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Ninth Sitting of the Second Meeting ***(Pages 1-30)***

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

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PRESENT WERE:

SPEAKER

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

MINISTERS OF THE CABINET

Hon Alden McLaughlin, MBE, JP, MLA
Hon Moses I Kirkconnell, JP, MLA

Hon D Kurt Tibbetts, OBE, JP, MLA
Hon Osbourne V Bodden, JP, MLA
Hon Marco S Archer, JP, MLA
Hon G Wayne Panton, JP, MLA
Hon Tara A Rivers, JP, MLA

Premier, Minister of Home Affairs, Health and Culture
Deputy Premier, Minister of District Administration,
Tourism and Transport
Minister of Planning, Lands, Agriculture, Housing and Infrastructure
Minister of Community Affairs, Youth and Sports
Minister of Finance and Economic Development
Financial Services, Commerce and Environment
Minister of Education, Employment and Gender Affairs

EX OFFICIO MEMBERS OF THE CABINET

Hon Stran A Bodden

Hon Samuel Bulgin, QC, JP

Acting Deputy Governor, ex officio Member responsible for
the Civil Service
Attorney General, ex officio Member responsible for
Legal Affairs

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

Mr Roy McTaggart, MLA
Mr Joseph X Hew, MLA

Second Elected Member for George Town
Sixth Elected Member for George Town

OPPOSITION MEMBERS

Hon. W. McKeeva Bush, OBE, JP, MLA
Mr Bernie A Bush, MLA

Capt A Eugene Ebanks, JP, MLA

Leader of the Opposition, First Elected Member for West Bay
Deputy Leader of the Opposition, Third Elected Member
for West Bay
Fourth Elected Member for West Bay

INDEPENDENT MEMBERS

Mr Anthony S Eden, OBE, MLA
Mr Winston C Connolly, Jr, MLA
Mr Alva H Suckoo, MLA
Mr V Arden McLean, JP, MLA

Deputy Speaker, First Elected Member for Bodden Town
Fifth Elected Member for George Town
Fourth Elected Member for Bodden Town
Elected Member for East End

APOLOGIES

Mr D Ezzard Miller, MLA

Elected Member for North Side

**OFFICIAL HANSARD REPORT
SECOND MEETING 2016/17 SESSION
MONDAY
17 OCTOBER 2016
11:09 AM
Ninth Sitting**

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

The Speaker: I will ask the Honourable Minister of Community, Affairs, Youth and Sports to say Prayers.

PRAYERS

Hon. Osbourne V. Bodden, Minister of Community Affairs, Youth and Sports: Good morning, all. 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 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: I now call Mr. Stran Ashton Bodden to the dais.

Please stand.

**OATH OF ALLEGIANCE
*[Administered by the Clerk]***

Hon. Stran Ashton Bodden, Acting Deputy Governor: I, Stran Ashton Bodden, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, her heirs and successors, according to law, so help me God.

**OATH OF DUE EXECUTION
*[Administered by the Clerk]***

Hon. Stran Ashton Bodden, Acting Deputy Governor: I, Stran Ashton Bodden, do swear that I will well and truly serve Her Majesty Queen Elizabeth II, her heirs and successors, and the people of the Cayman Islands in the Office of Member of the Legislative Assembly, so help me God.

The Speaker: On behalf of this honourable House, I welcome the Honourable Acting Deputy Governor and invite him to take his seat.

Please be seated.

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

The Speaker: I have received apologies from the honourable Elected Member for the district of North Side who's off island attending a PAC Conference.

PRESENTATION OF PETITIONS

The Speaker: There are none.

PRESENTATION OF PAPERS AND OF REPORTS

The Speaker: There are none.

QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

The Speaker: There are none.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: I have given consent to the Honourable Minister of Finance to make a statement this morning.

I recognise the Honourable Premier, who may perhaps wish to set it down for later as the Minister in the Chamber at this time.

The Premier, Hon Alden McLaughlin: Thank you, Madam Speaker. I'm not aware of a statement.

The Speaker: Alright. Madam Clerk, let's move on.

PERSONAL EXPLANATIONS

The Speaker: There are none.

OBITUARY AND OTHER CEREMONIAL SPEECHES

The Speaker: There are none.

RAISING OF MATTERS OF PRIVILEGES

The Speaker: There is none.

GOVERNMENT BUSINESS

BILLS

SECOND READINGS

DISASTER PREPAREDNESS AND HAZARD MANAGEMENT BILL, 2016

The Clerk: The Disaster Preparedness and Hazard Management Bill, 2016

The Speaker: I recognise the Honourable Premier.

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

Madam Speaker, I beg to move a Bill shortly entitled the Disaster Preparedness and Hazard Management Bill, 2016.

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

Moment of silence for persons who lost their lives in Hurricane Matthew

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

Madam Speaker, before introducing this Bill with your permission, I would ask this honourable House to observe a moment of silence for all those who have lost their lives as a result of Hurricane Matthew, remembering, especially, the people of Haiti.

The Speaker: Please rise for a moment of silence.

[Pause]

The Speaker: Please be seated.

I recognise the Honourable Premier to continue his presentation of the Bill.

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

Madam Speaker, I should also say to the honourable House that our sister territory, Bermuda, encountered hurricane strength conditions for about six hours on Thursday. I spoke to Premier Michael Dunkley, who told me the island had fared quite well. It sustained significant damage, but there was no loss of life, and at that point, no indication of anyone being seriously injured, so there was a great deal of thanksgiving for the people of those islands having managed to come through those hurricane conditions with what we will have to term as minimal consequences, given they were dealing with a category four hurricane.

Madam Speaker, these Islands have been on the receiving end of several storms over the years, with the most recent devastating impacts of Hurricane Paloma on the Sister Islands in 2008; and Hurricane Ivan impacting Grand Cayman in 2004. Those two storms remain fresh in many of our minds as vivid examples of the extent to which storms can affect us.

Madam Speaker, the resilience of the Cayman Islands to hurricanes and other disasters is directly related to how well we prepare for an event, as well as how well we carry out our response and recovery activities.

Madam Speaker, in the aftermath of Hurricane Ivan, in 2005 when the People's Progressive Movement took the helm of office, we began discussions about the need for legislative reform to deal with preparation for hurricanes and indeed, any disaster, but also a proper legislative structure to enable man-

agement of the aftermath of such events. I think those of us who were around then, in this capacity, that is as elected Members, will never forget the challenges that we encountered, trying to manage the aftermath of Hurricane Ivan.

Madam Speaker, there are horror stories that I could tell. Even though back then I was just living in the Opposition and was not a member of the Government, we did come together as elected Members. You were there and you remember well, as do the Leader of the Opposition, Captain Eugene Ebanks, the Honourable Deputy Speaker and my colleague Minister Tibbetts, and the Elected Member for East End. We know how difficult it was in large part because of the lack of proper structure. Essentially, one consequence of the declaration of a state of emergency was to take away all the powers of the elected government, not to mention whatever little authority, generally, elected Members had.

Madam Speaker, I'm not going to dwell on that. Those of us who were there at that time know well. I'll never forget though, the morning following the passage of the hurricane, or I should say the day after the passage of the hurricane, when we were summoned here for that first meeting because this was one of the few places that was dry. Something that became very apparent was that we needed a proper structure and a proper protocol in place to deal with these sorts of things. Disabling the elected government, which is one of the consequences of the state of emergency being declared, is probably the worst thing you could possibly do because it is to the elected members that the people of the country naturally turn to when there are events such as these.

There are many well-meaning, hard-working, very able civil servants but by and large, the general public does not know many of them, and so the country needs to enable its elected Members to be able to participate and help with the management of events such as this. Thus, Madam Speaker, we started discussions way back (I can't remember whether it was 2005, I think it was probably 2006) about the need for a proper piece of legislation. The discussions went on interminably. We demitted office in 2009 and I'm not sure how much was done in the ensuing four years, but we were determined, and I, in particular, was determined that I would not see this term out without us putting in place a proper piece of Disaster Preparedness and Hazard Management Legislation.

Whether it is perfect, I seriously doubt, Madam Speaker— nothing is; but if we have proper legislation in place, as events arise, as we become aware of any deficiencies it may have in its operations, the necessary amendments can be made. However, we really need to get to a point where elected Members play a proper role in administering and managing the disasters in this country. In practise, that's what we all have to do, [and] this Bill will help to give a legal basis to our involvement.

Madam Speaker, the enactment of this Bill will formalise traditional practises such as the ability to redeploy government employees to assist in times of disaster and to use public buildings, equipment, and vehicles for response and recovery efforts. If, God forbid, another storm of the magnitude of Hurricane Matthew had affected the Cayman Islands, the likely course of action in the absence of this Bill, would have been that the Governor would have proclaimed a public emergency for the territory, which, as I've just said, renders Cabinet and the Members of the Legislative Assembly powerless.

To this end, Madam Speaker, I would like to highlight a key provision of the Bill which empowers the Governor, after consultation with the Premier, to declare by Order, any part of the Islands to be a disaster or hazardous area. It also directs the enforcement of measures for the removal or mitigation of the hazard without affecting the executive and legislative powers. Moreover, Madam Speaker, the Bill gives Hazard Management Cayman Islands, which is the agency that will be established under the Law (it already exists), the responsibility to comprehensively manage disasters that may befall the Islands starting with preparedness and following through to response and recovery.

Madam Speaker, other provisions in the Disaster Preparedness and Hazard Management Bill, 2016 include formal recognition and designation of the Department of Hazard Management Cayman Islands with responsibility for the comprehensive management of disasters that may befall the Islands, starting with preparedness and following through to response, mitigation, and recovery. It also enables the Chief Officer to appoint and settle the remuneration of consultants and experts to assist the department in the performance of its functions. It provides for authorisation of powers for the Director of Hazard Management Cayman Islands, to temporally direct the deployment of public service staff from other agencies.

It includes provisions for the establishment of a National Emergency Notification System as well as the broadcasting of government emergency announcements over local broadcasting stations, both of which are critical to our mitigation of tsunami threats and other rapid onset disasters and major incidents. It also includes provisions for the indication of premises as emergency shelters and for the assignment of a shelter manager for each shelter. The provisions for community service leave make resources available to manage disasters by providing for private sector employees who engage in an eligible community service activity to be entitled to paid leave.

There are also provisions for the establishment and composition of the National Hazard Management Executive and the National Hazard Management Council and for immunity and indemnity in respect of the Hazard Management Cayman Islands Department, its employees and other authorised per-

sonnel in the lawful execution of their functions under the Law. There are further provisions that make it an offense to assault or obstruct the Director or any other authorised person acting in the lawful execution of duty.

Madam Speaker, I'm sure Members of this honourable House will agree that this Bill will strengthen the capacity of Hazard Management Cayman Islands, and the Cayman Islands Government as a whole, to comprehensively manage disasters that may befall these Islands, starting with preparedness and following through to response mitigation and recovery.

I believe, Madam Speaker, that I can look forward to the support of all Members of the House with respect to this important piece of legislation, which will improve our ability to prepare for disasters and manage their aftermath.

The Speaker: I recognise the Member for East End.

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

Madam Speaker, I rise to make a short contribution to the Disaster Preparedness and Hazard Management Bill, 2016.

I believe the Premier might be right when he says that he believes that we all support some form of legislation to ensure there is some coordination of efforts to assist, especially in the aftermath of disasters in this country because of our experiences as of late. In the last 10 years, we have had two such disasters from Hurricanes Paloma and Ivan; albeit Paloma was in Cayman Brac and Little Cayman, while Ivan primarily hit Grand Cayman.

Madam Speaker, I heard the Premier in his presentation talking about how it was, that there wasn't much involvement by us as Members of Parliament, and we are the best ones to know. I too remember the return to this Parliament a few days after the all-clear. It could have been Wednesday — I think it was Wednesday. We went over to the Appleby Building, was it? With the subsequent OBE award for providing an office space... and the then Governor losing it all and crying. He couldn't hold his own and that's the frailty of human beings. He just couldn't manage it; he couldn't. When I saw that, I recall I told him that it was my last meeting with him. I went East End and didn't come back to town because I wasn't prepared to throw my hands in the air and leave my people to the mercies of everything that had happened.

Madam Speaker, I believe we did well with both of the natural disasters that we experienced over the last 10 years. Prior to that, it was some 70 odd years, but we cannot allow ourselves to become complacent that it won't happen again in our lifetime; and even if it doesn't, we need to make provisions.

I remember well, [following] Paloma when you and the now Deputy Premier asked me to take over the recovery effort clean-up in Cayman Brac, and how we coordinated that, but it was us, because we knew best. Whilst I hear the Premier saying that now he is involved, the one problem I have with it is that in many instances, whilst I'm supporting it, I want to see it go further. There are no provisions in this Bill for notifying Members of parliament, other than the possibility through the Leader of the Opposition and the Premier. I believe that Hazard Management should be directed on this, in the process to notify other Members of parliament, or some provisions for when parliament must convene (so to speak).

We don't know what's going to happen. The Leader of the Opposition nor the Premier may have opportunity to get to the Members of the Parliament, and I don't see anything in here per say; the only provisions I see are the ones the Premier spoke of with regard to publications over the public broadcasting system like radios and the like. Maybe we will say it can go into regulation, but I wanted to bring it to our attention.

I will never forget after Ivan, the first day we came into the Legislature (might have been the Thursday or Friday or the following week) that most of us didn't even have electricity or water to take a shower, and I recall how we debated quite passionately in here about the provisions of the British ship coming into the harbour and leaving. I also recall me saying that we shall be like the phoenix, and it just so happened it was 500 years of existence right around that time, and I talked about rising from the ashes, and how England did not come to our aid. In essence, it is us but then, all of us should be properly notified. Not to take anything away from the Leader of the Opposition or the Premier, but there are other Members of the Parliament that need to be notified as well.

I had to do what I had to do in East End after Ivan, with the help of whom everybody knows, Mrs. Susan Oldie, who spent tens of millions of dollars on the East End recovery process. She brought in her own people but because of the need for local direction, Darrel Rankine, Oswald Rankine, Burns Connolly and I helped, so there's a need for that local element in it. If we're going to put it in the regulation then fine, I would welcome that, but I believe it does not go far enough in that regard.

