain expectation to our people. It says to them that *all is well now; we are going to have a border control*. There could be nothing further from the truth. These things take much time, not only that, it takes much effort to get that, so we have to manage the expectation of our people, particularly in this Border Control mechanism or regime that we are putting in place now.

There are a couple of areas that I would like to talk about. The first ones are clause 10 and 11. I find it rather peculiar that we are going to send our officers to do battle under Part 3 of this Bill, clause 14(3) in particular where it says that:

“At any time while a ship is within the jurisdiction of the Islands or an aircraft is at an airport, any officer and any other person duly engaged in the prevention of smuggling may board such ship or aircraft and remain therein and rummage and search any part thereof.”

Mr. Speaker, it concerns me that we can continue to put our officers on the frontline with no means of protection for them. We know that our borders—not unlike other borders of other countries—are said to be some that... people are capable of organised crime in drugs and firearms, our borders are susceptible thereto. There is no secret in that we are extremely concerned about that. Thus the reasons for the creation of the Coast Guard now, but before that, the purchase of boats and the helicopter and the other equipment to try and protect our borders. [The] Customs Director (that will be Border Control) will be unable to give his officers any means to protect themselves other than batons and handcuffs. The director will not be able to issue firearms.

Many of us may not have this, but the White Paper of 2012, which I know quite well, and I refer to it quite often—remember the other one was 1999 and then they updated it in 2012—was about the UK’s commitment to this country and the Overseas Territories, but us in this instance, for the purposes of this discussion. Under the section of Defence, Security and Safety in the Territories and their People they readily recognised that **“The main threat to the Caribbean Territories and Bermuda is from organised crime, drugs, firearms and in some cases people trafficking—**

[Pause]

Mr. V. Arden McLean: —and associated money laundering”.

They go on to say that **“The Territories lie on recognised drug trafficking routes from South America to the UK, continental Europe and the US. The traffickers use ever-changing techniques to conceal their goods and constantly shift patterns of shipment. Violent gangs, primarily engaged in street-level drug trafficking, operating in some Territories, have been responsible for the significant increase in firearm-related murders and assaults in these Territories. Some Territories have introduced drug and violent crime control strategies.”** The UK welcomes—and I specifically read this one for the Premier:

“The UK Government welcomes the moves in some Territories to set up National Security Councils or equivalents to co-ordinate the work of Governors, Governments and the relevant agencies with regard to these challenges. We are committed to supporting their work.”

Yet when we come to section 55 of our Constitution:

“The Governor shall be responsible for the conduct, subject to this Constitution and any other law, of any business of the Government with respect to the following matters —

- (a) defence;**
- (b) external affairs, subject to subsections (3) and (4);**
- (c) internal security including the police, without prejudice to section 58;”**

We know that section 58 is the [National Security] Council and the like, and we know the discussions we have been having about the role of that National Council for the last five years, maybe?

Mr. Speaker, if England is so concerned about our security, yet they talk about sending people to advise us on security measures... Advice is all well and good because we can all do with advice at times. However, it escapes me how we can find such capable Caymanians to put in charge of these two new regimes—Scotland and Clifford—whose life has been nothing but, nothing but, armed services and the protection of this country; but, we cannot trust Clifford to deploy officers in this country—I know the Government isn’t doing this, not the Elected Government, I know that—who he feels confident are trained in firearm use.

Thus, unless the police is there with them, and that is the caveat they put in it—the police must be there with them—we get Clifford to go and search a ship—that I just read, has a right to break in or whatever—that has entered our waters, docked at our shores, and he has reason to go aboard that ship. He deploys his officers, with the tamarind switch in their hand and there is the possibility that there is something illegal on that ship, guns, drugs, whatever; but more importantly, if drugs are there we know that firearms are associated with drugs in most instances and we run the risk, of our young Caymanian officers being harmed. I am not going any further on that, Mr. Speaker.

More importantly, whomever does it gets away and slips the jurisdiction. I have a problem with that, Mr. Speaker. I have serious concerns with that. We cannot... England and the Governor must understand this. I understand the responsibilities that the Governor holds for the Police Department, but when you show me one police officer that has been deployed to this country—and someone would have to show me, I am not saying there isn’t—who has the kind of résumé that Charles Clifford has.

Mr. Speaker, Charles Clifford started in the Police Force somewhere around 16 years of age when he

was in high school; he rose to Inspector or Chief Inspector—through the whole thing—he was responsible for firearms and the deployment of firearms. Charles Clifford did all those things. We took him from there and put him as Chief Officer in the Ministry, a Chief Officer responsible for one-fifth—I think it was at the time—of the all of Government responsibilities and services. He was in the Tourism Ministry. Prior to that he became an attorney but not a practicing one because Government moved him and put him there. I spoke the other day of how many people in our country took up that trade of continuing their family tradition of working in Government. Charles Clifford became Chief Officer, came out of that and became a Minister and then he became a practicing attorney; a practicing defence attorney, and now the Collector of Customs for the last three or four years. I don't even know.

Now Mr. Speaker, someone needs to prove to me that there are police coming to this country with more credentials than Charles Clifford in the operation and use of guns. No one can prove that to me, but nevertheless, because of this thing called 'special responsibilities' we are creating a Border Control and we are giving Charles Clifford and his officers, tamarind switches to go out there and correct the ills on our borders. Something is wrong with that.

We take the other young man—and Mr. Speaker, there needs to be coordination between Border Control now and the Coast Guard that is proposed to be developed. There needs to be that close working relationship and coordination to ensure that both can get the job done. We take the younger one, Scotland, and we send him out there as being in charge of the Coast Guard—and I don't know at this stage what they are giving him because I don't see any law for Coast Guard. Unless they just give him a flare gun so people know where he is at when he gets lost. Something is radically wrong with that. It can't be right that the Commissioner of Police has his Police Force and there is a cadre of officers who are specifically trained... what are they called? The Uniform Support Group (USG), the Firearms [Response] Unit.

When Charles Clifford needs someone at Customs because he and/or his officers are under threat, he will need to call them and see if they can come to correct the situation and they are doing something else, Charles Clifford's officers need to stay there and take cover and twiddle their thumbs. Are we really exposing our people to that? What is wrong with us? What is wrong with us having some confidence in Charles Clifford and his abilities, as I read out all of these.

Mr. Speaker, listen now, I know people are going to say, *oh yeah you and Charles Clifford [are] friends*. Well, other people and I are friends too, who are competent too, you know? I speak—

[Inaudible Interjection]

Mr. V. Arden McLean: On the Bill. I told you I was going at clause 10 and 11.

Indeed, Charles Clifford is extremely competent in that area and I believe it is fair and reasonable. I don't want to see a police state; I don't want to see a police state, Mr. Speaker. The Premier said, in his presentation, that Customs is a law enforcement arm; and if it is going to be a law enforcement arm, even the Foreign and Commonwealth Office (FCO) in 2012 had concerns about the drugs and the arms coming into this country. Yet, Customs is going to have to wait for police to come with [the] USG to go into a situation where they feel the borders are threatened. I am extremely concerned about that. If there is anything I can impress upon this Governor to request from his handlers in the UK, is to give... I would never say, I would never claim that everyone in Customs will be proficient in firearms use; I am not going to do that, but there can certainly be an entity within Customs, whatever they want to call it USG, or whatever the 'G' is, that is brought up to scratch.

Before, they were allowed to do it, you know Mr. Speaker. Many of them are very competent in firearm use and operations but now they can't do it unless [the] police is there. Something is wrong with that.

I understand that the Government has its own difficulties trying to convince others—and I will leave it at others—and I would not doubt that this was one of those difficulties they had, in trying to convince others that this needs to be a part of this regime.

I thought we changed the Law the other day to allow Immigration Officers to carry arms and Customs [too], but all of a sudden we are repealing it and they can't do it anymore unless they are in the presence of police officers. I don't know what that is going to achieve. If they can use guns in the presence of a police officer, it is no different when they are under their own supervision. It does not make sense. It just does not make sense to me. Are you telling me the police officers are more proficient in the use than the Customs Officers? I don't think so. They are equal in competence.

I see the Governor has delegated other responsibilities that were his and Governors have been doing that for quite some time, such as prisons. Remember, Mr. Speaker, there was a time when we had Prisons under the Governor and now it has been delegated to Ministers. I think the Minister responsible for Financial Services has it now. I think that started in 2001 under Dr. Frank McField. That was the first time it went over. I tell you not to test my memory; don't test my memory.

I believe I have said enough on that and I trust that someone is listening, including the Deputy Governor, so he can go back and whisper in the ears of the Governor.

Mr. Speaker, my colleagues have other things they want to do but I want to touch on these two [clauses] in particular.

[Pause]

Mr. V. Arden McLean: Mr. Speaker, under the previous Transitional Provision which we did recently, the Director of Workforce Opportunities & Residency Cayman (WORC), within general or special direction of Cabinet, is entitled in the performance of the officers' duties to carry arms; and arms is defined in the Firearms Law (2008 Revision) and includes batons and handcuffs.

Now, Charles Clifford doesn't even have that and he has more time firing a gun on the firing range and elsewhere than anyone else. I am friends with Ms. Roulstone as well, but I don't know if she has ever picked up a firearm in her life, but Cabinet can give her the right to make her officers use firearms. Something is wrong with it. When need to try and clear the language up somehow because I just find it quite disturbing, to tell you the truth.

I want to turn now to sections 86 and 88. Mr. Speaker, this is just to try and get those who are listening to me to complete a process that we started some time ago.

The Speaker: Honourable Member, you have been quoting a number.

Mr. V. Arden McLean: Section 86 and 88.

The Speaker: Clause.

Mr. V. Arden McLean: Yes, yes.

The Speaker: Clause.

Mr. V. Arden McLean: Yes, yes. It is under Part 6 - Entry and Landing, and section 86 is talking about "**inward passengers and crew members** [sic] [**manifests**]".

The Speaker: Where you are confusing is that you are saying "section" but it is "clause".

Section would be—are you talking about clauses of the Bill?

Mr. V. Arden McLean: Yes.

The Speaker: Clause 86.

Mr. V. Arden McLean: Yes. Okay clause 86.

The Speaker: Okay.

Mr. V. Arden McLean: Then [clause] 88 where it talks about "**Outward passengers and crew manifests**".

Mr. Speaker, years ago we talked about recreational sport-fishing vessels because one of our big sporting events in this country is recreational sports

fishing, and we have tournaments and the likes all the time.

Your good self, and the Member for West Bay Central and I advocated for easier provisions for recreational sport-fishing vessels. It was adopted, and I should say that I continued looking at it and met with the Immigration [Department] and the likes and we had come to some conclusions on how we were moving forward. We were going to set up a system where each boat would permanently register and the Government would charge them \$100 per year for administrative things because right now when we go out and come back in, they charge us for Customs and Immigration, in accordance with the Schedule of vessels not in the regular work hours.

We came to some agreement but Customs was a little concerned about it because there were three entities to be satisfied. We had to satisfy the Port, Customs and Immigration and something happened that it fell through the cracks, maybe I dropped the ball in some respects too, but I believe that each of us was supposed to go away and do something else and something happened why we didn't get there.

It is very important that we do it in the interest of our people. Not everyone is going to watch football or basketball. There is a myriad of sports in this country and one of them is sport fishing and one is pleasure fishing as well. I like to do them when I am going on someone else's boat and I don't have to buy the fuel—

[Laughter]

Mr. V. Arden McLean:—but nevertheless I go. Then you have to go down to the Port, clear like you would have to clear at the airport through Immigration, and it is worse now because at the airport you don't even have to clear through Immigration any longer. You have to clear and then you're going to have to come back and fill out all of this paperwork. Looks like they killed a couple of trees just to get the paperwork that they bring to us; \$50-something, I think it is, they charge you. Fee can't even pay for the paperwork that they charge you.

What we were looking for, which we had agreed on, was that we would register these vessels, they would have a unique number, so if it was be my vessel, I would apply to be registered, pay the \$100, I am given a unique number, and whenever I am going overseas I would only need to do an email, which would be to a group of people (Customs, Immigration, and Port Authority) listing the names of the crew and their passport numbers, and then we could go.

The objective of registering those boats was to ensure that the authorities knew where we were in case something happens they wouldn't say, *well we don't know that you are out to sea*. If the Coast Guard—or any military situation you get in—stops our boats, 100 miles from here, and we say, well, we are from the Cayman Islands. They are immediately going to check the Cayman Islands. The Cayman Islands are going to say,

yes, we are aware, there are supposed to be five people on that boat and here are their names and passports, and this was their purpose for leaving this country to return on such and such a time.

We need not worry about who is going to register their boats, because it is not those who are doing the legal things. The people who are doing the illegal things don't register, do you really think they are going to tell you that they are going to pick up ganja? They aren't going to do that? I want Port Authority, Customs and Immigration to know where I am, so that if anything happens when we dump over our emergency position-indicating radio beacon (EPIRB) and that connects to the Coast Guard in the South Eastern quadrant, they are going to call the authorities and say listen, we have a boat named so and so and the EPIRB has gone off. The Authorities are going to look on that list and say yes, that boat left yesterday, that is our boat. Do you think they are going to do illicit behaviours [and] have an EPIRB? They don't have an EPIRB. They don't want anyone to know where they are.

What I am asking the Government, and in particular, the new director of Customs to do—since Immigration and Customs are one and the same now, there are only two entities that need to be satisfied; that is the Border Control which I know my good friend Clifford is in charge of and then we have the Port Authority but they shouldn't have too much problem because they only monitor it. I believe someone said to me that they are now going to set up a Channel 16 monitoring specific or something like that, someone I heard that some place.

Mr. Speaker, because we didn't get it done—I am not blaming anyone, it is no one's fault, but some of my friends continued to haunt me with their complaints that this hadn't been done as much as I advocated for it.

I find it quite interesting that the Premier said that security is transforming in this country and I agree.

Mr. Speaker, I am sure, like me, you thought that not in your lifetime you would see where we had to put such mechanisms in place to protect our people. I didn't. I grew up in East End bucking out my toenails on Sand Street. I knew everyone in East End and George Town. I grew up as a young teenager with just over 100 of us in school. I never thought that in my life time, I would see what we are going through now, but it is a necessary requirement now. Too many people are taking advantage of the goodness and the kindness and the lack of... and the trust that Caymanians put in other people. Too many people are taking advantage of that.

We need to have Border Control. I take a different view from most people about Border Control. If you are within that territorial waters and the Authorities turn on their lights, the world over knows when flashing blue lights or red lights, it is some emergency equipment trying to stop you. Whether you are in Russia, Timbuktu, Cayman, America, or England; it doesn't matter. When the siren comes on that is synonymous

with enforcements! When you hear that, all human beings pull to the side. If you don't pull to the side you pay the consequences. Unlike on land where the roads eventually end, out on sea is wide open expanse. You can do anything you want.

In most instances, those who would be doing the illegal actives have better boats than the authorities. The Coast Guard will send up their planes and do what they have to do, but I have seen the Coast Guard shoot across the bow with the first one, second one through the middle, or through the engine. I believe that we need to do the same thing. I honestly believe we need to do the same thing. If you cannot adhere to the authorities of this country you must be prepared to bear the consequences. This Border Control is a serious matter.

Mr. Speaker, we must stop playing lip service to it. Like I said earlier in my debate, I am supporting a new helicopter; I am supporting whatever it is to control these borders. I believe that they are manageable. I really believe that the borders of this country are manageable but there are three things important to any human being in any country; education, health, and security.

Too many of our folks are fearful in this country now. When I was going up that was not an issue. There were no locks on our doors and times have changed I don't want to go back there, I want to move forward. I want to move forward, but whilst moving forward, we need to protect this country and its inhabitants and we know it is coming in. We know that we sit in the middle of nowhere all on our own and if we don't do it for ourselves, England is 5,000 miles away, they cannot get here. We need to spend what is necessary to control the borders.

I say to the Governor of this country and the FCO we need to give those in authority, law enforcement the proper flexibility to deploy firearms. That is simple. The best way of stopping anyone is firearms, that is why we use them in wars, you know?

[Laughter]

Mr. V. Arden McLean: Why do you think you wouldn't use a tamarind switch in war? Because it has no effect. Anyone who tries to enter this country illegally, especially with trafficking people, drugs or the supply of firearms, then firearms need to be used on them and I make no excuse or apologies for that. I am not prepared to apologise. This is my country and you must not enter it unless you enter it legally; and if you are trying to enter it illegally then you are going to have a watery grave. I don't know who is going to read the scriptures over you but you will be buried out there. That is who I am. That is what we must be.

