



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2014/15 SESSION

17 September 2014

Fifth Sitting of the Second Meeting

(pages 491-550)

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

Disclaimer: The electronic version of the *Official Hansard Report* is for informational purposes only. The printed version remains the official record.

PRESENT WERE:

SPEAKER

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

MINISTERS OF THE CABINET

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

EX OFFICIO MEMBERS OF THE CABINET

Hon Eric L Bush	Temporary Deputy Governor, ex officio Member responsible for the Civil Service
Hon Jacqueline Wilson	Temporary Attorney General, ex officio Member responsible for Legal Affairs

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

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

OPPOSITION MEMBERS

Mr Bernie A Bush, MLA	Third Elected Member for West Bay
Capt A Eugene Ebanks, JP, MLA	Fourth Elected Member for West Bay

INDEPENDENT MEMBERS

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

APOLOGIES

Hon. W. McKeever Bush, OBE, JP, MLA	<i>Leader of the Opposition</i> , First Elected Member for West Bay
-------------------------------------	--

OFFICIAL HANSARD REPORT
SECOND MEETING 2014/15 SESSION
WEDNESDAY
17 SEPTEMBER 2014
10:50 AM
Fifth Sitting

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

The Speaker: Good morning.

I now call on the Honourable Minister of Health to grace us with prayers.

PRAYERS

Hon. Osbourne V. Bodden, Minister of Health, Sports, Youth and Culture: Let us pray.

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

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

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

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

The Speaker: Please be seated. The House is now resumed.

**ADMINISTRATION OF OATHS
OR AFFIRMATIONS**

OATH OF ALLEGIANCE

[Administered by the Clerk]

[Mr. Eric Lennox Bush, the Honourable Acting Deputy Governor, to be the Temporary ex officio Member of the Legislative Assembly]

The Speaker: I will now ask the Honourable Acting Deputy Governor to take his place at the Dias.
All rise.

Hon. Eric Lennox Bush: I, Eric Lennox Bush, 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. Eric Lennox Bush: I, Eric Lennox Bush, 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 ex-officio Member of the Legislative Assembly, so help me God.

The Speaker: Mr. Bush, I trust that at your last visit the welcome was warm enough to not have to be extended again this morning, but, for the avoidance of doubt, I once again extend a welcome to this honourable Chamber. Please take your seat.

OATH OF ALLEGIANCE

(Administered by the Clerk)

[Ms. Jacqueline Wilson, the Honourable Acting Attorney General, to be the Temporary ex officio Member of the Legislative Assembly]

The Speaker: I invite the Acting Attorney General to take her place at the Dias.
All rise.

Hon. Jacqueline Wilson: I, Jacqueline Wilson, 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. Jacqueline Wilson: I, Jacqueline Wilson, 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 ex-officio Member of the Legislative Assembly, so help me God.

The Speaker: [Acting] Attorney General I would like to welcome you to these honourable Chambers. As much as we enjoy the company of your male counterpart, it's good to have some gender balance, albeit of a temporary basis. Welcome.

An Hon. Member: Hear, hear.

The Speaker: Please be seated.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

APOLOGIES

The Speaker: I have received apologies from the Honourable Leader of the Opposition.

I recognise the Honourable Minister of Education, Employment and Gender Affairs.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

EDUCATION SYSTEM AND BASELINE SCHOOL INSPECTIONS REVIEW

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

The vision for our students is that they will be confident, motivated learners, and responsible productive citizens who are capable of succeeding in a globally competitive world. To achieve this, the Ministry of Education and other education stakeholders must ensure that the education system provides suitable and relevant learning environments that best enable our students to succeed.

Over the past seven years, there have been significant changes within the government education system, with accompanying increases in overall student performance being achieved during that same period. However, it is recognised that further improvements are needed to tackle areas of underperformance and to achieve the best possible educational outcomes for all children.

As Minister for Education I am committed to the very highest standards of education for all our students in all our schools. I have never lost sight of the fact that we must put children first in all that we do in education. With that said, it is essential that our education team continue to self-reflect, invite external scrutiny, and be willing to face up to the hard questions and issues.

Since taking up my role, I have engaged in consultation with a number of stakeholders including officers in the Ministry and Department of Education Services, principals, teachers, students, parents, the business community and the general public. As part of the consultation process, a number of strengths and areas for improvement have been identified. Much has been done over the past year to identify these strengths, the gaps and areas of weakness in the education system, and steps have been taken and resources dedicated to address some of those issues identified. However, a more detailed analysis of each school and a more detailed analysis of the governance, management and structure of the education system as a whole, is needed at this stage to assist with policy and planning purposes going forward. Again, the goal is to create an education system that puts the interests and welfare of the children first.

One of the areas of feedback has been the need to have independent evaluations of the education system so that progress can be measured. Schools, the Department of Education Services (DES) and the Ministry need to be able to build on strengths to identify those gaps, and to plan for and make improvements that will benefit our children.

Over the past five years only a limited range of inspections were undertaken using outsourced resources to complement a small core team. However, in order to help determine the effectiveness of our quest to strive for excellence in education, the reintroduction of the inspection process as an independent process is critical. To this end, I have requested that inspections of all government schools take place as a matter of priority to establish a baseline dataset on:

- student progress and achievement;
- effectiveness of teaching and its impact on learning;
- leadership and management; and
- the quality of provision and student outcomes in the foundation subjects of English and mathematics.

The pre-inspection process has already started and all government school inspections are due to be completed by June, 2015.

In addition to this being an independent process, it is also necessary that this be a transparent process with the results of the inspections being shared with all stakeholders. I reiterate that the goal is to put children first and I am confident that parents

and the community in general, will want to know the results of these inspections and most importantly work with the DES and schools in implementing the recommendations made.

With that being said, the final inspection reports will be delivered to the Ministry for onward transmission to Cabinet and the Education Council. These reports will also be published on the Ministry's website. Madam Speaker, it is the intention that an Executive Summary report providing a summary of the outcomes of the baseline inspections of all schools will be laid on the Table of the Legislative Assembly in due course.

The work on rebuilding the Education Quality Assurance Unit will begin in the 2014/15 financial year, with the recruitment of a Chief Inspector of Schools. It is anticipated that a new inspection schedule for public and private schools will be ready for implementation following the completion of the baseline inspections.

At this stage of the education reform process, and in addition to the planned school inspections this school year, the Ministry of Education is also engaging the services of an external and objective body to conduct an independent review of the government education system. The review will be considered by the Ministry, in conjunction with the findings from the planned baseline inspection of the public schools.

The objective is to provide a review to determine what changes could be made to drive further system-wide improvements, which should result in improved educational outcomes for our students. Further, the review is expected to identify options that could be pursued to establish a governance model which leverages a strengthened relationship, participation and commitment of parents, the private sector and civic society in public education.

The Ministry has already begun to conduct research to consider a governance model based on the establishment of school boards or similar structures to manage the operational aspects of individual or groups of schools. The system review is expected to consider this and other potential governance models for their suitability to the Cayman Islands Government Education System, and make recommendations on the steps needed to transition to the proposed model.

Although the terms of reference are still being finalised, it is anticipated that the review will focus on two key areas: The Educational provision and student outcomes, which include:

- Evaluation of the standard of the existing government education system, in terms of student performance, including comparisons with agreed international benchmarks where possible, and stakeholder satisfaction;
- Evaluation of the current Ministry policies, plans and initiatives, and the extent to which they ad-

dress or have the potential to address key system needs;

- Undertaking a gap-analysis to identify areas for improvement or change to meet the various needs.

With respect to governance, the issues to be considered will be:

- Identification of various models for an enhanced private sector partnership in the governance of the government education system, which could be adapted to suit the needs of the public educational system in the Cayman Islands, and which have the best potential to improve student outcomes;
- Identification of the pros and cons of each model and implications for implementation including changes to the current governance model, structures, systems and processes to facilitate a transition to each of the recommended models.
- Report key findings and make recommendations as to priority areas and strategic actions to be undertaken by the Ministry to improve the performance of the government education system.

Madam Speaker, the Education Review is planned to commence in October of this year and anticipated to be completed by the end of the year.

At this stage it is important to emphasise that any model to be established will ensure that there is accommodation for all students, and that all students are supported. Again, I will stress the fact that the goal of the ongoing education reform efforts is to put children first and I look forward to the support of you, my colleagues, the Civil Service and the community at large, in ensuring that this goal is achieved.

Thank you.

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

Mr. V. Arden McLean: Madam Speaker, pursuant to Standing Order 30(2), I wonder if you would allow me to ask the Minister a question, please.

The Speaker: I will allow a maximum of three brief questions.

SHORT QUESTIONS

[SO 30(2)]

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

I didn't hear the Minister say anything about extending this review to the Department of Educational Services (DES). I wonder if the Minister has any intention of reviewing the governance of the Department of Educational Services.

The Speaker: Honourable Minister of Education.

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

The section dealing with the education review is to do exactly that, to look at the system structures in place, including what is established within the Ministry, the Department of Educational Services and then the schools, and how the actual system as a whole operates. So the purpose of the educational review from that perspective is to look at the management, the governance, the structure of the public educational system in the country.

The Speaker: I recognise the Third Elected Member for West Bay.

Mr. Bernie A. Bush: Would the Minister please state if this review will include the physical aspect as well, because I have just been informed that they have cut once again the physical education part down. They are taking teachers who are qualified in one area to do another area. Will this section also be reviewed carefully as well? It is a known fact that we have an obesity problem in this country. It's a known fact that when children are fit they will learn better. Will this also be reviewed because what's happening now is really a joke?

The Speaker: Honourable Minister of Education.

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

The issue of the review, obviously, is going to be looking at a number of factors. It's going to be looking at the ability of the system currently to deliver on what the national curriculum calls for. And one of the aspects of the national curriculum is dealing with physical education. So, the Member's point is noted with respect to the issue of physical education in schools.

Obviously, the timetabling in schools is a bit of a science. So, to be able to address the needs of physical activity is a vital and important aspect. And I agree that there needs to be something put in place to ensure that we are doing that. Just so that the Member knows, we are actually looking to do that currently by leveraging some of the existing activities and programmes in the schools, such as the extended after school programme to see how we can strengthen that programme to ensure that the students who participate in that will get it, as well as looking at possibly working with the Department of Sports at the Ministry of Sports to see how they can complement as well.

In general, the review will be to look at ways of how we can leverage the partnership of private and public sector and interested community organisations because the fact is, Madam Speaker, that there are

more needs in our system than the public purse alone can finance, but also, in terms of just building that sense of community that I think is so vitally needed in terms of our education system moving forward. So, the outcome of that review will hopefully give us a clear pathway that we can follow with respect to achieving that goal.

The Speaker: I recognise the Member for North Side.

Mr. D. Ezzard Miller: Madam Speaker, in the Minister's statement she talked about "all students." Can the Minister give me, and the people I represent, the assurance that "all students" includes the Edna Moyle Primary School, and that the Department of Education Services will not be allowed to do with whatever this review says, what they do with the national curriculum, just unilaterally decide what subjects are required by the national curriculum that they will not provide in North Side due to supposedly lack of resources?

The Speaker: Honourable Minister of Education.

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

As I said in my statement, the purpose of this review, the purpose of taking a critical analysis of the system as it stands now is to ensure that we are better able to address the needs of all students. And that includes the students at the Edna Moyle Primary School.

The Speaker: I recognise the Honourable Deputy Premier to make his statement this morning.

SCHOOL OF HOSPITALITY STUDIES—UPDATE

Hon. Moses I. Kirkconnell, Deputy Premier, Minister of District Administration, Tourism and Transport: Madam Speaker, earlier this month, after a long and sometimes challenging journey, the Cayman Islands School of Hospitality became operational by welcoming 25 young Caymanians into its hospitality programme.

For the avoidance of doubt, the school is not a new facility that has been constructed, but rather, is a programme that has been undertaken in collaboration with the Ministries of Tourism and Education, along with the Department of Tourism, various private sector partners and the University College of the Cayman Islands [UCCI] in providing campus facilities and lecturers.

At various points along the way throughout the school's development, my Ministry issued statements and releases to keep the public informed of its progress. On that basis I would also like to take this opportunity to provide Members with an update on the programme, and the impact it will have on the lives of

our people, particularly in relation to employment and employability.

Madam Speaker, on Monday the Members of this honourable House debated reforms to the immigration accreditation system, and Government agreed to consider a model whereby a percentage of work permit fees would be paid into a segregated fund for the sole purpose of training our people to take up positions that they are currently unskilled or unqualified to pursue. In my opinion Madam Speaker, that is a fair and reasonable proposal intended to level the playing field between local and expatriate workers, and I am pleased to report that the School of Hospitality Studies is already a game changer in that regard.