Now, the other section that I believe we need to do, and Madam Speaker, these are mere suggestions; I'm not trying to criticise the Government to the extent that I do not support the Bill. I believe there are a number of things that need to dovetail. I am speaking of areas where disasters may happen, and in many instances, we can consider some of the other departments critical whereby their existence says that whatever goes through them are "disasters" such as 911, ambulance, fire. I believe they must be entrenched or recognised in this Law; not only recogni-

tion for how they operate, and there are provisions here for the different entities, but they're not specifically spelt out.

I also believe, Madam Speaker, that it needs to go further in that, for years, and the Premier spoke of our efforts when we were there. Something he didn't mention was that we were also trying to get a headquarters up at Jose's. Remember we had done drawings, et cetera for a disaster building there, and I believe that must also be pushed. There's no need for 911 to be at the police station. Absolutely no need! There's no need for the ambulance to be at the hospital. All of these can come under one heading so that they can merge and have that coordinated relationship for these situations because those are the primary entities that are going to be involved in any disaster. I believe we need to get to that point.

Madam Speaker, it may not be a priority because Paloma was eight years ago in 2009? Eight years ago; 2008, yeah that's right. Eight years ago, and maybe we tend to think that it may not be an absolute necessity to expend that kind of money to build proper shelter, and we can only build it to certain standards to meet certain disasters and that kind of stuff. I believe it is necessary for us to look at coordinating all those services and putting them under one roof and managing them from one particular area. We need to make sure that happens. If not now, provisions must be put in place to start looking at the possibility.

Madam Speaker, for the last few years I have been questioning things like emergency generators and the fuel and the provisions for them and it has been so disjointed, if I want to be kind. It has been extremely disjointed wherein our Hazard Management has tried to make sure that these things are maintained properly and low and behold, when we find out, fuel has been stolen from the generators [or] they're not maintained as regularly as we would hope that they would be.

Madam Speaker, you were responsible for [public] works at one time and you understand towers and their importance. I see where we took down the one at the police station and I understand it was because it had rotten from the base. If these things are disjointed and no one appreciates or understands their value for communications, especially during disasters, we are going to have a tower on the ground and no way to communicate. I believe all these things, Madam Speaker, need to be directly under Hazard Management, so attention can be paid to them.

I know and I've heard of the tower in Northward, which is the main communication tower for the Government and the country, being in some form of disrepair, such as the generator not working properly. These are our expenditures, Madam Speaker, that we cannot cut corners with. We cannot afford to cut corners. It is our lifeline in the sense that our people depend upon it to get news for their own safety. Prior to

the one natural disaster we have been prepared for all of our lives, a storm, we like to tell our people that the primary piece of equipment we expect them to have is a battery-operated radio. If the towers are down, there are no means of communicating to our people through that battery-operated radio.

We understand the reason for batteries because electricity goes off, but we must make every effort to ensure, as far as humanly possible, that those towers stay upright and the antennas stay attached. These are two different things, eh? One is a tower and the other is the antenna you communicate through. I don't know if that tower in Northward is overloaded because we also use it for telecommunications, meaning the different providers use it. All those towers, Madam Speaker, must be under Hazard Management. I'm not saying the others don't understand their value and purpose, but emphasis must be placed upon them and Hazard Management is the proper place to do it.

Madam Speaker, some departments have told me that there are certain areas in the country where they can't communicate with their headquarters. That's not good, especially for the Government. Equally, the telecom providers are not doing it by mobile phone. I could understand if we were mountainous, but we are as flat as a pancake; if you drive over a snake you have hit the peak, and I just do not understand why, being as flat as we are, we are not insisting that we have repeater stations throughout this country, and I'm not talking only about Grand Cayman. Madam Speaker, I'm talking about Cayman Brac. I was there recently and everything is "no service" on that bluff. It's sad. It's really sad.

The Minister for Works is coming with a Bill and a number of consequential changes to other Bills to facilitate the competition [Bill]. It does not make sense for us to make laws if we're not going to enforce them. Our people's safety depends upon proper communication, and this country is too small for anyone to come up with any excuses that it cannot be done because if they come up with excuses that it cannot be done, we have to find someone else to do it and remove them — we're talking about revoking political parties' registration? We need to revoke their licence. That's where we need to funnel our efforts, to ensure that provisions are in place for our people to get information and the government must never be lax in that.

Madam Speaker, I want to go back to when the Premier said that after consultation with the Premier and the Leader of the Opposition, the Governor will issue the disaster [Order] or whatever the case may be. In [clause] 13 it says: **"The Governor, after consultation with the Premier may by Order declare that part of the Islands to be a disaster area or hazardous area and direct the enforcement of any measures recommended by the Director or any other measures that the Governor thinks expedi-**

ent for removing or otherwise guarding against any such condition and probable consequences thereof or migrating as far as possible, any such hazard.”

Madam Speaker, it said any part of the Islands”. Subclause (2) then says: “**An Order made under subsection (1) may contain a direction that the disaster area or hazardous area be evacuated by a specified time and in accordance with such procedures, if any, as may be specified therein.**”

Subclause (3): “**An order under this section (a) may extend to the Islands as a whole. . .**”

Are we really evacuating the whole country?

[Inaudible interjection]

Mr. V. Arden McLean: Say what? There is that possibility? Well, unna don't need to look for me because I ain't leaving.

[Inaudible interjection]

Mr. V. Arden McLean: Why put it in here? You mean we could take 40,000 people out of here overnight? We don't have a bridge connecting us like that bridge out of Alaska to nowhere.

I don't know if that language is correct. “... or to such part thereof or to such particular places as may be specified therein.” I can understand that, but if you're doing the whole island there's no place else for them to go but someplace else. If you're doing an evacuation, they need to come from one place to the next, and if you're saying the whole island could fall into that, then it's got to be someplace else we got to go, Madam Speaker.

[Inaudible interjection]

Mr. V. Arden McLean: Tampa? But that's not in the Islands. Cayman Brac is within the islands so you can't take 'em Cayman Brac either. I wonder whether that language is an oversight. The Attorney General can tell us, but I know if they decide to evacuate the whole island, I ain't part of that because I'm not leaving here. There comes a time that one must die.

[Inaudible interjection]

Mr. V. Arden McLean: That's right! There is no better place to pass from this life than your own home.

[Inaudible interjection]

Mr. V. Arden McLean: You're going to run from it?

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, I don't know if it's possible that wording could be elsewhere. If

people want to leave, they will leave, but if the government takes the responsibility on itself to evacuate the whole country, it is an almost impossible undertaking in such a short period of time. I think we should look at that. I hope it doesn't get to that point. I don't know if somebody was trying to make provision if it does, but if that's the case I would advise that we look at it and see whether it is absolutely necessary.

Madam Speaker, the other area I should bring to the attention of the Government is under [clause] 5. “**Where a disaster exists, the Director, subject to the direction and to consultation with the Management Council, shall have power to:**

(a) **require public officers to respond and assist as directed;**

(c) **“determine how publicly owned facilities shall be used, and for the purposes of this section “publicly owned” means owned by the Government or by a statutory body whose funds include monies appropriated by the Legislative Assembly.”**

That last part... “**by a statutory body whose funds include monies appropriated by the Legislative Assembly.**” — Madam Speaker, there are a number of statutory authorities that we do not appropriate monies for and I want somebody to look to that.

For instance, Madam Speaker, the Water Authority has never got any money from this Legislature, and it has more vehicles and equipment than you can shake a stick at, which we will need. If some of them say “*no, you can't touch it because the LA doesn't appropriate any money for us,*” then we may have difficulty in our recovery process, especially; so I would ask that we look at that section.

Madam Speaker, I hope the Government will appreciate and understand where I'm coming from, and have a look at those sections to make [the Bill] much better. I [also] want to see Hazard Management out of the Government Administration Building. There's no place for it in the Government Administration Building. It needs to be in a place where we feel comfortable that it is secure, and we have rooms we can operate from. I recall when I was at CUC, we created a call centre, and I believe it might have been in the Government Admin Building, but we need to make sure that it's secured, Madam Speaker.

I believe it is time that we start making provisions. It might not be until 5 years down the road but as a country, it is an absolute requirement that we must make provision for.

Thank you, Madam Speaker.

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

I recognise the Honourable Leader of the Opposition.

Hon. W. McKeeva Bush, Leader of Opposition: Madam Speaker, I only rise to say that certainly, we support the legislation.

There are some things we would like explained once we get to the committee stage, but I did have a quick chat with the Director and the Chief Officer, and the one thing I was concerned about is in the Bill. We have no great concerns in regard to the legislation. It has taken a while, Madam Speaker. You know the work that was started with it, and it is a piece of legislation that we really don't have a problem with.

Madam Speaker, the truth is I don't even want to think about Ivan and what we had to go through as a government. People can complain about anything but the fact is, when you live through something it's a whole lot different. Then, the Governors were acting as if elected representatives were not to control anything. I had to say that this past week. Why, Madam Speaker, does any one of the Governors believe that we are elected? We put out a manifesto, we campaign, people elect us on the points of those manifestos, so why do they think that Ministers ought not to have control. I have heard this. When you buy a piece of land you hear the Auditor General complaining about interference; but who is there to represent the people but those of us whom the people elect?

As I said, Madam Speaker, I wouldn't want to live through my experience again, and I pray all the time for God to spare us from any natural disasters such as Ivan. We complain and complain, but the fact is if Cayman were not a strong country, we wouldn't have survived. We would not have survived. It is a good thing that over the years we had planning laws which made us build strong buildings, and it's a good thing that over the years, the road and infrastructure were put in place, although we had damage everywhere... Well, it was close to \$3 billion in damage, but it could have been a whole lot worse in the loss of life alone. We only lost two people, sad to say; one of them being a good friend of mine from my district.

Madam Speaker, when Ivan was approaching, you can believe our church, as many other people, were in prayer that it didn't come in our direction. Of course, we had to pray for others elsewhere who were not as fortunate or as blessed, whichever way we want to put it. A while ago the Premier spoke about Haiti and we know the mess it has experienced. Cuba is close to us and we have family there, and we have started recovery efforts to assist them. They had some serious damage as well.

Cayman has been fortunate, and I want to thank all those persons, people from other countries who assisted us. That's why, when the time comes for us to assist anybody in the region that has been hit by any natural disaster, I don't renege in any way. Most of the hurricanes we have experienced, Dominica got hit; Cayman assisted them. Grenada and St. Lucia; and Saint Vincent and the Grenadines as well. We assisted them as well because they had some dam-

age. When I hear people complaining about it, sometimes it seems they forgot that we had to have assistance ourselves.

I remember the decision taken. I don't know that any Governor could do that again because that was the decision made to call the state of emergency and take away our powers. Certainly, legislation was passed that enabled us to have control for our ministries at that time, so I don't think any Governor could rightly do it again, but certainly, the legislation is saying they can't and that is what is important because you never know the attitude.

Mind you, our legislation is only okay if it's agreed by them, and that ought to make some people think about why we need more powers than we have. You never know the day when something happens and they are going to say it's a state of emergency and they have full control and put an X through the law. We hope we never have to experience those sorts of situations, but what is Law? Law is making conditions so that if something happens we know how to deal with it, and can deal with it through the rule of law, so I am very pleased that we have mechanisms that can deal properly which give the management and the Government some authority.

In regard to the matter of myself or the Premier being contacted, certainly, our first job would be to bring Members together. That would be the first thing we do because the Premier couldn't do anything on his own, nor could the Leader of the Opposition. We would have to call Members together, and I guess why that is in there is to say that we are notified because we are two offices of the Constitution leading the Legislature as such. Certainly, it would be our first duty to notify Members so that we could come together and get the job done. I don't have any problem with it, even if I was not the Leader of the Opposition.

Madam Speaker, I want to thank the Government for bringing the Bill, and we trust the provisions will never have to be used.

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

I recognise the Honourable Premier.

The Premier, Hon Alden McLaughlin: Madam Speaker, could I beg you for a few moments so I may consult some of the points with the Attorney General, in particular, the one the Leader of the Opposition raised?

The Speaker: We could take the morning break for 15 minutes.

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

Proceedings suspended at 12:06 pm**Proceedings resumed at 12:23 pm**

The Speaker: Please be seated.

Proceedings are resumed.

I once again recognise the Honourable Premier to wind-up.

The Premier, Hon Alden McLaughlin: Thank you, Madam Speaker, and thank you for your indulgence and the indulgence of Members for allowing me to consult with the Attorney General and my Chief Officer with respect to the issues raised by the two Members who spoke with respect to this matter — the Elected Member for East End, and the Leader of the Opposition.

Madam Speaker, the first point raised by the Member for East End about the absence in the Bill, specifically, of a provision relating to the notification to Members of this honourable House, with respect to matters relating to disaster preparedness or the management of the events thereafter; it's a point well taken. I will deal with that, Madam Speaker, either through a committee stage amendment or in the regulations, depending on the advice that I receive from the Attorney General or others on my team.

Madam Speaker, the more practical matters raised by the Member for East End with respect to the maintenance and management of generators at the emergency shelters are, again, a point well made, and one we have been conscious of. I can assure the Member that HMCI has subbed out the maintenance of these generators — we are not dealing with Public Works maintaining them, but a company has tendered for and been given the contract to look after the maintenance of these. Similarly, Madam Speaker, with respect to the national radio network, there is a tender out at the moment. We are seeking to have a specialist company deal with it to ensure that the scope of coverage is complete, right throughout the Islands.

Madam Speaker, the other point which the Member for East End raised that I want to deal with is in clause 5(1)(c). I understand the concern, but I think I can assure the Member that the provision, as is, is what we are comfortable with. Clause 5 deals with powers of the Director.

Clause 5(1) provides: **“Where a disaster exists, the director, subject to the direction and to consultation with the Management Council shall have power to:**

- a) require public officers to respond and assist as directed;**
- b) requisition publicly owned vehicles, plant and equipment and determine their use and deployment;** and (c)— and this is the one that the Member took issue with;

- c) determine how publicly owned facilities shall be used, and for the purposes of this section, “publicly owned” means owned by the Government or by a statutory body whose funds include money appropriated by the Legislative Assembly.”**

Madam Speaker, the Member made the point that, as an example, the Water Authority is a government-owned company or a statutory body, but it does not receive (not usually) funds from government and therefore, perhaps, this provision would exclude it from being able to be directed by the Director; but Madam Speaker, on close examination, that is not the case at all.