I am not saying that Charles Clifford must go out there as the Collector of Customs and Border Control and tell his people to go and willy-nilly, take people out, no. There must be a process. However, when they

know that Charles Clifford's officers have no firearms, do you really want our officers to go out there and ask them to please stop? Please. The objective of the illegal activity is that they need to get through, that is their trade. So tell them to stop, and understand then that they have full metal jackets, they are firing at you. No, Mr. Speaker, something is wrong with that. Our country needs the protection that will be afforded by virtue of being properly armed. That is what needs to happen. Everywhere else we go in this world...

I was just in the UK and they walk around with machine guns. Especially when they feel there is a threat and we walk around with a tamarind switch. Really? Do you think we can put corporal punishment on people now and slap them? That is not how it works anymore. I am sad Mr. Speaker that my country has come to this. It's sad, but it is a necessity to control the borders of the country.

The Speaker: I like phrase "control the borders" but you have talked about the tamarind switch quite a bit now.

Mr. V. Arden McLean: Yeah, yeah, yeah, and it is tamarind switch that we have. Sometimes it's not tamarind switch, it is grape tree switch and you know how quickly leaves can come off them.

[Inaudible interjection]

Mr. V. Arden McLean: Mr. Speaker, I thank you.

I implore the Government to fight more to ensure that these people are properly equipped. I implore the Government to bring forward the proposal of the cost to do the helicopter. I understand that England is going help. If they want us to assist them in the other Overseas Territories then they need to pay half of it; at least half. If we pay for it, then they are going to have to pay us to deploy our helicopter elsewhere. It is that simple. It is no longer out of generosity like the Premier did recently and sent it down to Turks [and Caicos]. We know what the situation was; we did it, but if they want us to do joint things, then England needs to pay half of it and [have] it operated here, and if they have emergencies in other Overseas Territories, then they would have to pay for us to assist them. However, if we buy it for ourselves, then they are going to have to pay us to do any assistance anywhere else. That is my view.

Thank you very much, Mr. Speaker.

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

The Member for George Town Central.

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

I rise to give my contribution to the Bill for a Law to establish the Customs and Border Control Service.

Mr. Speaker, I don't intend to be too long. I want to first start off by saying that I am going to be

supporting the Bill and I give much credit to the Government for bringing the Bill. I think it is a step in the right direction.

[Inaudible interjection]

Mr. Kenneth V. Bryan: Mr Speaker, there is only one area of this Bill that is a concern for me and it is not even so much a concern but something I think we can add to this Bill to make it even stronger. It is just one simple word but it is ever so powerful in the grand scheme of nation building if I dare say.

The Premier talked about three very important parts about this Bill and what it intends to do and those three areas are: Immigration, Border Security and collection of a major part of our income for government. Mr. Speaker, I believe that the person who is going to be in charge of that should be a Caymanian.

The honourable Member for East End spoke very highly of the person who currently occupies the position as the head of Customs. In hopes that I am not penalised for repetition of someone else's argument, I think it is justified to repeat those, just in case someone doesn't watch his performance but mine.

The Premier, Hon. Alden McLaughlin: Performance?

Mr. Kenneth V. Bryan: Contribution.

Mr. Speaker, we all know that the current head of Customs is the honourable Charles Clifford. I say honourable because he was once an Honourable Minister of this Legislative Assembly. Mr. Speaker, I don't think there is any question in here or in the public today as to whether or not he is capable of holding that post as the head of this new Department, as well as the responsibilities that will come along with it.

I think it is important that I repeat some of the accolades that this honourable man has. Starting with the fact that he has been in the service for over 32 years, serving the people of the Cayman Islands in one way, shape or form. You heard that he was once a Chief Officer in the Civil Service. You heard that he was once a senior police officer, in a very high rank, to Chief—I can't remember the rank, but one of the top five, if I am correct, in the police service. We know that he was a Member of the Legislative Assembly and a Cabinet Minister. We know that he was a part of his own practice as an attorney and is still a qualified attorney today, and heads up the Customs Department which I believe has been some two years.

I don't want to say what his age is, but I know that he still has a good, decent number of his years that he wants to offer the people of this country.

The reason I mentioned that is because I believe this post of Director of this new Department should be one that is secured for a Caymanian. I know that this honourable House is aware of a Motion that unfortunately did not get its approval but I think that most would know that I am adamant about trying to secure

head positions of authority in this country to be that of Caymanian.

The reason I said he has a substantial or reasonable amount of time left to offer if he intends to retire any time soon, is that, because with his qualifications, we all know that he can do the job and we believe that he will be there for at least the foreseeable future and that would give us enough time that if we do decide—because I am going to propose an amendment to clause 4 of this Bill... For the purposes of the listening and viewing audience, clause 4 of the Bill reads, “**Appointment of Director.**

The chief officer, in accordance with the Public Service Management Law (2017 Revision), and after consultation with the Minister responsible for the Customs and Border Control, shall appoint a suitable person who shall be called the Director of Customs and Border Control, to be the officer in control of the Customs and Border Control.”

I hope the Government would take my consideration to a proposed amendment to change the word “suitable person” to “suitable Caymanian”. I believe this is a great opportunity in this transfer to secure that, the position of Director which has tremendous responsibilities, particularly those three that I highlighted in the earlier part of my speech—Immigration, Border Security and collection of a major part of our income for core government—be [held by] a Caymanian.

Now, in previous debates much of the push back to putting the mandate that positions be held by a Caymanian was due to the lack of succession planning or preparedness by Caymanians in the various Departments. Mr. Speaker, based on my enquiries, the current Customs Department, which will now transfer to the Customs and Border Control [Service] has six deputies under the honourable Charles Clifford. I am very happy to say that all six of those individuals are Caymanians. I understand that there are many, many, other young up-and-coming very intelligent Caymanians below those deputies. The importance of that information to this debate, is that there should be no problem, with God’s will, and with the intelligence of Mr. Charles Clifford and the time he is going to give this Department that there could not be a good succession plan put in place to make sure there are no excuses as to whether there would be a Caymanian when he decides to no longer be in that post.

Mr. Speaker, the Customs Department has now become, that one Department—quite like what the Fire Department used to be like—the one Department that we feel comfortable to know that Caymanians are engrained in the ranks, file, attitude and approach of Caymanians—at least traditional Caymanian way—and you can feel it within that Department.

I must say I was excited and glad when the honourable Charles Clifford took the post because no

longer can they say that the person who holds that position is not qualified and capable of doing the job.

I say all of that to say that I don’t see there should be any reason that this honourable House wouldn’t be willing to consider... Now maybe there might be other factors that may hinder that process but I want to at least put it forward because, for me, and for many Caymanians, making these high ranking positions that make major decisions on behalf of us the people, would feel comfortable if they were secured for Caymanians.

Outside of that one piece of this Bill, I support the Government wholeheartedly and I congratulate them and the Honourable Premier for really reforming the way we deal with not only Immigration and Labour, based on the last Bill and taking the first steps in that direction, but also reforming the way we protect our borders and the way we deal with collection of our income and some parts of our immigration intel.

Mr. Speaker, I would only ask that this Government considers amending section [sic] 4 and replacing the word “person” with the word “Caymanian”. It would read as such:

“The chief officer, in accordance with the Public Service Management Law (2017 Revision), and after consultation with the Minister responsible for the Customs and Border Control, shall appoint a suitable Caymanian who shall be called the Director of Customs and Border Control, to be the officer in control of the Customs and Border Control.”

I don’t see any reason why that can’t be something we would be willing to do, as Members of this honourable House. I know we all believe in succession planning and we all believe in preparing ourselves to be in control of our own destiny. The way we do that, is taking perfect opportunities, and I think the environment is right for us to make that change now, because we have a strong leader at the head who has a good number of years left, he has the skill set and attitude of proper succession planning. He has proven himself of that before. He has six capable deputies which are all Caymanian and some ranks even below that. From a succession plan standpoint, the recruitment process should be quite easy if we plan from now, and if I could put a number to the honourable Charles Clifford, I assume he is going to give us at least six years. There would no question as to whether we would be prepared; so we can take the move today to make that amendment to this Bill.

I hope the Government considers and accepts it. With that being said, I congratulate the Government and the Premier for changing and trying to reform the way we deal with our border security, our immigration and the collection of our very important income, to take care of all of the responsibilities that the Government has on its hands.

That is my contribution, Mr. Speaker. Thank you so much.

Hour of Interruption – 4:30 pm
[Suspension of Standing Order 10(2)]

The Speaker: Honourable Premier, we have reached the hour of 4:30.

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker, 4:30 seems to come earlier every day.

Mr. Speaker, I move the suspension of Standing Order 10(2), in order that the business of the House may continue beyond the hour of interruption.

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

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

AYES.

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause]

The Councillor in the Premier's Ministry. The Member for Prospect.

[Pause]

Mr. Austin O. Harris, Jr., Elected Member for Prospect: Thank you, Mr. Speaker.

Mr. Speaker, Members of this honourable House, my constituents listening in Prospect and the wider Cayman Islands, good afternoon.

[Laughter]

Mr. Austin O. Harris, Jr.: I am pleased to rise to make my contribution to the Customs and Border Control Bill, 2018, being brought on behalf of the Government—the Ministry in which I shared responsibility, that being, the Ministry of Human Recourses, Immigration and Community Affairs.

I certainly want to thank all the Members who have taken the time to share their view on this Bill. I particularly thank the Member for East End for his contribution to this debate and his assurances that the Government can count on his support for this Bill albeit, given a few caveats, or I think, the choice of words were “conditions”, and that is fine. I don't think we will ever get the unreserved and unconditional support of Members of the Opposition on anything; so, by him saying that he will support it is good enough for me.

However, I noted that the one area of this Bill that the Member found disappointing or perhaps gave

him a moment of pause, was that the new merger resulting from the merger of Customs and Immigration to become the new Customs and Border Control is that it will still be beholden to section 55 in the Constitution; that is, falling under the special responsibilities of the Governor.

Whilst I think that this is related largely to the question of bearing arms and making arrests, which I will happily leave to the Honourable Premier to address in his winding up as I suspect that conversation might be a little above my pay grade. However, let me reassure the Member and all those within the sound of my voice, that this change exercise that we are proceeding on, is very much a Caymanian change exercise. We are looking at the world around us from our perspective, protecting our borders, whilst maintaining a global view in terms of partnerships, but, it includes our people, our Caymanian people, at all key stages of the foreseeable vision and plan. Charles Clifford, Robert Scotland, Leo Anglin are just the beginning, but as we will discover in my contribution, a beginning starts with laying a strong foundation and I believe the Government has done so with the selection of these three fine and capable Caymanians from the foundation level. That is just the beginning.

I also want to remind Members that as we look at the present state of Customs and Immigration, today, those organisations are practically 100 per cent Caymanian and I don't envision that changing any time soon.

I just offer up that short preamble to reassure Members that whilst our partnership in law enforcement—and in particular, the broader border security that the Government envisions is to come—will still continue to involve partnerships with the Governor or the Governor's office, vis-à-vis his special areas of responsibility, this entire exercise is very much a Caymanian exercise.

As the Premier already outlined, this Bill and the subsequent Government policy, seeks to establish a single, integrated border management agency for the Cayman Islands through the merger of the existing Customs Department and Border Control components of the Immigration Department. As we are all aware, the new border management Agency resulting from this merger will hereafter be known as the Customs and Border Control, or CBC for short—the Government likes its acronyms. At some point in time CBC will be all that we say but for now it stands for Customs and Border Control.

Customs and Border Control acting as an integrated, unified, border management agency will serve as a significant catalyst with respect to driving the strategic goals, underpinning the policies overarching objective, which is to deliver cohesive, intelligence-led, risk-based and modernised border security services for the Cayman Islands. At the same time, it will facilitate the unimpeded and reliable flow of commerce, as well as an expedited travel experience at all international

ports of entry within the Cayman Islands, for locals, residents and visitors alike.

The new Customs and Border Control represents a wholesale departure from the traditional silo mentality approach that has really taken foothold throughout many of the systems in Cayman but particularly in Customs and Immigration Border Control. That old view of thinking which stands on the principle that the work of one department is so much more important than the work of another department, that the information gained should not be shared by other departments performing similar tasks and instead operate in many cases as an entity unto themselves. I think we have enough examples, reports and situations. One of the first areas of change that is needed is to dismantle this silo mentality and work towards a cohesive strategy.

Mr. Speaker, with “change” being the operative word in this exercise, I think the establishment of CBC represents an opportunity by which we can take, perhaps for the first time, a holistic approach to border management, border control and border enforcement by combining particular functions of Customs and Immigration in order to deliver a strategically coordinated initiative, or initiatives in the best interest of public safety, economic prosperity and national security.

I think it is important for us to distinguish between the present state and the future state. In the present state, which largely encompasses the work we are doing here today, and includes laying the legal framework upon which the new CBC agency will operate—call it laying the foundation. That is what we are doing, but it is, just like building a house or any edifice, an important and vital first step. A foundation that will produce a magnificent edifice. When we take into consideration the bigger picture, or the ambition, if I will, which is the future state in this government policy.

Mr. Speaker, the future state of the CBC, under the capable leadership of Mr. Charles Clifford, will entail the coordination of security, trade facilitation, and trade enforcement operations, as well as the implementation of cutting-edge solutions to ensure the expedited flow of legitimate travellers and goods, at ports of entry, while having the capability to interdict persons and goods illegally entering and exiting the Cayman Islands.

In addition to the establishment of WORC, which we learnt on Monday also includes functions of border control, in particular, migration management, so that we aren't importing more crime, the Ministry of Human Resources and Immigration is overseeing a multi-year change-management exercise or programme that will fully realise the integrated, intelligence-led and technologically enabled future state of CBC.

I anticipate that if this debate is anything like the others that have passed, Members will undoubtedly be asking themselves, what exactly does this change exercise, or programme involve? Well, Mr. Speaker, if you will allow me to attempt to fill that want for more

information, by saying that the change exercise or programme underpinning the creation of the CBC can be described in a word as “transformational” and will involve four key areas, albeit with many different moving parts. The four key areas are:

- (a) Designing and transitioning to a fit-for-purpose organisational structure;
- (b) Re-engineering policies procedures and business processes, with the goal of creating further efficiencies and effectiveness;
- (c) The implementation of a dynamic and robust technology solution that allows the Customs and Border Control to respond in tandem with shifting security risks, as well as the evolution of our business community; together with
- (d) The implementation of governing legislation for the lawful operation and authority of the CBC and its officers—which again, for the avoidance of any doubt, is what we are seeking to do here today in the present state.

Mr. Speaker, collectively however, these inter-related projects will give effect to the mission, vision and strategic purposes of the CBC and indeed this Unity Government's policy objectives.

Now, speaking on some of the other moving parts. The transformational change programme will incorporate particular functions and business components currently spread across the Customs Department and the Immigration Department. Exercises and matters in which each Department is still doing individually, which our goal is to merge them, so they will be doing them singularly and we believe with greater effect. Primarily, CBC will be responsible for leading the delivery of three operationally innovative strategies concerning the facilitation and importation of trade and customs policy. The facilitation and enforcement of travel and border control policy, and asylum refugee and detention management policy.

In its role as an integrated border protection and law enforcement organisation, the CBC unit will deploy trained officers, intelligence and risk management tactics, as well as a combination of technologies to detect illicit activities intended to evade, avoid or conceal duties, tariffs or charges concerning the trade and importation as proscribed by laws, regulations policies, agreements and so on.

Mr. Speaker, you will undoubtedly appreciate, as will Members of this honourable House, that the introduction of the Customs and Border Control Bill, 2018, as we are doing today, by no means is a final deliverable, but rather as I have stated, the beginning of laying a foundation of a much larger strategic management process. In other words, we will be back in this honourable House a few times as we introduce the various moving parts which form part of the whole that will take us to what we believe will be the future state.

The significance of this Bill, presently before this House, is such that it provides the legal footing necessary to enable CBC as a uniformed and disciplined enforcement body, authorised to undertake functions across the entire border continuum, including airports, seaports and the interior domain. In short, we are laying the framework which will otherwise breathe the first breath of life into the organisation that will become CBC.

Mr. Speaker, moving forward, we can expect cross-skilling amongst the CBC complement, which I might add has already begun with the exercise of training of Immigration Officers into the intricacies of Customs Officers and vice versa, so that we have a single-minded agency. This will allow officers to be mobilised and deployed to either routine or priority tasking and to supplement and surge operations, as informed by intelligence and strategic planning.