For the first time in Cayman, tourism's public and private sectors have worked more closely together than ever before to jointly create a programme that is industry driven and internationally accredited. It has been specifically designed to provide Caymanians with the necessary training and skills to not only take up front-facing positions in the hospitality sector, but to prepare them to become qualified professionals, with a clear path for employment and advancement within the tourism industry.

Tourism is vital to our economic wellbeing and has the ability to greatly impact the daily lives of our people. To understand just how profound a role it can play, we must be mindful that the hospitality sector is comprised of more than waiters and waitresses serving in restaurants, front office staff at Hotel reception desks, and taxi drivers, tour operators and housekeepers. As with every type of business, the hospitality sector does have lower-waged positions, but it also has a large number of highly paid, highly skilled roles which are filled by highly qualified professionals. Consequently, the goal of the hospitality school is to develop and inspire future professionals who, based on market demand, can play a greater role in the future development of this industry.

While employability is central to the hospitality school program and we are keen to increase the number of Caymanians in the industry, the primary goal is to provide each student with a solid foundation on which they can build lucrative and rewarding long-term careers in the tourism industry right here at home. Consequently, the courses offered will enable students to define the different components of tourism, such as: transportation, lodging, food and beverage, attractions, and public tourism businesses, so that they can be better placed to discover career opportunities that align with their personal aspirations. Additionally, the course will include field trips and placements to a variety of hotels, restaurants and attractions to acquaint students with the full scope of the industry.

I can attest that the response from the private sector has been extremely gratifying, and commencing next week, meetings will be held with various par-

ticipating establishments to solidify how many students can be accommodated at each location, and their precise expectations from the students. At the end of the course the students' final grades will be calculated based on a combination of examinations, class projects and written assignments.

Madam Speaker, the Cayman Islands is experiencing a massive upswing in visitor arrivals, and with more and more tourists crossing our borders than ever before, service quality and excellence are no longer mere expectations, they are non-negotiable requirements that simply must be met.

The programme therefore introduces students to the background and fundamentals of service excellence. Given that customer expectations are constantly evolving and what we regard as excellent today will quickly become the standard of tomorrow, students will be taught how to evaluate tasks and figure out how to enhance the customer experience.

Using a systems-based approach, learning components will focus on people, processes and environments, as well as their inter-relationship within the customer service function. The concepts presented will then be reinforced through a series of practical applications that, again, have been designed to benefit students, not just throughout their internship in the programme, but also during their subsequent careers.

Prospering in the dynamic hospitality and tourism environment requires a combination of flexibility, creativity and training. Having been closely involved in its development over this past year, I am confident that the hospitality school is equipped to provide the best possible practical and technical training—which are the essential ingredients for operating in today's international tourism environment. I am also assured that the students who avail themselves of this training will be able to hit the ground running when they enter the industry, and will have the best possible chance for a future career in tourism.

Madam Speaker, outside of its contribution to the economy, for tourism to be truly impactful on the lives of our people, it must be used far more conclusively as a tool which generates employment, drives businesses, and keeps revenue multiplying throughout our communities.

Madam Speaker, I am on record for saying that our people are our most valuable asset and while it is undoubtedly gratifying to consistently achieve great tourism performance and exceed monthly targets, if the effects of our record breaking statistics are not trickling down to small business owners, and craft vendors and taxi drivers and the like, and impacting their lives in a positive and tangible way, then we are merely skirting round the edges of opportunity and our efforts are seriously missing the mark.

The School of Hospitality Studies will go a long way towards rebalancing and redistributing the pieces of the proverbial pie by ensuring that Cay-

manians—particularly our young people—will finally be in a position to contribute to, and benefit from, the industry's success to the extent that they should be. Their participation will also help to infuse the distinctly local flavour into the tourism sector that is reflective of our national identity, and is in keeping with what visitors expect when they come to our shores.

Madam Speaker, the collaboration that has taken place between the Ministries of Tourism and Education, the UCCI, the Department of Tourism and private sector partners has been nothing short of exemplary. I would like to publically thank and acknowledge the myriad of dedicated individuals, particularly those on the Hospitality School Advisory Council, for their invaluable guidance, support and commitment to driving this initiative forward.

I would also like to wish the first class of students the very best of luck as they follow their dreams of being a part of our thriving and vibrant hospitality industry.

Madam Speaker, in closing I would like to acknowledge these individuals:

- The Hon. Tara Rivers, Minister of Education
- Mr. Roy Bodden, President of UCCI
- Mr. Wayne Jackson, Hospitality School Director
- Mrs. Rosa Harris, Director of Tourism and her team at the Department of Tourism
- Mr. Ken Hydes and the Cayman Islands Tourism Association
- The School of Hospitality Studies Advisory Council whose membership includes:
 - Mr. Markus Mueri, from Abacus
 - Mr. Marc Langevin, from the Ritz-Carlton
 - Ms. Valerie Hoppe, from the Grand Cayman Marriott
 - Mr. Rod McDowall, from Red Sail Sports,

and a list of others too numerous to mention.

Thank you, Madam Speaker.

The Speaker: I recognise the Member for East End.

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

Again, pursuant to Standing Order 30(2), I beg your permission to ask questions.

The Speaker: Please proceed.

SHORT QUESTIONS

[Standing Order 30(2)]

Mr. V. Arden McLean: Madam Speaker, a couple of things the Minister said in here I beg clarification on. He talked about the trickle-down effect of tourism on small businesses, taxi drivers and the like and the impact it has on their lives in the positive and tangible way. And if that is not happening, then we are skirting around it and missing the mark.

While I appreciate the sentiments, can the Minister say why it is that our taxi drivers' driving permits are extended so much to people who are not Caymanian, who have no point of reference here, and that many of our taxis are driven by people who are on work permits? I know they work for a Caymanian, but why are we constantly extending these to them, because that is the focal in skirting around the tangible impact for Caymanians?

The Speaker: Honourable Deputy Premier.

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

The law is that a taxi licence can only be issued to a Caymanian.

The Speaker: Member for East End.

Mr. V. Arden McLean: Madam Speaker, is the Minister telling me there are no people on work permits driving buses, taxis, or any public transportation in this country?

The Speaker: Honourable Deputy Premier.

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

The Member has asked two questions: 1) If a taxi licence is issued to a Caymanian it must be operated by a Caymanian. A tour operator is different from the standpoint that if you look at the example of the tour buses, other businesses are dependent on a tour bus as the conduit to get business to them, an example being Stingray City boat operators. Turtle Farm, Pedro, they depend on tour operators to bring business. So, tour operator licences are issued to Caymanians, but if it turns into an immigration issue, they then have to advertise for people to drive the bus if they cannot find a Caymanian to drive it.

The Speaker: Member for East End.

Mr. V. Arden McLean: Madam Speaker, can I then ask the Minister why it is that the Caymanians who apply for taxi licences are not given the full opportunity to go to the port or the airport and have the choice of going to any of them that they so choose?

The Speaker: Honourable Deputy Premier, I will allow one question after this.

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

I want to make it very clear that we have been in a position to issue 40 new taxi licences because of the growth in tourism over the last 12 months in this

country. There was a moratorium on taxi licences before that.

We took a decision that we want to increase and give opportunities to Caymanians who drive taxis because of creating more opportunity by building our tourism industry and bringing more people here. The management of that, then, is, you look at it and try to estimate the peak. You can't estimate the value because if you estimate the least amount of people that are here, then you don't have enough taxi licences and operators in place to fill the demand when the maximum amount is on the Island. So, that is what we're trying to do in managing that. It is now a work in progress of how we assign between the airport and the port because of managing the new arrivals, the growth and bringing new people into the industry.

The Speaker: Member for East End.

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

I could ask more questions on that, but since there is only one left, let me utilise my time much better. And I will talk to him off the air about that.

Madam Speaker, I note that in the advisory council membership there are those Caymanians who have been successful in this industry who have 20, 30 years of experience in the tourism industry. I can think of two right off . . . at least one from East End, William Connolly, who has been extremely . . . who has lots of experience in this industry.

[Inaudible interjection]

Mr. V. Arden McLean: Extremely successful in that industry as a livelihood, since that's what the Premier wants. He's always picking on me, eh?

But, Madam Speaker, there are other Caymanians as well who could advise on this, and these look like imported managers at these different hotels who have short-tenure on the Island and have no point of reference of where that mango tree is by that tamarind tree.

The Speaker: Honourable Deputy Premier.

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

I thank the Member for his question. If he looks at the last page of the acknowledgements, Mr. Ken Hydes and the Cayman Islands Tourism Association are acknowledged because of their participation. If you think of the members that are involved there, we could certainly name out quite a few that have been making contributions, and I tried to identify that in the others who are "too numerous to mention." Okay?

The council itself is balanced between the Director of Tourism and trying to get people who volunteered to work—the mention of managers from dif-

ferent properties. Remember that what we have been able to accomplish here is a model that I believe will be used in other educating systems in the Cayman Islands because of the participation between private and public sector. And the need for the major hotels to be involved and the need for the major participation of their managers to be involved to make sure that we get people working and involved is very necessary. It's not saying that there was a majority of them, but they did participate.

Mr. V. Arden McLean: Come on now—

[Inaudible interjections]

The Speaker: Member for East End, is that a plea for another question, or are you—

Mr. V. Arden McLean: Yes, Madam Speaker, if you would please.

The Speaker: All right. Please make it a question and not a statement so that we can proceed.

Mr. V. Arden McLean: Okay, Madam Speaker. But you know it precedes that.

Madam Speaker, the Minister said that these people are there so we can get people employed. I am concerned about that. The carrot is now coming out and it has honey dripping off it now too, it looks like, to get done what is supposed to be done. Nevertheless, let me name another one without getting too deeply involved in declaring my interests in it: Jerris Miller, nearly 40 years of service in this industry, and I don't see him represented here. We need Caymanians to try and give advice on what it means to come up through the ranks, which is where we are starting, to bring our people up through the ranks to become successful in this industry. That's my question. Why aren't we using them too in addition to?

The Speaker: Honourable Deputy Premier.

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

I am happy to advise the Member that they are being used. I will reach out and make sure he is invited to the next function, because the individual he spoke of, Mr. Jerris Miller, he was there, and he participated in the meeting that we had about how the school is going to be opened, and, he and I personally spoke. I believe that if you speak to him he will tell you that he is quite excited about this programme.

The Speaker: Next item of business.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 7/2014-15— AMENDMENT TO THE NATIONAL TRUST LAW (2010 REVISION)

The Speaker: I recognise the Elected Member for North Side.

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

I wish to move Private Member's Motion No. 7/2014-15, Motion to Amend the National Trust Law (2010 Revision):

WHEREAS when the National Trust Law was passed by the Legislative Assembly of the Cayman Islands in 1987 it was not intended that the National Trust become a land bank;

AND WHEREAS it was never intended that the trust executive would aggressively and deliberately seek to purchase land;

AND WHEREAS Section 21(2) of the National Trust Law (2010 Revision) provides that any land made inalienable can be alienated by two thirds of the membership;

BE IT THEREFORE RESOLVED that Government consider amending the National Trust Law (2010 Revision) to provide that the National Trust may only purchase land to be made inalienable, after approval of this Legislative Assembly and that such inalienable land can only be alienated by this Legislative Assembly.

The Speaker: Is there a seconder?

I recognise the Member for East End.

Mr. V. Arden McLean: I beg to second the Motion.

The Speaker: The Motion has been duly moved and is open for debate. Does the honourable Member for North Side wish to speak thereto?

Mr. D. Ezzard Miller: Thank you.

Madam Speaker, unfortunately, in my view, and in the view of many of the persons that I am elected to represent in these halls, the National Trust has become the evil empire that many of us who were here in 1987 were concerned it would become. I know that the National Trust does not have to use the Compulsory Land Acquisition Law. This is a situation between a willing seller and a more-than-willing buyer.

Madam Speaker, I have some concerns and I don't believe that many people in the Cayman Islands understand and appreciate the extent to which my constituency in particular is being affected and the way future generations are being deprived of any ability to live in that constituency. Madam Speaker, that is because of the sheer magnitude, volume and acreage

of the land that the National Trust has purchased in my constituency over the past two or three decades since the National Trust has been established.

Madam Speaker, I believe it is fair to say that when the National Trust was established the intent of legislators bringing the law and the intent of legislators who supported the law, that the National Trust was not intended to be a body that would go out and solicit to purchase people's land, but would be concerned with land that had maybe a particular environmental value, land that had a particular historical or heritage site, and the National Trust would assist the government in identifying these sites and where the registered owners of the land were willing to sell the land the National Trust would buy the land.

We believed at that time it was prudent to establish such a body to hold these sites in trust for the people of the Cayman Islands, what we did not envisage was that the National Trust would buy a large percentage of the arable land in a constituency and make it inalienable and have the ability to prevent the people from that constituency who traditionally used these lands for our heritage purposes. And I will give an example: the Mastic Reserve (they call it).