The Water Authority, like all other government-owned companies, is actually that: government-owned. Government is the sole shareholder of all of its statutory authorities and therefore, for the purposes of this section, the statutory body referred to here is not a government-owned statutory body, but perhaps another statutory body that government funds for one reason or another — in other words, through government grants or whatever the case may be.

In a situation like this, were they to have property which the Director felt was needed in the course of managing a disaster, he would be empowered to direct that their vehicles, buildings, or whatever the case may be, should be utilised for that purpose. Any entity that government gives money to, any statutory body the government gives money to, by way of grant or whatever, would be susceptible to having their property utilised at the direction of the Director in those circumstances so it's not excluding the Water Authority at all; it's going wider than government-owned companies.

Madam Speaker, the Member for East End also raised a point with respect to evacuation which is in clause 13 which reads:

- (2) “An Order made under subsection (1) may contain the direction that the disaster area or hazardous area be evacuated by a specified time and in accordance with such procedures, if any, as may be specified therein.”**

- (3) “Any Order made under this section —**

- (a) may extend to the Islands as a whole or to such part thereof or to such particular places as may be specified therein;”**

The Member's concern held that he deems it nearly impossible to evacuate the whole of the Cayman Islands; and perhaps, Madam Speaker, that may well be the case and one would hope that we never

reach a situation where the circumstances are so extreme that no one can live in these Islands.

Madam Speaker, we don't have to go to that extreme measure. A place like Little Cayman, for instance, where the population is relatively small, one can easily conceive of circumstances where evacuation of the entire island would be possible because the numbers are sufficiently small that if, again, we pray God, it never reaches that point, but it would be possible.

[Inaudible interjection]

The Premier, Hon. Alden McLaughlin: It would be possible.

Madam Speaker, we've looked at it again, the Chief Officer, the Attorney General, and I, and we believe that the provision should remain, although, as I said, God forbid we should ever require that such extreme a measure be taken.

Madam Speaker, there is another point I want to cover with respect to what was said by the Honourable Leader of the Opposition, just to explain.

The Emergency Powers Law which has been around for as long as I can remember, but which was substantially revised in the aftermath of Ivan— so (a 2006 Revision), is the Law which provides for the making of a State of Emergency Declaration by the Governor which, hitherto, triggered the loss of all constitutional power of the elected Executive and the Members of the Legislative Assembly. As a result of the changes made in 2006, the Governor would not do that now without consultation with the Premier, so there is some elected input into the declaration of a state of emergency.

The principal purpose of the provisions we have included in the Disaster Preparedness and Hazard Management Bill, and the clause I just referred to — clause 13(3) — is so that we almost never get to a position where there is a need for a state of emergency declaration. The necessary measures to ensure the safety of the residents of these Islands and the security of property are able to be put in place on consultation with the Premier by the Governor; but the full executive powers of the elected Government, and the office and authorisation that Members of this House enjoy, all remain in place during emergencies, so we don't get back to the situation that obtained in 2005. We don't need to go to a state of emergency to be able to do these things.

Madam Speaker, I thank the Honourable Attorney General for having further advised me that, for completeness, the issue of a curfew was also clarified. It is not just a matter for the Commissioner of Police and the Governor, but now requires consultation with the Cabinet. The combination of the changes that were made to the Emergency Powers Law in 2006, and the changes to the Police Law, now along with the Disaster Preparedness and Hazard Management

Bill, 2016, means that now the elected Government and Members of this Legislative Assembly will play a pivotal role in the preparation and management of disasters and hazards in a way that hitherto was not the case, but which, in reality, reflects what needs to be done. As I said earlier, they can have as many officials as they wish in charge of these things, but the reality is the people to whom the residents of this country naturally turn to are those they know best, and those are generally the elected Members of this honourable House.

Madam Speaker, I thank all honourable Members, those who spoke and those who didn't, for both their expressed and tacit support of this important Bill.

Thank you, Madam Speaker.

The Speaker: The question is that a Bill shortly entitled the Disaster Preparedness and Hazard Management Bill, 2016 be given a second reading.

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

AYES.

The Speaker: The Ayes have it.

Agreed: The Disaster Preparedness and Hazard Management Bill, 2016, given a second reading.

SECOND READINGS

[Continuation thereon]

PROCUREMENT BILL, 2016

[Continuation of debate thereon]

The Clerk: The Procurement Bill, 2016

The Speaker: I recognise the Honourable Minister of Finance.

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

I beg to move the Second Reading of a Bill entitled the Procurement Bill, 2016.

The Speaker: The Bill has been duly moved.

Does the Honourable Minister of Finance wish to speak further to this Bill?

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

Madam Speaker, first and foremost, I'd like to acknowledge the work of the multi-agency team that was responsible for compiling the Bill. The team consisted of persons from the Central Procurement Office within the Ministry of Finance, the Deputy Governor's Office, the Central Tenders Committee (CTC), the

Public Works Department (PWD), the Auditor General's Office, and the Legal Drafting Department.

Madam Speaker, procurement is very important. It is a very important aspect of government activity, yet we do not have specific legislation that underpins this activity. Most other countries have specific procurement laws. The proposed Procurement Law will replace the present procurement process, which is set out in Part 9 of the Financial Regulations (2010 Revision).

Madam Speaker, procurement of goods, works, and services should be considered a core part of any organisation's corporate strategy, including the Cayman Islands Government, as it is a major component of any organisation's activities, and it's frequently the largest or second-largest category of expenditure after human resources.

The Cayman Islands Government spends over \$200 million on supplies and consumables each year, which is approximately 27 per cent of total operating expenditure; however, we have very few qualified, professional procurement experts. The proposed Law and Regulations will provide an opportunity to build a strategic approach to the procurement of goods and services, and contract management across the entire government.

Madam Speaker, by limiting unilateral tendering and the piecemeal approach to the management of procurement and contracts, we can eliminate the dangers of the lack of due diligence and potential malfeasance. Developing a central procurement function will also improve value for money as the buying power of the whole government is far greater than individual departments. Common purchases like office supplies and computer equipment can be procured on a government-wide basis as opposed to each agency making purchases individually.

The Procurement regime has been reviewed by procurement experts from Jersey and the Channel Islands; and by an international procurement expert who the Government is using to train public servants, and they both consider this piece of legislation to be world-class.

Madam Speaker, at the moment, each agency does its own purchasing or buying; however, procurement and purchasing are two different things. Purchasing is the more routine task of ordering and receiving goods and services. Purchasing, Madam Speaker, is only a subset of the wider procurement process. The procurement process spans the whole life cycle from the initial concept and definition of business needs to the end of the useful life of an asset or the end of a service contract.

Madam Speaker, Members may recall that there were two reports issued by the Office of the Auditor General in July and August of 2011, that were very critical of the management of procurement within the Cayman Islands Government. Among other things, the Auditor General stated that the existing

procurement regime did not provide value for money; it lacked transparency. There was no procurement expertise in government. There was political interference in procurement. That there was a risk of fraud and corruption and that some public authority board members were involved in the procurement process — Madam Speaker, the recent CarePay case in the Health Services Authority highlights how dangerous and costly this can be.

The Auditor General also had other concerns. The lack of corporate procurement information, there was no policy for local business development, no business cases were being prepared for procurement, there was no code of conduct for persons involved in the procurement process, and the present regulations only allowed for one procurement method, namely, open tendering.

In August 2013, the Cabinet authorised the Deputy Governor to develop a new procurement regime for the public service, which has resulted in the establishment of a three-person Central Procurement Office in the Ministry of Finance. A Director for this office was appointed in February 2015, and a Deputy Director is expected to join government in November 2016. Madam Speaker, I would like to thank the Deputy Governor for taking forward this initiative, which has now resulted in the Bill before us.

Madam Speaker, the proposed Procurement Law will address the Auditor General concerns by the following:

1. Improving governance;
2. Increasing transparency;
3. Improving reporting;
4. Limiting political involvement to the policy level;
5. Improving value for money;
6. Providing for different procurement methods;
7. Improving procurement management information;
8. Developing a procurement code of conduct; and
9. Developing a local business development strategy.

Madam Speaker, the intended Procurement Law will apply to all procurement activities by the civil service, statutory authorities, and government-owned companies; however, there are certain types of procurement that are not covered by the proposed Law. For example:

- Procurement between government entities,
- Procurement during emergency situations,
- Acquisition or disposition of land,
- Acquisition of works of art, and
- Purchases from regulated utilities, such as electricity, water, and sewage.

Nevertheless, for those transactions not covered by the intended law, we should still ensure that

government gets value for money. This new law will affect all Ministers of Cabinet, board members, chief officers, chief executive officers or managing directors, heads of the departments, and every supplier of goods and services to the Cayman Islands Government.

Madam Speaker, I would now like to cover the more significant points of the proposed new law. The new Procurement Law seeks to clarify the roles and responsibilities of the different entities, namely Cabinet, the Ministry of Finance, the Central Procurement Office, the Chief Officer, and the Chief Executive Officer or the Managing Director of the SAGC's [Statutory Authorities and Government-owned Companies].

Without a statutory framework, the roles of entities may become blurred; therefore, the law establishes two new committees — the Public Procurement Committee (PPC), which would replace the Central Tenders Committee, and the new Entity Procurement Committee and how their members are appointed.

The Public Procurement Committee is an external oversight body that will consist of 8 persons appointed by the Governor. Members of the Legislative Assembly and the Judiciary are not eligible for appointment. The Governor will seek the advice of the Premier before appointing the Chair and three members who are not public servants; one of which must be an Attorney-at-Law. The Governor will appoint one member acting in accordance with the advice of the Leader of the Opposition who, again, cannot be a public servant. The Governor will also appoint three members of the civil service on the advice of the Deputy Governor. A public procurement committee member must make a declaration to the Governor and the Deputy Governor of his or her interest prior to taking up their appointment. It's important that the committee member has no financial or other interests that will affect prejudicially the work of the committee.

The Public Procurement Committee will deal with the higher-value projects. The threshold will be set in the regulations for those projects valued over CI\$250,000. The Public Procurement Committee will also be responsible for reviewing business cases and competition documents prior to them being issued. They will also physically receive and provide receipts for all bid submissions — in the future, Madam Speaker, we will be looking to develop an automated electronic system for this process.

The Public Procurement Committee will review the recommendations of the entity procurement committees, verify that the evaluation process was conducted in accordance with the terms and requirements of the original competition document, and give approval to the award of a contract to the successful bidder. The Public Procurement Committee will also have the power to give approval in special circumstances to entities that wish to award a contract to a single source supplier without going through a com-

petitive bid process. This will, of course, be documented, justified, and published.

Madam Speaker, let me now turn to the Entity Procurement Committee. Each entity within the public sector will establish an Entity Procurement Committee to undertake the procurement process within each respective entity. The Chief Officer or Chief Executive Officer of the entity wishing to acquire goods or services will appoint a chairman and at least two persons to be members of the committee. Members of the board of the statutory authorities and government-owned companies, Members of the Legislative Assembly and members of the Judiciary are not eligible for appointment for this committee.

Members of the Entity Procurement Committee should have knowledge and skills in Law and Finance, be politically neutral and have no financial or other interests likely to affect the carrying out of their duties as members of the committee.

The Entity Procurement Committee will award contracts for procurement under the threshold specified by regulations. It is anticipated that this will be projects less than the value of CI\$250,000. The Committee will also do technical appraisals of projects above the threshold value and make recommendations to the Public Procurement Committee.

Madam Speaker, another concern of the Auditor General was that entities were restricted to one method of tendering, namely, open tendering. The proposed law now allows for a number of alternative methods that will be specified in regulations. The Central Procurement Committee will develop policies for the alternative tendering methods such as:

1. Restricted tendering;
2. Request for quotations;
3. Request for proposals without negotiations;
4. Two-stage tendering;
5. Request for proposals with dialogue;
6. Request for proposals with consecutive negotiations;
7. Competitive negotiations;
8. Electronic reverse auctions.

We are already seeing the benefits of money saved through the pilot studies utilising electronic reverse auctions.

To reduce the risk of fraud and corruption, the proposed law allows for a procurement code of conduct to be prepared by the Director of the Central Procurement Office, which will apply to public servants and suppliers. No adherence to the code will result in disciplinary action for the public servant, and if the supplier fails to comply, they could be liable to sanctions including disqualification from participating in the procurement process for a period of time or indefinitely, Madam Speaker, depending on the severity of the breach.

Madam Speaker, the new law provides for entities to take into account the broader socio-economic impact and benefits that a procurement project will create, particularly as it relates to suppliers operating in the Cayman Islands. The economic developing preference section of the law provides for preference to be given to suppliers registered as a resident company within the Cayman Islands; however, the principles of procurement must be maintained and value for money has to be the major consideration in doing so.

In addition, for larger projects, entities will include in all competitive bid documents a request for suppliers to submit a local industry impact statement as part of their bid. This will provide an opportunity for suppliers to outline how their supply of goods and services or works will provide a positive impact on the local economy. This is termed in the law a Local Benefits Test, Madam Speaker. An example would be in the case of a major construction project whereby the bidder may guarantee that a percentage of the work will be done by Caymanians or Caymanian entities. This guarantee would be taken into account when awarding the contract, and this promise will form part of the contract which will be published and the successful bidder will be held to account as to the terms of the contract.

Madam Speaker, transparency promotes accountability and provides information to citizens about what their government is doing with public funds. Transparency reduces government corruption, bribery, and other malfeasance; thus, the new law also specifies the level of public reporting required.

The Director of the Central Procurement Office, by the intended law, will establish a website for the purpose of advertising and reporting all public procurement. In addition, he will publish an annual report on government-wide procurement. It is also mandated that Chief Officers must report details of their procurement activities in a timely manner. The law also allows for unsuccessful bidders to have the opportunity for a debriefing with the Central Procurement Committee or the Entity Procurement Committee. This is not an opportunity to appeal against a decision; neither is it a negotiation. It is to help the unsuccessful bidder understand why his or her bid failed.

Madam Speaker, legislation and regulations are only the starting point for the new procurement regime. The Ministry of Finance is currently training staff in procurement. We aim to train at least a hundred and approximately 180 persons by the end of the year. Although statutory authorities and government companies have been consulted, training for board members and staff of these entities will also have to be done. The Director of the Central Procurement Office and staff will also be developing policies, standard documentation, and templates. Discussions have been had with the Chamber of Commerce, but all government suppliers will need to know and be aware of the New Law and Regulations.