Moreover, Mr. Speaker, you will note a bleeding over, if you will, of one Ministry to another and we look at this change exercise, in terms of human capital development, which again, we spent the better part of Monday talking about in the Immigration Transition Bill.

From the human capital development perspective, CBC as an intelligence-led agency, will also seek to leverage international partnerships. Mr. Speaker, that will strengthen our complement of skilled, qualified and experienced Caymanian personnel, with the capability to formulate intelligence products in support of strategic business planning, decision making and resource allocation, as well as targeting and counter measures related to the tackling of threats and risks posed to Cayman's security. What that means in short, is whatever skills our operators in the uniformed branch of services have in Customs and Immigration, those skills will only be augmented going forward, so we will make them better at what they do.

Mr. Speaker, never before in recent memory has it been, in my opinion, a more exciting time to be a CBC Officer. Everyone should want to be a CBC Officer and I hope that there are some young people in our schools today saying, *mommy, daddy, that is what I want to be*, a part of a Caymanian organisation that does that work. All of these hardworking members of the uniformed services who presently make up Customs and Immigration as we know it today, will be a part of this change exercise. I want to say that again because there have been some fears, although they have been largely allayed thanks to the capable leadership, again, of Mr. Charles Clifford and others within the organisations, certainly in the Ministry, Mr. Wesley Howell and others. This is not an exercise where persons have to fear for their jobs, but an opportunity in which persons can have their skills enhanced in broader and greater service to the people of the Cayman Islands.

Whilst it is true that the exercise of combining border security services in other larger jurisdictions, let me say, have been met with their fair share of challenges, likewise, we in the Cayman Islands and in the

Ministry are certainly under no delusions that our attempts from today, going forward will be perfect or seamless. We will have hiccups. However, Mr. Speaker, we as a Ministry took very careful steps before we got to this stage of bringing legislation to lay the framework, by working in collaboration with Customs and Immigration management this past year and also seeking to leverage our international partnerships as we take a global view in order to come up with a service delivery model that we can say we are proud of and can stand behind. Partnerships which include maintaining fruitful and excellent working relationships with the United Kingdom's Border Force Agency, the US Customs and Border Protection Agency (CBP), and the Joint Regional Communication Centre within the broader Caribbean Community (CARICOM) regional management framework for crime and security.

It is through these developed partnerships that we in the Cayman Islands have been afforded a rather unique opportunity in this exercise that we are embarking on, by being able to learn from the failures of those who went before us. The US tried it, the UK tried it, parts of the region have tried it and we have talked to all of those countries who have tried what we are endeavouring to try. What works in this sort of merger? What doesn't? What would you keep? What would you throw away, and so on? Having this advance information Mr. Speaker, comes in no short way to the amount of work that has gone on by the Ministry to get us to this point. We have certainly not been sitting on our laurels these past 18 months, instead, we have been working assiduously in bringing about change, not for change sake, but change that will produce a desired outcome.

With this advanced knowledge Mr. Speaker, combined with the ongoing training and development initiatives, along with the increased cooperation—there is that word, which I think served to give the Member for East End much angst, but cooperation—between our own law enforcements agencies, which include the Royal Cayman Islands Police Service, Immigration and Customs as we know them today, the Department of Commerce and Investment, the Department of Labour and Pensions, are resulting in one thing and will result in one thing that has been said to be the key missing ingredient in all of our governance models and that is more effective and robust enforcement of our laws. That enforcement, in this context, will lend itself to better protecting the people of these beautiful Cayman Islands and her borders.

Therefore, Mr. Speaker, in conclusion, let the record show that it is indeed my pleasure to lend my support for this Bill which represents the work that I have had the pleasure of contributing towards over the past year and also had the pleasure of working with other hardworking and diligent members of the wider team to produce this first, in many steps, towards what will be the future state of CBC in the Cayman Islands. It is my hope that the Members of this House, through

these debates, will also see that the benefits to where we want to go outweigh the challenges of how we are going to get there and that the challenges along the road are merely opportunities in disguise. With that sort of thinking, I hope likewise that they too lend their support to this Bill when the time comes.

Thank you, Mr. Speaker.

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

If not I will call on the Honourable Premier to windup.

[Long Pause]

The Speaker: The House will suspend for five minutes.

Proceedings suspended at 5:06 pm

Proceedings resumed at 6:21 pm

The Speaker: Proceedings are resumed.
Please be seated.
The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Thank you, Mr. Speaker, for the suspension, and I apologise to anyone following that we have taken longer than expected but the opportunity was used to have the dinner break, so there should be no further interruption until we conclude today's proceedings.

Mr. Speaker, unfortunately the Member for East End is not with us at present for I wish to address...

Well, may I start, Mr. Speaker, by thanking all Members who have spoken for their support for the Customs and Border Control Bill, and the tacit support of other Members including, I hope and believe, the Leader of the Opposition who didn't speak to the Bill. I think the House as a whole understands what the Government is seeking to do and the importance of this new piece of legislation combining critical enforcement functions, with respect to border control of the Immigration with those of Customs.

I just wish to address—I think there were three—points that were made by two of the Members who spoke; one being the Member for East End and the other being the Member for George Town Central.

With respect to the Member for East End's observation regarding sports fishing, we recognise and agree with the Member that the sports fishermen leaving from the Cayman Islands for non-commercial off-shore fishing, should be subject to easier and more streamlined procedures. Clauses 86 and 88 of the Bill exempts registered recreational sports fishing vessels from the manifest requirements, and the additional work to prescribe the departure and arrivals procedures

need to be completed in regulations and policies. That work is underway and we can commit to completing that task in a consultative manner with key stakeholders. In fact, the acting Chief Immigration Officer will be meeting with the Angling Association tomorrow to discuss options on the way forward.

The Member for East End also raised the issue of the ability for Customs and Border Control (CBC) officers to carry firearms as they go about the execution of their duties, including deployment into areas where persons they interact with could be armed.

Mr. Speaker, I am grateful to the Member for pointing out the fact that there is a significant difference between that ability [or] the way that ability to carry a firearm is dealt with in the Immigration Transition Bill, which creates the Department of WORC. As a result, it appears that as drafted, the Bill makes it easier and simpler, for officers of WORC to carry firearms than does the Customs and Border Control Bill. That is certainly not the intention. Therefore, Mr. Speaker, we propose by Committee Stage Amendment to synchronise those two provisions, so that the same provisions that apply with respect to WORC Officers, apply to Customs and Border Control Officers. We will be making that change at Committee Stage.

I can say that already, some existing Customs Officers who are attached to the Joint Marine Unit have already been fire-armed trained and authorised under the old Customs Law and regime.

I also wish to thank the Member for East End for his unconditional support of the acquisition of a second helicopter and proper equipment and resources for CBC and the Coast Guard. I can say that we have reached an agreement with the United Kingdom Government on the proposal to acquire this new helicopter. We have worked out the sharing of costs and I hope, either later this week or next week, to be able to make a joint statement about that arrangement with His Excellency the Governor.

Mr. Speaker, with respect to the point raised by the Member for George Town Central, I know his intentions are good in proposing that we hardwire into the Legislation a requirement that the Director of the Customs and Border Control Agency should be Caymanian. Mr. Speaker, we do not think, for reasons I will outline that that is a good idea.

To start with, Mr. Speaker, we are confident that the cadre of Deputy Directors and Assistant Directors, which the Member for George Town Central pointed to, are good enough to ensure that with proper training and planning, there will be a wide pool of Caymanians from whom to choose; one to step up and take the post when, I hope, a long time from now, the current Director moves on.

As I said, I know the Member's intentions are good but I wish us all to consider this in our efforts to ensure that Caymanians are given prominence and opportunity to take top positions; all of us want that, but

let us not wind up in a situation where we allow Caymanians to be insulted by having people able to say, *the only reason he or she has that post, is because they are Caymanian*.

We have proven in this particular instance, and with respect to those heading up the new Coast Guard, that if the process is allowed to take its course, there are willing and able Caymanians who can meet the requirements and compete against those outside the core of Caymanians and still win the job.

It is only when we have instances—and I am not saying there haven't been some of those—where there is some bias to have someone from elsewhere have the job, when they either don't have the qualifications, or there are Caymanians who have as good as or better [qualifications] and they get it, that we need to have concerns. I believe that if the Public Service Management Law is properly applied and we are vigilant and rigorous about the process, in the majority of instances, we will be able to identify a Caymanian to head up most of the entities and agencies that exist. However, where there is not a Caymanian who has the requisite experience, ability, or in some instances technical skills for a job, we need to ensure that that job is filled by someone who does; and then a process put in place to ensure that that person is succeeded by a Caymanian. Let us not sell ourselves as a nation short by being overly protectionist to the point where we undermine confidence in the very people we are trying to promote by allowing the detractors to say that he or she only got the post because they are Caymanian.

Mr. Speaker, I hope that the Member for George Town Central will appreciate what I have just tried to articulate. As I have said, we understand that his heart is in the right place and that he is well intentioned in this submission but for those reasons we don't think it is the right thing to do.

Mr. Speaker, again, I simply close by thanking all Members for their support and for their observations, which I believe has helped us to improve the Bill which is currently before the House.

Thank you, Mr. Speaker.

The Speaker: The question is that a Bill entitled the Customs and Border Control Bill, (2018), be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Customs and Border Control Bill, 2018, was given a second reading.

ADVANCE PASSENGER INFORMATION (AMENDMENT) BILL, 2018

The Speaker: The Honourable Premier, this sounds very promising.

[Laughter]

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

Mr. Speaker, I beg to move a Bill for a Law to amend the Advance Passenger Information Law, 2018 as a consequence of the repeal of the Customs Law (2017 Revision); and for incidental and connected purposes.

The Speaker: The Bill has been duly moved.

Does the Premier wish to speak thereto?

The Premier, Hon. Alden McLaughlin: Yes, thank you, Mr. Speaker.

Mr. Speaker, the Advance Passenger Information (Amendment) Bill, 2018, makes consequential amendments to the Advance Passenger Information Law, 2018 due to the repeal and replacement of parts of the Immigration Law (2015 Revision), by the Customs and Border Control Law, 2018.

In particular, the Director of Customs and Border Control Service appointed under the Custom and Border Control Law, 2018, on officer designated by him, replaces the Chief Immigration Officer as the competent authority under the Advance Passenger Information Law. References in section 3(7) of that Law to the Assistant Chief Immigration Officer or an immigration officer in a position senior to an Assistant Chief Immigration Officer are replaced by the Director of the Customs and Border Control Service, or an officer designated by the director of the rank of Assistant Director or above.

I wish to thank you and Members of this honourable House for your indulgence as I have sought to lay out the policy objectives of this Government which aim to deliver effective, efficient and modernised initiatives to improve and protect the borders of this country and the lives of all who live here.

The Speaker: Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause]

Does the Premier wish to wind up?

The Premier, Hon. Alden McLaughlin: Mr. Speaker, to simply thank all Members of the House for their tacit support of the Bill.

The Speaker: The question is that the Bill shortly entitled the Advance Passenger Information (Amendment) Bill, 2018, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Advance Passenger Information (Amendment) Bill, 2018, was given a second reading.

FORMAL VALIDITY OF WILLS (PERSONS DYING ABROAD) BILL, 2018

The Speaker: The Honourable Minister of Financial Services.

Hon. Tara A. Rivers, Minister of Financial Services and Home Affairs, Elected Member for West Bay South: Thank you, Mr. Speaker.

Mr. Speaker, I beg to move the Second Reading of a Bill entitled the Formal Validity of Wills (Persons Dying Abroad) Bill, 2018.

The Speaker: The Bill has been duly moved.
Is the Minister speaking thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

I rise to present the Bill on behalf of the Government. This Bill seeks to provide for the transfer of property, both land and properties other than real-estate, upon the death of persons who die while abroad.

Mr. Speaker, the summary of the proposal of the necessity of this Bill is that it seeks to replace the common law private international rules of law governing the formal validity of wills of persons dying, domicile outside of the Cayman Islands, which are commonly referred to as “the conflict rules”; and the Bill seeks to replace the conflict rules with a set of rules substantially modelled on the English Wills Act 1963.

In summary, the conflict rules determine the formal validity of testamentary dispositions of movables. This is a very technical area of law and I will try my best to explain it in terms that are easily digestible. The disposition of movables, meaning property that isn't affixed to a land et cetera, testamentary dispositions being for those persons who do so according to a Will or something of that nature.

The conflict rules determine the formal validity of testamentary disposition of movables, which would include, for example, shares of Cayman companies by reference exclusively to the laws, including private international law rules of the jurisdiction of where the deceased domiciled at death, which may be different from the domicile at the time that the Will was executed which presents some difficulties in of itself. The conflict rules determine the formal validity of testamentary dispositions as it relates to immovables, such as land, by reference to the law of the place where the immovable is situated, and in this case it would be considered the *lex situs*.

The draft legislation that we have before us seeks to replace the conflict rules with the rule applicable to testamentary disposition made by a person dying while domiciled outside of the Islands, in respect of property of any description other than Cayman Islands land, which is determined pursuant to the laws of the Cayman Islands. It determines that the formal validity of that testamentary disposition—the Will—to be made by reference either to the internal law of the Cayman Islands—which is kind of known as the remedial objective in this case—or to those systems of law identified in sub-clause 4(1)(b) of the Bill, which is drafted in alignment with the UK's 1963 Act that I spoke of previously. Mr. Speaker, that is to attempt to address a facilitative objective.

The 1963 Act gave effect to the United Kingdom, but not in the Cayman Islands, of the Hague Convention of the 5th October 1961, on the conflict of laws relating to the testamentary disposition, which I will refer to very briefly as “the Hague Convention”.

In the UK's 1963 Act, and thus the Bill before this House, in summary, deems properly with any Will executed in accordance with the law of either the place of execution or the testator's domicile or habitual residence at the time of its execution or the testator's death or the state of which either of those previous situations, that is, the testator's domicile or habitual residence, whether the testator was a national at that time.

The Hague Convention seeks to broaden the scope of what is currently allowed for under the conflict rules and as such, the indications are that the convention was extended to the Cayman Islands by the United Kingdom but there was no such domestic legislation like that of the 1963 Act in the UK; a similar type of domestic legislation passed in the Cayman Islands to really give effect to that intention or those new rules pursuant to the Convention.

Based on the representations that were made to the Government and particularly to the Ministry of Financial Services by industry practitioners, the rules pursuant to The Hague Convention and thus those that are now contained in this Bill before this House, provides for a more facilitative form from the testator's point of view, with respect to their intentions regarding testamentary dispositions than do the conflict rules that would apply. Given the commercial reality that exists today, it is vital and important that the rule governing the formal validity of testamentary dispositions of interest in such companies—in this case in particular, Cayman companies as an example—is adopted which will validate existing arrangements if made in accordance to the Cayman Islands domestic law, the Wills Law in this case, and it also affords testators in the future, the internationally accepted standards set by The Hague Convention for flexibility as to the form of such arrangement and by enshrining it in our laws, it does eliminate what ambiguity may exist in this regard.

Mr. Speaker, speaking very briefly to the various provisions in the Bill that is before the House, if we look at the memorandum and objects of reasons:

Clause 1 provides for the short title and commencement.

Clause 2 provides for the definitions of terms used in the legislation.

Clause 3 provides that the Law applies to a will that is executed by a person who dies after the commencement of this Law and while that person is domiciled outside of the Islands.

Clause 4 sets out the general rule regarding the formal validity of wills of persons dying abroad. The rule states that an applicable will shall be considered as properly executed if its execution conformed to the law of the Islands or the law of -

- (a) the territory where the will was executed;
- (b) the territory where the testator was domiciled at the time of the execution of the will or at the time of the testator's death; or
- (c) the state of which the testator was a national at the time of the execution of the will or at the time of the testator's death.

Clause 5 makes provision for additional rules applicable to wills of persons dying abroad. The following, among others, are treated as properly executed -

- (a) a will executed on board a vessel where the execution conformed with the internal law of the territory that the vessel is most closely connected with, having regard to its registration; and
- (b) a will that disposes of immovable property outside of the Islands and that conforms to the internal law in force in the territory where the property is situated.

Clause 6 provides for the construction of relevant wills where a requirement of the law of another territory or state requires that special formalities are to be observed by testators. Any such special formalities are to be treated, notwithstanding any law to the contrary in that other territory or state, as a formal requirement.