Madam Speaker, for many years the Mastic Reserve area was the breadbasket of North Side and, in particular, Old Man Bay. This is where the people farmed. This is where the people cut tops to make thatch rope. This is where the people got the mahogany, the ironwood to build their houses. This is where the people got the mahogany and the ironwood to build the schooners that we built in the district. This is where the people hunted rabbits. This is where the people hunted crab. This is where the people got mangoes and other fruit that grew wild.

Madam Speaker, I know that some of that freeness that we as constituents enjoyed technically under the law could be classified as trespassing or stealing. But it was an accepted thing in the community, that, you could go in these areas of land and if you needed an ironwood post for the corner of your house, you could cut the ironwood tree down. If you needed a piece of mahogany to make a doorframe or to make a bedpost, you could cut it down and nobody bothered you. Now, what has happened over that decade is that the majority, far too great a percentage of my constituency, has now become National Trust property, and those heritage acts can no longer be enjoyed.

Madam Speaker, I will quote from section 18 of the National Trust Law. It says, "**(a) a person who takes or attempts to take any wildlife, either flora or fauna, on Trust property; (b) starts any fire on Trust property except in any area where, under the bye-laws of the Trust, fires are permitted,**" (I can't find any of those) "**(c) removes any artifact from any Trust property; (d) defaces any Trust property; or (e) refuses to leave Trust property when required to do so by an officer, employee or agent of**

the Trust, under section 17, is guilty of an offence.”

And section [20] says, “**a person who is convicted of an offence under this Law or any regulations made thereunder, is liable on summary conviction to a fine of five thousand dollars and to imprisonment for one year.**”

What that means, Madam Speaker, is that if I decide to go down in what we call upper Mastic, sit under a mango tree and shoot a rabbit for Sunday dinner I could be fined \$5,000 and imprisoned for one year. If I go down in there and pick up a couple of mangoes, or I pull a couple of tops out of a thatch tree, I am committing an offence under this Law. And, Madam Speaker, I know that most Members have no idea what I am talking about. So, I went and got a map of the Island prepared. On that map I asked them to put all National Trust owned properties.

The Speaker: Member—

Mr. D. Ezzard Miller: Madam Speaker, I will table this when—

The Speaker: Okay.

Mr. D. Ezzard Miller: I think there are already copies that can be distributed.

The Speaker: When the Serjeant returns to the Chamber, I will ask him to distribute them.

Mr. D. Ezzard Miller: I have gone one step further, Madam Speaker, and coloured it black. I am not sure if the one that they have is coloured black, but anyway, you will see from that map that in West Bay the land owned by the National Trust is so small it can't appear on the map.

The Speaker: Member, sorry for the interruption again. You said you had a map of just Grand Cayman, or all of the Islands.

Mr. D. Ezzard Miller: Just Grand Cayman.

The Speaker: Okay.

Mr. D. Ezzard Miller: I saw in the paper today where they are buying land in Cayman Brac too.

You will see from the map that George Town, the land owned here, again is so small it does not appear on this map. Bodden Town has one little slither of land from the Little Sound. East End has the Salinas, which we know is useless land when it comes to farming and living on, right? But in North Side a huge portion of that has been bought up by the National Trust. No North Sider will be allowed to go into this land to get anything. No North Sider will be able to

buy a piece of this from anybody to build a house, plant a yam, plant a few cassava sticks, plant a mango tree or a pear tree. No North Sider will be able to walk across this land or will be given right-of-way over any of this land to get to their own land so they can build a house on it.

Madam Speaker, in addition to buying up this land, what are in my view deflated and deliberately deflated rates per acre by the National Trust, the National Trust is being absolutely, absolutely uncooperative by any landowner in that district who needs any help from them at all.

Madam Speaker, I am a life member of the National Trust. There was a time when the National Trust had, as the law says they shall have; district committees in each district. It is my knowledge that for at least 10, if not 15 years, they haven't had a district committee in North Side. And they have made no attempt to set one up, Madam Speaker, because when they came out in support of the Department of the Environment to lay over all of these environmental zones and sterilise, at that time, 70 per cent of the constituency of North Side, including this area, the North Side district council went through the district and got between 25 (I think it was 28) people to come to the Annual General Meeting. Those who were not yet members paid their vote and when the National Trust people found out that we were going to elect one of our own on the executive, they called the police on us. They ruled that we couldn't vote anybody. And, Madam Speaker, that was the beginning of the destruction of the love and support that the people of my constituency had for the National Trust.

Madam Speaker, nobody spent more time than my dear mother helping the National Trust with their memory banks and all that sort of stuff. And if you go in the North Side Civic Centre now, you will see what I don't think any other district has, which was done by the North Side district Trust company, a map of the district with all of the houses and all of the families and where they were first resident in that district on permanent display in the Civic Centre. But when you take this high-handed approach, and you use your numbers and your money to keep these people from participating in the process about their own district, that's what it results in.

Now, Madam Speaker, I got told off that night by one landowner because I had brought him to George Town and made him fork up his \$25—which he couldn't afford—and he couldn't get anything. His comment was, “The next time you call me, I am bringing my machete and my shotgun.” [UNVERIFIED]

Madam Speaker, first of all, what the National Trust has foisted on this country as the Mastic Trail is one of the biggest lies ever perpetrated by people in this country who don't know what they are talking about. You ask a North Sider where the Mastic Trail

is. It's not what they have; it is not what they publish as the Mastic Trail. Right?

Madam Speaker, I am going to tell them because I don't think the Minister of Environment who is responsible for the National Trust is going to tell me he knows. The Mastic Trail that we used went in opposite the Hideaway, now called Nico Norte. Anyway, it is the bar just before you come to the hill.

[Inaudible interjection]

Mr. D. Ezzard Miller: No, I'm not going to identify it with that.

But there is a tamarind tree on the side of the road, right? Right opposite North Coast Bar there is a tamarind tree on the side of the road that was the entrance to Mastic Trail. And when the family who owned the land applied to government to do a housing scheme and sell lots there, they voluntarily protected that tamarind tree and moved their road so the tamarind tree could be preserved, because it was the entrance to the Mastic Trail.

The exit for the Mastic Trail on the south side of the road came out below Dola's [house] in Breakers, where Waldo used to come out, where the Scotts now go to get to their marl pit. But we have all of these people coming here, they go up in there and tell the world, *We are going to preserve the Mastic Trail*, and it enters behind the Fire Station in Frank Sound and comes out behind Sharon Lee's House down in Old Crawl. They don't know what that's called. That's not Mastic Trail, that's Old Crawl! Right?

You hear them on the radio making this big announcement: *This is Virgin forest*. Virgin forest? Madam Speaker, they have no idea how many mahogany trees, ironwood trees were cut down up in there to build houses and boats—forever! I just made candle holders for every one of my mother's grandchildren out of the corner post of the North Side Presbyterian Church that was cut by my great, great, great grandfather in 1902 in Mastic! That's where Grandpa Jackie cut it from.

[Inaudible interjection]

Mr. D. Ezzard Miller: Madam Speaker, you see, they come here, and anything we are told by these people, we take it for gospel. I can promise you that the father of the former Speaker of this House, Mrs. Edna Moyle, burnt those grass pieces down there, twice a year, sometimes, to kill ticks. But *it's virgin, never been touched*.

Madam Speaker, this is what is going on. My constituency has one thing. We did not come up in arms when they started to buy some of this land because we suspected they would be 10 or 15 acres and that would be enough. And we wouldn't have anything to say about that. But not when you buy this

much. And not when you continue to aggressively seek to buy more. And I know they will tell the public they are not doing it, but they better be careful how they make that claim, because it ain't so.

Madam Speaker, Sir Vassel Johnson, who moved this Bill in this House, had this to say when he moved the Bill. And I quote from the Hansard of . . . this is so old, Madam Speaker, it doesn't even have a date on it. But it was the ¹debate on the National Trust Bill, 1987, First Reading. He said:

"Mr. President, one of the areas in looking at legislation which is also important is to assure that the operation of the Trust is such" (and listen carefully Members) **"that it does not accumulate an abundance of power which would lead at some time to challenging even Government."** Very prophetic words.

He hoped, and he assured the House that that was not what he was setting out to do. But we know that's what has happened. It has happened this year! The government had a gazetted road, East/West Arterial Way. After the road was gazetted, the National Trust went and bought property on the other side of it and they have made representation to the Government—and the Government buckled, because they are so powerful—and they have moved the road off of government-owned land . . . because that's what the National Trust is, it's owned by the people of this country, not by the executive of the National Trust! They have moved the road off the Government land onto private land which the Government is going to now have to pay to use.

And, Madam Speaker, it is not a situation where the land that government owns is any different from the land the private people own; it's the same kind of land! And, it is my understanding that they were even able to negotiate so that government was going to build them a rest area and a special house and all this for them to tour this Mastic Trail, which they have invented as part of the deal for them not opposing the road.

Madam Speaker, the Motion seeks a specific amendment to the Law. It doesn't seek to amend the section that I quoted (18 or 20) so that anybody would be able to destroy anything that the National Trust owns. That's not what the Motion calls for. I don't seek to change the offences or the penalties under the law. The Motion is asking for one simple thing: an amendment to section 21. And I quote section 21(1) from the law, **"Any property acquired by the Trust by any means which is eligible for placement on the Heritage Register under the bye-laws of the Trust may be declared inalienable by the Council."**

Madam Speaker, let's hear who the Council is. The Council is, [counting] one, two, three, four, five, six, seven, eight, nine, ten, eleven people. So 11 peo-

¹ *Official Hansard Report*, 11 September 1987, page 8

ple can decide that the Trust, having bought a piece of land in my constituency, can make it inalienable and all of these things have . . . right? And then, Madam Speaker, here is my big fear, because 11 persons, having made it inalienable . . . section 2 [sic] is the most troubling of all. "Property which has been declared inalienable by the Council may be—

The Speaker: Sorry Member, section 2? Or subsection (2)?

Mr. D. Ezzard Miller: Section 21(2). Sorry Ma'am.

"Property which has been declared inalienable by the Council may be alienated only after a two-thirds vote of the full membership of the Trust at a general meeting, and only for the reason that so doing will further the purposes of the Trust."

Madam Speaker, what that means to me is that two-thirds of this membership, which may not include membership from my constituency—they don't have a district council there any more—can decide that a piece of this land could be made into a golf course. But the real reason that they need to sell it is because the Trust needs a couple of hundred thousand dollars to finish this building that government isn't going to be able to afford to build for them. So, they have a meeting and they get two-thirds of their membership to vote to remove the inalienable ruling over the land. And they sell it to a private developer.

Madam Speaker, because I believe they are buying too much land, what my Motion wants to do is amend section 21 to say that they can only purchase land that this Legislative Assembly approves, irrespective of who is funding it. Land use in this country is controlled by the Development Plan and this Legislative Assembly. And most certainly, Madam Speaker, that having made it inalienable, only this Legislative Assembly can make it alienable so they can sell it. And only this Legislative Assembly should be able to sell the land. That's all my Motion is asking for, Madam Speaker.

So, Madam Speaker, I trust that Members will support this small amendment to the law, because I believe it will give all of us certain comfort in knowing that this land, if it is ever going to be sold, has to come here where at least the people's elected representatives can have a say in whether it is sold or not.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

[Inaudible interjection]

The Speaker: As soon as the Serjeant returns, so ordered on the tabling thereof.

[Inaudible interjection]

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

I recognise the Honourable Minister responsible for the Environment.

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

Madam Speaker, I rise to respond on behalf of Government to the Private Member's Motion brought by the Member for North Side.

The National Trust, as the Member has noted, was created by a Law called the National Trust Law, passed in 1987 by this honourable House. The purpose for the creation of the National Trust is set out in the Law. But let me read first, section 3 which deals with the establishment of the Trust.

"There is established a body corporate called the National Trust for the Cayman Islands which shall have perpetual succession and a common seal, and for the purpose of carrying out its functions under this Law may buy, lease, sell, hold, deal and otherwise acquire and dispose of property of whatsoever nature, enter into contracts of any nature, raise loans, and sue and be sued in its corporate name."

So this Law creates a body corporate which has all of these powers. And just for emphasis, it has the power to buy, sell, hold and otherwise acquire and dispose of property.