Madam Speaker, in closing, I will also ask for the support of all Members of this honourable House for this important legislation that I believe will improve good governance, will increase transparency of the procurement process, will limit political involvement, will improve value for money, will reduce the risk of fraud and corruption; and will provide local suppliers with a framework for providing goods and services with the Government.

Thank you, Madam Speaker.

The Speaker: We will now take a luncheon break and reconvene at 2:30 p.m.

Proceedings suspended at 12:59 pm

Proceedings resumed at 3:38 pm

The Speaker: Please be seated.

Proceedings are resumed.

SECOND READING

PROCUREMENT BILL, 2016

[Continuation of debate thereon]

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

I recognise the Fifth Elected Member for the district of George Town.

Mr. Winston C. Connolly, Jr., Fifth Elected Member for George Town: Thank you, Madam Speaker.

I rise with brief comments to support this very timely Bill. Madam Speaker, as a country maturing in our democracy and trying to be more transparent and professional in our dealings, it is an absolute must to have a proper procurement process. For anything we use the people's money for, we should be held accountable to them and should be able to demonstrate that best efforts have been made in order to protect their financial interests, but also to guard against the ills of corruption, Madam Speaker.

The Minister of Finance shared that we spend \$200 million on supplies and services every year. Madam Speaker, that is an enormous sum of money, and although we would like to think that all parties involved in the process would do the right thing, we know differently. If you do not have a robust system that tries to mitigate corruption, we could never hold our hands up and say we have done enough. A penny saved is a penny earned and though I think the Minister of Finance has demonstrated such in the last three and a half years, it does not stop with him; it has to carry through the entire government and the entire civil service.

Efficiency also works in terms of savings and value for money. We have seen too many examples of what happens when both political and civil service

interference in the process occurs. In some of his reports the Auditor General warns of what could happen and might be happening, and says what we must do in order to ensure that the system is robust.

Madam Speaker, I'm glad to see a mandatory code of conduct, because any law which has a discretionary one, isn't worth its weight. I also like to see a local business development process in the Bill because when we're spending the people's money, some of it should go back to the people — in fact, we should always look at how government revenue can better our people. That's where nation building comes in.

We've all heard examples of how people circumvent the current system. Multiple single-source contracts and different examples rear their heads over periods of time, so we know what we're dealing with, and I think this is the first step in combating all the things we know, so I applaud the Government for taking the initiative. For listening to the civil servants, the Auditor General, and just the common man on the street because they also know what's happening. They realise that if the system isn't fair, those who don't have access get nothing — and the system has to be fair, Madam Speaker.

I really like the electronic reverse options. I think it's going to be a game changer, and absolutely agree with the Minister of Finance, that it's going to reduce the risk of fraud and corruption. In fact, Madam Speaker, I'd go a little further; as soon as the bidding process is over, I would put them out for everyone to see. In fact, I would actually have most of them done in a public forum anyway but that's me, Madam Speaker. As I said, I'm heartened to see the steps we have taken in this Bill, and I think it's going to be an evolving thing. As we get more and more experience and efficiencies, I'm sure these things will raise their heads and will come out of the process. As long as it's not set in stone, as long as it's a fluid law that accounts for these sorts of things and is constantly moving to best practice and further efficiency, I'm okay with it.

Madam Speaker, sometimes we also need to have examples of when people do the wrong thing. We need to make examples of those who would try to skirt the system, who would break the laws. We can't just forgive bad behaviour because what that says to others is, *I can do it, and I'll get a slap on the wrist or I'll get maybe a mention*. We have to police the process, so I was happy to hear about the disqualifications and their severity. There is a range for a period of time or indefinitely which, again, is a really good step. We have to be seen to take this process seriously. This shouldn't be just a check-the-box exercise so we can say we've done something because eyes were on us. It has to follow through.

Madam Speaker, I also like the annual report and the Chief Officer's reports — in fact, I think that's one of the most important checks and balances. The

Chief Officer is in charge; they have to know what's going on under their column and, like with any other leadership and authority role, have to be prepared to be held accountable. If they're held accountable and know there are ramifications for doing so, or not, they're going to police the ones who are accountable to them and, again, you get a more robust system.

Another important thing in the Bill is the follow-up with the unsuccessful bidders. If you have this in place, you're going to start taking away some of the arguments when people lose bids. If they can fully understand where they went wrong, why their lowest bid wasn't the best bid, and all those things, it will help them the next time around — because we want people in business, Madam Speaker.

We want people to make a living, a good living and we want to assist them with money that would otherwise go overseas or somewhere else, but they also need to know that there are proper ways to do things, and they can't just skip corners. If you submit a bid, at the very least, you get back feedback that will help you the next time around, so Madam Speaker, I think that's also a very important tool to show value for money and other things that, again, make people believe in the system and understand the system. If you don't have that process, many people go away feeling a bit jaded. They will go away talking about the process in a very negative way, and the next time around might think the system is rigged or whatever else. Education is good for the public.

Madam Speaker, again, I think the Government should be commended for bringing this Bill and will be supporting it fully when the time comes to do so.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

I recognise the Fourth Elected Member for Bodden Town.

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

I also rise to lend my support to this important Bill, and I want to begin by congratulating the Finance Minister of the Year for his outstanding work in areas such as this in which it is not an easy undertaking to actually make progress. I think we all know first-hand because of the positions we currently occupy, that there is a stigma out there that government projects are ripe for picking in terms of people being able to get around the system and seek favour in certain ways.

When I first got elected, I got an eyeful and an earful from individuals who didn't come directly and say, *Well, we need you to do X, Y, and Z*, but the hints were thrown at us quite strongly, so I applaud the Minister for bringing this Bill. It is timely and it is needed.

In going through the Bill, Madam Speaker, I'm glad to see that it will also cover statutory authorities. I think a holistic model was needed. We are running some real risk by not having everyone under the same umbrella, so seeing that all government entities will have to comply with this law is, again, a big step in the right direction. I did question why we didn't cover land and certain other types of transactions under this particular legislation, and would ask the Minister when he winds up, if he could maybe give some explanation for that. Hopefully, there's a solution whereby the government can equally guarantee value for money in those types of transactions.

Madam Speaker, I don't think there will be any push back from civil servants and Chief Officers who will have to comply with additional reporting requirements because I know they also live with the stigma that government contracts can be rife with nepotism and corruption; and while I think for the most part it is a stigma, there obviously have been some concerns the Bill is trying to address. Anyone who wants to operate above board and in a clear and transparent manner will embrace this legislation.

Madam Speaker, the Bill clearly establishes rules for government bodies. I see that a committee will be appointed by the Governor, and I think the membership of that committee is fairly balanced, including one member appointed by the Honourable Leader of the Opposition. I would suggest, however, instead of three members of the civil service being appointed, maybe one additional private individual in a capacity where there's a bit more of a balance;

[Inaudible interjection]

Mr. Alva H Suckoo, Jr., Fourth Elected Member for Bodden Town: Yes, perhaps [appointed] by the Leader of the Opposition.

Madam speaker, I note there is talk about there being certain ways to get around the current system as it exists, and when there are big jobs to be bid, it's possible to break them up into smaller jobs so that you fall below the thresholds for bidding. Hopefully, the Minister will address that concern and perhaps tell us how that sort of situation can be avoided, because we don't know whether some people have the perception that if they bid on smaller jobs, they can get by some of the more stringent rules and requirements.

I'm also pleased to see, Madam Speaker, that the law will allow more than just open tendering and that some careful thought has gone into the different forms of tendering and bidding on jobs. One size doesn't fit all when it comes to bidding on projects, and it's good to see some flexibility here. I'm extremely pleased to see that there's a code of conduct that not only the civil servants and public officers will have to adhere to, but also the suppliers. I think this definitely heightens the level of compliance and transpar-

ency and I'm glad to see there is actually a penalty for failure to comply with it. While we want to live in a world where everybody is honest and open in their dealings, we do need to have the regulations in place that will ensure no one takes advantage of the situation and the system.

Madam Speaker I am praising the Minister of Finance and this Bill. I am extremely pleased to see that preference will be given to local suppliers, and that they will be somewhat protected by this law. What I'd like to see as the next step — and I know the Minister has already given this as much thought as another [matter] which is a bit outside the scope of this debate — is a clear policy on incentives for developers so we can have some uniformity. I think that would be the next logical step, as those two things go hand and hand.

Madam Speaker, like the Member for George Town, I also support the idea of the creation of impact statements when bidding. I think most of the wastage, overruns and costs tend to come about because there is not enough analysis and cost benefit done when individuals are submitting bids to the government. This just takes it a step deeper to where the government with actually have a clear understanding of how a project is going to benefit government and the wider community.

We know of instances, Madam Speaker, whereby individuals would bid on jobs they may not have the resources on hand to actually complete, so there is some outsourcing and labour brokering going on. In cases like that, I know it was difficult for the government to monitor what was happening, and actually guarantee Caymanians were getting employment on these projects. In many cases, labour brokers were outsourcing labourers who didn't have health insurance or pension, and it's harder to monitor compliance with our laws, so again, I'm strongly encouraged by that. It encourages honest bidding and an open and transparent process.

I also fully support the creation of the procurement website, and that it will be mandated that the information be kept up to date and timely. It is also good that the government has agreed to give feedback to failed bidders. The quality of what is being submitted to government going forward can improve by the government giving feedback on areas where a bidder was weak and consequently didn't get the bid. All of this is very positive, Madam Speaker, and I think it will be embraced by all sides, not just government and the civil service.

What I would strongly recommend to the Minister in order to get this cemented and moving in the right direction is that workshops be conducted with all potential suppliers so they become immediately familiar with the requirements and we don't hear the usual backlash that comes from individuals who may not completely understand what they're being requested to do and comply with. They may potentially blame the

law when it's actually just a lack of communication and understanding of what is required of them, so I strongly encourage that potential suppliers be invited to come and familiarise themselves.

In the grand scheme of things, Madam Speaker, this is a very positive development and I wish to congratulate the entire Government for bringing it forward at this time. As promised, I will support things that I think are good for this country, so I will definitely be voting for this Bill.

Thank you.

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

I recognise the Sixth Elected Member for George Town.

Mr. Joseph X. Hew, Sixth Elected Member for George Town: Thank you, Madam Speaker.

Madam Speaker, I rise to offer a few remarks to support the Procurement Bill, 2016, which aims to introduce a new framework for the procurement of goods and services for the government, particularly through one central office.

Madam Speaker, as the Minister said, previously there was only one form of tendering, namely open tenders, which I think, combined with the formation of the Central Tenders Committee, worked for the country for a while; but I think we have far surpassed that time. Even the foresight of building the Government Building whereby we can house the majority of the government agencies has brought that to light because we see the opportunities for working together and breaking down the silos between all the different government departments in many, many areas. It certainly highlights what we can do in the procurement area.

Madam Speaker, having experienced most of my life in dealing with government contracts and procurements, you quickly realise that there was a particular premium added to government contracts because the tenders were put out once a year as they said they would do so. Ninety per cent of the time, unless it's one specific capital project, on recurring purchases, you were never notified that you won the bid; you would just simply receive a few months later a purchase order, and a few months later another purchase order, and a few months later another purchase order. Sometimes the pricing would change and more often you had to wait months and months to be paid. For that form of speculation and in instances where you had to deplete your entire inventory to fill that purchase order, you added a premium. That's just the way you had to work with government.

Madam Speaker, I think creating this procurement office and actually putting the emphasis on the management of these sorts of bids, combined with the introduction of different methods in sourcing sup-

plies and the bidding process, we will see a much more efficient process. One that I believe will not only save the government millions of dollars, but will actually be welcomed by the private sector, making the business of the day with the Government much more streamlined and economical.

Madam Speaker, we all know that if you are purchasing 8.5 by 11 photocopy paper, everyone uses the same photocopy paper. If you're purchasing hand towels, everyone uses the same, or the toner for printers or photocopy machines. These are all things that no matter which department is using them or wherever they are, we're using the same thing and they can be combined into one purchase which gives the Government much more leverage on their purchasing power.

It also allows the local companies to build their purchasing power with their suppliers, and in that case, start to reap the benefits of better buying power because of their quantities. I think that, overall, this would be a win-win for the country; both for the private sector and the government, because the private sector can even lock in pricing for a full year if they know they are going to be purchasing several cubes or several hundred cases of a product. Over time, they can actually lock into six months' or a year's pricing which we know, as time goes on and interest rates and fuel prices begin to raise again, will become much more important than it is right now. Commodity prices in particular can go up overnight, but if you can lock in three to six months or even a year on a price, you're doing yourself a service.

Madam Speaker, we heard about the reverse auction or the electronic reverse auction; this is something that has been used around the world, particularly in institutions like health services, prisons, et cetera. These can be very effective if managed properly. My only concern, and we have discussed this, is to ensure local companies have the ability and a fair playing field to participate, and I think we ran some trials and it has been proven that it will benefit local companies and that they do have a level playing field.

There are other things that the office can look into, Madam Speaker; we have a hospital, we have a prison that runs about 100 per cent year-round; it's a guaranteed occupancy. You can do certain things that cost guarantees on supplies, on chemicals. Some areas even do cost guarantees on food. If you know you're going to be feeding 1,000 people a month or a week, you can offer bids based on what it will cost you to provide me with the goods to feed 1,000 people on a per head basis.

The same happens with other supplies where they will look at what the operations entail and then you could say, *okay, well, we're full, we have 300 people, what will it cost us to run that?* They do the supplies based on what is commonly known in some industries as a cost guarantee.

Madam Speaker, as mentioned before, this also removes the temptation and possibilities for corruption and political interference across the board. Certainly, it removes the risk of lower level favouritism — nepotism, as mentioned earlier. One of the great things about this is that we would have a central office that can almost pre-qualify companies. You know, over the years we've seen where companies were less than honest in their business dealings with one particular government agency, and it was discovered there and well publicised there, but then another agency within government continues to do tremendous amount of business with them. I believe we will see those possibilities removed by the introduction of the Central Procurement Office.

Madam Speaker, it is important that we have the ability to set standards or adopt sustainability policies recognising our responsibility to the environment. This is another area where I think this procurement office can play a leading role within government by ensuring that some of the contracts we sign, and at any opportunity, we take into consideration the environmental aspects. Sometimes we may have to pay a few cents or a couple of dollars more at the front end of something but if we look down the road, it works out to be much more affordable to pay on the front end of purchasing than to pay at the back end at the landfill and having to deal with the disposal of the product. I think these are some of the positives a central office can take into consideration in our contracts— and that is wherever possible on such a small Island with a landfill that's continuing to grow; look at our purchasing habits and see that we take the environment into consideration whenever possible.