Clause 7 provides that any rule of the common law governing the formal validity of wills of persons dying abroad is abolished, and is hereby replaced by this new legislation.

Mr. Speaker, I want to reiterate that the Bill does not affect wills made locally as provided for in clause 3, and the Bill is only applicable to the Will of a person who dies after commencement of this Law and while domiciled after outside of the Islands.

As I said, the enactment of this Legislation will be welcomed and was encouraged by the Financial Services industry including the onshore and international private client advisors and particularly, those practitioners in an estate planning field.

I commend the Bill for adoption, Mr. Speaker. Thank you.

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

The Member for Bodden Town West.

Mr. Christopher S. Saunders, Elected Member for Bodden Town West: Thank you, Mr. Speaker, just briefly.

First of all, I want to thank the Minister for bringing that Bill. Just for my edification or clarification in the very simplest of terms, when the Minister is winding up, just to be clear: this Bill is a result of people who have shares or property in the Cayman Islands, [who] because of international business, they live outside the country, they died leaving a will and this is our way of recognising that those wills would be valid locally once they meet certain standards? Is that pretty much what we are aiming for? I am just trying to understand the process.

That is pretty much it.

[Inaudible interjection]

Mr. Christopher S. Saunders, Thank you, Mr. Speaker. That is all I need to know.

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

If no other Member wishes to speak, does the Mover wish to use her right of reply?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

Thank you very much and thank you for the Member for Bodden Town West for asking that clarification. Essentially, I think the answer is yes, in that, we want to make sure that there are no ambiguities in terms of the way the conflict of rules law currently exists, in relation to how persons dying abroad who own shares in a company, as you said as an example, with respect to trying to have that recognised in the jurisdiction or where they are, they die. It is to create the certainty that we want to ensure as a jurisdiction that we want to continue to foster to ensure we have a good, stable and strong reputation as a Financial Services industry, in that regard.

Thank you.

The Speaker: The question is that a Bill shortly entitled the Formal Validity of Wills (Persons Dying Abroad) Bill, 2018 be given a second reading.

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

AYES.

The Speaker: They Ayes have it.

Agreed: The Formal Validity of Wills (Persons Dying Aboard) Bill, 2018, was given a second reading.

COMPANIES (AMENDMENT) BILL, 2018

The Speaker: The Honourable Minister of Financial Services.

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

I beg to move the Second Reading of a Bill shortly entitled the Companies (Amendment) Bill, 2018.

The Speaker: Is the Minister speaking thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

I rise to present the Bill on behalf of the Government. It is a Bill to allow the Registrar General to process and approve applications under section 80 of the Companies Law.

The reasons for the Bill are, as currently drafted, [in] the principal Law—that is the Law governing the process now—Cabinet has the authority to approve the companies applying for registration under section 80 of the Companies Law (2018 Revision), as well as any changes to the companies after registration.

As many persons in this honourable House would know, section 80 of the Companies Law currently sets out the circumstances in which the Cabinet may license a company to be registered without “limited” in its name, as an association, not for profit. Throughout the registration process under the Non-Profit Organisations Law, 2017, the Ministry received significant feedback regarding the concerns related to the expense and the timeliness associated with the current Cabinet approval process involved in section 80 applications.

Additionally, the Non-Profit Organisations Law, 2017, has required the General Registry to obtain the necessary personnel and electronic resources to process applications of, and identify and understand the risks associated with Non-Profit Organisations. Therefore, the General Registry is now suitably equipped to process applications of companies or associations planning for designation under section 80 of the Companies Law.

Furthermore, the Bill allows for Companies registered under the Companies Law to apply to the Registrar General for designation under section 80. This is of great importance, as it allows Non-Profit Organisations that have been established as companies to easily convert to companies under section 80 and therefore enjoy the benefits of that section of the Companies Law. These companies were previously registered as ordinary companies to avoid the aforementioned costs that I discussed and lack of timeliness currently associated with the section 80 designated process.

Mr. Speaker, the Bill also now reduces the fee for designation under section 80 of the Companies Law from \$1,000—which is currently reflected in the Government Fees Law—to \$300. Mr. Speaker, it also reduces the fees for filing a change to a company designated under section 80 from \$500—again pursuant to the Government Fees Law—to a nominal \$25 pursuant to Schedule 5, Part 3 of the Bill.

Where it is a change in the information on the list of persons who own, control or direct the company, the fee is \$25 to file a new list.

Additionally, the Bill now also implements specific reporting requirements for companies designated under section 80 to ensure ongoing monitoring and compliance with the requirements of this designation, that being a not-for-profit. The specific reporting requirements have been drafted to avoid the duplication of filings and are as follows:

Firstly, a company designated under section 80 of the Companies Law that is registered under the Non-Profit Organisations Law, 2017 does not have to file any information as required by the Companies Law, as it is currently collected under the Non-Profit Organisations Law, 2017.

Secondly, a company designated under section 80 of the Companies Law that is not registered under the Non-Profit Organisations Law, 2017 does not have to file any information required under the Companies Law, other than that specified in section 80B, as contemplated by clause 3 of this Amendment Bill.

In a further effort to avoid duplicitous filings with the Cayman Islands Government, this Bill exempts companies designated under section 80 of the Companies Law from filing beneficial ownership registers as per part 17A of the Law, as this information would be filed under section 80 or under the Non-Profit Organisations Law (2018 [Revision]).

Mr. Speaker, I would also like to provide further clarity to the honourable Members of this House as to why section 80 of the Companies Law remains vitally important to our Non-Profit Organisation sectors, as we have had a number of questions in this regard.

The first reason is the limited liability provided pursuant to section 80 of the Companies Law. Simply speaking, an organisation wishing to be established as a non-profit organisation that would like to have the comfort of a legal structure that has a limited liability, would first seek to establish a company designated under section 80 of the Companies Law and then would subsequently register under the Non-Profit Organisations Law, 2017, in order to obtain the ability to solicit or raise funds from the public.

The second reason is that it would allow, for example, a privately funded non-profit organisation to be recognised as a non-profit organisation in the jurisdiction. Such an organisation is not required to register under the Non-Profit Organisations Law, 2017 as it would not be soliciting or raising funds from the public but it would still benefit from being identified as a non-

profit organisation by a virtue of designation under section 80 of the Companies Law.

I would also like to inform the Members of this honourable House that the Bill includes penalties for companies designated under section 80 that fail to meet the prescribed filing requirements. Again, this ensures that there are dissuasive sanctions for breaches of the monitoring provision of the Bill.

Lastly, the Government will be amending The Government Fees Law by order, to remove the fees that I previously referred to, related to section 80 Companies, at the same time as the commencement of this Bill to avoid any duplication of fees—so, the community would see and receive immediate relief as it relates to the need and the amount of fees that would be required going forward.

Mr. Speaker, very briefly, the Bill is arranged in 5 clauses:

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

Clause 2 of the Bill amends section 80 of the Companies Law (2018 Revision) so that the discretion with which a company is designated is that of the Registrar—not the Cabinet.

Clause 3 of the Bill inserts sections 80A, 80B, 80C, 80D and 80E in the principal Law which make provision for -

- (a) the application for designation under section 80;
- (b) the obligations for a company designated pursuant to section 80;
- (c) examination of financial records and documents of a company registered pursuant to section 80;
- (d) companies designated under section 80 to be exempt from the obligations under Part XVIIA of the Law; and
- (e) penalties.

Clause 4 of the Bill amends Schedule 5 of the Companies Law (2018 Revision) to prescribe the application fee and the fee to be prescribed for any changes to be notified to the Registrar pursuant to sections 80A and 80B respectively.

This concludes the presentation of the proposed Bill, and I certainly would like to thank the staff of the Ministry and relevant financial services industry, and Legal Drafting for their efforts in helping to prepare the Bill before us today. I would like to do so from the perspective of the Bill that we just approved as well.

I do now submit the Bill for adoption. Thank you.

The Speaker: Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause]

The Member for George Town Central.

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

I would just like some clarity on two sections with respect to the penalties for breach. Section 80E says:

“The Registrar –

- (a) may impose a penalty of five hundred dollars on a company designated under section 80, if the company breaches the provisions of section 80B;”**

Obviously the definition of these words are important. The Registrar “may” — so is there a level of discretion in there? I go to section 80E(5) where it says:

“In addition to the penalty under subsection (1), where the Registrar is satisfied that a breach of section 80B has been knowingly and wilfully authorised or permitted —

- (a) every company to which the breach relates shall incur a penalty of one thousand dollars;”**

I just want to know if there is going to be cohesiveness in respect to what the Registrar is allowed to do, and there might be a specific reason as to why there is a “may” and a “shall” because we know in law they mean two different things. Is it because the first part we are trying to give them a *bly* and discretion by the Registrar; and the second penalty area of concern is one that, *okay we have had enough now you are going to get the penalty anyway?* Just clarity on that.

That is all, Mr. Speaker. Thank you.

The Speaker: Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause]

I call on the Mover to utilise her right of reply.

Hon. Tara A. Rivers: Thank you, Mr. Speaker and thanks [to] all Members for their tacit support on this Bill.

To address the question posed the short answer is yes. The inclusion of the word “may” means that there would be some level of determination that would need to be made, given the facts and the circumstances at the time.

The Member spoke of the provision in relation to “shall”, meaning it will be required, in a situation where it is knowingly and wilfully [done]. That is basically to act as a deterrent to ensure that when and if those situations occur, there will certainly be the requisite penalty that would be levied.

I hope that answers the Member’s question and with that, I would like to again thank all Members for their support of this Bill.

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

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

AYES.

The Speaker: The Ayes have it.

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

**NON-PROFIT ORGANISATIONS (AMENDMENT)
BILL, 2018**

The Speaker: Minister of Financial Services.

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

I beg to move the Second Reading of a Bill shortly entitled the Non-Profit Organisations (Amendment) Bill, 2018.

The Speaker: The Bill has been duly moved.

Does the Member wish to speak thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

I briefly rise to present the Bill on behalf of the Government. It is a Bill that seeks the Legislative Assembly's approval in relation to the Amendment Bill before the House today.

As Members of this honourable House will be aware the Non-Profit Organisations Law, 2017 and the underlying regulations were identified as the key pieces of legislation to be implemented prior to the Caribbean Financial Action Task Force (CFATF) assessment in the fourth quarter of 2017. The Non-Profit Organisations Law and the underlying regulations which came into force the 1st August 2017, provides for the registration of Non-Profit Organisations—I will refer to them as NPO's going forward—in the jurisdiction and the monitoring of NPO's that are at the greatest risk of being abused for terrorist financing.

Mr. Speaker, subsequent to the commencement of the Non-Profit Organisations Law and the underlying regulations, the Ministry of Financial Services, jointly with the General Registry, conducted an extensive industry outreach programme to educate all stakeholders on the provisions of the Law. This outreach programme included print media, media appearances including television and radio by staff of both the Ministry and the General Registry, as well as over 25 public presentations with two of those occurring in Cayman Brac. Based on feedback received during those consultations from industry stakeholders and others, this Bill enacts many of the changes that were proposed which will bring greater clarity and improve the operation of the Non-Profit Organisations Law, 2017 and the underlying regulations.

Mr. Speaker, this Bill seeks firstly to clarify the organisations that are captured by Non-Profit Organisations Law, 2017. The Bill clarifies the activities which

require registration and makes clear the organisations that are exempt from the provisions of the principal Law. This is critically important to ensure that the jurisdiction knows all the NPOs operating in the country.

In regard to this Bill, it contains transitional provision, providing any organisation that is now required to register due to the change a six-month period to register along with the waiver of any applicable registration fees. Again, this goes with the Government's intention to try and make and facilitate this process to be as easily and financially stress free as possible to get adjusted to the changes if it would apply to such organisation.

The Bill also provides the Registrar of NPOs with the power to periodically assess the NPO sector in the jurisdiction in order to identify any potential jurisdictional vulnerabilities to terrorist financing activities. As Members of this honourable House are aware, NPOs throughout the world have been extremely vulnerable to the threat of terrorist financing activities and thus have been the focus of the FATF on this sector.

The Bill also seeks to make clear what information maintained by the Registrar of NPOs is publicly available. This is to ensure that the information held is maintained in accordance with other laws, whereby private information is not publicly available. However, the Bill does provide for mechanisms through which the Registrar of NPOs can share information with local law enforcement agencies and competent authorities under appropriate circumstances.

I am pleased to confirm that over 400 NPOs have now been registered in the Cayman Islands, showing considerable adherence to the Law in the jurisdiction. I am also equally happy to share with this honourable House that it is my understanding that the NPOs' legislative framework received positive feedback from the CFATF assessment team during their visit. Further, the concerns that were raised regarding periodical assessment of [the] NPO sector is addressed in this Bill.

Mr. Speaker, the content of this Bill coupled with the amendments to the underlying regulations and the Companies (Amendment) Bill, 2018, which we just approved the Second Reading, seek to streamline the entire NPO regime by removing duplicitious filings and reducing fees. Following the passage of the Bill, the Ministry has prepared amendments to the underlying regulations which again, will reduce the fees for changes to the list of persons who own, control or direct the NPO as we discussed previously during the last Bill.

Furthermore, new regulations will allow for a complaints form to be filed with a Registrar of NPOs by concerned members of the public against a registered NPO, so the Bill provides for a formal complaints process pursuant to the provisions contained therein.

Mr. Speaker, that, essentially, is the overview for the reasons and rationale for this Bill. As I said, we have received much feedback during the consultation process from NPOs, the society of state and trust practitioners [*sic*] and other stakeholders, and would like to

thank everyone who participated and certainly thank the Ministry and Legislative Drafting for allowing us to present this Bill here today.

I submit the Bill for adoption and passage. Thank you.

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

The Member for Bodden Town West.

Mr. Christopher S. Saunders: Thank you very much, Mr. Speaker; just very briefly.

I am hoping that the Honourable Minister in closing up... I am just trying to wrap my head around the difference between the two pieces of legislation: the section 80 Companies and the entities in the not-for-profit Law.

It was my understanding when the not-for-profit Law was passed last year it was to do away with the section 80 companies and now we are dealing with a modified section 80 company. I am just trying to understand if we are having two sets of laws now to deal with NPOs. That is what I am looking for clarity on; and if so, why are we really having these two laws? That is what I am just trying to wrap around my head.

Thank you, Mr. Speaker.

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

I call now on the Minister to wind up.

Hon. Tara A. Rivers: Thank you, Mr. Speaker, and again thanking all Members who didn't speak for their tacit support of this Bill, and certainly thanks [to] the Member for Bodden Town West for his clarifying question.

I think it's important that Members in this House, as well as the public understand, as I tried to explain in the opening of the last Bill as we discussed, the section 80 companies, I think, the best way to describe it would be akin to getting a Trade and Business Licence and then getting the registration that would follow pursuant to that regime. However, to make it very clear, the section 80 company allows you to register as a company and allows you to get the benefits and the burdens of being a recognised legal entity of that nature, but then, if you are going to act in a way that brings you under the auspices of the NPO Law, that is, you are soliciting funds or raising funds from the public, that would then require registration pursuant to that Law. However, as I gave as an example for a private NPO that will not be registering pursuant to the NPO Law because they will not be raising funds from the public, the section 80 provision still remains and allows them to register as a company, still register as a NPO and getting the benefit of being so, but wouldn't be caught by

the regime under the NPO because they don't solicit funds from the public.

That is the distinction between them and why it's important to keep the ability to register as a company because some organisations want the limited liability that comes with being a registered recognised company but they don't solicit funds from the public so they wouldn't be considered under the NPO Law regime.

With that Mr. Speaker, I hope that has answered the question of the Member for Bodden Town West and I again thank the Honourable Members of this House for your support.

The Speaker: The question is that a Bill shortly entitled the Non-Profit Organisations (Amendment) Bill, 2018, be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Non-Profit Organisations (Amendment) Bill, 2018, was given a second reading.

BANKS AND TRUST COMPANIES (AMENDMENT) BILL, 2018

The Speaker: Honourable Minister of Financial Services.

Hon. Tara A. Rivers: Mr. Speaker, I beg to move a second reading of the Bill entitled the Banks and Trust Companies (Amendment) Bill, 2018.

The Speaker: Is the Member speaking thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

I rise to present this Bill on behalf of the Government as it seeks to empower the Cayman Islands Monetary Authority (CIMA) the ability to supervise banking groups on a consolidated basis.