Section 4 of the Law sets out the purposes and powers of the Trust in more detail: Section 4(1) says, **"The purposes of the Trust are:**

- "(a) the preservation of the historic, natural and maritime heritage of the Islands through the preservation of areas, sites, buildings, structures and objects of historic or cultural significance;**
- "(b) the conservation of lands, natural features and submarine areas of beauty, historic or environmental importance which the Trust may have acquired through gift, bequest, purchase, lease or other means; and**
- "(c) the protection of native flora and fauna."**

Section 4(2) provides: **"The Trust has the power to carry out the following activities -**

- "(a) the identification, investigation, classification, protection and preservation of any place, building, area of beauty, or of historic, cultural or environmental significance and the creation and maintenance of a Heritage Register thereof;**

“(b) the acquisition of any property by gift, bequest, purchase, lease or other means and the maintenance, sale or leasing of any such land or thing;”

Madam Speaker, it goes on to list a variety of other powers which, for these purposes, I don't think I need to refer to at this point.

I think the Law is very clear on the purposes of the Trust in terms of conservation, in terms of identifying and recognising property and areas of historical, cultural or environmental value to this country. It clearly has the power to buy, hold and deal with such property as any other body corporate so empowered or any individual in this country. The only limitation we have in terms of ownership of land and the ability to buy land in this country is that foreign companies have to be registered in Cayman as a foreign company in order to be able to acquire and hold land in the Cayman Islands. Other than that, ownership of land is unrestricted. And, that is one of the features central to the success of Cayman as a country of development and the tourism development industry and the significance of that industry.

Madam Speaker, one thing that will be of interest in terms of understanding why the National Trust was created, why it has these powers, will be for us to look back at the comments made by the presenter of the Bill, who was no less than Sir Vassel Johnson.

With your permission I would like to refer to the Hansard.

The Speaker: Please proceed.

Once the Serjeant has returned to the Chamber, I would like to see a copy, please.

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

The Honourable Vassel G. Johnson said on the presentation of this Bill on 11 September 1987:

“Mr. President, a National Trust is said to be synonymous with preservation of a country's heritage and thus the reason why it is so appealing and it is so acceptable in most countries of the world. It is said that from the earliest time man recognised that God had given him certain possessions which he should preserve. That has come down through the ages and we find that in the Cayman Islands, our own homeland, there are many things that we need to preserve.”

Some of the functions described, Madam Speaker, include: create parks, preserve sites and buildings of national interest, preserve marine parks and also to preserve, maintain and keep animal and bird sanctuaries. But he wasn't being exhaustive there.

He went on to say, **“These functions, Mr. President, are very important. It is important to a**

nation and to a country because of their scenery and historical values. These properties are set aside by the National Trust and are preserved from destruction so as to ensure the people's inspiration, enjoyment and recreation where these historical sites and properties are concerned. A National Trust is usually created to develop a means of avoiding ruinous effects on these things which are of immense interest to the country, terrestrial and marine properties and, Mr. President, there is no doubt in anyone's mind here of the importance of these to our little Cayman Islands.”

He went on to say, subsequently, and I quote, **“Mr. President, it is always found to be very useful and acceptable for a National Trust to control these heritage values of the country as opposed to Government undertaking that responsibility. One of the reasons is that there is a far keener interest displayed by the Trust in performing these duties as opposed to Government. Secondly, it would cost the Trust less to perform these duties because the Trust is always open to gifts of money and time, and people are prepared to give voluntary service. And so the Trust has an appealing position as far as its work and value are concerned.”**

That is a part of the presentation made by the Mover of the Bill at that time, which clearly highlights the value perceived at the time and why this Trust was being set up by Government to be owned and operated separate from Government.

The Member moving the Motion referred to another aspect of the presentation made by Sir Vassel Johnson on that day. And he did say, as quoted by the Member, **“Mr. President, one of the areas in looking at legislation which is also important is to assure that the operation of the Trust is such that it does not accumulate an abundance of power which would lead at some time to challenging even Government.”**

He said that. I will address that in a few minutes. What he also said at that time is an assurance to the people and to the Members of the House which, as the Member for North Side, the mover, acknowledged, he was a Member present for that debate. He also said, **“I am happy to say that the legislation before us today has been well-scrutinised, well-examined by Government, by the Legal Department, and by the Committee that was established in 1985 to recommend the establishment of a Trust for the Cayman Islands.”**

So, Madam Speaker, while he expressed a general view of caution, which one might anticipate in creating a National Trust, he also said very clearly that all the various government bodies, including the Attorney General at that time, and the special committee that had been created of ordinary members of Cayman society, which had apparently worked on this Bill

for some period of months, that they had all satisfied themselves. They scrutinised this Bill and they were recommending the Bill to establish the National Trust.

Madam Speaker, one of the interesting things about the record in this Hansard is that the mover of the Motion (my good friend, the Member for North Side) sat through the debate on this Bill, sat through the Second Reading, and made no comment, made no contribution, expressed no concern.

Madam Speaker, again, with your permission, I will refer to the Hansard in respect of the same Bill.

The Speaker: Please proceed.

Hon. G. Wayne Panton: There was a discussion, a debate, in relation to a motion to recommit the Bill to Committee stage. I think there was a proposal to make an amendment in respect of a date which was included in the Bill which, for these purposes is not relevant. What is relevant is that the mover of the Motion today, the Member for North Side, did speak in relation to that particular motion to recommit the Bill. And this is what he said:

² **“Mr. President, I would like to try and restore some dignity and statesmanship in this debate.**

“I did not speak on the Bill during the Second Reading debate, as I believed such legislation should be above political rhetoric. For the same reason, I intended to vote against recommitment of the Bill and will therefore now support the Motion not to recommit this Bill.

“Mr. President, I have sat here for almost two days now and listened to debate which, in my opinion, was frivolous and, in most instances, irrelevant to the main issue . . .” (and there he was referring to the debate on the motion to recommit)

[Inaudible interjection]

Hon. G. Wayne Panton: He said: **“The Members have pounded their political chests and have, in my opinion, reduced the value of this important piece of legislation in the eyes of the public. I believe they have ignored, or taken for granted the value, certainly, they have deprecated the value and time put into developing this legislation by the Steering Committee.”**

So, he went on to vote against committal of the Bill back to Committee stage at that point. But it is important that the record reflect the Member's position, that it was a very important piece of legislation and that it should not be subjected to political rhetoric, that it should not be through this back-and-forth debate on a small point argument over a date, be depre-

ciated in the eyes of the people. And he fully supported it.

Madam Speaker, turning to his Motion and the specific recitals referred to in the Motion, the first recital says, **AND WHEREAS when the National Trust Law was passed by the Legislative Assembly of the Cayman Islands in 1987 it was not intended that the National Trust become a land bank.**

Madam Speaker, when one refers to a land bank, one is specifically referring to land being accumulated for the purpose of investments to store wealth. But if in this case the Member means that the National Trust was storing the wealth of the nation which is represented by its areas of cultural, historic and environmental value, then I suppose I can agree that the National Trust is a land bank. But then he must also agree that when one looks at the expressed purpose and powers of the National Trust, that that is precisely one of the things that was envisaged when the law was passed, when the Member stood up to present and consider this Bill in this honourable House.

Madam Speaker, the mover has expressed to me in the past that he didn't think the Trust had the power to buy land. Clearly, I think we have satisfied that issue today. I think it is clear that it has the power and has been exercising the power in accordance with the stated objectives in the Trust law. Perhaps the Members' argument is that the Trust has simply been doing too good a job in respect of that.

Madam Speaker, the Member complains that the National Trust has acquired, first of all he said the majority of the land in North Side. I think if we look at the map which he very helpfully tabled—I am assuming it is accurate—we can see that it is not a majority. In any event, Madam Speaker, one of the things very clear is that the National Trust does not have the power to take someone's land. This land which the National Trust owns in the district of North Side is land which any one, any individual, any investor, could have purchased in the Cayman Islands. Now we have other examples of landowners who have acquired large parcels and aggregated them over time, but that may be, in those circumstances where there is this aggregation and for the purpose of creating this investment, this land bank, as the Member says. Perhaps you might quarrel in respect of that. But the fact is that the system we have now allows people to purchase this land.

Similarly, it allows the National Trust to purchase this land. But they are not purchasing the land to create a development to do harm in some way to the district or the interest of the country as a whole. They are purchasing the land in furtherance of their clear purpose and objective as set out in the National Trust Law.

One of the concerns expressed at the time the National Trust Law Bill was being discussed and con-

² *Official Hansard Report*, 14 September 1987, page 16

templated was that perhaps Government would, through the compulsory acquisition provisions of the Lands Acquisition Law, compulsorily acquire people's land to give it to the National Trust. That specific issue was raised by Sir Vassel in presenting the Bill and he gave certain assurances in respect of that. Clearly, there is no power in the Law for the Trust to acquire land through any other means, in terms of their own action in terms of what they can do, other than by accepting it as a gift or purchasing the land.

During the debate on the National Conservation Bill, Madam Speaker, I specifically recall that the mover of the Motion, quite rightly, as did the Member for East End, said that those two districts had the most environmentally preserved land. He quite rightly said that. So, Madam Speaker, it shouldn't be a surprise that the more unspoiled areas of the Island would be of interest to the National Trust in fulfilling its objective of preserving land that has a cultural, historical and environmental value to the country.

Madam Speaker, the second recital says: **"AND WHEREAS it was never intended that the trust executive would aggressively and deliberately seek to purchase land;"** Madam Speaker, first of all, we haven't had any evidence that there is this activity going on which the Member complains of, but secondly, and more importantly, how is that offending if the Trust seeks to protect and preserve land in accordance with its objective with its stated purpose in Law? I don't hear the Member complaining about that aspect of it. But how does that offend, if they are simply trying to fulfil their stated objective?

They recognise, and I hear the Member's statement that the Mastic Trail, for example, is not where the National Trust says it is, is not where the National Trust has acquired land for the purpose of preserving the Mastic Trail. But certainly, it is well recognised that that area has huge environmental significance and that, at least a part of it must reflect a part of the Mastic Trail. It's no coincidence either that you have the Botanic Park nearby, because these are areas in which the natural environment is already established and allows for the creation and addition to things that are reflective of environmental value to the country.

[Inaudible interjection]

Hon. G. Wayne Panton: Madam Speaker, the Member seems to be complaining that the National Trust is approaching some of his constituents in relation to potentially acquiring land. That may or may not be the case. But even if it is, it is hard to see why that is in any way offensive. Again, they are fulfilling their objective. But what is also true is that there are many constituents in North Side, good people, good families in North Side who own land there who have approached

the National Trust seeking to have the National Trust purchase their land.

Madam Speaker, when the National Trust purchases land, my understanding is that they have a policy, generally, of obtaining two valuations. And they try to negotiate a value within the two positions to the extent that one is higher or lower than the other one. On the face of it, that does not appear to be an unfair approach at all. Certainly, it is difficult to see why families in North Side, individuals who own land in North Side, should not be able to sell their land to the National Trust if they want to. They can sell the land to anybody else, but not the National Trust? Is that what the Member is saying?

The National Trust has, indeed, I am sure, bought land from families in North Side. It is also true that the National Trust has acquired or purchased land from non-Caymanians who have purchased the land from North Side landowners. So, I am not quite sure why the ability to do that, the ability to fulfil its objectives, should be an issue.

Madam Speaker, turning to the resolve section of the Member's Motion: The Member says, firstly, that he would like the law amended to provide that the Trust may only purchase land to be made inalienable after approval of this Legislative Assembly. And secondly, that such inalienable land can only be alienated by this Legislative Assembly.

Madam Speaker, when this Bill was being moved and considered by everyone in Government, and when very significant members who were prominent, eminent, educated members of the Caymanian society involved with the Steering Committee, looked at all of this and proposed and supported this Bill with the provisions that are reflected here today, there was no concern being expressed then, that the Legislative Assembly had to be involved in this question of making land, which the Trust has purchased, inalienable or in reversing that.

Madam Speaker, I think there is a misunderstanding, really, of exactly what this means to make land or property owned by the Trust inalienable. Section 21(1) provides, **"Any property acquired by the Trust by any means which is eligible for placement on the Heritage Register under the bye-laws of the Trust may be declared inalienable by the Council."** What that means, Madam Speaker . . . and let me clarify. There is a separate set of National Trust bye-laws which have been properly adopted, which set out the Heritage Register. That first condition has to be satisfied, that it is property that is eligible for placement on the Heritage Register. It is not all Trust property; it is Trust property, which, according to the National Trust bye-laws, can be included on the National Heritage Register.

Madam Speaker, there are criteria for the National Heritage Register which is established obviously in the law. And this was, again, also described by the

Member moving the Bill, Sir Vassel, the effects of section 21(1) and (2) were set out in full and were deemed to be an appropriate mechanism, a desirable mechanism to try to protect the interest of this property, the value of this property for the country and to the National Trust through the mechanism of the National Trust. But what is the effect of having done that, Madam Speaker? That simply means that the Council in making its decision in declaring it inalienable under section 21(1) is saying that it is binding itself to not make a decision to sell that land, to part with possession. Alienation simply means the ability to transfer ownership.