Madam Speaker, I'm also very pleased that in Part 6 of the Bill in assessing our value for money we are looking at the socio-economic impact and benefits that may be created, especially for small and medium-sized businesses. If we look under clause 16(3) in particular, and look at:

**(d): “adopt a local benefits test for all procurement within specified thresholds”; and
(c) [sic] “undertake a plan for local industry participation, as may be prescribed, prior to embarking on major procurement projects.”**

Madam Speaker, that was Part 6 – “Miscellaneous”, Clause 16(3). For me, those were some of the highlights and concerns that were addressed within this Bill, that I think will serve this country well in the future both by government saving money, and from an economic standpoint, as far as the private sector is concerned, in having fair opportunity to engage in a modern and mutually beneficial fashion when supplying goods and services to government.

In closing, Madam Speaker, I would like to congratulate the Minister of Finance and the Deputy Governor's Office for spearheading this and taking it

on. When I first saw the presentations in caucus, I thought they had a huge mountain to climb and wasn't very sure we would see this before the next election, so I am excited to be standing here to say congratulations to all involved for just getting to this point with this very much-needed and very important Bill.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

I recognise the Honourable Member for the district of East End.

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

Madam Speaker, I rise to contribute to this Procurement Bill. The first thing I don't like is the title of “framework for the procurement”. It should be for the procurement of goods and services by the Cayman Islands Government, not a framework.

Madam Speaker, whilst I know that we all look for panaceas in these areas, sometimes we fall way short — and I don't think any Bill coming here will ever be perfect. That's why it is called a Bill and then a Law, and why we have amendments.

I have always advocated for a procurement process. Even as a Minister I advocated for it, but I advocated for a system that was similar to Jamaica's [Office of the] Contractor General, whereby there is an office that oversees all contracts for government and reports to the Parliament. Be that as it may, I believe this is a good attempt to regularise how these things are done.

Madam Speaker, something I have always had difficulties with in this country is how it generalises everybody. There's too much talk about political interference as if there isn't interference by other people into these things, and we have to call a spade a spade. I have seen civil servants interfere as well, and we must not be afraid to say it. I have seen it. I've been there, done that! I've seen subsequent governments interfere. I have experienced it. I have interfered as a Minister, but there were specific reasons why I interfered in the interest of value for money because it wasn't mine; it was someone else's that I was managing.

Madam Speaker, I briefly want to talk about those scenarios wherein I interfered. As those of us who have been in ministries will know, the Minister's responsibility is to sign off on contracts on behalf of Cabinet and this Legislature. I had a particular project once; the provisions for preparing where the licensing department was going and when I was about to sign one of the payment schedules, it was presented by our project managers that it was 85 per cent done — completed.

Now, Madam Speaker, from the time I was young my family business was reclamation and trucking and the like, so that's all I've ever done. We took over the business from my dad, my brothers and me,

so I knew the business; besides, I passed that spot every day, 4 to 5 times per day, so I called them and told them it was not 85 per cent complete. Then I became suspicious. I said, *if you are off that badly on it, then I also want to see the compaction testing, because it is required to be 97 per cent compacted*. It so happened that it was only 65 per cent completed and the compaction rate was like 82 per cent so I said, *somebody needs to dig out something and re-compact*. I got involved and interfered because it was value-for-money for the people of this country. It wasn't my money, it was the people's money, but I was the manager. That was political interference — and it went further.

Madam Speaker, by the time the project was finished, it was shy of over a \$100,000 and, of course, the claim was made; but when the contract was signed I had proffered that in my estimation, the bid should have been \$150,000 more and was told no, but they made one simple mistake. The quantity surveyor called for compacted material, and they bid as loose material which loses around 20 per cent, so you should bid at 30 to 40 per cent more to compensate for it — I've done it all my life. It was short by \$100,000 and, Madam Speaker, I refused to sign off on it. I entertained the people and spoke to the Attorney General, who assured me I was right. The contract said that amount and that's what you are going to do it for. You cannot get any more unless it's my fault.

Madam Speaker, I invited the contractor to take me to the little, funny-shaped building out in town, which was available to him. I left with the threat of a lawsuit over my head— so what? What difference did it make? I was leaving it for the Attorney General to deal with. The fact is, once you sign a contract you're going to live with that contract or you don't get paid. Simple! Besides, you're not getting your retention either. Madam Speaker, lo and behold, the next government came in and paid it off within a week. Nobody lays that on my shoulders. I'm out of that.

Madam Speaker, another one was the little dock we built in Gun Bay. We mistakenly put a wall on it like we did with those in the North Sound and the currents it created threw sand up on it, so we were trying to take the walls off. The Ministry got three bids and the lowest one was \$27,000, and I said *no, no, no, I ain't signing that. I will bite it down with my teeth before I sign that*.

[Laughter]

Mr. V. Arden Mclean: Madam Speaker, I said, *send it back out to tender. If it is over \$9,000, I'll do it myself for the country*. You know how much it was? \$8,300. Those are political interferences that, if God allows me to get back, will always happen; but we don't speak of the other side of it.

We want political interference, Madam Speaker? When I was going to build the roads, I got

approval from the Ministers, including the now Premier and my good friend, the Minister of Works who took over my job.

[Inaudible interjection]

Mr. V. Arden Mclean: Madam Speaker, they agreed with me to do those roads. Remember the controversy over taking money from education as well? Which we didn't; it was the budgeted amount which we were not going to use.

Anyway, Madam Speaker, before I started, NRA was responsible. I met with all the aggregate suppliers— I think it was 7 or 8 — and told them that I knew what the average price was and wasn't prepared to pay for it. I knew what it cost to take it out of the ground and what it cost to process it, and I would not be paying \$27.00 per yard.

Of course, that came against much opposition. About how I was getting involved in private enterprise. I told them, *I'm not. You can sell it for whatever price you want, but I'm not paying it*. Of course, the question was: *How will you get it then? I will bring it in by barges for \$3.00 a yard*. It's simple! Within two weeks their proposal back was down to \$23 per yard. I thought that reasonable and we built all the roads at \$23 per yard. We spent over \$50 million on those roads. You know what \$4 a yard meant, Madam Speaker? Millions of dollars — and you shouldn't politically interfere?

The responsibility for the management of this country's funds lies on that front bench. Now, if they steal it, or interfere to get it over the cost it should be, that's a different matter; but their job is to ensure we get value for money, so stop this thing about political interference. Unless you are positive that it goes in their pockets, they have a responsibility to ensure they manage and distribute this country's resources equally. I don't want to hear it.

Madam Speaker, keeping in mind that we were using every truck on the Island to speed up this job of the two roads, I instructed that the trucks be measured properly. Upon going on the site I saw one dumping that I wasn't comfortable with, so I called the truck back through the workers and I personally measured it — because I can do that; and it was off by... They had it down as 30 yards and it was 23 or something like that, so I asked to have the trucks measured again and I got a timeframe that they would do it within a week.

Madam Speaker, one thing with me is that I got a good memory. I wrote it down, you know, the week, and I went back on the week and found a different truck and measured that one and it was similar, and when I asked if they had measured the trucks they said no, they didn't have time. We are having time now, though. I shut the job down, Madam Speaker. I was the Minister, not them, you know. The Chairman told me I couldn't give him instructions over

the phone. *Not a problem. Stand by right where you are. I going to the office and writing it and will hand deliver it to you*, and I did. The job was shut down for five days measuring the trucks. Do you know how much we saved? Twelve percent. You think that's not what political interference means? I will do it tomorrow and I encourage them to do it today. That's how it works, so stop this, about political interference. We want value for money!

I was told that my management style was rowing as opposed to steering and my response to that person was: *I agree with you, especially when the boat is alongside the dock because you got alongside the dock. There's no need for rowing then; you have to use oars to get her from that dock. Somebody needs to pull her away.*

Madam Speaker, the responsibility that the people give the 18 Members here is to do it efficiently and effectively on their behalf. I will not accuse the executive of this country of political interference unless I have evidence to suggest they are doing it in their own interest. That's their job! The people should hang them from the closest limb if they don't ensure they get value for their money, so *unna* need to stop that, man. Every minute people are talking about political interference. I know I did enough of it.

I just saw us build a road in East End, Madam Speaker, and we need a helicopter to go along it. It looks like one of those kamikaze roller coasters.

[Inaudible interjection]

Mr. V. Arden McLean: Well, some of them are saying they are politicians that will interfere. We know what that little building out there is for, and what the Attorney General's job is, and the DPP too. They must deal with it.

Why I say this is not a panacea is, Madam Speaker, and I say this to the Minister of Finance, the mere fact that we put the system in place does not mean it is going to work as we hope. They will go for the lowest bidder, and in particular, I want to talk about that, Madam Speaker, in the absence of proper expertise in the related field for that bid. We could wind up paying more than we should because we picked the wrong bidder. I've seen it on more than one occasion whereby the CTC chose the one that was less trying to get value for money. Value for money does not mean it's the lowest, but you need to know; you can't just go, *Oh, that's the lowest bid and we are going to do it*. You need to know those individuals' expertise, the source of the material they are using, their experience in previous jobs, and the likes. All that stuff. We are talking about \$40,000 more or something like that, and we wind up paying \$50,000 to \$60,000 more. I've seen it!

Madam Speaker, when we were doing the wall in East End three major contractors were within \$100,000 and the other one was \$5 million out of the

way. They bid high because it's government. They know government is not going to send it back out to tender because the politicians want to get the job done. Out of those three, the bottom one didn't have the equipment to be able to do the job, so the recommendation was the second one who had the equipment. The lowest got a different job because they had the equipment and were much lower again, so we cannot say the fact that it is lower means the country is getting value for money.

Madam Speaker, an area where I would ask that the—

MOMENT OF INTERRUPTION – 4:30 PM (Suspension of Standing Order 10(2))

The Speaker: Honourable Member for East End, we've reached the hour of interruption.

I recognise the Honourable Premier.

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

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

Madam Speaker, I'm being asked, so I will indicate to Members that we propose to work until 7 pm as we said.

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

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

AYES

The Speaker: The Ayes have it.

Agreed: Standing Order 10(2) suspended.

The Speaker: Honourable Member for East End, please continue with your debate.

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

Madam Speaker, to talk about the relationship that we are trying to develop here, I turn to the Entity Procurement Committee's capabilities in Part 4, wherein it requires **at least two persons to be members of an entity's procurement committee, such committee handling procurement within the entity**, [clause 11] (5)] says: "... **no members of the committee have a direct 'supervisor-supervisee' relationship ...**" — that is family, so to speak.

Madam Speaker, clause 11 (5) is all well and good, but when you engage two people to put on that entity committee, we have to be very careful that we do not capture the required expertise. Nobody has all

the expertise and knows it all. There should be some provision here to provide flexibility. For instance, Madam Speaker, if you're going to get stationary, as I heard the Member for George Town talk about, and you use the same people [you had] negotiate for or proffer a position on something completely different, that is where you're going to run into difficulties. I don't see any provision here whereby we can find two separate people.

We are creating a committee, and it appears like that committee will be the procurement committee for that entity until those persons have been removed and hence, everything will come to them. Granted, I understand they will be able to get expertise from elsewhere, but the flexibility should be [that] if you're going to use them within that entity, it should be flexible enough to change them if you have someone else with [different] expertise.

Madam Speaker, the Minister spoke, in [clause] 16 of the Bill, I think, about the government being able to set criteria for local participation in these projects and procurements, such as buildings and the like. Another thing we haven't gone far enough with here, and it may be that they are going to put it in regulations or directives or what have you; but may I humbly suggest then, that we put a percentage on how many Caymanians must be involved with that company if they are in the process of services or the for development that the government wants? May I suggest we go even further and set a minimum wage that they must have? If you're going to get government projects on a construction site, the minimum wage you must be paying people is... \$10.00. I don't know, [but] it cannot be the minimum wage.

Madam Speaker, Government must lead. What happens is that these people get the general contractors' contract and hire someone else who is paying absolute minimum wage, and then our people suffer. No one can tell me that the Government cannot dictate that the minimum wage on this project must be \$9.00 or \$10.00, or whatever the case may be, that makes it worthwhile for Caymanians to be working on that job. I still believe that's how minimum wage should have been done, too — we're not issuing any work permits on a wage of \$8.00 or \$10.00. If the objective is under section 16(3)(e), then I believe government needs to ensure they dictate that there must be 65 per cent Caymanians on this job, and the day it falls to 64.9 per cent, you are penalised.

The other issue that I want to see, Madam Speaker... when I became Minister, contracts going out of Public Works were a flat \$50 for completion delay. I said it wouldn't be on my watch. No contract is going out of here under \$500.00. You can't issue a contract for millions of dollars, they specify a period, and, with the exception of force majeure, they are 6 months overdue? No man, there must be some substantial penalty for going that far over the deadline. You can't say you'll pay \$50.00. The response I got

was, *Well, you know we don't have it now anyhow.* Yeah, but we need it now too— and that's something I would like to see, Madam Speaker, percentages put into whatever directive, criteria or whatever the case may be, that is developed out of this Law.

[Inaudible interjection]

Mr. V. Arden McLean: Some percentage. Everybody else does it. A reasonable amount of the loss that is anticipated, absolutely. You can't be building a government building and say we are going to reduce our electricity by \$30,000 dollars a year, and have a flat penalty fee of \$50. It should be worked out based on the daily amount that we would be saving in electricity and other things as well. You would need staff space, et cetera. Now, if we want to drill down and do it like that, then fine; I'm not objecting to that, but it must be more reasonable than \$50 too. Absolutely! That has been one of the downfalls in our government, Madam Speaker.

Talking about interference, I remember when Paloma destroyed Cayman Brac and we were trying to engage a company to go to Cayman Brac to pull the moisture out of the schools, and we were in the middle of doing that when civil servants felt like they should go and buy the equipment out of the States. Do you remember that, Madam Speaker? The mould. We were trying to get the schools back up so we could put the children in the schools. You remember that, Deputy?

Civil servants interfered and went buy all this stuff and you know where they are? Up in Public Works rusting to pieces; and they came in under the hurricane preparedness thing. Why was that done? And I'm the only one on this front bench who is blamed for political interference? Why was that done? Now the equipment is there, rusting to pieces; never use it again. Huh? When we could have paid a company to go do the same thing and didn't have to maintain the equipment? That was penny wise and pound foolish, but it's politicians who interfere, eh?