Mr. Speaker, the Authority supervises and regulates banks licensed under the law and incorporated in the Cayman Islands in accordance with principles established with the Basel Committee on Banking Supervision.

The Basel Committee on Banking Supervision is a committee formed under the Bank for International Settlements and it is the primary global standard-setting body for the prudential regulation of banks.

In June 2004, the Basel Committee on Banking Supervision issued an international standard for banking regulation and supervision known as Basel II. Most jurisdictions around the world started the implementation of Basel II framework in 2008 and beyond. Here in

the Cayman Islands, the Cayman Islands Monetary Authority, began implementation of the Basel II framework in December 2010.

The first phase of the implementation of Basel II is known as Pillar 1 and it includes the adoption of a standardised approach for the calculation of capital based on a bank's credit risk, market risk and operational risk. The calculation of capital should be considered on a consolidated basis where the holding company of a Cayman Islands licensed bank is incorporated in the Cayman Islands and is the parent entity within the banking group. In such an instance, Basel II rules would require that the holding company will ensure that the banking group, on a consolidated basis, complies with the set minimum capital requirements established by the Cayman Islands Monetary Authority.

The provisions of this Amendment Bill would enshrine in Cayman Islands Law the obligation for parent entities for Cayman banking groups to adhere to capital requirements and other prudential measures set by the authority. This will allow CIMA to fully implement Pillar 1 of the Basel II supervisory framework.

The Bill also provides for proportionate and dissuasive sanctions that the authority may take against a licensee or the parent of the Cayman banking group for failure to comply with the capital requirements and other prudential measures set by the authority.

The Bill also inserts a provision to allow an applicant that is refused registration under the private trust company regulations a mechanism to appeal such a refusal.

Finally and quite importantly, the Bill enhances the regulation making power under the principal Law to ensure it is in line with other regulatory laws.

Mr. Speaker, that is the summary of the importance of why this Bill has been brought to the House at this time and I certainly wish to thank the staff of CIMA, the Ministry and relevant members of the Financial Services industry including the Cayman Islands Bankers' Association and the Legislative Drafting [Department] for their efforts with respect to the design and preparation of the Bill.

I therefore commend the Bank and Trust Companies (Amendment) Bill, 2018 to this honourable House for passage. I thank you.

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

The Member for Bodden Town West.

Mr. Christopher S. Saunders: Thank you, Mr. Speaker; again, just briefly.

I want to thank the Government for bringing this Amendment, especially with regard to the supervision of the parent companies of banks. Especially in light of the fact that most of the banks that we have operating here in the Cayman Islands are actually owned by other banks overseas, and I think the last remaining bank that

we have will soon be owned by [another bank] overseas.

I think it is important because in many cases the banks that operate locally depend on their parent to basically bail them out if something goes wrong. You may also recall that, that was one of the issues when we were on the road show, people were looking at these kind of liabilities if we added those kinds of things that exist locally. That was one of the sticking points. We know that it is something that people look at and I think it is important that our regulatory regime here starts looking at these overseas entities because risk is something that can affect one thing happening in another part of the world, especially for a multi-national bank.

Recently, we saw the Mexico situation with HSBC and the impact that it had on HSBC globally. I can tell you from my own experiences when I first started accounting, I think the Honourable Minister of Finance will remember the days of Arthur Andersen, and just one rouge office in Chicago went crazy and brought down the entire Arthur Andersen organisation through the Enron scandal.

It is important that our regulatory regime starts looking at many of these overseas entities. What I would encourage the Government to make sure of is that as they embark on this new provision or give CIMA this new initiative, the proper funding goes with CIMA, or that CIMA ensures that they have the proper funding to make sure that the supervision takes place. This is something that is needed and banking itself is not going to get easy going forward. I mean there is Basel III underway; there is International Financial Reporting Standard (IFRS) 9 and there are different issues coming along that are going to make banking a little more challenging so it is important that we have the right legislation and the right regulations in place to deal with upcoming challenges that will be facing our industry.

Thank you, Mr. Speaker.

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

Does the Honourable Minister wish to exercise her right of reply?

Hon. Tara A. Rivers: Yes, Mr. Speaker.

Just to firstly thank those Members who have not spoken for their tacit support, and certainly to thank the Member for Bodden Town West for agreeing with the Government and for thanking the Government for bringing this Amendment Bill forward. Certainly based on his experience, formerly in the financial institution, the bank in particular, would appreciate the need, as he said and as he outlined in his contribution, for having this ability to have the enhanced regulatory oversight in order to conduct the proper analysis for the protection of our own local industry.

Certainly, with respect to the request regarding funding, just to apprise this honourable House,—which I am sure you will know based on the budget discussion of years gone by—I know since I have been a Member of the Government, we have year on year increased funding to CIMA and we have a discussion with them every year during the budget process. In this case, we anticipate that it will be no different and that we will look to increase as necessary and support the efforts of CIMA to ensure that our financial services industry is suitably and appropriately regulated to ensure that we have the kind of robust showing year on year. Thus, I have taken the Member's concern to heart and certainly now that I sit in this role I will be fighting for the necessary resources as I would do with any other responsibility that I have taken on, on behalf of the Government.

Thanks again.

The Speaker: The question is that a Bill shortly entitled the Banks and Trust Companies (Amendment) Bill, 2018 be given a second reading.

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

AYES.

The Chairman: The Ayes have it.

Agreed: The Banks and Trust Companies (Amendment) Bill, 2018, was given a second reading.

CADET CORPS (AMENDMENT) (NO. 2) BILL, 2018

The Speaker: The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Mr. Speaker, the Minister of Education who has responsibility for this and other things, is at an official function with His Excellency the Governor.

I will therefore move a Motion that items number 7 and 8, both of which are Bills standing in her name, the Cadet Corps (Amendment) (No. 2) Bill, 2018, and the Roads (Naming and Numbering) (Amendment) Bill, 2018 be moved to the bottom of the Second Readings list of Bills, in order that we can take the other Bills in the meantime.

The Speaker: The question is that items 7 and 8 the Cadet Corps (Amendment) (No. 2) Bill, 2018, [and] the Roads (Naming and Numbering) (Amendment) Bill, 2018, be moved to another part of the agenda.

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

AYES.

The Speaker: The Ayes have it.

Agreed: Items 7 and 8; The Cadet Corps (Amendment) (No. 2), Bill, 2018 and The Roads (Naming and Numbering) (Amendment) Bill, 2018, deferred.

LIMITED LIABILITY PARTNERSHIP (AMENDMENT) BILL, 2018

The Speaker: The Honourable Minister of Financial Services.

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

I beg to move the Second Reading of a Bill entitled the Limited Liability Partnership (Amendment) Bill, 2018.

The Speaker: The Bill has been duly moved.

Is the Honourable Minister speaking thereto?

Hon. Tara A. Rivers: Yes, Mr. Speaker, if you would give a minute to collect my speaking notes.

[Pause]

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

I rise to present the Bill on behalf of the Government. It is a Bill that seeks to amend the Limited Liability Partnership Law, 2017, in order to require Limited Liability Partnerships incorporated in the Islands to establish and maintain beneficial ownership registers that may be searched by the local competent authority.

The Limited Liability Partnership (LLP) is the newest type of corporate vehicle in the Cayman Islands which blends the key advantages of both a company and a limited partnership. The LLP, having separate legal personality, would therefore be within the scope of the Exchange of Notes signed between the Cayman Islands and the United Kingdom in April 2016.

As some of the Honourable Members are already aware, the Exchange of Notes sets out the framework for the Cayman Islands cooperation and facilitation pursuant to the exchange of beneficial ownership on companies registered or formed in the Cayman Islands upon receipt and verification of a request from the UK law enforcement authorities. However, I would like to stress at this point, Mr. Speaker, that the Exchange of Notes is certainly not the only vehicle; there have been other vehicles in existence for the appropriate exchange of information long before the most recent Exchange of Notes were agreed and such cooperation did exist by the Cayman Islands with the United Kingdom for many years prior to.

This Amendment ensures that the LLP, in alignment with companies, have the appropriate beneficial ownership provisions contained in the Law and therefore are obligations of those vehicles.

As stated in the Memorandum of Objects and Reasons of the Bill, the Bill makes provisions for the LLP to maintain registers of information for beneficial

owners which would be accessed by a competent authority. Importantly, the Bill specifies the exceptions that exclude certain types of LLPs registered or formed in the Cayman Islands, such as those LLPs listed in the Cayman Islands Stock Exchange or in an approved stock exchange and LLPs holding a licence under another regulatory law.

The Bill also specifies the roles and responsibilities of corporate service providers in line with the final design of the centralised platform to access the beneficial ownership information. As I said, this is primarily to bring this law in alignment with the other relevant laws that also contain the same or analogous provisions providing for such requirements and obligations.

Mr. Speaker, I will be speaking more to this in the Committee Stage but there are minor amendments that will be put forward as a result of the consultation that was conducted during the 21 day gazettal of the Bill. We did receive a few comments and thought it necessary to make a few clarifying amendments that I will be happy to discuss during Committee Stage.

Mr. Speaker, again, this is the purpose of the Bill and I would like to thank the Ministry staff and the relevant financial service industry associations and those who participated during the consultation for this Bill and I commend the Bill for passage.

Thank you.

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

The Member for Bodden Town West.

Mr. Christopher S. Saunders: Thank you, Mr. Speaker.

First of all I would just like to thank the Minister and her team. My colleagues and I on this side do recognise that this is an issue that is ongoing, in terms of beneficial ownership. It is our understanding that we have probably made some commitments, but one of the things that we would really like, is to get a full update from the Government with regard to where we are on beneficial ownership as a whole. We do recognise that it will affect certain pieces of legislation but I think [it] would be good for this entire House to get an update as to where we are from that stand point.

[Crosstalk]

Mr. Christopher S. Saunders: Thank you, Premier for explaining that.

That is pretty much our concern, just trying to get a view of the full picture in terms of where we are so I welcome the Government's commitment to provide an update next week.

Thank you.

[Crosstalk]

Mr. Christopher S. Saunders: Okay. Thanks.

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

The Honourable Minister of Financial Services to wind up the Bill.

Hon. Tara A. Rivers: Thank you, Mr. Speaker and again thank all of those in this honourable House for your tacit support in not speaking to the Bill but certainly your support of the intentions and the need to bring this Bill as such.

I also want to thank the Member for Bodden Town West for the question and I certainly will defer to the Premier who has indicated that a full update, as has been requested, will be forthcoming at a time that is appropriate and convenient next week.

With that, I would like to commend this Bill to this honourable House for adoption and passage.

The Speaker: The question is that a Bill shortly entitled the Limited Liability Partnership (Amendment) Bill, 2018 be given a second reading.

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

AYES.

The Chairman: The Ayes have it.

Agreed: The Limited Liability Partnership (Amendment) Bill, 2018, was given a second reading.

STAMP DUTY (AMENDMENT) BILL, 2018

The Speaker: The Stamp Duty (Amendment) Bill, 2018.

The Minister of Finance.

Hon. Roy M. McTaggart: Mr. Speaker, I beg to move the Second Reading of a Bill entitled the Stamp Duty (Amendment) Bill, 2018.

The Speaker: The Bill has been duly moved.
Is the Minister speaking thereto?

Hon. Roy M. McTaggart: Thank you, Mr. Speaker, I am.

I begin by just saying we are on a roll, sir, and I hope Members will be just as accommodating to me as they—

[Inaudible Interjection]

Hon. Roy M. McTaggart:—were to my colleague to my right.

[Inaudible Interjection]

[Laughter and crosstalk]

Hon. Roy M. McTaggart: Mr. Speaker, I rise to present the Stamp Duty (Amendment) Bill, 2018 on behalf of the Government and which I will refer to hereafter as “the Bill”.

This Bill seeks to achieve the following four main objectives:

1. Increase the existing stamp duty concession limits afforded to Caymanians acquiring their first immovable property which can be raw land or land with a building on it, such as a home, a townhouse, apartment, condo, duplex, triplex, whatever.
2. Even if a Caymanian has acquired property before, by alleviating some of the financial strain of further property acquisition by offering a much reduced stamp rate of three per cent provided that the value of the property being acquired does not exceed \$300,000. Additionally, non-Caymanians seeking to acquire property under such a limit can also benefit from the three per cent stamp duty rate.
3. To introduce a new category of concession in which two or more, but not exceeding 10 Caymanians, that have never owned property before, can do so without paying stamp duty if the value of the property does not exceed a certain limit.
4. To improve the principal Stamp Duty Law by introducing provisions in the Bill to curb revenue losses suffered by Government as a result of a growing practice which the Bill defines as a “linked property transaction”.

I will now turn my attention and speak to each of the Bill’s main objectives.

Stamp Duty concessions with regard to Caymanians acquiring properties for the first time

The concession that enabled Caymanians to acquire property for the first time without paying stamp duty, provided that the value did not exceed a certain specified amount, was first introduced in 1997. At that time, Caymanians purchasing raw land with a value that did not exceed \$25,000 did not have to pay stamp duty at all if they had never owned property before. Caymanians acquiring land with a building on it, such as an apartment, house or whatever, did not have to pay stamp duty if the value of the property did not exceed \$125,000.

Mr. Speaker, these limits remained in place for Caymanians acquiring property for the first time until 2002 when the limits increased to \$35,000 for raw land and \$150,000 for property with a building on it.

There was a change again to these limits in 2006. The limit for no stamp duty being payable by Caymanians acquiring their first parcel of raw land was increased to \$50,000, and in the case of property with a building on it the limit increased to \$200,000.

In 2006, the first two per cent stamp duty rate band was introduced for Caymanians acquiring property for the first time, and the following limits were applicable to such a two per cent rate: raw land with a value greater than \$50,000 but not exceeding \$75,000; and in the case of a property with a building on it, the value of the property acquired, where the value of the property exceeded \$200,000 but did not exceed \$300,000.

These limits remained until December 2012 when they were increased again as follows: no stamp duty was payable if the value of the raw land did not exceed \$100,000; stamp duty was not payable if a property with a building on it did not exceed \$300,000. The two per cent stamp duty rate became applicable when the value of the raw land exceeded \$100,000 but did not exceed \$150,000; and the value of a property with a building on it exceeded \$300,000 but did not exceed \$400,000. If the value of the property exceeded the limits of \$150,000 for raw land and \$400,000 for a property with a building on it, a first time Caymanian property owner, paid stamp duty of 7.5 per cent.

Mr. Speaker, I am pleased to tell Honourable Members of this House and the public that this Bill proposes to increase the limits yet again for Caymanians acquiring properties for the first time and these proposed new limits in the Bill are as follows:

- In the case of raw land, whose value does not exceed \$150,000 there is no stamp duty payable.
- Where there is a building on a property being acquired, whose value does not exceed \$400,000 there is no stamp duty payable.
- The two per cent stamp duty concessionary rate is applied to Caymanians buying properties for the first time when the value of the raw land exceeds \$150,000 but does not exceed \$200,000; [or]
- The value of a property with a building on it exceeds \$400,000 but does not exceed \$500,000.
- If the value of the raw land exceeds \$200,000 or if the value of the property with a building on it exceeds \$500,000, then Caymanians buying such properties will pay stamp duty at the rate of 7.5 per cent.

Mr. Speaker, I fully appreciate at this late hour, that Honourable Members and the public may not have found it easy to keep track of the increases and the limits from 1997, when the programme was introduced, to the current 2018 Bill, now before the House.

Therefore, let me simplify the increases over the years as follows:

- Raw land: In 1997, you did not pay stamp duty if it did not exceed \$25,000 in value. If this Bill is passed, such a limit would become \$150,000—a six fold increase to the initial \$25,000 limit.
- Property with a building on it: In 1997, it could be bought without paying duty if the value did not exceed \$125,000. In 2018, this Bill proposes to increase this limit to \$400,000, which is just over a threefold increase.
- The limits for the two per cent stamp duty concession rate introduced in 2006 would also be increased significantly if this Bill is passed. Raw land: In 2006, the limits were a value greater than \$50,000 but not exceeding \$75,000. Property with a building: if the value was greater than \$200,000 but not exceeding \$300,000.
- This Bill specifies the following proposed limits for the two per cent stamp duty rate to first time Caymanian buyers. Raw land: the value exceeds \$150,000 but does not exceed \$200,000. Again, this is a threefold increase to the 2006 limits. Property with a building: the value exceeds \$400,000 but does not exceed \$500,000. These increases are approximately double the threshold that existed in 2006.