That is effective within the Trust. That binds the hands of the Council only. It doesn't extend beyond the Council. It doesn't have any . . . or beyond the National Trust it doesn't have any extraordinary meaning beyond that.

Section 21(2) provides, **"Property which has been declared inalienable by the Council may be alienated only after a two-thirds vote of the full membership of the Trust at a general meeting, and only for the reason that so doing will further the purposes of the Trust."**

So you have a Council that says, *Yes, this property satisfies the criteria to go into the National Heritage Register. We think that this property should be declared inalienable. We are going to make it so. We are going to tie our hands so that as a Council we no longer have the power to transfer or sell that land.*

The check, in respect of that, is that there is a higher bar, a much higher bar to reverse that. And that higher bar is, firstly, that you have to have the full membership of the Trust at an annual general meeting, and that in itself is going to be a very significant task. Then you have to have two-thirds of that entire National Trust membership voting to reverse the Council's decision to make a particular piece of property or properties inalienable. Then, it also has to be in furtherance of the purposes of the Trust, and the purposes are quite specifically set out. It can't be for any old reason.

Madam Speaker, in doing this, the Trust is furthering its objectives. The Trust is exercising the powers that it has by law. It is seeking to protect and preserve property which has historical, cultural, environmental value to this country. It is acting properly.

But, Madam Speaker, this concept of alienation, which I said earlier, is confined strictly within the Trust. It has no effect outside of the Trust; it has no effect outside of the Trust Law itself. So, for example, the Member gave an example of the discussion earlier this year in relation to the East/West Arterial. The Member indicated also, that Government had to reach an agreement with the National Trust because somehow the National Trust had accumulated these great powers, which all they were doing was exercising the

powers as set out in the Law, and, Madam Speaker, that somehow they force Government's hand.

Government, as they would do with many, many landowners in relation to the alignment of roads, wish to simply reach an agreement, if they could, to avoid concern and unnecessary displeasure over the particular route and location of the road. That is the reason Government negotiated and the Trust sat down and came to an agreement as to how to locate the road, which was acceptable to all. It was not that the National Trust had accumulated powers which were too great and so offensive and contrary to the national interests of the country, that they had Government over a barrel and had the leverage to tell Government what to do. That's not the case at all.

In fact, Madam Speaker, section 6 of the Roads Law provides, **"In any case where a declaration has been published under section 3(1) . . . ,"** (perhaps I should read section 3(1) first with your permission.

The Speaker: Kindly proceed.

Hon. G. Wayne Panton: Section 3(1) reads: **"Whenever it appears to the Governor, upon recommendation by the Roads Authority, that any particular portion of land is needed for the layout of a new public road or the widening or diverting of an existing public road, a declaration to that effect shall be-(a) gazetted; (b) sent by registered post to the registered proprietor of the land at his address on the register; and (c) published twice per week for three consecutive weeks in a daily newspaper published and circulating in the Islands."**

Madam Speaker, we have all seen these notices being published from time to time in relation to roads.

Now, Madam Speaker, section 6 of the Law says, **"In any case where a declaration has been published under section 3(1), and where the Governor, upon recommendation by the Roads Authority, is satisfied that it is in the public interest to lay out, widen or divert a road over the portion of land to which the declaration relates, then, notwithstanding anything contained in any other law, and subject to the provisions of this Law which relate to the payment of compensation, the Governor may, on the expiration of fifteen days from the publication of the declaration, authorise the Roads Authority to enter upon the said portion of land and cause the said road or portion of road to be commenced or proceeded with without further notification."**

So clearly, Madam Speaker . . . and let me clarify one thing. In this Law where it refers to "the Governor", that is defined in the Law as "Governor in Cabinet" and, in fact, as a result of the 2009 Constitution that means "the Cabinet" because the Cabinet

prior to the 2009 Constitution was an advisory Cabinet giving advice to the Governor. Subsequent to the 2009 Constitution it is a decision-making body. So, that means that the Cabinet makes those decisions.

So clearly, the Trust has no great leverage in relation to the issue and the example given, had no great leverage in relation to the example given by the Member for North Side. Cabinet had the ability to take the land, just like it could do with any other owner's property. The Trust does not have any superior position in relation to land ownership, Madam Speaker, than any other person or any other non-governmental body.

Madam Speaker, I could go further than that. The Land Acquisition Law enables Government to effectively compulsorily acquire property for the public good. So, the question is: Is the National Trust superior to that, whether or not they have made land inalienable? Now, Madam Speaker, section 6 of the Land Acquisition Law says, **"Whenever it appears to the Governor"** (and, again, that should be read as 'the Cabinet') **"that any particular land is needed for a public purpose, a declaration to that effect shall be gazetted."**

"(2) The declaration shall state the district in which the land is situated, the purpose for which it is needed, its approximate area and, where a plan has been made of the land, the place where such plan can be inspected."

There are two other subsections which I need not refer to at this point. But section 7(1) reads: **"(1) Whenever a declaration has been made under section 6 the Governor shall, without delay, enter into negotiations for the purchase of the land to which the declaration relates upon reasonable terms . . ."**

Madam Speaker, that, provides that once the Cabinet has made a decision that land can be acquired, or needs to be acquired for public purpose, it can negotiate with the landowner to see if an agreement can be reached. Failing, that, section 8 provides: **"Where a declaration has been made and published as required by section 6, and where in respect of the land to which the declaration relates the Governor is satisfied that- (a) it has not been possible to conclude a satisfactory agreement under section 7; (b) the negotiations in connection with any such agreement have been or are being unduly delayed; or (c) it is not in the public interest to enter into such negotiations, the Governor may, by order under his hand, proceed to acquire and to enter upon and take possession of the land compulsorily in accordance with this Law."**

So, Madam Speaker, if the National Trust Council decides that a piece of land that it owns, built or un-built, satisfies the requirements and criteria to go into the National Heritage Register, and is something which they would like to preserve in the interests of the country, in the interests of conserving, preserv-

ing the natural or historic or cultural wealth and heritage of the country, it can make that property inalienable. But that only ties the hands of the Council. That only means that for the Council, for the Trust to decide that they are going to make a conscious decision to sell it, there is a higher bar that they have to satisfy. They have to go to the section 21(2) bar, which is the annual general meeting which is two-thirds of the entire membership of the Trust and for the purpose of the Trust.

Under the Land Acquisition Law, the Cabinet can deal with any particular land that is needed for a public purpose. The provisions of the National Trust Law do not subvert or block or frustrate or disable the provisions of the Land Acquisition Law or the Roads Law.

I don't know what this evil empire is that has unrestricted powers that is going around buying everything up and the Government can't do anything about it, and the Government can't act in the national interest, it is impotent, it is completely prevented and frustrated from being able to do anything in the public good and the national interest of the country. I don't know where that entity is, but it is not reflected in the National Trust Law. It is not reflected in the actions of the National Trust to this date, Madam Speaker.

Madam Speaker, the Member for North Side, the mover, spoke specifically about the Council of the National Trust. The Council is prescribed in the National Trust Law in terms of its composition. For these purposes I would simply like to refer to—

The Speaker: Honourable Member, is it your intention to conclude shortly? Otherwise, I would be minded to take the luncheon break.

Hon. G. Wayne Panton: Madam Speaker, I would certainly agree that a break at this point would be welcomed.

The Speaker: We will now suspend until 2:00 pm.

Proceedings suspended at 1:02pm

Proceedings resumed at 2:24 pm

The Speaker: Please be seated. Proceedings are resumed.

[pause]

LACK OF QUORUM

The Speaker: Can we please ensure that the House is quorate, and that the appropriate officers are in place? I'd like to commence. We're already 22 minutes past [two].

[pause]

The Speaker: We need one more Member, Serjeant.

[pause]

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 7/2014-15— AMENDMENT TO THE NATIONAL TRUST LAW (2010 REVISION)

[Continuation thereof]

The Speaker: Before we took the luncheon break, the Honourable Minister of Environment was speaking. He has one hour remaining.

Honourable Minister responsible for Environment.

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

The mover of the Motion talked about the composition of the Council and complained that there is no North Side representative on the Council. Each district is supposed to have a committee. And each district is represented on the Council of the National Trust in the form of a chairman for each district council. Now, I have been involved years ago with the National Trust. I was a legal advisor to the Trust at one point. I was a member of the Council. I believe I am right in remembering I was a deputy or vice president or vice chairman. And I do recall that there have been many instances where the district committees of the Trust haven't operated properly. But that's not necessarily a fault of the Trust itself. It could very well be, and generally is, that the district committees just don't meet and operate properly.

The Law provides that the chairman of each district committee should be represented on the Council. And that is set out in section 5(3) of the National Trust Law, where it says, "**The Council shall consist of the following members -**

- (a) the chairman, vice-chairman, secretary, treasurer and nine members who shall be elected at the annual general meeting for such term as shall be established under bye-laws made under section 16;**
- (b) three members appointed by the Governor, one each nominated by the Ministries responsible for Natural Resources, Education and Tourism matters, who shall hold office at the pleasure of the Governor; and**
- (c) the seven persons being the chairmen of the District Committees."**

So, Madam Speaker, the Law provides ample opportunity for district representation. It just happens

that, for whatever reason, there are from time to time issues with district committees not functioning, not having chairmen who are willing to participate and serve on the Council to ensure that their districts are adequately represented.

Madam Speaker, many of [those on] the Council are Caymanians. But certainly there is nothing in the Law which requires that either the membership or the Council is exclusively or, by some particular number, Caymanian. And it clearly was considered an issue that was intended, otherwise, it would have been set up that way when the members of this steering committee that were creating the National Trust Bill put it together. And that is the way it should be. We should have people, residents here who are involved, who serve on things like the National Trust, who get involved in our community, who work side-by-side with Caymanians to protect and preserve what reflects value to Caymanians in the form of our natural environment, culture and our heritage. There are many, many Caymanian families that have a long record of involvement with the National Trust. There are the Fosters, the Merrens, the Coes, and the Ebanks. These are all names that we recognise and people who have been involved with the Trust. There have been many others over the years as well.

So, it's a shame, Madam Speaker, that there are times when districts are not properly represented because the committees for those districts are not operating properly. But I would submit that that is not a failing, necessarily, of the body of the National Trust, and it doesn't derogate from the important functions, the important objectives and the exercise of the powers by the Trust which it properly has.

Now, Madam Speaker, there is one thing about the mover, the Member for North Side, which is interesting in relation to the National Trust. He is nothing, if not absolutely persistent in his attacks and criticism of the National Trust. I have never been able to figure out exactly why he feels that way. Even in this case, Madam Speaker, I found it very difficult and I think I have outlined why that is the case. He has referred to the National Trust as this evil empire. He says that there are things going on which was feared to begin with (I think was his expression).

Nothing in the Hansard of this honourable House, the proceedings of this honourable House when this Bill was being considered, reflects anything in the way of fears of an evil empire. It has been made very clear what powers the Trust has, why it has those powers, how it exercises those powers, and that it has its exercising powers just like any other empowered body corporate or person in this country to acquire a property through the normal purchase and sale process; through the normal process of putting a willing buyer and a willing seller together without any threat of compulsory acquisition or anything has no greater leverage than any other potential buyer. But it has the

justification of pursuing the objectives which the Trust was given by the legislature, by the people who sat around the table and thought these were the kinds of powers that this Trust should have in order to help do a better job than what governments around the world have typically done in protecting natural environments and protecting matters of culture, in protecting historically important areas.

There are many, many examples of national trusts being set up. And the wheel wasn't reinvented here, Madam Speaker. We have very similar legislation across the overseas territories and many other commonwealth countries have similar structures with national trusts performing similar functions and having similar powers. In fact, looking at some of the overseas territories, Bermuda, Turks and Caicos and BVI, Anguilla, it's all very similar. Even down to the provisions relating to inalienability and making things inalienable. I think I have clearly set out why that shouldn't be reflective of a concern or something which is regarded as evil or some kind of bogeyman which overrides the interest of this country.

Madam Speaker, one other aspect I would like to touch on in relation to the Member's contribution is that he referred to the offences under the [National] Trust Law; I think it is section 18. In relation to that, Madam Speaker, he pointed out that the provision says "**A person who -**

- (a) takes or attempts to take any wildlife, either flora or fauna, on Trust property;**
- (b) starts any fire on Trust property, except in any area where, under the by-laws of the Trust, fires are permitted;**
- (c) removes any artifact from any Trust property;**
- (d) defaces any Trust property; or**
- (e) refuses to leave Trust property when required to do so by an officer, employee or agent of the Trust under section 17, is guilty of an offence."**

Madam Speaker, in every one of those provisions it says the offence relates to activities carried out on Trust property. So, if we look back at the definition of Trust property, it clearly says, "**'Trust property' means the property held by the Trust.**" That is any property held by the Trust, Madam Speaker, not property which is exclusively made inalienable. It is *any* Trust property. Now, clearly, the framers, presenters, the people of this country involved with the steering committee, and I believe there was about 20 of them, all became the founding members of the National Trust pursuant to the Law. They all clearly felt that that was an appropriate provision because that is the basis for the National Trust, "to protect and preserve property of historical, cultural and environmental value". But the important thing is that it doesn't matter

whether the property is declared inalienable or not; it is any Trust property.