Anyway, Madam Speaker, I don't want to go anymore except to ask the Government to look at the composition of this public procurement committee.

[Inaudible interjection]

Mr. V. Arden McLean: Well, that and the entity, because the requirements for the entity are a little steep.

For instance, for the entity, Madam Speaker, [in Part 4, clause 11(2) states]: **"The Chief Officer or Chief Executive Officer, in making an appointment under subsection (1) (which is the procurement committee), shall be satisfied that the person - (a) has the requisite knowledge and skills in law and finance and the integrity and good reputation to carry out the duties in a competent and politically neutral manner;"**. It's going to be hard to find some

requisite law and accounting persons. It is going to be extremely hard. I can understand finding them under the public one.

We say we want 'apolitical'— yet the Premier is appointing 4. Schedule 3(2) states: "**The Governor, acting in accordance with the advice of the Premier, shall appoint from persons in the private sector, the chairman and three others...**". Four, and it is made up of eight. Three come from the civil service and one [appointed] by the Opposition. Now if you think that ain't seriously politically slanted. Who do you think is going to win those bids? It has to be the side that has the most. The four.

[Inaudible interjection]

Mr. V. Arden McLean: Pardon me? The four more? But it's not four more; it's one and three.

[Laughter]

Mr. V. Arden McLean: You really think I can't count or what? Two separate and distinct appointments. One by the Leader of the Opposition, if you're talking about politics, and three as civil servants, so the greatest [faction] there is those appointed by the Premier. The Government. Let's show a little more equality. If we really want to show that it's fair (I heard that word thrown around here), add one more to it and make it nine, and let the Leader of the Opposition appoint two. I ain't worried about this one, you know.

[Inaudible interjection]

Mr. V. Arden McLean: Where are you going? You're going home? You're retiring at long last? Oh, okay. Just checking.

[Inaudible interjection]

Mr. V. Arden McLean: No, no, Mr. Premier, I understand it despite what you believe, because I came here the same day you did. I understand the political structures, in many instances better than you, so I understand the entity that is recognised in this Parliament, and any parliament, is the Leader of the Opposition, Madam Speaker; but it seems like only Premiers want to be recognised.

[Inaudible interjection]

Mr. V. Arden McLean: Chief of Independents. Yeah! [A] Chief of Independents that is a little thorn under your saddle — meaning I'm on his back.

Madam Speaker, him and Ozzie are going to get sued.

Madam Speaker, I would only ask that the Government consider putting one more by the Leader of the Opposition because one day, when he's there,

he is going to want another one. I don't know about the next time but just as sure as time goes on in this life, Madam Speaker. I have seen too often that we play musical chairs here.

[Inaudible interjection]

Mr. V. Arden McLean: Well, it sounds like two of them are retiring. There's going to be plenty of space next election. Thank you, Madam Speaker.

[Inaudible Interjection]

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

The Honourable Minister of Education.

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

Madam Speaker, I rise to support this Bill to provide for the framework for the procurement of goods and services by the Cayman Islands Government, to establish the Central Procurement Office and for incidental and connected purposes.

Madam Speaker, I want to thank the Minister of Finance. I want to thank the Honourable Deputy Governor's Office and all of those who were involved in bringing this Bill forward on our behalf as a government, Madam Speaker. Certainly, we were very concerned about ensuring that we addressed these issues when we took office; in particular, restoring a culture of fiscal responsibility and prudent financial management was one of the key campaign promises made in the national priorities plan of those who —

[Inaudible Interjection and laughter]

Hon. Tara A. Rivers: — Campaigned.

I specifically campaigned to try to ensure that we have a value for money assessment for all programmes funded by the Government and implement a revised and comprehensive procurement process that provides transparency and accountability and ensures value for money for the Government. Madam Speaker, this Bill goes quite a long way towards achieving that goal, so I am certainly happy to be a part of the Government that has finally brought it to fruition.

Madam Speaker, we heard in some detail from the Member for the district of East End, some of his accounts when he was Minister, whereby he discussed and claimed that the need for political interference was important in order to ensure that value for money was achieved; however, if such was always the case, we wouldn't need this Bill. Unfortunately, there is not only a real danger, but we have real serious examples of when such political interference resulted in the total opposite, and far worse.

Madam Speaker, I'd like to start setting the stage for what is going to be my contribution by speaking briefly about a show that used to be on both UK and US television called "What Not To Wear". I don't know if anybody is familiar with that show.

[Inaudible interjection]

Hon. Tara A. Rivers: Somebody chimed in that you might be a bit too old for that. Well, the younger ones of us in the chamber and listening, might be familiar with this show, "What Not To Wear". I think it aired on TLC. Anyway, the basic premise of the show was about people, both men and women, who came on the show and had less than ideal attire; by the end they had a makeover basically kind of telling them what not to wear in order to put their best foot forward. In our instance, Madam Speaker, we have a classic case of what not to do when it comes to procurement — public procurement in particular.

Had this Law been in place prior to the previous Minister of Education taking office in 2009, we may not have had the what not to do scenario. Unfortunately, we didn't and so what we have is nothing short of a complete fiasco when it comes to what not to do as it relates to the procurement process followed for the recommencement of the high school projects and the commencement of the primary school projects which took place during 2009 to 2013. Again, I think it is important for the public to understand and appreciate that this Bill is not important just abstractly. The Bill is crucial to ensure that going forward we don't have this classic case of what not to do when it comes to procurement for government projects.

Looking specifically to the Bill, Madam Speaker, [in Part 2] on clause 4 where it says: **"Every entity shall carry out procurement of goods and services in accordance with this Law and the principles set out in Schedule 1 shall be observed at all times by public officers involved in procurement."** Schedule 1 speaks to and enshrines in law what are determined to be the principles for procurement such as accountability, competitive supply, consistency, effectiveness; a key principle being value for money, fair dealing, integration, integrity, informed decision-making, legality, responsiveness, and transparency.

As a country and as an economy, we simply can't afford to have a repeat of what took place under the former Minister of Education during 2009 and 2013 as it relates to the procurement processes followed for many, many reasons. Madam Speaker, today we heard a number of speakers refer to the various Auditor General Reports and reference the calls by the various Auditor Generals for strengthening our procurement process, and what took place during that time is very instructive as it relates to the what-not-to-do scenario.

We have a documented account from the Office of the Auditor General in his major capital projects "Building Schools" report, dated May 2015, which, as I said, covers the recommencement of the high schools' projects which started in 2010 until 2013, as well as the primary schools' projects carried out during that same time; of course, this is a public document so there's no need to Table it. Madam Speaker, we cannot afford another what-not-to-do scenario from a financial perspective.

Madam Speaker, this Bill, as enshrined in principle 9 "Informed Decision-Making", is here to ensure that public sector entities are required to base their decisions on accurate information and monitor obligations to ensure they are being met. In contrast, if we look at what happened in early 2010, a programme was embarked on to build two-storey primary school buildings at each of five existing schools' sites at a stated budget of \$10 million.

Madam Speaker, at the time the project was also to include other improvements needed at the specific schools and two smaller projects. All in all, it was stated the construction was to have been completed by the end of 2010-2011; however, the decision to proceed to embark on the primary school project was in fact not based on informed decision-making which this Bill will now enshrine in Law. Instead, the Auditor General found that **"Cabinet was never asked to approve the primary schools project apart from the inclusion of \$10 million in the 2010-2011 budgetary documents and the appropriation approval by the Legislation Assembly. A business case for the project was never produced. No assessment of primary schools' condition and capital needs was provided as part of the budget preparation process."**

In essence, the Minister said in the report that his support for the primary schools' projects was based on tours of the schools. Now, Madam Speaker, as Minister I do many tours of the schools myself, but I certainly wouldn't hold myself out to be a construction expert to determine what type of projects need to be embarked upon at the tune of \$10 million without receiving some form of advice in this regard.

Even though, as may be argued, there may not have been the legislative requirement under what we have now — which is the Framework for Fiscal Responsibility (FFR), which is enshrined in the PMFL; to conduct a proper analysis of the situation and produce a business case to guide the project (during that time that particular requirement was not necessarily enshrined in law), good business judgement would tell you that at the very least you need to develop and set objectives for what you want to accomplish and why, and determine the parameters of what the project will entail before you embark on spending that kind of money. Madam Speaker, It is the people's money we are talking about.

Madam Speaker, even though we didn't have the Framework for Fiscal Responsibility enshrined in law, we did have, as was said during the Minister of Finance's contribution, Part 9 of the Financial Regulations, which I'm sure does provide some sort of guidance in these instances.

Madam Speaker, this Bill is critical because it enshrines in law the value for money principle, that is, that procurement processes should be carried out to achieve the most advantageous combination of cost, quality, and sustainability over the life cycle of the project. When we look at the what-not-to-do scenario of the primary schools' project that took place during the 2010-2013 period, the projects were actually completed over a three-year period at a cost of approximately \$13.4 million which is 34 per cent higher than planned yet the project only delivered four of the five or 80 per cent of the buildings originally planned. Hence, Madam Speaker, the project cost 34 per cent more than budgeted and only delivered 80 per cent of what was intended. Now, I'm no accountant, but that certainly does not seem like value for money to me.

Madam Speaker, it was under the specific direction of the Minister during the 2009-2013 period, and indeed, it was under the specific direction of the Minister, as reported in the Auditor General's report, that the projects **"cost far more than originally planned, delivered less than promised, and were delivered later than when they were required."** This Bill is crucial to ensure that public sector entities are required to base decisions on accurate information and monitor obligations to ensure they are being met. Again, I cannot stress enough the importance of the principle of informed decision-making which this Bill calls for.

It was clear this principle was not used in relation to the development of the primary schools' project; but unfortunately, Madam Speaker, it was also not used in relation to the commencement of the high schools' project in 2010 either.

[Inaudible interjection]

Hon. Tara A. Rivers: On the high school projects in general. The Auditor General reported: **"The commencement of the high schools project after the termination of the initial prime contractor, and the move to a different construction approach would have been the appropriate time... to establish what the project was going to cost, when its completion was expected, and whether the project quality or design was changing from the initial decision to proceed. It was especially important at this point to reconfirm Cabinet's commitment to go forward with the funding for the project."**

However, Madam Speaker, this apparently was not done; and if there was no recommitment on the part of Cabinet to move forward with funding this project, then one could argue that the Minister must

have made the decision on his own to continue the project with no clear parameters, no plan, and at significant cost overruns to the country.

Madam Speaker, according to the same Auditor General's report and again, for ease of reference, it's the what-not-to-do report, there was approximately \$38 million in the ground at the Clifton Hunter High School when the former Minister took office in May 2009; but what people really need to appreciate, is that, as a result of the significant political interference and the complete mismanagement, a further \$70 million plus was spent on the Clifton Hunter High School — and the project still wasn't completed. Even given this, the Minister insisted that the school be opened without having the proper Certificate of Occupancy, which presented clear health and safety hazards and concerns to the children, to the teachers and staff using the facilities.

Madam Speaker, an additional \$30 million, approximately, was spent during the same 2009 - 2013 period on the John Gray High School project with the only thing showing being the shells of the buildings because, again, the assessment that was needed in order to determine what was the best course of action at that point, in relation to the John Gray High School project, did not take place either. Again, the Auditor General stresses that had the Ministry taken the time to re-plan the project, those funds may have been used for other, more productive purposes, again going back to that principle of ensuring that we have informed decision-making, that we look at the value for money principle now enshrined in this Bill.

Madam Speaker, with respect to the high school project during the 2010-2013 period, the Auditor General in his report states: **"The Minister established a directive encouraging the direction of contracts in the two projects towards small, local construction companies. This directive was not in writing but was communicated to those who had a role in procurement."** The report goes on to state: **"The Minister reported that delays in the procurement process had been necessary so that work packages could be broken up in order to be procured by the small companies. On the 6th of February 2012, the construction manager reported that these delays were an important factor in the increased cost of the high schools project."**

However, Madam Speaker, it wasn't just the high schools project where there was the blatant political interference which led to gross inefficiencies, poor workmanship and significant cost overruns. Based on this report, it was evident as it relates to the primary school projects as well. The Auditor General in his report states that **"For the John A. Cumber Primary School the Ministry went out of its way to select a small, inexperienced Caymanian construction company whose prior experience had been in residential building."** Some people would argue that

breaking up the contracts to give small contractors an opportunity to participate in the development in order to provide work was a good thing, and was necessary given the economy at the time.

Certainly, Madam Speaker, it is a principle that I adhere to as it relates to [ensuring] that we give local contractors an opportunity, a fair shot at getting work. One we have also enshrined in this Law, as has been discussed already, in clause 16(1) to be exact where we talk about, **“In assessing value for money, an entity shall consider the socio-economic impact and benefits that a procurement project may create, particularly as it relates to small and medium sized suppliers that are operating in the islands.”** It goes on to state [in clause 16(2): **“Subject to the requirement to adhere to the principles of procurement, an entity shall give preference to suppliers who are businesses operating in accordance with the Trade and Business Licensing Law 2014...”**

It goes on to state in clause 16(3) of the proposed Procurement Bill that we are debating, Madam Speaker, that: **“The Cabinet may prescribe such criteria, including thresholds, for entities to -**

- a) **undertake pre-procurement impact assessments on local suppliers;**
- b) **where adequate local capability exists, solicit bids from businesses operating in accordance with the Trade and Business Licensing Law, 2014;**
- c) **consider disaggregation of major procurement projects where value for money is achievable, such disaggregation being included in the business case and being subject to approval by the appropriate procurement committee.”**

Madam Speaker, for the benefit of the listening audience who may not be sure, this is where it talks about breaking up the contracts in terms of the disaggregation, but again, consideration for value for money must be achievable as well. It continues—

- d) **adopt a local benefits test for all procurements within specified thresholds; and**
- e) **undertake a plan for local industry participation, as may be prescribed, prior to embarking on major procurement projects.”**

Madam Speaker, I certainly support this Bill and this particular provision; and in that regard nobody can say that we in this Government are not concerned about ensuring that local people get access to the procurement process in a way that still achieves the major principles set out in the Bill.