Mr. Speaker, the Stamp Duty Concession Programme offered to Caymanians acquiring properties for the first time is extremely popular with the public and the Government is more than willing to forego or forsake some stamp duty in order to assist Caymanians with property ownership, particularly acquiring it for the first time.

Over the period from the 1st May 2013 to the 19th November 2018, the stamp duty foregone by Government due to the existence of this concessionary programme was approximately \$20 million.

The Bill, at clause 5 increases the stamp duty thresholds, by which Caymanians acquiring properties for the first time can do so without paying stamp duty at all or at a two per cent rate. The Government considers it a tremendous achievement to be able to offer Caymanians this opportunity to acquire property with a building on it without having to pay any stamp duty if the value of the property does not exceed \$400,000 and if the Caymanian is buying property of the first time.

The introduction of a three per cent stamp duty rate within a development scheme

The Government is fully aware that [in] the entire Cayman Islands population of some 64,000 people, persons do not all have the same financial resources at their disposal, and the Government is particularly mindful that it should do all that it can do enable property ownership amongst persons in the Cayman Islands with diminished financial resources.

Clause 5 of the Bill crystallises the Government's thought process in this regard by introducing a new rate of stamp duty; three per cent if the value of the property being acquired does not exceed \$300,000, with respect to property being brought in a development scheme and forming part of a linked property transaction.

It is also very important to note that this reduced rate of stamp duty is offered to both Caymanians and non-Caymanians.

It also needs to be made clear that if a Caymanian seeking to buy property for the first time and does so within the development scheme, that Caymanian does not pay stamp duty at all, since the individual would be able to get complete exemption from stamp duty under the first-time property ownership programme for Caymanians.

The Bill endeavours to enable persons in lower income brackets and those with little or limited financial resources not to be thwarted from property ownership because of the stamp duty putting such ownership beyond their reach. Hence, the reduced rate of three per cent being proposed by this Bill.

A new category of concession afforded to two or more but not exceeding 10 Caymanians buying property for the first time

Clause 5 of the Bill seeks to introduce a new concession. Two or more Caymanians but not exceeding 10 that are buying property for the first time may do so without paying stamp duty provided the value of the property falls within certain thresholds and it is also under proviso that the acquisition represents a first time purchase by each person within the group.

Now, Mr. Speaker, I would draw [to] Members' and the public's attention that it is the Registered Land (Prescription Under Section 99) Order (1999 Revision) that specifies that the maximum number of persons to be registered in a land registry as proprietors is 10; that is the reason for including that number in this proposed Bill.

There is no charge to stamp duty, if in the case of raw land the value does not exceed \$300,000 and in the case of property with a building, the consideration does not exceed \$500,000. A two per cent stamp duty rate applies in the case of raw land if the value exceeds \$300,000 but does not exceed \$350,000; and in the case of property with a building, the value exceeds \$500,000 but does not exceed \$600,000. If the group seeks to acquire raw land with a value greater than \$350,000 or property with a building on it with a value that exceeds \$600,000, stamp duty is assessed at 7.5 per cent.

Mr. Speaker, this new category of stamp duty concessions to a first time Caymanian group of persons is another benefit introduced by this Bill and is done by clause 5 of the Bill. Might I add that this concession is

primarily geared towards couples, young Caymanian couples, who wish to buy property together.

Provisions in this Bill are provided to curb revenue losses resulting from linked property transactions

Another main objective to the Bill is to introduce provisions that will eliminate the growing practice of linked property transactions. The result of which is to cause significant loss of stamp duty revenue to Government.

Let me explain the fundamentals of a linked property transaction which is defined in clause 3 of the Bill. A linked property transaction is one in which typically a seller or developer agrees to sell land to a buyer only because there is a separate written agreement that the buyer executes to the effect that the seller or the developer is contracted to build a dwelling, for example an apartment, a townhouse or condo on the land for the buyer.

In other words, there is a clear link between the purchase of the raw land and the development and construction of a building on that land. If the buyer is not agreeable to the seller of the raw land, also being the contractor for the construction of a building, the transaction does not proceed. This practice typically involves stamp duty being paid to government on the value of the raw land only and such value will be materially less than the value of the completed building that is subsequently constructed on the land with the result that the amount of stamp duty paid to government, calculated on the value of the raw land only is less than the amount of stamp duty that should be paid to government based on the value of the completed building that is ultimately being acquired. This practice is not in keeping with the spirit and the intent of the Stamp Duty Law and it has resulted in substantial losses in stamp duty revenues to government.

As an example of the revenue shortfall to government, we learned the following at a recent meeting with a property developer who told us that the typical value of land on which this particular developer builds townhouses is \$35,000; and the typical sales value of the townhouse, apartment or condo is about \$500,000. Under the linked property transaction regime, government is paid and receives stamp duty on the value of the land only at 7.5 per cent rate. The government would therefore typically receive \$2,625, whereas if stamp duty was assessed and paid on the value of the finished product, townhouse or condo, the revenue would have been in the region of \$37,500. In this case, this results in a revenue loss to government of approximately \$35,000 on a single condo or apartment; and there were numerous such developments in that particular development.

The government is aware of six phased developments that have been started in recent years, in

which the use of this linked property transaction mechanism will likely result in an estimated loss of some \$16 million in stamp duty revenue to government.

Let me now explain how the Bill proposes to curb the loss of revenue to government resulting from these linked property transactions.

Firstly, the Bill in clause 3 defines a "linked property transaction".

Clause 3 states that a "linked property transaction" means -

(a) **"There are more than one transaction relating to the conveyancing and transfer of immovable property;"**.

This language captures the fact that there is normally an agreement in respect of the raw land purchase and a separate agreement with respect to the development or construction of a building on the raw land.

(b) **"The transactions are between the same buyer and seller ("the developer") or between their connected persons; ["Connected persons" is defined by clause 3 of the Bill].**

(c) **Payment on each transaction can be made in one payment or divided into two or more payments at the election of the buyer or the developer".**

Mr. Speaker, I plan to move a Committee Stage Amendment to [subsection] (c) of the definition to tighten the language further.

(d) **"The transactions are part of a single arrangement or development scheme or part of a series of transactions".** A "development scheme" is a defined term found in clause 3 of the Bill.

Clause 5 of the Bill then employs to define the terms of "development scheme" and "linked property transaction" to specify that the charge to duty is to be calculated on the total value of the linked property transaction and not just on the value of the raw land. Specifying that stamp duty is to be calculated on the total value of the transaction is a mechanism by which Government seeks to curb revenue loss by stopping the practise by some developers of marketing that stamp duty is payable on the raw land element only and not on the value of the totality of the transaction between the buyer and the developer.

Another positive effect of this Bill is to create a level playing field amongst all property developers because stamp duty will be assessed on the value of a property transaction and not just the raw land. Currently, the situation exists in which some property developers are correctly marketing their projects on the basis of stamp duty being assessed on the total value of the entire transaction while other developers market

their projects on the basis of stamp duty being payable on the raw land component only. The effect of the Bill is to remove such a disparity.

Mr. Speaker, on behalf of the Government, I have taken the approach of listening to and meeting with anyone who wanted to provide feedback on the Bill now before the House.

Mr. Speaker, there have been several such meetings and the Government has considered the feedback we have received. This feedback is centred around the following reasoning:

The effect of the Bill is to cause a buyer of a building to have a higher cash outlay in acquiring the building because stamp duty will be higher than previously marketed by the developers. In turn, developers have argued that the increase cash outlay will put property ownership out of the reach of many and this will lead to a decrease in demand for property ownership, and as an ultimate consequence, previously planned projects may no longer be feasible leading to their cancellation or their significant revamping.

Mr. Speaker, we understand the rationale and the arguments that have been put forward, and it is important that the public and everyone understand that the Government has already made important contributions towards keeping the price of property ownership to a reasonable level by affording a concessionary import duty rate of 15 per cent, as opposed to the full rate of 22 per cent on building materials. This concessionary rate has been in existence since the start of 2011. Building materials are an important cost element of the price of property ownership and Government's actions should have helped with respect to the price of acquiring properties in the Cayman Islands. Mr. Speaker, some developers also requested and government granted, a reduction in infrastructure fund fees. Again, the Government's action should have assisted with the price that buyers ultimately paid to own property in these Islands.

The Government is prepared to take account of the feedback received from certain developers by changing the commencement date with respect to the linked property transactions from the Bill's current 1st January 2019 date. I must hasten to add that there isn't any proposed changed to the 1st January 2019 effective date for the Bill's increased stamp duty concessionary thresholds for Caymanians acquiring property of the first time. If this Bill is approved that will come into effect on the 1st January 2019.

Mr. Speaker, on behalf of Government, I intend to move a Committee Stage Amendment with respect to linked property transactions to the effect that the provisions for the Bill for such transactions shall not apply to developments that have obtained planning approval to construct buildings by the 30th June 2019, and for which the associated linked property transaction agreements have been executed by the 31st December 2019. The intended Committee Stage Amendment indicates our willingness to heed feedback but the developers

that oppose the portion of the Bill relating to linked property transactions, they too can also help alleviate any additional cash crunch or cash outlay faced by a buyer by their willingness to adjust their profit margins and their final prices.

In conclusion, I will end by re-iterating the Bill's four main objectives, which are:

1. To increase the stamp duty concession limits afforded to Caymanians acquiring their first immovable property, which can be raw land or land with a building on it, such as a home, a townhouse, apartment, condo.
2. Even if the Caymanian has acquired property before, by alleviating some of the financial strain of further property acquisition, by offering a much reduced stamp duty rate of three per cent provided that the value of the property being acquired does not exceed \$300,000. This concession is also extended to non-Caymanians seeking to acquire property under this limit.
3. To introduce a new category of concession where two or more, but not exceeding 10 Caymanians who never owned property before, can do so without paying stamp duty if the value of the property does not exceed a certain limit; and
4. To improve the principal Stamp Duty Law by introducing provisions in the Bill that will curb revenue loss suffered by government as a result of the growing practise, which the Bill defines, as a linked property transaction.

This Bill substantially increases stamp duty concession threshold for Caymanians and seeks to curb revenue loss to government, while giving developers sufficient time to make any changes that they need to their projects, prior to the effective dates of this Law.

Mr. Speaker, I reiterate, the increased thresholds that will benefit Caymanians, take effect on January 1st, 2019.

The effect of the proposed Committee Stage Amendment would result in the provisions of the Bill with respect to linked property transactions not being applicable to developments that have obtained planning approval to construct buildings by the 30th June 2019, and for which the associated linked property transaction agreements have been executed by the 31st December 2019. If both of these conditions are met, then the Bill's provisions do not apply until the 1st January 2020. This will give developers the necessary time to make the adjustments that they need to make.

Mr. Speaker, I commend this Bill to all Members of this honourable House and I seek their support and ask that they support the Bill's Second Reading when the time comes.

I thank you, Mr. Speaker.

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

The Leader of the Opposition, the Member for North Side indicated first.

Hon. D. Ezzard Miller, Leader of the Opposition, Elected Member for North Side: Thank you, Mr. Speaker.

I wish to make a small contribution, ask for a few clarifications and make a few suggestions to the Stamp Duty Bill before us. I will agree that it is a move towards benefits for Caymanians by increasing the amount, but I am wondering if it wouldn't be simpler, and much more understandable to Caymanians, if you simply say all Caymanians get a benefit up to \$400,000 [of] stamp duty free. If your house, building and land, costs \$400,000 or less it gets stamp duty free. If it cost \$600,000 you pay stamp duty on the \$200,000 but it makes it equal for all Caymanians. We shouldn't always punish success amongst our fellow Caymanians especially when we are moving the "linked" thing and we are allowing the foreigners to get the three per cent too.

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: Mr. Speaker, what happens is, under the current system, Caymanians buying a house that falls a little bit over the threshold, they simply shop these evaluators around town to get it brought down to the value to which they qualify. I think it would just be much simpler and there would be no need to do that because those people who are paying over the limit feel as though they are contributing to the economy, paying the same taxes as the Caymanians, especially young Caymanians in the professional category, because it is not easy to find a decent house and land around Cayman now for \$500,000 or \$400,000. I am just making a suggestion that we make this benefit available to all Caymanians but the duty free element of it... You can still graduate it if you want; the two per cent higher up. Only for first time buyers. I don't agree—

[Inaudible Interjection]

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

No, but all Caymanians who are first time buyers. Right now we are separating Caymanians, who are first time buyers, according to the value of the property they are buying. Some people don't get anything. What I am suggesting—

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: Well, we are giving the multi-millionaires who are getting the development concession rates at Planning and duty free things and waving of fees, and the Caymanian isn't getting anything for his house. Even in the linked properties, we are giving them a whole year and there

are already advertisements on Facebook by these developers encouraging people to hurry and buy it before January 1st before Government changes the Law. They are trying their best to get all of their sales completed, again to jip Government of the duty.

Mr. Speaker, there is a more fundamental problem that I would argue Government is losing more revenue and stamp duty from. People are allowed to use the transferred document in Government as a bearer bond. This has been going on for a long time.

You will recall in the '90s when I was in the Government and we had a downturn in the finances, we did an audit of condos built on Seven Mile Beach and we found that more than 80 per cent were still in the name of the developer. However, that same developer had issued many press releases and pictures that all of the units had been sold because when they get the top half completed and they don't put a date in and it is signed it is a bearer bond. They can keep that for as long they want, they can sell it to as many people as they want, and I can tell you without fear of successful contradiction that the big law firms in this country are promoting exactly that.

I have received letters from a big law firm in this country on a person whom I sold a small apartment to, in my development in North Side on the Queens Highway, way back in 1993. They were re-selling it, and the law firm wrote me a letter with a new transfer thing asking me to complete the second half in the name of the person who was buying it—for I don't know if it was a second, third or fourth time—and I refused. I said '*I don't know this person*'. I have the record of who I sold this apartment to, I have the value of it, if the person has lost the transfer document I am quite happy to provide a genuine copy with the date on which it was bought. Then the law firm sent the person who was buying it then, to try to hornswoggle me, and give me this big cry baby case about they couldn't afford the stamp duty and all of this kind of stuff. I said *sir, I am a Justice of the Peace in this country, I'm not breaking the Law for you*. As Justice of the Peace, I have been presented with transfer documents with only the top-half filled in and asked me to sign it and I refused. If you don't bring the party that is buying this, and we don't put the date on it, I am not signing it.

There is a simple solution to correct that. All we have to do is number the instrument. The real estate person comes in and wants transfer documents, here are 10. You aren't getting any more until these 10 are filed back at the Land Registry and stamp duty is paid; the same for the law firms.

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: They have couriers; they can get them.

I will give you case that involved the government on purchasing land in North Side. The piece of

land on which the dock by the *Edge* is built was originally owned by someone who called himself a General Anderson. In the '80s when we wanted to build that dock, I went to him and asked him to sell the government 50 feet. He told me he had sold the land to Mr. Selkirk Watler; he didn't own it anymore. I came to George Town the next day and I went to Mr. Watler and I said *sir, this man said he sold you this piece of land.*

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: But it is still going on! That is now bad it is. That is how many of hundreds of millions of dollars government has lost in its revenue, simply because we don't have a number on the document or some other identification.

I went to Mr. Watler and he said "yeah, Ezzard. *That's true but I sold it to somebody else and I don't remember who I sold it to.*" Later on in the '90s with a different representative, that same General came to the Island and saw on the Land Registry that it was still registered in his name and sold it to the Government for two \$200,000 plus; and somewhere out there, there is someone who has a transfer document which the Government guarantees as the ownership of that land.

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: Thus, I would respectfully suggest to the Minister of Finance, that we need to find a way to plug that hole because that is a big hole.

Now, I don't have any problem and I support the idea of the linked properties but here is my concern and maybe the Minister can explain it and satisfy my curiosity.

I understand that a developer buys a piece of land and he has plans for condos et cetera and he sells the land proportionately and you only pay the stamp duty on that because he develops the condos. The question I have is: I am a developer and I do a small housing scheme in Frank Sound and I sell people lots of land on which to pay the stamp duty, but I am also a contractor and I contract separately with them to build a house. Does that mean, that in that case, the Caymanian would have to pay stamp duty on the house and the land again? I think we need to make sure that that doesn't happen because traditionally that is the way Caymanians buy land and build houses. We ought to put something in here, whether it exempts single family homes or whatever.

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: No, I understand the multi-complex development and how the developers are shafting the government and I support closing the loophole, but in closing that loophole

we must make sure we are not punishing Caymanians who are try to get a two bedroom house.