Certainly, in terms of the Motion and the resolution we are asked to consider, it wouldn't make any difference, because the Motion asks for the Government to consider amending the National Trust Law (2010 Revision) to provide that the National Trust may only purchase land to be made inalienable after approval of this Legislative Assembly, and that such inalienable land can only be alienated by this Legislative Assembly.

Madam Speaker, the provisions of the Law are very clear in terms of what the purpose was for this. The Trust, based on the description of activities, even those that the Member has indicated, is exercising powers which it has. It is a complete stretch to suggest, a mile long stretch, several miles of stretch, to suggest that this is somehow an abuse of power. They are not abusing their power; they are performing the functions for which the National Trust was created, for which it was intended, which the movers of this Bill, and all Members of this honourable House at the time who supported this Bill, either overtly by speaking in favour of it, or by voting in favour of it—as the mover of the Motion, the Member for North Side did.

Madam Speaker, in summary, the Trust, far from being the evil empire, far from creating problems, is simply performing the functions that it was intended to perform. It is exercising powers that it has. It is serving the interest of the country. There are in excess of 1,000 members of the Trust. There are many Caymanians, many well-known Caymanian families that have been involved both now and in the nearly 30 years that this organisation has existed who have been involved. So it's difficult, Madam Speaker, to understand where this great offence is, where the great sin is that it is alleged to be committing. This is why the Government feels that we are not in a position to accede to the Motion, to accept the Motion, because the Motion doesn't really serve the purposes that the Member seems to suggest that it does.

Why does the Legislative Assembly need to decide what land which the National Trust owns is made inalienable? Why is the Legislative Assembly required to be involved in a decision about what land the Trust decides it doesn't intend to sell subject to this higher standard which is required to be met in order to reverse that in order for the Trust to sell it? That higher standard is, of course, the two-thirds majority of all members of the Trust, subject to the condition that it is in furtherance of the purposes of the Trust.

We don't see why this should be accepted. We don't see that the Motion, as framed, achieves what the Member is trying to achieve and we don't see the harm, we don't see the offence that is being committed in relation to this. I have outlined, I think very clearly, Madam Speaker, that the Trust is not

some super body that exceeds the powers of everyone else who owns land in the Cayman Islands and somehow the Government is powerless to exercise interest in the national good, in the public good for roads or for some other purpose which represents public interest. The Trust is subject to that, as is every other organisation and every other individual, Madam Speaker.

With that, Madam Speaker, I think I have outlined on behalf of the Government why the Government doesn't see the need and doesn't feel it is in a position to accept this Motion. The recitals are somewhat inaccurate, if not completely inaccurate. The representations that are being made as to justification for the resolution are somewhat dubious and are questionable and the resolution itself seems to want to achieve something which it doesn't do. But the purpose that it is apparently trying to achieve, to fulfil, isn't, in our view, a justifiable one.

With that, Madam Speaker, I will say thank you very much and take my seat.

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

The Member for East End.

Mr. V. Arden McLean: Madam Speaker, I am not going to be very long. But, I will leave the Member for North Side who brought this Motion to respond to the Government's lack of acceptance. However, I think it's necessary that I make a few points.

Madam Speaker, I have said on more than one occasion that I am no tree-hugger, but I understand that extinction is forever. I understand what that means. But, certainly, I believe that in the Minister's explanation of how the National Trust has the right to purchase property and the likes, there are certain times when we have to ensure that in the interests of this country certain things must be done. Whilst the National Trust has its value, we need to somehow not allow the right of use of lands in this country to fall outside this legislature, how it's going to be used, even if it's in the hands of the National Trust.

Much of the land that the National Trust has does not fall into the category of sensitive lands. But, Madam Speaker, I have seen that on more than one occasion. If this land was acquired on that basis there may be some merit. The National Conservation Law cannot even now get properties other than government properties, cannot prevent development and the likes—the same law that we just passed. Madam Speaker, that in itself speaks volumes in that even if it is a sensitive property they have to try and purchase that property. But if it is refused they cannot acquire it under the Land Acquisition Law from the owners.

Now, Madam Speaker, I know we will soon have amendments for that one too. But whilst in the last administration of PPM we gave the National Trust

almost 300 acres along the Wilderness Road for the parrot reserve. That is not recorded as their land though.

You know where it is. You have plenty land there too. They are coming for yours next. You have plenty land there. You have about 40 acres there. I know. I know everything about East End. I wonder what you'll develop on that.

Madam Speaker, upon your appointment to Cabinet in 2009, you solicited my help to reroute the East/West Arterial around that said piece of property. And I believe we successfully did that. And it's now demarcated somewhat around it. It was merely touching the fringes of it. It would have taken out probably about five acres or something like that, off of it.

Now, Madam Speaker, we know, or most of us around here know, that the iguanas in that area were never a part of the history of East End. We are creating new habitats for iguanas—the blue one, yes. The reason is that that's where they used to roam before, and that's not true. Nobody from Gun Bay had ever seen any iguana in there. Okay? They used to be up on Battle Cliff. Don't ask me why they call it that. We'll explain that later.

Madam Speaker, likewise, I don't believe any iguanas have ever traversed the Salinas. The Salinas have, by and large, been undevelopable right in the middle of the country in East End. That's the same Salinas that the George Towners made millions and millions and millions off of when they extracted all of the commercial value out of their Salinas in George Town and put up all their buildings. What was it Eagles said about that? "Put up a bunch of ugly boxes, and people bought them."

Madam Speaker, prior to my becoming a Minister, Gilbert McLean was the Minister. And in a stroke of genius he gazetted the first arterial right in the middle of the campaign in 2009. When the frenzy was going on Gilbert was working in the interest of the people of this country, particularly the people of East End and North Side. And mere days before the election . . . I think the election was Wednesday, and that was gazetted for Monday prior to the election. Right in the middle of the frenzy, Gilbert got this thing gazetted. And no one noticed that it was being gazetted. That's why I call it a stroke of genius.

Madam Speaker, it comes in close proximity to the Salinas. What the architects of that road did was to go straight on the boundary of the private properties and then the Salinas. The Salinas are a couple hundred acres. The only reason the Salinas were left there is because it's not arable land. And then it was given to the National Trust. That must have been one of the first pieces given to the National Trust; the Salinas. I know they are held bent on rerouting that road. Madam Speaker, I must tell you I can't support that. I cannot support that. And I see the Minister looking.

Madam Speaker, the reason I can't support it is because if . . . first of all, Madam Speaker, if you asked all of those on the National Trust, they own the Salinas and not one has ever been to the Salinas. So they don't understand what they have. But, of course, they see the road going on its boundary and immediately they object to it. Now, let me explain why the boundary is where it is at. The Salina, being oval shape right in the middle between East End and North Side, is shallow rock with Salina on it. What the people of East End did was to claim the arable land up to the black mangrove swamp. They didn't go into the swamp; very little, maybe a couple hundred feet. Where the Salina is, is then that much farther. You have to go maybe a quarter mile before you get into the Salina. It's arable land, beautiful land, just like all the land in East End which we are dependent upon to have produce.

Now, if we were to shift that road out of the Salina off that boundary we are going to destroy much of the arable land that is left for farming, the expansion of farming. So I am not going to support the relocation of that road. So it's all the properties, the arable land . . . well, most of all it was used for cattle rearing, really. And then you get to black mangra swamp. Do you know what black mangra is? Not mangrove, mangra. Black mangra swamp, black mangrove swamp, and then you get into balsam. I know we all know what balsam is. The people who write these papers don't know what balsam is, though because they are not Caymanians. That will be another headline, but there's going to be plenty headlines this week. Trust me.

So, Madam Speaker, I have been through that place maybe three times in my lifetime because it takes so long to traverse that swamp and that balsam to get to the Salinas. So actually, the road is not impressed on the map. Where it is impressed is not into the Salina. And, Madam Speaker, the Premier can attest to that. He has been there. His father dragged him up through that bush too. So, because they don't know and they see on the map the proximity, it looks fairly close to the Salina. And it's on the edge of the property of the Salina, they want to relocate it. There's no need to relocate it, because we are going to destroy the private land. And right now it has taken probably about 80 feet, 45 feet or something like that. It is 125 feet wide. It has taken some of the private property as well as what appears to be the Salina, but really it's that black mangrove swamp. I have some concerns with that, Madam Speaker.

Madam Speaker, the Minister spoke about the Botanic Park, and quite passionately. I think it's commendable that he can now come up and speak so passionately about this Botanic Park, but obviously he doesn't know the origin of the Park. Well, let me enlighten him.

Madam Speaker, when the people from Jamaica, the Matalons, leased the SafeHaven property from government and they were going to develop it, one of the conditions placed upon them by the Authority was that they would provide storm belt elsewhere. Now, the Minister of Works and I were on Planning immediately following the approval of that development. And, Mr. Kirkland Nixon, who was in charge of the National Trust, came to us to try to convince us to give them all of the public open space around the country so they could sell it to buy this piece of land that had become available because they wanted to do a botanic park.

At the time Mr. Miller was in Government; Mr. Benson [Ebanks], Mr. Norman [Bodden] and the Honourable Linford Pierson. Madam Speaker, the Minister of Works and I picked up on it immediately and said, *Why don't we bring Matalon in and get him to purchase that? We have control over the storm belt anyway, so what's the use of buying it back when the Planning Department and the Government can control the storm belt and say you can't remove it?*

Mr. Matalon came in and was elated because he couldn't find any storm belt. Who was going to sell him the storm belt along the North Sound? And if this was the exchange, then he was quite happy to go and purchase this piece of property. That is how the Botanic Park came into being under Mr. Kirkland Nixon.

It wasn't a special spot; it was just that Kirkie himself could work and throw hoe and do what he had to do up there to make it into a botanic park. There wasn't anything sensitive about the properties; it's just that these people were selling it. And for the purposes of this exercise I think I should let the Minister know that the Botanic Park is in East End (if he didn't know that). So, there is much already owned by the National Trust in the district of East End too. The Botanic Park is in East End. I guess we will figure out the geometry on that, that you go North Side to get to East End.

Madam Speaker, I support the National Trust. But, certainly, there are things that we need to ensure we have the right and reserve the full authority over some of these things, such as, if I am the representative of the people of East End, I am going down kicking and screaming about realigning that road, because it's going to destroy all our people's land. It's just a matter of less than a couple hundred feet (125 feet I think it is) that has been gazetted there. It will not disturb the Salinas, I promise you. It will not.

Madam Speaker, I agree with the Minister. If you don't get a willing seller, a willing buyer can't achieve his objective. I understand that. But he did say that what makes East End and North Side extremely attractive just happens to be that the people of East End and North Side preserved it. And that's true. I have said that too. That's what that Minister of the Environment is trying to chase. But he's chasing an elusive dream because we are not selling him any of

that land. They have their drones up there now taking pictures. But because since this country was discovered we have preserved it, I have confidence that the people of East End can continue to do so.

And we have beautiful land there. I have invited that Minister on more than one occasion, Madam Speaker, to come to East End with me so he can get an appreciation, not only for the beauty of that terrain, but also an appreciation of how the people view this land. You are not going to see subdivisions and all that up there. Trust me. But the Minister won't come. I don't know if he's afraid and needs a helicopter to bring him up there or what. I have offered to use my truck to take him in there. He just won't come. I really want to take him there so he can talk to some of the people and understand why they did what they did and why they want to go on doing what they have done, because it saved their properties and passed them on from one generation to the next.

Madam Speaker, I won't tell you and many generations past us that something else won't transpire up there. I would never do that, because I can't speak for them. But in the foreseeable future, I don't think we are going to get to the point where anything up there is wantonly destroyed. I am positive of that. But I still want the Minister to go with me so he can see. And then he can see where this country, and why this country will never fail when it comes to feeding its people because of that same arable land that we have. And that's all we have left in the country.

Madam Speaker, I understand you gravitate to where your needs will be fulfilled, which is to preserve something and create your own little icon, and create your own little castles in the sky and look for your longevity in whatever you have created. But I mean, I think that we need to be extremely careful how we try to foist that attitude on people who have it, such as East End and North Side [people], because they too think of what George Town used to be. Madam Speaker, I left a forest for them, you know. I didn't cut through the forest. You remember that.

[Inaudible interjections]

Mr. V. Arden McLean: I wonder why that isn't being bought in George Town. Has it been offered to the National Trust? Has the National Trust tried to buy it? They worked hard to stop me.