However, Madam Speaker, if it was that principle alone that guided the decisions taken during the 2009–2013 process for the schools, I don't believe we would have had the extent of cost overruns and misappropriation of funds that occurred. There is definitely more at play than just creating opportunities and contracts for small businesses as some people may try to justify. We can't afford another what-not-to-do scenario for the sake of good governance and for the sake of minimising the opportunities for corruption.

Madam Speaker, in this Bill you will see enshrined in Principle 8 – **“Integrity: There shall be no corruption or collusion with suppliers or other persons involved in a procurement project.”**

Madam Speaker, the Bill also calls for accountability in Principle 1, whereby **“Effective mechanisms much be in place in order to enable Chief Officers and chief executive officers to discharge their personal responsibility on issues of procurement risk and expenditure.”** However, Madam Speaker in the Auditor General's report it states: **“We found that the former Minister of Education intervened to a highly inappropriate degree in day-to-day management of these projects leading to obscured accountability for the rise of the projects' cost and their late delivery.”** Madam Speaker, again, just for the listening public's benefit, the reference period of this particular report was during the 2009 and 2013 periods, and these projects spoke to both the high schools and primary school projects.

Madam Speaker, we cannot have Ministers of Government acting as *de facto* construction project managers dictating the terms of the contracts; excluding and removing typical protections such as the requirement for performance bonds, and directing that construction companies be given flexible treatment when it comes to concerns regarding the quality of the work to be done, putting the health, safety, and well-being of our children and educators at risk in the process.

Madam Speaker, we cannot have Ministers of Education exerting coercive pressure to get the schools open, even though considerable uncompleted work remained for both the Clifton Hunter High School and the Sir John A Cumber Primary School, again putting the children at serious health risks and potentially making any warranties null and void due to improper use of the facilities.

Madam Speaker, speaking specifically to the recommencement of the high school project in 2010, the Auditor General states: **“Pressure on officials to record payment incorrectly. We found that the Minister rebuked the Chief Officer in a 18th September 2012 email for questioning the budgetary handling of a planned ex-gratia payment to each of the three prime contractors in the primary school projects. The Minister felt that funds had already been included in the previous year's budget and that the payment should be accrued**

against that budget. Since these payments were considered ex-gratia payments, that is, with no legal obligation to pay, the Chief Officer was right to point out the lack of budgetary items in 2012-2013. According to the legislative framework, the Minister was incorrect to pressure the Chief Officer to record this expenditure in 2011-2012."

Again, I am certainly no accountant, and I don't hold myself out to be au fait with all the principles of accounting; but I would expect that if you are an accountant you would understand those principles — Madam Speaker, why in the world would you need to make gratia payments to contractors when you already have legal contracts in place with those contractors to begin with?

Madam Speaker, the Auditor General in his report gave a very shocking case study of the impacts of the implementation of the Minister's directive in selecting these small local construction companies specifically as it relates to Sir John A. Cumber Primary School; he stated: **"On the 12th of February 2012 the PWD architect reported to the Ministry project later that PWD had concerns about the two primary schools project primary contractors. One of whom was the Cumber School contractor."** In this case, the Cumber School prime contractor refers to the Sir John A. Cumber Primary School contractor.

In the report it says: **"PWD cited problems with the non-payment of subcontractors and concerns that funds advanced to procure equipment overseas had not been used for that purpose."** He goes on to say: **"The architect requested that special processes be instituted to ensure that all future funds would be advanced only after proof of payment was available."**

Madam Speaker the case study goes on to state: **"In June 2012, three of the prime contractors engaged in the primary schools project, informed the Ministry that they were experiencing cash flow problems. On 8 June, 2012 the Ministry and PWD met with them to discuss these problems. Subsequent accounts of that meeting indicated that the prime contractors said they had experienced losses on the projects and that each would need more funding from the Ministry to complete the construction of the primary school building it was contracted to build."** To quote the words of the Member for East End, *"if you sign a contract and you don't adhere to that contract, you shouldn't get paid under that contract."*

Madam Speaker, the Auditor General's report goes on to state: **"On 11 June 2012, PWD reported to the Ministry that it could not support any additional payments to the three prime contractors as:**

- **PWD had already reviewed the tender submissions from the contractors and had adjusted payments to them upward for errors they made in the contractor tender submissions, even though there**

was no obligation to do so under the contracts;

- **The Ministry had requested that funds be advanced to the contractors to help them with their cash flow problems even though there was no evidence that the funding was being used for the requested purposes.**
- **contractors' claims that they had underbid their contracts were not valid; and**
- **any move by the Ministry to make an ex-gratia payment or a payment reflecting a 'gesture of good will' would not be supported by PWD."**

Madam Speaker, it goes on saying in the report: **"On the 7 August 2012, the Ministry authorised the release of the final funds being held for these prime contractors in an attempt to have the remaining work completed. This action did not accomplish the desired result. The Minister and Ministry then engaged in discussions about the way forward, including possibly terminating the contracts. In the end it was decided that the Minister would seek Cabinet authority to provide ex-gratia payments to the contractors, enough to pay all subcontractors, suppliers, and employees, so that the contractors would finish the work."** Madam Speaker,

The report goes on to state that **"On 18 September 2012, Cabinet approved ex-gratia payments of up to \$905,685 in total to be made to three prime subcontractors."**— and Madam Speaker, I want you to remember this date because the 18th of September 2012 was the same day the email was sent to the Chief Officer, trying to pressure the Chief Officer to incorrectly record the ex-gratia payments. The point in this is that we need a Bill that ensures increased accountability is evident. We need a Bill that takes us back to the principles of fair dealing and value for money being absolutely critical.

Madam Speaker, in the end, **in total the Ministry paid \$746,286 in ex-gratia payments to the three contractors for the three primary school buildings, and again, Madam Speaker, the report talks about the Minister directing that \$35,000 of this be paid out before the formal Cabinet decision was taken. The Auditor General states: "In our opinion, the Ministry implemented the Minister's directive on providing work to small, local construction companies without due regard for public funds spent."**

Madam Speaker, as I said, it is not the principle of making sure that small local contractors get a fair share of the work. We have enshrined such in this Bill. Clause 16, in particular, talks about how we, as a Government, support this principle of making sure that local Caymanian businesses benefit from these projects, as long as it fits within the framework of good governance, fiscal responsibility, value for money

considerations; but, in contrast, there was complete and utter mismanagement of these projects during that time period, costing the country millions and millions of dollars.

Madam Speaker, this Bill is absolutely critical because it shrines the principle of integrity — **“There shall be no corruption or collusion with suppliers or other persons involved in the procurement project.”**

Madam Speaker, in speaking about the high schools' project, the Auditor General states: **“The role of the Minister in these projects made the delivery of much-needed school infrastructure more difficult for the Ministry officials by requiring them to implement his wishes or directives. The Minister played an active role in the projects and influenced how decisions were made and implemented by the Ministry, but there was no formal basis for his activities and no formal accountability for his actions. While the ministry was charged with the responsibility of having the schools constructed and ready for use by certain dates, it was told at the same time (although not in writing) to use small, local construction companies who might not have been the contractors best placed to ensure that the projects were completed on time and within budget. From our review of documentation... we believe that the implementation of this directive was one of several factors that resulted in the late delivery and cost overruns...”**

Again, Madam Speaker, it is not the principle of the matter; it is how it was orchestrated.

The Bill we are debating today also enshrines the principle of Competitive Supply — **Public procurement must be carried out by competitive process unless specifically justified in accordance with this law or Government Policy.** Again, Madam Speaker, as it relates to the primary schools' project, the Auditor General found that **“In the primary schools' project we found similar issues that we believe relate to the Minister's directive of spreading procurement of construction activities to small, local construction companies. For the Sir John A. Cumber Primary School, the Ministry went out of its way to select and protect small, inexperienced Caymanian construction company whose prior experience had been residential building.”**

Again, Madam Speaker, it is not the principle of giving Caymanian businesses an opportunity that is the problem; the problem in this case, Madam Speaker, and in the cases during this period of time, is that key tools and protections which are typically found in construction contracts; protection such as having the contractor provide a performance bond was deliberately excluded from the contracts.

Madam Speaker, in addition, another typical tool used to protect the Government, and in essence protect the public purse in these instances, would be by not advancing funds until the contractor had actual-

ly completed the work or paid for the equipment and supplies, yet we see instances where this principle was not followed, even when there were doubts about what the money was actually being spent on to begin with.

Madam Speaker, another important tool which is typically used to minimise the risk to the Government would be holding back or retaining a portion of the funds due to the contractor on each payment — in many cases up to 5 per cent of the contract value, from what I understand; until all the work under the contract is complete, but again, we see that this was not done and in the end there was the need for the ex-gratia payment to be made in order to get the work done.

Madam Speaker, in the report, the Auditor General specifically asked the question: **“Why would the Ministry eliminate all the tools at its disposal to protect the Government, deviate from best practice in managing construction contracts, and, in so doing, provide the prime contractor with an almost risk-free contract? We could not find evidence in the Ministry's files to answer that question.”** Madam Speaker, the likely reason that evidence could not be found was that it was another verbal directive that was given to have these protections removed.

Even if one could argue the benefits of breaking up the contracts to spread the work, how can you possibly justify stripping out all the forms of protection to the benefit of the contractors and the detriment of the public's purse and the children's safety? Because, Madam Speaker, it is the same former Minister who is parading around championing the cause of children's safety who stripped out these protections, including the need to give them flexible treatment as it relates to the quality of work.

Madam Speaker, this Bill is absolutely critical to ensure or to help ensure that in the future, there shall be no corruption or collusion with suppliers or other persons involved in the procurement project. We cannot afford another what-not-to-do scenario because of health and safety reasons, and in this particular instance, health and safety reasons as it impacts our children in the schools.

Madam Speaker, the Auditor General **“found that the former Minister of Education intervened to a highly inappropriate degree in the day-to-day management of these projects, leading to obscured accountability for the rise of the projects costs and their late delivery.”** In addition, **“Flexibility in considering quality of work. The Minister directed that small local construction companies be given flexible treatment when it came to concerns about quality of work being completed and to remedies needed.”**

Again, Madam Speaker, I really need this to sink in, because it is one thing to say that you are breaking up contracts to ensure that our local contrac-

tors, our local people operating in the sphere of construction are given the opportunities — I get that, I support that, we enshrined it in this Bill; but we had a situation where the Minister directed that small local construction companies be given flexible treatment when it came to concerns about the quality of work being completed and to the remedies needed. The report went on to say that **“In a report to the Ministry, the high schools project construction manager noted that several important project components involving these companies were delayed by poor workmanship.”**

Madam Speaker, I don't think anybody would argue that we need to create opportunities for our people, especially our people in the construction industry, contractors as well as persons who work as labourers and otherwise, to get these opportunities — but I don't think anybody would argue that such must take precedence over the health and safety of our children in the schools in which they are going to do their work. By giving this kind of “flexible treatment” when it came to concerns about quality of work being completed, you are pitting that principle above all else, at the potential detriment of our children.

We have certainly supported creating and implementing job creation initiatives, and we have prime examples of doing so. When we took office we created:

- The Pastoral Support Worker (PSW) programme;
- The Cayman Finance Public Partnership (CFPP) programme between the Ministry of Education, Ministry of Financial Services and Cayman Finance;
- Ready2Work Programme;
- Wineschool3 Bartending School;
- Tweed Construction Apprenticeship;
- The Health City Cayman Islands Medical Apprenticeship; and
- The Public Works CIFEC Apprenticeship Programme, which is about to be launched very soon, just to name a few.

Madam Speaker, these are concrete examples of work programmes that have been created to encourage our people getting employment, training, and skills, but none of these were done at the significant public expense incurred as a result of the former Minister's direct interference, nor by putting the health and safety of our children at risk when we developed these types of programmes.

As I said, it is one thing to talk about this Bill abstractly; it is another thing to realise how critically important it is to have this Bill. Because of the decisions taken by the former Minister when he opened those schools, namely Clifton Hunter School, George Town Primary School and Sir John A. Cumber Primary School, he put those children at risk because at that point they were not in a state to receive the Certificate

of Fitness of Occupancy — and that is a fact, Madam Speaker.

[Inaudible interjection]

Hon. Tara A. Rivers: As I said, these are not just my words, but the words of the Auditor General when he said, **“... took unnecessary risks with the safety and welfare of the students attending the schools at that time”.**

Again, Madam Speaker, it is critically important to point out and remind the people that in this instance the Minister had a significant role to play in directing these projects; it can be seen from this report that there was a meeting with the building control unit with the Minister, so he could ensure they **“agree co-operation on an inspection strategy”** for the schools. The Auditor General stated that he felt undue pressure placed on the Building Control Unit was why the schools were allowed to open, even in the face of the blatant issues identified.

Madam Speaker, that is the danger when you have reckless and irresponsible people at the helm, who are very determined to give directives that are not in the best interest of our children or public purse, and are actually contrary to advice given... and have the audacity to go around talking about being so concerned about the welfare of our children.

The Speaker: Minister, you're going well; please keep it within the relevance of your debate.

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

Madam Speaker, this Bill is absolutely critical because it will help prevent a repeat performance of what took place under the previous Minister of Education during the 2009-2013 administration in relation to the schools.

Madam Speaker, in conclusion, as it relates to the actual what-not-to-do report, the Auditor General states that: **“The procurement activities that we examined for both projects demonstrated a disregard of the *Financial Regulations* and the open tender process. Procurement was not conducted in an open and fair manner. Procurement activities led to the inappropriate selection of contractors, at the wrong price, completing the wrong works; and, in too many instances, they led to protracted disputes with the contractors. We are concerned that the procurement process was subject to over-ride by politicians and officials.”**

Madam Speaker, I believe at this stage it is very clear that the principles enshrined in this Bill will hopefully go a long way to ensure that we don't have what we had during the last administration but what I want to do at this point, with your permission, is to give a contrast—

The Speaker: Please proceed.

Hon. Tara A. Rivers: To what has happened since we took office as it relates to the recommencement of the John Gray High School project.

Madam Speaker, after taking charge of the Ministry in May 2013 — I would say shortly after, during the summer, I was briefed on the John Gray High School project at the time. Following the briefing, it was agreed that at this stage all stakeholders, including students, teachers, the John Gray Principal and parents, needed to be involved with the process to review and comment on the design that we had to hand. Particularly, we also felt we needed to draw on the current experiences of students, staff and parents at the Clifton Hunter High School in terms of trying to determine how to take the project forward.