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: Right because these developers will be the same ones coming to you and tell you 'well he didn't pay, so I'm not paying; and let's go to court.'

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: Anyway, I just want to make sure it can't happen to people.

[Inaudible Interjection]

Hon. D. Ezzard Miller, Leader of the Opposition: Now I really don't understand why we are giving developers a whole year to comply with this when they are the same ones who have been shafting us and that is why we have to do it. Now we are telling them *well, you can continue to shaft us for another year.*

I certainly see no reason to offer the three per cent concession to non-Caymanians. No reason whatsoever. I don't support offering it to non-Caymanians because that is depriving the country of revenue that might buy two exercise books for the North Side school that so badly needed paper.

Mr. Speaker, while I support the intent and most sections of the Bill, those are my two concerns and I just think that if we can agree to simplify the concessions to Caymanians, so that Caymanians understand it much easier, I think it will be utilised more by Caymanians.

Thank you, Mr. Speaker.

[Inaudible Interjection]

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

The Member for East End had indicated.

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

I shall be brief. At the end of my budget debate, your good self and the Premier indicated to me that I should propose some alternatives and this was one of the alternative for revenue that I proposed.

[Inaudible Interjection]

Mr. V. Arden McLean: You have taken it, welcomed it, embraced it and I thank the Minister of Finance for bringing it.

I hear the Leader of the Opposition, in his position on hoping we don't capture the Caymanian who buys a piece of land in the subdivision and then contract the developer to build it. There is a fundamental difference in that compared with the loophole we are

closing here. The properties are much smaller because what they do is a strata of the land and it is only the piece that that one apartment is going up on that they pay for, and that value is probably \$20,000 \$30,000. However, when the apartment is finished—the Minister of Finance was kind he was saying \$500,000—it far exceeds that! Forget about on the beach now because there was a time if they were on Seven Mile Beach they went from \$300,000 up to \$8 million now. Inland, I can think of one right now which is \$800,000 upon completion; a three bedroom, but they only paid just over \$2,000 on that \$30,000 or that \$25,000 for that piece of property. That is why I said it in my debate on the budget. It is time to close that loophole.

Like the Leader of the Opposition, I disagree with the Minister of Finance for proposing 2019/2020 and all that. I understand that we don't want to stop development that is on the way but they know what they have done.

[Inaudible Interjection]

Mr. V. Arden McLean: Well.

[Inaudible Interjection]

Mr. V. Arden McLean: I understand the legality of it versus the morality of it but boy sometimes they tend to interconnect, you know? Sometimes they tend to connect.

Mr. Speaker, I thank the Minister of Finance for closing this loophole but a couple of things on it... Some of the real culprits of this are real estate agencies and property development companies and management companies. I don't know if this definition of connected persons is going to capture them all because it talks about companies—and I know real estate agencies are registered companies. It talks about relatives and the likes.

“ (a) In the case of an individual, a relative or a person with whom the individual contracts to provide building services to a third party on behalf of the individual; [So, that is the third person the contractor would be].

(b) If the person is a director or a shareholder of a company or partner of a firm, another director or shareholder of that company or another partner of that firm or a relative of any of them;”

Now I don't know which company we are talking about or partner of a firm. Does real estate fall under the Partnership Law? That is the key because that may be a loophole we are creating. I am satisfied with an explanation for it because remember a number of those real estate agencies are franchised. The Minister needs to ensure that he is capturing those as well because it doesn't make sense to close a loophole for us to collect what is rightfully ours, when we leave it open for someone else to be able to do it and then they make

the money to be that third person. I would ask that the Minister look at those in particular, because the Minister is right, we have been losing too much money on this for too long.

The other thing I would ask the Minister to consider is under the **provisions for the purchase of property by two or more but not more than 10 persons who are Caymanians**: I understand in the case of land—without a building is what I am concentrating on—the consideration exceeds \$300[,000] but does exceed \$350,000.

Here is where I am at and the Premier will notice as well and quite intimate with this: we have large tracks of land particularly in East End, 300 acres, 150, 200 acres, which usually go for like \$5,000, per acre because they are land locked and the like, but when you have property that is 200 acres, that is a lot more than \$350,000.

To incentivise Caymanians, I believe more groupings of Caymanians should purchase these properties. What we are getting is people coming from outside with the ability to purchase these properties. The Premier knows exactly what I am talking about and his family is involved in a couple tracks up there— not him, he hasn't got anything—that exceeds that by millions.

[Inaudible interjection]

Mr. V. Arden McLean: Millions of dollars valued in property that is good land.

I know that one piece of that is up for sale now but it is out of the reach of a group of Caymanians that you would want it to get in the hands of.

I know my brother, cousin and a couple of their friends when they were at Cable and Wireless did the same thing. They got together and borrowed the money on the strength of their wages and they have now paid off, I don't know, must be a 100 acres or so in Ally Land. However, there needs to be some consideration for it to be much broader than \$350,000; \$350,000 is, what, 70 acres or 50 acres maybe? When you go at 200 or 300 acres which is what we need to stay in our hands...

For instance—and the Premier would know this—Winters Land has significant historical value to the people of East End, more importantly, to the country, in that, that is where the only freshwater lens sits. I am sure there are Caymanians who would love to put their hands on that, but if those 13 families who own that 125 acres, I believe—government owns next to it—if those people decide at some stage to sell, mind you, this has been registered as a company for over a hundred years and has been passed on from one family member to the next, and there are 13 families in East End that own it. If they decide at some stage to sell that, therein lies the concerns that I have. It would be out of the reach.

I don't know if we can maybe look at tracks of land or size of properties to see if we can encourage Caymanians to purchase this property because every

time we put a farm road in, the price goes up, and when the price goes up or when the road goes in, it becomes an attractive piece of property for those who want to do other things.

I don't want to stop people from selling their properties. We should not encroach on people's right to do what they want with their immovable properties; but in the same token, if we can encourage it to stay in Caymanians' hands... There was a time in the eastern districts that you could buy all of the beach land that you wanted but you couldn't buy land on the interior because that had intrinsic value to that family over the years and it remained that way but times are changing; times are changing.

I know my family owned Barefoot Beach on Queens Highway, but it had 13 acres; it had all of the Barefoot Beach, from the sea, butts and bounds with the cliff; and then 13 acres butts and bounds with the cliff to the high cliff. Along comes government and goes straight along that butt and bound with the cliff, leaves the beach on that site. Prior to that my grand uncle spent half his life in Panama and came back with one rocking chair—

[Laughter]

Mr. V. Arden McLean: You think that's a joke? And his earthly possession was in the cushion for the rocking chair.

—and sold from the water to butts and bounds with the cliff, leaving us with the agricultural part of it. Along comes government and builds a road right on that property line. We own the cliff and Simpkins own the beach. The beach had no intrinsic value to our people at that time. So the land that remains in East End, North Side and Bodden Town is primarily owned by Caymanians but the advent of easier access to it now makes its value much more attractive.

Therein lies my concern to see if we can encourage Caymanians to keep it within Caymanians' hands.

I am not saying we got to do it at Committee Stage but I would encourage the Minister to look at that possibility and maybe stick something in there to encourage Caymanians to buy. However, by and large, I support the intent of this Law and in particular, shutting down that loop hole. That is one that needed to be locked away. I hope this does. I did a lot of research. I looked at Jamaica and Barbados but I didn't find anything that I thought would be suitable for Cayman.

I saw this thing somewhere about the linked property, and this was just recently that I was looking at it, but I welcome this change.

[Inaudible interjection]

Mr. V. Arden McLean: Yeah; other countries have shut it down but they do it in a little different way. I saw some-

thing about linked properties but I didn't get a good appreciation for it. As a matter of fact, I said to my son that I was going to write you about it after having said so, and this is about a month and half or two months ago.

Mr. Speaker, I support it and I want the Minister to look at those things especially real estate agencies and property management companies. If they are covered, then I am fine. I don't have a problem with that but they need to be covered and the connected persons.

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

The Member for George Town Central.

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

I won't be long, I principally agree with the Bill also. I just want to highlight something that I think could potentially be a ripple effect of this Bill that I hope the Minister and the Government may possibly try to predict. I am not sure exactly how they would deal with it but I think that these changes may potentially affect the housing market to cause it to increase in price.

The reason I say that is because I had the privilege to buy my first home through the duty waiver, 2009/2010, I think, and I got the full thing at \$200,000 waived and because that limit was there, I didn't basically need to come up with anything to get my first home. All I had to do was pay for legal fees because the Government, at that time, had the Government Guaranteed Home Assisted Mortgage (GGHAM) in place so they guaranteed the deposit and the duty waiver was there, so we didn't pay anything other than the fees, and many Caymanians took advantage opportunity.

However, as I was looking around, I didn't find anything that met that \$200,000 mark. When I found something that was close to the \$200,000 mark the person I bought it from reduced that price just to meet that mark for me, the consumer. I think that there is a large portion of the market that tries to keep their prices around that threshold of the \$200,000 because of the current state of the Law, before [what] we are about to pass now.

The reason why I highlighted it is because we are now going to move from \$200,000 to \$300,000 and those persons who are trying to catch that market of clients who would take advantage of the duty waiver, will now be focused on the \$300,000. However, that \$300,000 doesn't really co-exist with what the banks are offering for the average first-time Caymanian buyer; because the average price for a first-time Caymanian home owner is between \$220,000 and \$280,000. Thus, I am concerned that those persons who would take advantage of that \$200,000 mark will now be forced to change and:

1. Another developer is going to have to try and fit that market with different types of homes and offerings; or

2. Those Caymanians may not be able to get those approval for loans that high.

My analysis after speaking to many people, they think that it will cause those homes that were in the \$200,000 range to potentially increase and obviously we don't want anything else becoming any more costly for Caymanians. Maybe the Government or the Minister—who's a professional in this capacity—may disagree on that ripple effect.

Nevertheless, it is just something I think I should highlight. I am glad to see that the Government is closing that loophole and I am glad that you have given the industry enough time for them to fix themselves. It was the appropriate thing to do because many people have had loads of their money invested in projects. It is a business and they work business based on the current state of play.

I am proud that the Government has closed this loophole and given further opportunities for those who may be able to afford some more, but I don't think we should go much further than that because those who can't afford it... This is supposed to really be for those who are not in the financial hierarchies like most people. It is supposed to be for those who really can't afford it, not just for everybody. There is a responsibility that is on you for those who have been successful. We don't have a true tax system so the approach, unfortunately, that was given earlier is not one that I agree with; with success is the obligation back to your society. We don't have income tax, so this is one of those ways. I implore the Government not to go any higher than where they have gone now. I think it is a reasonable mark.

Thank you.

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

The Member for Bodden Town West.

Mr. Christopher S. Saunders: Thank you, Mr. Speaker.

I rise to also lend my contribution to this Bill. Just to take it one step further, I think we are actually sitting on a golden opportunity here to actually do much more and many good things. What I would encourage the Government to do is rather than putting most of these Amendments in the Law, maybe look at what we can probably do with regard to getting more things in Regulations on a Cabinet level, as opposed to from a legal level. Let me explain to you why, Mr. Speaker.

Generally speaking, a government has two tools available to them, in terms of if they want to move the economy; one is monetary policy and one is fiscal policy. We don't usually do monetary policy here in the Cayman Islands because that is normally done through the management or manipulation of interest rates. Most of our decisions are done through fiscal policy, which is dependent on how the government decides to run its budget.

For example, if the government wants to encourage a particular spend, the government can remove the duty on it, if it wants to discourage a particular spend it can increase the duty and so forth. It is the same thing with the Stamp Duty Law, in that, we already have some provisions in the Law based on different zones and where people live, where we can encourage and discourage certain kinds of developments. I think that rather than just starting to limit broad areas, we start looking at the possibility in some areas where we want to develop.

I will use my own district as an example, Mr. Speaker, where just this morning we were enquiring about schools in certain areas. Now, in my district alone, in the next 12 to 18 months, there are at least two housing developments that are going to generate 105 homes. Then, a few months ago, Planning approved, I think, [a] close to 184 lot development in Beach Bay. From that stand point Mr. Speaker, in the next few years, the demand or impact in my particular area will be quite taxing on the government in terms of requirements for schools, roads infrastructure and everything else. Whereas there may be other areas across the Island that have a little bit more capacity. One of the things we should probably look at—even though we have some areas already clearly defined in the Law—is at the possibility of giving Cabinet a little bit more flexibility, in the sense of applying a percentage here or a percentage there in different areas to kind of encourage development going to those sides, as opposed to the traditional areas where we have it.

I think it is actually good, to some extent, where we set the limit in terms of what is duty free because it does have the ability to limit lands. For example, if someone wanted to sell a particular land for \$160,000 and someone knows they have to pay a duty on that but up to \$150,000 will be free, you kind of set the market where you can say to that person, *listen, drop the price to \$150,000 because at least I'll get it duty free*. We have those abilities, to some extent, and if we do it right, we can even look at certain duties in certain areas, if we want to push development up those different sides.

I think, overall, it is a step in the right direction, in terms of encouraging development. We need to understand that our economy is primarily driven by consumption and development and the Stamp Duty Law itself and the Registered Land Law are two of the biggest tools we have in terms of moving development. But—

[Inaudible interjection]

Mr. Christopher S. Saunders: Yeah.

Rather than coming here each time and amending Law, I think we can probably start looking at the flexibility of giving Cabinet a little bit more, so at least the Government has, I guess, speed to market, and to some extent can react to certain things if they

want development moved in different areas. I think it is something that is definitely worth exploring.

One of things that I also want to touch on briefly within the Stamp Duty Law, it even speaks about the leases on properties now. I know that has been one sore subject for quite some while. While we are looking at the Stamp Duty Law and different amendments, I think it is time that we start taking a look at the rental market and seeing exactly how we can either encourage or discourage certain behaviours in that market with regard to leasing and also development.

It is an opportunity, in terms of getting Government to get certain behaviours from people. I would encourage the Government to start looking a little more creatively and not just look at these broad areas but kind of getting more into the zones as we start breaking things up because the development moves quickly from time to time; and I think it will reach a point now where we also need to recognise that we want certain behaviour. If you want a development... I mean we do it already, in terms of developer's concessions but I think we can also get more from people's behaviour, in terms of where we apply the different duties.

I would encourage the Government to take a look at that, especially when you start looking at the impact in certain areas; some areas are already over developed. Equally so, there are some areas in Cayman that are already low-lying and the last thing we want is to be encouraging development in those areas because within 15 to 20 years with climate change and everything else, and the rise of water, those places are going to be flooded.

Therefore, while it may be a good development now, we know—[and] I can think of some areas even in the Bodden Town East constituency—where it is already below sea level, and the last thing we want to do is have a low stamp duty there to encourage people to go and develop there only for the next 10, 15, 20 years we need to go and move them again.

I think it is an opportunity, but I think we should at least consider giving Cabinet a little bit more flexibility and put more things in the Regulations, as opposed to coming to the House each time to resolve some of these issues.

That is just my two cents for consideration, gentle people.

Thank you all much.

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

I call on the Minister to wind up. Sorry.

The Honourable Premier.

The Premier, Hon. Alden McLaughlin: Sorry, Mr. Speaker, I was distracted by something else. I just want to add a few words.

The Minister of Finance has done an exemplary job in setting out the rationale for the Government's policy decisions pertaining to this matter, and, I think, has been very clear about the objectives and what the benefits will be to Caymanians, and the Government, as far as the curbing of the avoidance of stamp duty on linked contracts is concerned.

I just want to make two observations: The Government recognises keenly that the way land prices in Cayman have gone and are going, and with the economy as hot as it is now for development, prices are just going to continue to increase; and, that there are many people—and we are grateful for them—with lots of money, who come here for the purposes of investment. The result of all of that, while very positive in many respects, means that it is increasingly difficult for the average Caymanian to be able to get a piece of the rock. This exercise is aimed at improving the chances of a Caymanian being able to afford property and to build a home, an apartment complex or duplex or whatever it is they wish to do with it.

Mr. Speaker, we know that the result of this, if we look at it, may be to forego significant stamp duty in that respect, but we believe that that is more than balanced by giving greater opportunities to Caymanians to own a piece of their own country but also, many of these transactions that we expect, would probably never have occurred without the stamp duty break, or at least certainly wouldn't have occurred with Caymanians being the purchaser if we didn't provide this opportunity.