[Inaudible interjection]

Mr. V. Arden McLean: If they don't buy it I think that under the National Conservation Law somebody needs to approach those rich people up there to buy their property, because they stopped me from putting the road through in the interest of the country. So, Madam Speaker, it would be in the interest of this country for us to acquire that property in the middle of

George Town, because I understand they only have three-quarters of an acre owned down here—the National Trust. If that is what we are going to do we need to go at those people who have this property and try and buy it from them as well. Don't just go at the people we know may be in their evening of life and they are somewhat desperate because of the economy in this country to have a few more dollars and they will agree much more easily. We also have a responsibility to preserve in George Town.

[Inaudible interjection]

Mr. V. Arden McLean: But, you know, Madam Speaker, we allow everybody to come seeking a place to stand or a place to hide. And we allow them to gather right here in George Town and we don't try to stop them. Then all of a sudden we spread it out and try to stop all those others who have preserved it. So we made our mistakes in George Town. There are a few places left that we can still stop, put a freeze on it. But, you know, we have already allowed somebody to buy it up so they are not going to sell. So, we have to go rush, and find it elsewhere.

Madam Speaker, a classic example is they say that the silver thatch is close to extinction.

Say what?

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, I don't think that people totally understand how the people of East End and North Side idolise those trees. They are seriously protected by the people because of what it means to them. Maybe not directly to that person, but indirectly some of their family is still doing straw work and stuff like that. If you put a bulldozer on some of that property up there they tell you do not knock down any thatch trees. That's how this conservation works. It's about a heritage and passing it on. That's what it's about. But in George Town, everybody has extracted every one cent, they squeeze that lime until they drink their belly full to get lemonade. Now there is nothing left in George Town. There are a few little pieces left, but nobody is interested in that because they are going to have to pay too much for it.

There is such a thing as compulsory acquisition. So, I am challenging the Government and, in particular, the Minister to start using the acquisition provision to take a few pieces of these properties in George Town so we can preserve for the children of George Town too. Why should the future children of George Town have to drive to East End to see a silver thatch when we have a wild orchid right up there along Walker's Road? Stop it! East End children should come to George Town to look at that wild orchid. But we are making them destroy that. And then we are going to transplant it to East End. And then

East End and North Side will be fenced off as the great reserve. And then we will receive our 10 per cent that we look for. Just up there? No man; that's not fair.

I see a couple of places up there by the building on Elgin Avenue too. Stop it. A couple of pieces of bulrush left in George Town, Madam Speaker. We don't have to go to the Salinas to look for it. The children in George Town should be able to learn what it's like right there in all of that—

[Inaudible interjection]

Mr. V. Arden McLean: But no, we want to build the boxes and build them 10 stories high so we can get all the economic value and get rich overnight. And then we go to East End and we'll call that paradise next. Then that will be destroyed too. Oh yes, not today Bo-bo. Trust me.

Madam Speaker, I just want them to know that those who are hungry for power are not lighting any neon way up there; not up in East End, because there is nothing up there for them to do. We have preserved it as much as we possibly can.

So, Madam Speaker, I believe that much has been gained by the National Trust in East End as well—the Botanic Park, the Salinas, the Parrot Reserves, and the Lighthouse. I wonder if the Minister knew that was part of their remit as well, the Lighthouse next to the Connolly's estate, Warren Connolly's house. That's National Trust too. But some old lion tongue grass up in there is choking it. So, I don't know when they are going to get that cleaned up.

Madam Speaker, like I said, I support the National Trust. I think they have a function in this country. But we need to be careful how far they go. And we need to see that it is not only concentrated on the areas that others have taken care of all the time. We really need to come into George Town and along West Bay Beach and use the [Land] Acquisition Law to take away some of this property, to acquire some of this property, on behalf of the National Trust so that George Town can have someplace too. We can't just concentrate it on one end of the Island. It's not fair. Our people are not viewing that as being fair to them.

I had hoped that the Government would have at least said to the Member for North Side, *If you amend this we would accept it*. But, you know what? All I can tell you, Madam Speaker, is how much land I own in East End. Forty nine and eight, is what? Fifty seven? Fifty seven acres. Part of the 49, I own one-eighth or one-seventh. The eight acres, I will always own one square yard which will be passed on to my children. Sensitive or not, that shall never be bought nor sold. So, I think that you just step around and go to someplace else.

Madam Speaker, my little eighth, compared with some of us in here and how much they have,

mine is like a fly on the back of an elephant—of no significance. Some of them in ya got plenty of it ya nah, up in East End land—plenty that they are going to inherit too. They better look out. While people can step over mine, they have to walk through theirs and they will notice it.

Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Final call, does any other Member wish to speak?

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

Mr. D. Ezzard Miller: Madam Speaker, in all of my years in this Assembly, from the time I came here I came with two books. On any motion that I have ever moved here I have had two speeches prepared: One was short, nice, above board, blame nobody for anything, never called anybody stupid, never called anybody can't understand, and never called anybody of those kinds of things. But, Madam Speaker, I learned after the first year that I should take the time the night before I come to prepare another speech in case that's the way they want to go. So, Madam Speaker, I took out the other book.

Now, Madam Speaker, the Minister responding on behalf of Government had much to say about what happened while I was here and why I didn't speak on this, and misinformed the House that I had voted for the Bill. Now, Madam Speaker, I have in my hand the vote on the second reading debate on this [Bill]. And the mover called for a division.

“[Hon. Vassel G. Johnson:] Can I have a division, Mr. President?”

“[Mr. President:] Certainly.” (We had a Governor in charge then. They talked funny; didn't talk like me.)

3“Ayes: Hon. Thomas C. Jefferson; Hon. Richard W. Ground; Hon. J. Lemuel Hurlston; Hon. Benson O. Ebanks; [Hon. W. Norman Bodden]; Hon. Capt. Charles L. Kirkconnell; Hon. Vassel G. Johnson; Mr. W. McKeeva Bush; Mrs. Daphne L. Orrett; Mr. Linford Pierson; Capt. Mabry S. Kirkconnell; Mr. James M. Bodden; Mr. G. Haig Bodden . . .”

The Noes: [column is] blank.

You noticed I didn't call my name, Madam Speaker?

And, Madam Speaker, all of us in here know how that works and what that means. But let me remind the country and let me demonstrate the most recent occurrence that has just happened. Remember Friday? Everyone supported the motion on crime. Every man got up and spoke for it. On Monday, eve-

³ *Official Hansard Report*, 11 September 1987, page 17

ryone supported the motion on immigration. Every Member spoke. Today, one Member spoke, because they don't want to get up. I was a supporting back-bench member of the Government when they brought this Bill. I had no desire to get up and criticise my Government. So, that's why they never spoke. I was outside when the vote was called because I didn't want to vote against my Government.

I didn't debate it. There is no record in the Hansard of me speaking on the Second Reading debate of the [Bill]. And, Madam Speaker, I really don't have a reputation of coming down here and not speaking on things that I want to speak on in support of. So, let's put that to rest.

He made a big deal of my speech when the two Members for Bodden Town tried to re-commit it. And I am proud of what I said then, Madam Speaker. I make no apologies for it because we got gone through . . . but you notice, Madam Speaker, lawyers are funny people, you know. And we see this in court every day. Same piece of evidence means two different things to different lawyers. They use this record to reinforce their argument. But boy did they ignore a lot of evidence that goes against that argument.

Madam Speaker, you will see we spent much time in committee on the Bill—it's recorded in the Hansard—because of the concern expressed by the two Members for Bodden Town about this same purchase land business, because they had the same concerns. And I am going to quote some of the statements.

Madam Speaker, the Minister put out here that this was a piece of legislation accepted in the country as if it were the greatest thing since sliced bread. Madam Speaker, there was much discussion in this country about this National Trust being able to morph itself into this evil empire that I think they are now! Before I sit today, Madam Speaker, I'm going to make some further accusations against them because I am beginning to believe that they are bordering on being the drunken evil empire. And I am going to demonstrate why.

Madam Speaker, you will notice that I am not a lawyer, so I just read the stuff. I didn't say I didn't support National Trust. I didn't say I didn't agree that the National Trust could buy land. I am not trying to stop the National Trust from buying any land. All I am saying, Madam Speaker, in my constituency they are buying too much!

Madam Speaker, since the Minister says he wasn't sure about the accuracy of my map, please indulge me . . . I will leave that for a little while. The shock and awe is coming next (borrow something from George W. Bush). Madam Speaker, they are looking over there contented. They don't think I have any argument. I am going to show you why the people, in particular, the adjoining landowners to this Trust property, are so worried in my constituency.

Madam Speaker, there was much discussion by our National Hero, Mr. Jim Bodden, about this ability for the National Trust to go out and solicit and buy land. There was so much discussion about it in the common room the day before the Bill was moved that the mover of the Bill had to make the kind of statements the Minister quoted. The Minister quoted him grudgingly, because he didn't want to read that part, you know. He only read that because he said I had read it. But there are other sections in there that go the same vein. He had to try to pacify the Members for Bodden Town because everybody knows that Mr. Jim [Bodden] and Mr. Haig [Bodden] were two of the most gifted orators and campaigners ever to come into this House, particularly when it came to criticising the Government.

I have been here and seen Mr. Jim speak for four days. Four days! That's why we have a limit now of two hours, Madam Speaker. I moved a motion in the Standing Orders Committee to restrict everybody to one hour, and we got two. We had four at that time; that's all I could get, four. And since, Governments have reduced it to two.

There is a reason why Sir Vassel said: ⁴**“Mr. President, one of the areas in looking at legislation which is also important is to ensure that the operation of the Trust is such that it does not accumulate an abundance of power which would lead at some time to challenging even Government.”**

“Mr. President, before I comment on the clauses of the Bill before us, I would just like to say that prefacing the clauses of the Bill we have the Memorandum of Objects and Reasons. It says that this Bill is to create a National Trust for the Cayman Islands its main purpose to preserve the culture, historical and natural heritage of the islands.” It didn't say anything about going out to buy land.

Of course, Madam Speaker, the law must provide them to buy land where it is necessary because of the cultural, historical and natural heritage of the Islands. Otherwise I agree with the Minister that it would be totally ineffective.

Madam Speaker, he went on to say, **“Mr. President, in subsection 2(b) which says the acquisition of any property by gift, bequest, purchase, lease or other means which would be used by the National Trust, and again this is to ensure that the power of the Trust does not upset people.”** That is what they are doing in my community and I am going to point out why.)

Now, Madam Speaker, there are a couple of reasons why the National Trust is getting the opportunity to buy this land. I am grateful some of the people can sell it to them. But here are the reasons why

⁴ *Official Hansard Report*, 11 September 1987, page 8

other developers are not buying the land and paying market value for the land, because most of this land is what we in North Side call estate land. It belonged to my grandfather—now owned (as Mr. McLean said) by forty-eleventeen people. When they go to the Government to subdivide the land, the Government tells them they cannot subdivide the land unless they have a 30 foot road. Now none of this land has 30 foot road. All we have is a six-foot, footpath. And when you go to the National Trust to ask them to give you an easement, they tell you no.

Madam Speaker, we have a gentleman who has invested a lot of time and money in developing some caves in North Side. Handel Whittaker gave him access; the Church of God gave him access. He needed to cross a little triangle piece of the National Trust land. The point right there [referring to a map], probably about 25 or 30 feet long and about 30 feet wide. Told him, *No, not doing it. We want the caves to buy.* The man had to go down in the district of North Side, buy a house and land that is over a mile away from the caves to get access to the caves.

This year, two months ago, I wrote the National Trust. The landowners in North Side want to put in a 40-foot farm road. We had to cross this piece of National Trust land. I went and met with their executive. In the generosity of the landowners, who, Madam Speaker, every one has given up 15 feet on either side of the boundary, and they have written a petition to Government saying they will not seek compensation for the land, because everybody will benefit. We provided two private owners 30-foot road to get to the National Trust land. The first thing they told me, Madam Speaker, was, *No, no. We're not supporting anything you do if you're putting this piece of road there, because we don't want any access to our land.*

I said, Why not?

Oh, in the negotiations we got with the Government's East/West Arterial Way, they are giving us access off of that highway and they are going to build us a house and all kinds of things.

I said Oh? Well are you providing an access through your land to get to these landowners?

Oh, no, no, no, no, no.

I said, Okay.