It was decided that recognising the aspirations of the students, staff and parents at John Gray High School was actually critical in moving forward before any decision was taken to put shovels in the ground or any more monies were expended and so, there was a review plan as it relates to the phasing of the project in the context of funds available. Of course now, we are operating under a different regime which is that of the Framework for Fiscal Responsibility (FFR) and the pressures that we had with respect to capital spending as well as prioritising the completion of the gym in the first instance. That was loosely determined to be the way forward by the meetings that took place.

During the same time, there were discussions underway with the FCO [Foreign and Commonwealth Office] and the Ministry of Finance in relation to the project, and meetings held with the Project Management Office of the Public Works Department or Project Management Office to discuss the best restart for the project. Existing documents, planning approvals, et cetera, were collated and pulled together so the Steering Committee had a clear understanding as to where they were and what needed to happen in order to move forward.

Basically, Madam Speaker, this work kind of culminated in a report by the Project Management Office which set out the way forward in terms of best practise methodologies in accordance with the advice received from the FCO, including that of developing a strategic Outline Business Case (OBC) and then, of course, the final business case with requirements.

In early 2014 Cabinet approved, in principle, the phased approach to continue the development of the school as recommended by the Major Projects Office and the Ministry. At that point, the Steering Committee was established, which included the Major Projects Office, the Ministry of Education, the Department of Education Services, John Gray High School, and was chaired by the Chief Officer. As I said, the Steering committee also canvassed and got the views of the Principal of the Clifton Hunter High School as well.

Since that Committee was established, it has been meeting on a monthly basis and has been very active in terms of developing the guidance and the governance for the project, so many people were actually engaged from the early stages of the John Gray High School recommencement project when we took office. As I said, these meetings involved students as well as staff, parents, through the PTA, as well as staff of both the John Gray High School and the Clifton Hunter High School to gain insights into the successes and challenges.

One factor that really complicated the timeline that was originally anticipated, Madam Speaker, was the death, as you know, of the Head of the Major Projects Office, Mr. Jim Scott, a couple of years ago. During that period, it led to a significant loss and vacuum in the operations of that particular office and for some time afterwards. That actually led to a bit of a delay in the actual timeline to some degree, although, Madam Speaker, I want to recognise the support of the Project's office during this time at the best extent that they could possibly, given that they were operating with significant short staff as well.

The meetings were then used to inform the strategic outline case which was submitted to Cabinet in March of 2015, at that point, and it was approved by my colleagues in a timely manner that the OBC would commence, and that is the Outline Business Case. The feedback from the stakeholder meetings also informed the redesigned process as part of the Outline Business Case, Madam Speaker; the research that was conducted. It encompassed looking at the gymnasium which is seen as Phase 2, to increase the potential for curriculum delivery as well, because we wanted more than just a building; we wanted to make sure that we were able to use the building for the delivery of PE curriculum and otherwise. This process involved working with existing PE staff in particular.

The strategic outline case for Phase 3, which is the subsequent completion of the school in general, also involved looking at every aspect of the original design, gaining feedback from both of the high school's staff to inform this process.

Madam Speaker, more extensive feedback from the stakeholders was then sought during the rest of 2015 to assist the senior project manager, which was the position that was hired through the Project Management Office, which was specifically designed to support the Ministry — that position was filled in January, 2016. Having that position in place at the Project Management Office, it was set out to complete the OBC for Phase 2.

Based on that work, there was extensive feedback that included suggestions to change and tweak some of what had been previously put forward, such as making an AV (audio-visual) system available for events and competitions; looking at reducing energy consumption, looking at the issue of LED lighting, and some other considerations that I believe this

steering committee looked at very closely when they were developing the OBC especially once the senior project officer came on board earlier this year.

Madam Speaker, at this point I would like to acknowledge the support of the Major Projects Office which for the better part of 2015, if not the entire 2015, was very short-staffed much of the time, yet continued to support the Ministry team as best as possible to sustain the project until the senior project manager was recruited and took up post.

The Speaker: Minister you have one hour remaining. Is this a convenient time or will you finish within a few minutes?

[Inaudible Interjection]

Hon. Tara A. Rivers: Madam Speaker, we can take the break now.

The Speaker: We will now take the afternoon break for 15 minutes.

Proceedings suspended at 5:56 pm

Proceedings resumed at 6:48 pm

SECOND READING

PROCUREMENT BILL, 2016

[Continuation of debate thereon]

The Speaker: Please be seated.

Proceedings are resumed.

I recognise the Honourable Minister responsible for Education continuing her debate.

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

Madam Speaker, when we left off, I was thanking the Major Projects Office for their support during the time of their extreme short-staffed situation when we got the senior project manager position for the schools' project that came on board in 2016. At that point, the Outline Business Case was able to be developed in earnest and was later submitted to Cabinet and approved by Cabinet in a timely fashion. In the tendering of the contract, the awards also proceeded seamlessly; a local contractor was awarded the work in late June of this year, and actual work commenced in July.

Madam Speaker, the point of this is to show that Phase 2 of the project continued, in particular the development of the gym, following what can be considered best practise as it relates to ensuring a proper assessment, analysis, conversations with key stakeholders, an OBC being developed and launched and work actually started in earnest again. The projected completion date for Phase 2, which is the kind of expanded version of the Hall as it relates to offering oth-

er things such as curriculum provision, et cetera, is slated for early 2017, and the hope is that it will be in time for final examinations and for graduations to take place at that time.

Madam Speaker, the work for Phase 3, which is the completion of the project, is also ongoing as it relates to developing the strategic outline case, again going through the process of developing and getting the information necessary in order to finalise that process, and we are hoping that the strategic outline case will be completed by the Steering Committee and put forward to Cabinet for approval by the end of this year as well.

Madam Speaker, that is a case study of what should be done as it relates to the development of these particular projects. It is also a clear demonstration that under this Government, and certainly this Minister, we have already been adhering to the principle of informed decision-making, Principle 9, which is enshrined in this Bill as it relates to the development of major capital projects which require significant public expenditure.

Madam Speaker, in Part 5(13), the Bill speaks to the reverse electronic auction and I believe this is a very innovative tool that can be used as it relates to getting the best value for money when public officers go out to seek procurement of various things.

Something that the Ministry of Education has been involved in already as a pilot for this particular project is working very closely with the Central Procurement Office. There was a pilot project of the ICT equipment for the schools that utilised this reverse electronic auction, and Madam Speaker, from the accounts that I have received from the team in the ICT Unit in the Ministry and the Central Procurement Office, as a government and certainly as a Ministry, we've already seen the benefits of doing such a programme.

The initial pilot project yielded savings of roughly up to 30 per cent based on what I guess was considered the kind of pre-tender estimates based on previous tenders that had been conducted. It is these types of programmes which this Bill allows for and supports that will help us as a government continue to get the best value for money and also adhere to the principles of procurement which are enshrined in this Bill in Schedule 1.

Madam Speaker, having this Bill and making it come to fruition is critically important for future fiscal responsibility and financial prudence in the affairs of the Government as it relates to procurement and procurement activities. We have seen that during the what-not-to-do period of 2010-2013, the school projects and the decisions that took place could be summed up as nothing short of a complete disaster, as it relates to the management and leadership under the former Minister in particular, as it led to a huge waste of public funds with no regard to fiscal respon-

sibility, prudent management, and good governance in general, which this Bill certainly calls for.

Most disturbingly, it also highlighted the lack of regard for the health and safety of our children as well, so I believe, Madam Speaker, based on that particular process that took place during 2010-2013 and using both the high schools' and the primary school projects, they were a prime example of the kinds of activities why the UK felt it necessary to step in and enforce the adoption of the Framework for Fiscal Responsibility in December 2012.

Again, Madam Speaker, in contrast, when we took office, we did so under those parameters, and the reason that this Government was able to meet the targets set under the Framework for Fiscal Responsibility, which is now a part of our law, within the stated deadline, is because we have been disciplined and transparent. All the while growing the economy, lowering the levels of unemployment to near record lows, lowering the cost of living, not cutting jobs in the civil service, not raising taxes on business people and people in general, but instead, cutting wasteful spending and being more accountable to the people that we were elected to serve.

Madam Speaker, this Bill will help us to ensure that as a country we continue to operate in this fashion, but in order for this legislation to be effective, we must first elect people who are willing and committed to abiding by the law and whose actions actually demonstrate willingness to adhere to the principles enshrined in this Bill. Quite frankly, as legislators, as Members of Parliament, as Ministers in this Government, we shouldn't really need a Bill such as this that enshrines fundamental principles we should all be adhering to, especially as it relates to procurement. Unfortunately, we can't rely on not having this in law because we've seen what can happen if you don't have persons who believe in those principles intrinsically.

Madam Speaker, based on our track record as a Government, in particular, in stark contrast to the process involved in the development of the John Gray High School project and carried out since we took office in May 2013, we have proven our commitment to adhering to these principles long before we brought this Bill to the Legislative Assembly — we had no issues fulfilling the tenets of this legislation without waiting for it to come into force.

Madam Speaker, I certainly give this Bill my support. I believe this legislation is critical to prevent the country from ever having what it had before us.

Thank you, Madam Speaker.

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

If not, I call on the Honourable Minister of Finance to wind-up.

Hon. Marco S. Archer: Thank you, Madam Speaker. I beg your indulgence one second, Madam Speaker, please.

Madam Speaker, I wish to conclude the Second Reading of the Procurement Bill, 2016, by thanking all honourable Members for their review of the Bill, the debate, and the positive comments they have made this evening. I will attempt to address some of the points that were raised, and even though the honourable Member for North Side isn't here, he proposed some amendments to the Bill which I'm in possession of and with your permission, would like to speak to as well.

[Inaudible interjection]

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

Madam Speaker, the honourable Fourth Elected Member for Bodden Town asked the question as to the exclusion of the land transactions in the Bill. The reason for that, of course, is primarily because the acquisition or disposition of land goes through a fairly lengthy process whereby several valuations are required and obtained; then the matter goes before Cabinet and then, of course, it comes to this Parliament for debate and resolution. It is for that reason that it was not included in the Procurement Bill. The Bill seeks to deal primarily with works, supplies, and consumables. Madam Speaker, the suggestion that we include one additional member on the Public Procurement Committee to be nominated by the Leader of the Opposition, I will take into consideration and discuss it with my colleagues prior to the committee stage on the Bill.

Madam Speaker, I think his suggestion with respect to holding workshops with all potential suppliers, certainly, informing them that the opportunity is available and that they should make themselves available for that time is similar to what was done when we introduced the Harmonised Tariffs at the Customs Department. We put on workshops to educate those who would import things and use the services of the department. I think they held those workshops for approximately six months and it gave everyone ample time to come and understand the requirements of that law and the systems. I think it's a wonderful suggestion, and [I will undertake to do the same for this Procurement Bill.](#)

Madam Speaker, as I said before, the comments were mostly positive, and I thank all Honourable Members for that.

Madam Speaker, the honourable Member for East End made a significant contribution when he said we need to distinguish between negative or adverse political interference, and good, benign, or beneficial political interference, and he gave several examples as to how he did that during his time as a Minister.

Madam Speaker, as elected Members, it is correct that we have an overriding obligation, a duty,

to protect the public purse, protect the integrity of the Government, and if we believe that it requires and we can justify the... involvement — I don't want to say interference, but the involvement of an elected official to ensure that something is done properly and for the right reasons; and it can be documented and justified, then I think yes, I would agree with the Member for East End that we have an obligation to do so.

Madam Speaker, Schedule 6 of the Bill... give me a second, Madam Speaker, while I search for it. Madam Speaker, Schedule 6 to the Bill says: **"The role of Cabinet is to formulate and implement procurement policy that promotes the government's economic and social objectives, encourages trade and investment in the economy, and expands employment in the Cayman Islands."** we see that Cabinet has an obligation to ensure that certain things are done for the benefit of the country, the public purse, and the economy as a whole [yet] I encourage other elected Members to play their part..

The Member for East End also spoke of the Entity Procurement Committee and said he would like to see more flexibility in the composition of that procurement committee with respect to having greater expertise. I see nothing wrong with the committee being able to co-opt other Members for a time, if it be necessary that they need greater expertise than what was originally appointed. At the end of the day, Madam Speaker, the overriding objective should be to ensure that we have all available expertise and knowledge to ensure that we get the best value for money.

Madam Speaker, [clause] 16(3) of the Bill speaks to the disaggregation of projects. Those would obviously be very large, high-value projects such as the one at the airport. The disaggregation of those projects is to ensure that there's adequate Caymanian participation should it be necessary that a large and perhaps non-Caymanian entity be awarded the contract. It is also necessary that the Government ensures, before the contract is awarded, that we negotiate and require the level of Caymanian participation desired, and that it be a part of the contract. Therefore, the performance of the contract will require compliance with that requirement; thus, we would then hold the contractor, whoever that may be, accountable to those requirements.

Madam Speaker, the Bill is well thought out. I will not say it is perfect because nothing is ever perfect, especially legislation — hence the terms 'amendment' and 'revision' but we have tried to cover as many bases as possible.

Madam Speaker, the Member for East End as well as the Fourth Elected Member for the district of Bodden Town both spoke of the possibility of the Leader of the Opposition being able to appoint a second member. Again, I will take that into consideration and discuss it with my colleagues so that if possible,

we could make the amendment at the committee stage.

Madam Speaker, again, I would like to thank the Fifth Elected Member for the district of George Town, the Fourth Elected Member for the district of Bodden Town, the Member for East End, the Sixth Elected Member for George Town, the Second Elected Member for West Bay, and everyone else, Madam Speaker for their support of this Bill.

I would commend the passage of this Bill to this honourable House.

Thank you, Madam Speaker.

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

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

AYES

The Speaker: The Ayes have it.

Agreed: The Procurement Bill 2016 was given a second reading.

The Speaker: I recognise the Honourable Premier to move the Motion for the adjournment.

ADJOURNMENT

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

I move the adjournment of this honourable House until 10 am tomorrow, Tuesday. As I indicated to Members last week, we intend to work throughout this week so that we can complete the agenda by Friday evening.

The Speaker: The question is that this honourable House now adjourn until tomorrow at 10:00 am.

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

AYES.

The Speaker: The Ayes have it.

Accordingly, the House now stands adjourned until 10 am tomorrow.

At 7:12 p.m. the House stood adjourned until 10 am on Tuesday, 18th of October.