That is behind what the Government is seeking to do. It is one of the many initiatives that we have put in place to improve opportunities for Caymanians and to hopefully reverse this feeling that has grown in the country, that somehow Caymanians are second class citizens and not able to benefit from the tremendous economic success of this wonderful little country of ours.

With respect to the linked contract issue, we have had representations from developers, I have had some myself, both with and without the presence of the Minister of Finance. The Deputy Premier, as most people will know has done his share of development, mostly in Cayman Brac—I believe maybe all in Cayman Brac—but he understands that business as well.

Mr. Speaker, we have heard what developers have said, that this ability was initially—I think was identified and permitted by government over the course of the last 18 years—allowed because it was seen to benefit people on the lower end of the social economic spectrum. To call a name of a development, Frank Hall Development, which has been incredibly successful and has meant that many, many Caymanians have gotten an opportunity to own a place, were I think the first, in any significant number, to use this scheme.

However, in more recent years, multi-million dollar developments have been based... I am not going to identify any of them, but some of them are on the

really, really high end of the spectrum; millions and millions of dollars, the final product gets transferred for, but Government only gets the 7.5 per cent of stamp duty on whatever identified share of the actual land the person has contractually agreed to purchase.

The developers who have spoken to us have said, *you know, this has been a huge incentive for purchasers to buy at pre-construction prices, to put money in our hands to go ahead with the development, and this has seen us through some of the very difficult times we had during the great recession of 2008 to whenever it actually ended.* There is probably no reason to doubt that, but we are not in that environment now.

As the Member for Bodden Town West has alluded to, stamp duty is one of the few tools we have in Cayman as a government to be able to effect and to engineer economic pace, and provide incentives to perhaps slow things at times.

Mr. Speaker, there is a point I have made to all of those who have spoken to me, to which there is really is no satisfactory answer. Each of these major developments that occurs puts increased pressure on the infrastructure that we have in place, particularly the roads infrastructure, and government has to find a way to deal with that. Even when funding is not a major issue, as is the case now, we simply can't build the roads fast enough. As fast as we build a mile of road, more cars come in and government, we know, needs to spend probably a couple of a hundred million dollars right now to just get the road infrastructure to where we need it. The East-West Arterial is probably the most obvious example of that, the completion of the Linford Pierson [Highway], the Airport Bypass Road which we are contemplating, another bypass road from Shamrock, across the Lions Centre, behind there into the Grand Harbour development to try to keep a huge amount of traffic from coming out on to that roundabout again.

There has been two major developments approved in Grand Harbour, one of them 90 apartments alone, there are two across the road which are about to start. I have said to the developers, *how are we going to pay for all of this if those who are creating the increased strain are getting away with murder, really, in terms of their contribution to government's revenue?*

We have thought long and hard about this and we knew and we know that there will be push back and criticisms from the development quarter; from most of them, anyhow, because not all of them have that view. However, it is the responsible thing to do and we have thought again long and hard about how we phase this in because the last thing we want to do is have the developers feel like they are being penalised that is not case. In fact developers don't pay this stamp duty it is the purchaser who pays the stamp duty.

We don't want to discourage development. We are delighted by the huge interest in development but those who benefit must help to pay for the infrastructure that is necessary. That is the way the Government thinks about this and we phased it so that those who

have designed their projects, talking about the economic model that they used, are not adversely impacted. Going forward, those who want to get into this game will understand that there are new rules that apply and that the stamp duty cost of their apartments, their products and/or their projects will be the 7.5 per cent that everyone else pays, other than the carve outs that we have now for first-time Caymanian owners and the other related ones. The 7.5 per cent that everyone else pays, is what the purchasers of these units are going to have to pay and we think that is only fair.

I hope that it is viewed and accepted in the spirit in which it is intended and that everyone who lives here, who benefits from the tremendous amenities and the environment that these Cayman Islands provide will understand that they don't pay any form of direct taxation, they don't pay any property tax, there is a one-off stamp duty on the purchase of the property and that is all you pay. You don't pay any road tax. You don't pay any of the other things that would normally go along with developed communities like the Cayman Islands. Thus, it is only fair that you pay what is the going rate when you buy one of these units; whether they cost \$500,000 or \$700,000 or in the case of one that I hear is coming, \$24 million for one unit. That is where we have gotten to in the Cayman Islands now.

Mr. Speaker, I just wanted to make those observations and to thank all Members—although I am not presenting the Bill or winding it up—who have contributed to the debate and I am comforted in the knowledge that both sides of this House agree in principle that what we are doing is the right thing, even though there may be some debate still among us about the detail of how we get there.

Thank you, Mr. Speaker.

The Speaker: The Member for Savanah.

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

Just to endorse what the Premier has said. I have been in here a few years ahead of him but this problem that he has identified, we just seem to be scared to do good for the right thing. Mr. Speaker, you have been here much longer than I have and I am sure you have grappled with this from then. My colleague from Bodden Town West identified the number of new subdivisions in the Bodden Town district. As the Premier indicated, these massive... Look at the one across from Hurley's, two of them, literally side by side—

[Inaudible Interjection]

Mr. Anthony S. Eden:—in low lying areas.

When they start to dump traffic in there, working around Hurley's roundabout, I don't know what in the world is going to happen.

Just to share and I have already done this a number of times with the Minister of Works. I go to Clifton Hunter High School five days a week to drop my grandchildren to school. When I come out to Lower Valley, between 7:15 and 7:30, there is nonstop traffic to literally Guard House Hill and Ms. Lorna's station at times. As you said Mr. Premier, these people are raking in the money, millions and millions of dollars, one time they used to talk about an infrastructure fund.

We need to really do something about the situation. It is going to come to the place where you are going to spend half of the morning or half of the day, as we are doing now, in traffic.

I encourage you, Mr. Premier, working with the finance minister that we look at, at least putting something back. The schools we are going to have to build... I know the Honourable Minister of Education indicated that she will be looking at some time for the electoral district of Bodden Town with the four different constituencies. We are going to need that within a year or two.

[Inaudible Interjection]

Mr. Anthony S. Eden: I know West Bay is passed maximum now.

I just wanted to encourage the Government; don't be afraid to do good! If people are taking in money and benefiting, it is time that we Caymanians get something out of it, except sitting in traffic day in and day out. God bless.

The Speaker: I call now on the Minister to windup.

Hon. Roy M. McTaggart: Thank you, Mr. Speaker.

[Crosstalk and laughter]

Hon. Roy M. McTaggart: Mr. Speaker, I could not have asked for a better outcome tonight.

I want to acknowledge and to thank every Member who spoke this evening in support of this amending Bill and just thank you too because I think you have been as accommodating as you were to my colleague to my right; despite the howls of 'no way'.

Mr. Speaker, again, I have to say thank you and to acknowledge everyone's contribution. Some ideas have been floated and suggested, and also a number of abuses that I think Members are aware of, that I have to say personally, I was not aware of but things that I think the Government would want to take a look at and tighten up as well. I have always said, and I am strong believer that before government should seek to impose new tax measures, it ought to collect what is already on the books and what they are entitled to; and I think if we did that then we wouldn't have to go and collect, and seek to impose revenue measures from time to time.

I want to thank Members who spoke, for all of the suggestions, a number of them we just have to say,

'yes we are going to take them on and look at this and seek to see what we can do to address the situations.'

The Leader of the Opposition made a case for the simplification of the duty exemption limits and suggested that every Caymanian should get \$400,000. I believe he said regardless of what the value is of the property which they are purchasing. I hear that, Mr. Speaker, but I think Government is reluctant to accept it at this time for these two reasons.

Firstly, the system that presently exists is 20 years old and it is well known and understood by those in the market place.

Secondly, my immediate thought of that, confirmed by when I had a conversation with my financial secretary, would mean additional losses in revenue to Government if we were to go ahead and do that.

A part of this scheme of the first-time Caymanian buyers is that we wanted to find a better way to find and give the middle and lower income Caymanians a helping hand up to acquire their property. Mr. Speaker, if you are buying a piece of property \$800,000, \$900,000 to \$1 million, then you can afford to pay 7.5 per cent.

[Desk thumping]

Hon. Roy M. McTaggart: That is the bottom line.

However, I recognise that there is that threshold below which the concession becomes really meaningful and those are the people we truly want to help. For that reason, I would thank him for the suggestion, but I think at this time Government is mindful to remain with the programme that we have right now.

This whole idea of closing the loopholes with multiple sales prior to registration: personally, I would like to speak to the Member more and to have a better understanding of what it is and see what can be done there.

A question was also asked with regard to the existing situation, with regard to people who do a development and sell the lots to an individual and after the sale of the lot the individual might come by and ask the developer to build him a home. Mr. Speaker, this amendment does not seek to curb that in anyway. In order for this amendment to be effective there has to be present, two contracts, that are linked, an individual goes to buy a condominium, he signs an agreement to purchase that land and within that purchase agreement there is a clause that links or ties him in to another contract that he must execute for the developer to build him that condominium, apartment, home, or whatever it is. If there is no linkage there is no stamp duty payable, if there is a building of a house after the acquisition of the property.

Nevertheless, we will monitor this and see what actually transpires with the actual implementation but there is no intent to block or to limit that in anyway.

Mr. Speaker, the Member for East End also had a couple of pointers and things he wanted us to

look into. One of the things I intend to do afterwards is speak to him and those who have contributed and made suggestions; let's get the ideas, let's get everything together, let's take a look at what is being asked and see what further amendments we can make to the Law, if any, with regard to making it more effective and closing some of the abuses that do take place in the Stamp Duty Law and the acquisition and purchase and sale of properties.

With that Mr. Speaker, I wrap up the debate on this Motion. Again, I thank Members for their contributions.

I also want to thank my team. I would like to thank the Financial Secretary, Senior Assistant Financial Secretary Mr. Michael Nixon, and Ms. Cheryl Neblett from the Legal Drafting [Department],—I don't want to exclude anyone—Ms. Ruth Watson from the Land Registry who has been very much instrumental in helping us to get focus and have an understanding of this. So many people have provided input and help along the way and I want to thank them for all their work and efforts to get us to this point.

Thank you, Mr. Speaker.

The Speaker: The question is that a Bill shortly entitled the Stamp Duty (Amendment) Bill, 2018 be given a second reading.

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

AYES.

The Chairman: The Ayes have it.

Agreed: The Stamp Duty (Amendment) Bill 2018, was given a second reading.

The Speaker: Honourable Premier, we have reached the hour of 9 o'clock.

[Inaudible interjection]

The Speaker: Much afraid of that. I don't know if I can carry on.

[Inaudible interjection]

The Speaker: Do you want to take the Finance Bill? Okay.

[Inaudible interjection]

SUPPLEMENTARY APPROPRIATION (JANUARY 2018 TO DECEMBER 2018) BILL, 2018

The Speaker: The Honourable Minister of Finance.

Hon. Roy M. McTaggart: Mr. Speaker, I beg to move the Second Reading of a Bill entitled The Supplementary Appropriation (January 2018 to December 2018) Bill, 2018.

The Speaker: The Bill has been duly moved.

Does the Minister intend to speak there to? The Honourable Minister of Finance.

Hon. Roy M. McTaggart: Thank you, Mr. Speaker.

The purpose of this Bill is to seek the Legislative Assembly's approval for Supplementary Expenditure and Equity Investment appropriation changes in respect of the current financial year that will end on the 31st December 2018.

Once an Appropriation Bill has been approved by the Legislative Assembly it becomes an Appropriation Law for a particular financial year and that law establishes what is commonly referred to as the budget for that financial year.

There are three ways in which the budget amount contained in an Appropriation Law can be changed during the course of a financial year.

Firstly, section 11(5) of the Public Management and Finance Law (PMFL) allows the Cabinet to make such changes.

Secondly, section 12(2) of the PMFL allows Finance Committee to approve changes to an established Appropriation Law.

Thirdly, section 25 of the PMFL permits the Legislative Assembly itself to authorise changes to an already approved Appropriation Law.

Mr. Speaker, this Bill arises in respect of the Government's use of section 11(5) and section 12(2) provisions of the PMFL. Sections 11(6) and 12(3) of the PMFL state that when a Government utilises section 11(5) or section 12(2) of the PMFL, respectively, to make changes to an Appropriation Law, those changes made by Cabinet or approved by the Finance Committee are to be included in a Supplementary Appropriation Bill which must be presented to the Legislative Assembly.

Mr. Speaker, that explains the existence of the Bill now before the House. It satisfies a legal requirement that changes to an already approved Appropriation Law must be incorporated in a Supplementary Appropriation Bill and that Bill be presented to the Legislative Assembly for its scrutiny and approval. Now before this honourable House is a Supplementary Appropriation Bill with respect to changes for the period 1st January 2018 to the 31st October 2018, with respect to the 2018 financial year.

Mr. Speaker, I wish to make a few more additional points.

First, the vast majority of changes set out in the Schedule to the Bill have already occurred. The changes are processed shortly after they are approved by the Cabinet or the Finance Committee under section

11(5) or section 12(2) provisions of the PMFL respectively.

Secondly, it is the Government's reasonable expectations that given the circumstances explaining the origin of the Supplementary Appropriation Bill the Finance Committee consideration of the items in the Schedule to the Bill will be efficient.

Thirdly, the Government intends to bring a second Supplementary Appropriation Bill before the House in early 2019 with respect to any changes that may occur to the 2018 budget for the period 1st November 2018 to 31st December 2018.

Mr. Speaker, this Bill indicates changes that can be categorised as follows: there are three items on the Schedule to the Bill to be considered by Finance Committee which have not yet been executed or incurred because they are pending approval by Finance Committee and the Legislative Assembly.

- \$5 million for additional tertiary care expenditures at local and overseas health care institutions
- \$5 million in increased funding for the Health Service Authority for medical care of indigents; and
- \$2.3 million for outstanding levies payable to the University of the West Indies.

There are 11 items on the Schedule to the Bill that Finance Committee already approved in July 2018. Most notably:

- Additional tertiary care expenditures at local overseas health care institutions of \$8 million; and
- Funds for the purchase of land for conservation of \$10 million.

Furthermore, there are two items on the Schedule to the Bill that Finance Committee already approved in September 2018:

- An additional \$6.5 million for tertiary care expenditures at local and overseas health care institutions; and
- \$1.9 million for the Green Iguana Culling programme.

Mr. Speaker, given that Finance Committee has already approved these particular 13 items, I would not expect detailed review thereon again when the Bill moves to Finance Committee.

Fourthly, changes are made by Cabinet as it is legally empowered to do under section 11(5) of the PMFL to effect changes to budgets during the financial period. The Government always endeavours to match a request for an increase in expenditure by a corresponding reduction in expenditures, though this is not always possible 100 per cent of the time.

Pages 4 to 16 of the Bill reflect changes made to the approved 2018 budget that were done under the authority of section 11(5) of the PMFL. There are some

individually significant changes shown in the Bill such as:

- a \$7.5 million Equity Investment to Cayman Airways, shown on page 7 of the Bill, which was in its ongoing operational needs;
- \$4.5 million was utilised in the re-capitalisation of CINICO, page 8 of the Bill; and
- \$5.2 million was approved to buy a building and property in George Town for an expansion of the courts premises and this is the majority of the \$5.5 million shown in page 9 of the Bill.

Mr. Speaker, the Bill consists of three parts.

Clause 1 provides a name of the proposed law.

Clause 2 speaks to the appropriation authority of the Cabinet, and the Schedule to the Bill which shows the individual items of appropriation changes that the Legislative Assembly is being asked to approve.

It is also important that I point out that not all Supplementary Appropriations involve expenditure increases. There are a significant number of decreases to expenditures contained in this Bill.

I therefore respectfully ask for all Honourable Members to support the Bill.

Thank you, Mr. Speaker.

The Speaker: Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause] Does any other Member wish to speak?

[Pause]

[Inaudible interjection]

ADJOURNMENT

The Premier, Hon. Alden McLaughlin: Mr. Speaker, I hear the Leader of the Opposition; and Mr. Speaker it is past 9 o'clock which was the time we had agreed we would sit to in any event.

With that, I will move the adjournment of this honourable House until 10 am tomorrow morning. There is only one Private Member's Motion, so we should be able to get through that quickly and continue with Government Business and hopefully conclude tomorrow.

The Speaker: The question is that the honourable House do now adjourn until 10 am tomorrow morning.

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

AYES and one audible NO.

The Speaker: The Ayes have it.

At. 9:06 pm the House stood adjourned until 10:00 am, Thursday, 22 November 2018.