So I wrote them and asked them to give 15 feet off of the edge of the boundary from their land. Here is their reply, dated May 30th: "Thank you for meeting with us this week in relation to your request for your consent to an easement over the above listed property. In order to present your request to the Trust council would you kindly send me the letter of request you mentioned you would provide." [UNVERIFIED QUOTE]

May 30th: "Hello" (this is [Christina] Mrs. McTaggart Pineda), "Attached please find the letter and copy of the petition as promised. I apologise for

the delay as I was busy in the Legislative Assembly." [UNVERIFIED QUOTE]

11 June: "Re: Petition to Government to gazette proposed farm roads. Further to your letter received on the 30th of May 2014, the National Trust council has now reviewed your request in relation to the above matter. The council has agreed that should the Cayman Islands Government decide to gazette the road you are proposing the National Trust will work with the Government as needed. Until such time, the Trust would be grateful if you would remove as a matter of urgency its name from the petition being circulated as it will not be participating in the petition." [UNVERIFIED QUOTE]

Now, understand, Madam Speaker, the National Trust doesn't have any access to this land. They are trespassing on my family's land to get there. They don't even have a six-foot path to it!

Here we are, 20 landowners giving up 15 feet of road each to provide them vehicular access to their property, and this is what they write and tell the people up there? We heard the Minister say they have thousands of members. I don't know. They go to the Government, and the Government has to keel over, like they did on the East/West Arterial Way, and the Government is going to take the land from the private landowners. All they are going to tell the private landowners is that they could pay for the 30 feet. They will pay for the extra 15 feet.

Madam Speaker, the Minister said that the negotiations on the East/West Arterial Way were easy. It was agreed by all parties. Madam Speaker, understand that they have increased the cost of that road to pacify the National Trust by several million dollars because they have increased the length of the road. And the Member for East End can tell you that that up through there is a couple million dollars a mile, right? Okay. They are taking off of land that the Trust holds for the people, which they shouldn't have to pay for because it was already there when the road was gazetted, so they know the road was gazetted when they bought the land, moved it onto private land which the Government is going to have to pay for. But the National Trust doesn't have any power.

You see, Madam Speaker, this is how they insult and intimidate the landowners in my constituency with this kind of correspondence. [They] refused to support us to get the road, told us to take it off as a matter of urgency because they would not be supporting the petition. You know why, Madam Speaker? Because, that is how they keep the price of land down. When the owners of this estate land in North Side can't get permission from Government to subdivide it amongst the family members . . . and, Madam Speaker, the Minister of Planning and I have agreed that we are going to correct that in the Planning law he's bringing now. And if he doesn't bring it, I am going to file an amendment because people—particularly peo-

ple in the eastern districts—should be able to re-parcel land to pass it on to their children without having to have a 30 foot road because they are not developing the land.

Now, if one of the parcels wants to develop a housing scheme on it of 100 by 100 foot lots of course, they should have a 30-foot road. But if my father wants to re-parcel a piece of property that he owns into four parcels for his four children, there is no need to have a 30 foot road. But the Government and the National Trust do that.

You see, they won't give you any access. They won't even cooperate with you to get access from everybody else. They won't even sign the petition supporting it! And when the people put the land for sale, the real estate people tell them, *Well, you know, it's going to be hard to sell this. A developer can't buy it because he can't develop it because you don't have a 30-foot road to it. But maybe we can see if the National Trust will buy it.* Madam Speaker, many of these people need to sell this land. So, the National Trust agrees to buy it.

Madam Speaker, in the debate on the Budget I mentioned some of the problems you were having with the National Trust. The following week I happened to be at a social with the former treasurer of the National Trust. The Minister said he has no knowledge of them scheming to buy this land, right? Well I have knowledge of it. And the president [*sic*] said to me, *Ezzard, I heard you say something the other night about the National Trust scheming and strategising to buy this parcel to land lock that parcel so the price has to go down.*

I said, *yes that's the information I have.*

He said, *You don't know how right you are. As treasurer, we will sit around the table and plan to buy these pieces and land lock these other pieces to keep the price down.*

Now, the Minister said they get two valuations—big deal. All the land sold up in there is National Trust selling it. And we know how the valuations are done. Most of those real estate people value land not in its development potential or any of that, but on recent sales in the area. Yes. So, they buy this to keep the price down, otherwise how can you possibly explain the National Trust paying \$90,000 an acre for a pond in West Bay and buying good arable farmland in North Side for \$3,500?

The former treasure told me. He said that when Mr. Dart went up there and bought some of the wetlands, how upset the executive of the National Trust was because he was raising the price.

Now, Madam Speaker, individually most of us have no idea of the magnitude of what I am talking about—not even the people in North Side who are selling them the land. So I am going to show you, Madam Speaker. Indulge me a minute, I am going to

need the help of the elected representative for East End.

[Unfolding a map showing North Side land owned by the National Trust]

Mr. D. Ezzard Miller: *[Speaking to the Member for East End]* Keep going, keep going, keep going, keep going, keep going.

Now, that is the amount of land the National Trust owns in the constituency of North Side. Tell me where the future generations of North Siders are supposed to live, and are supposed to grow cassava. All of the coloured areas are National Trust.

When I did this research, Madam Speaker, I was shocked! When I show this to the people in my constituency at public meetings, they are outraged!

Madam Speaker, you can't tell me that this is not deliberate.

The Speaker: Member, perhaps you could assist the House by pointing out the demarked boundaries of North Side and that owned by the National Trust so that you can put the map into perspective.

Mr. D. Ezzard Miller: That is the boundary going west and then east.

Madam Speaker, remember that all of this down through here is not arable land. That's wetland—can't grow anything in there, can't live there, and they are not going to allow you to develop it. This is the extent of the arable land in North Side. This is Frank Sound Road; the boundary for East End is right here just off the map. No other Member sitting in this House can tell me this is reasonable and that this is not a threat to the future generations of North Side.

This is the farm road we were trying put in, you know. We wanted to put it over here, because you see it's a lot shorter. Right? And it is a higher cliff. The landowners figured, *Well, we could give the rock to the quarry people and get it done free.*

This is the National Trust piece of land that they refused to give us 15-foot easement over.

This is the two pieces of land that all of these people here were willing to give easement so that the National Trust could get to it. The first thing they made me do at the meeting was to erase this portion off. I did, and I tried to negotiate to get this little piece over here. Now they write and tell me that even after I did this, that they are not allowing this.

Madam Speaker, the Minister likes to talk that this is to preserve the Mastic Trail. Well, the Mastic Trail should be coming in right here and going out right here, below Breakers. This is in the Scott Quarry. They put it in behind the fire station down through here, come out up here. Now we see how little of their incorrectly demarcated Mastic Trail is over their land. So the Minister tells me that they are coming after all

this too? I know they are. I know they have made offers to people and I know it is below market value. I know of instances where family members are trying to buy the land, and the National Trust comes in and offers more than the family member to get it. And if you think I can't prove that, challenge me.

Madam Speaker, I get back to my question: Where are North Siders supposed to live and grow food in the future? I agree with the Minister, the inability to pick a mango up in here is not only confined to the inalienable land, on none of this can we hunt rabbits. We can't plant a root of cassava. We can't plant a head of yam. We can't pick a mango. We can't cut a top. We can't cut a piece of mahogany limb to make a table leg. We can't cut a piece of ironwood, or any other kind of hardwood (because we have different hardwoods up in there besides ironwood) to make a fencepost.

Madam Speaker, I know I am becoming public enemy number one, if I am not already that, because I am fool enough politically to get up here and challenge these people. All of them are saying, *But Ezzard, they are preserving the land. What are you complaining about? They are buying the land; they're not stealing it. They're preserving the land . . .* Preserving it for who? Not for us! We preserved it for them all these years. Now they are slowly, slowly taking away our heritage, our cultural practices.

Madam Speaker, this Parliament, this Government is comfortable, and is prepared to sit down and let this continue to happen?

Notice, Madam Speaker, my Motion didn't even ask the Government to take some of this land back and sell it to private people. All I am saying is that we need to slow them down. And the only way I know to slow them down is to force them to bring it here to buy it.

Madam Speaker, explain to me why, on the map that I tabled, you can't find what the National Trust owns in George Town or West Bay. Are you telling me that it owns nothing in George Town, nothing in West Bay that should have been preserved, that fits under the categories and definitions of the purpose of the National Trust Law? Why?

Madam Speaker, we are not talking about like the Salinas. Right? But they have the Eldemire House too but that can't appear on the map [SOUNDS LIKE]. But they don't have any rushes up on Shedden Road.

What is that road that goes up through there?

Mr. V. Arden McLean: Elgin Avenue.

Mr. D. Ezzard Miller: Elgin Avenue. They could have preserved some rushes up along there, right?

We are not talking about the Salinas, where the people don't use the land. The future generations, my grandchildren and their children, it's our responsibility to think about these people, you know.

I promise you, Madam Speaker, if the National Trust tried to own half of that acreage in George Town or West Bay, there would be a riot and the Law would be repealed. But no, it's North Siders, and they are represented by that radical Ezzard Miller! Right? *So, we can just ignore what he brings down here and let them continue to do what they do.*

Mr. V. Arden McLean: They don't understand. We can protect our own, you know.

You see what I did with Joe Imperato? You see what I went through with—

Mr. D. Ezzard Miller: Oh, I promise them that this is not the end. I have tried to come with what I believe is the correct way.

Madam Speaker, I have a smaller version of the map for tabling.

The Speaker: Thank you.

Mr. D. Ezzard Miller: Now, Madam Speaker, the Minister made a big deal about the National Trust is functioning so well, and although the Law says that they shall have district committees, they don't have any that I am aware of, certainly don't have any in my district. And I have no knowledge of them trying to form any, because they are quite happy to run it here in George Town.

The Law also goes on to say, Madam Speaker, that these heritage sites and sensitive areas must be identified by each district committee in its district. There is no North Side district participation in any of this. They can't come to North Side and have a public meeting about this. But that's what the Law says.

He said that I shouldn't complain if I don't have a district council in North Side, and that shouldn't affect the Law and all that kind of stuff. Madam Speaker, I am not going to waste too much more time of the House, but I have a few other things to say.

Madam Speaker, in the *Caymanian Compass* of Thursday, 11 September 2014 (as much as I hate to quote anything from this newspaper)—

[Laughter]

Mr. D. Ezzard Miller: But this is a paid ad, so I believe it's accurate. This is paid for. And that is how they make their money.

“National Trust of the Cayman Islands Notice of Annual General Meeting of Members. NOTICE IS HEREBY GIVEN THAT the Annual General Meeting (“the Meeting”) of the members of The National Trust for the Cayman Islands (“the Trust”) will be held on Thursday, [September] 25, 2014 at 6:00 PM at the Bar Crudo (below Guy Harvey’s Restaurant) at 55 South Church Street . . .”

Madam Speaker, you heard where they are having the National Trust general meeting? You see, when I say that I believe it has now become the drunken evil empire? This bar has to be open at 6:00 pm by law, under the terms of their licence! And, Madam Speaker, for something that was intended to be so worthy, so noble, so important to this country, we are having the annual general meeting in a bar on South Church Street!

Mr. V. Arden McLean: Look at the ad next to it. Read that.

Mr. D. Ezzard Miller: “Drinking—broken families” next to it.

As that great orator in here said about that candidate of his with the sign above it that said “Danger!” at least the *Compass* put the ad where they could be warned about the problems with drinking and broken families while they were reading it. But this is preserving our heritage? We are having the annual general meeting of this National Trust—that the Minister and the Government are so proud of—at a bar.

Oh, I was proud of it when it started, but I gave up on them 15 years ago for the same kind of thing. When it started they had the annual general meeting at the Town Hall, or the United Church Hall. How has it gotten so low?

The Speaker: Member for [North Side], you said the 25th?

Mr. D. Ezzard Miller: Yes, Ma’am, September the 25th 2014—I am going to table it—at 6:00 pm at bar Crudo, below Guy Harvey’s restaurant.

[Inaudible interjection]

Mr. D. Ezzard Miller: Madam Speaker, there are a couple of other things in this ad that I need to bring to the attention of the Minister who is so proud of this National Trust and their now activities. And these are the reasons that D. Ezzard Miller doesn’t associate with them anymore. “. . . **for the following purposes: 1. To receive the annual report for fiscal year ended June 30, 2014 and financial report for 2014.**”

And, Madam Speaker, getting back to the debate in 1987, what the Minister didn’t tell you is that the majority of debate then, because the people who [INAUDIBLE] didn’t want to produce audited accounts. And we had to force . . . not me because I took no part in it because I didn’t want to embarrass my own Government. But we all know how it works. We proved that here between Monday and today, on this Motion.

The two Members for Bodden Town, and the now Leader of the Opposition, had to beat the Government into accepting an amendment to audit accounts. He talked about how the committee that draft-

ed it was so worthy . . . oh, you have no idea what was going on.

“2. To elect members to the Council of the Trust.” Did you hear what I just said? To elect members to the Council of the Trust in a barroom.

“3. To transact such other business as may properly come before the Meeting or any adjournment thereof.

“Dated at George Town, Grand Cayman the 11th day of September 2014.”

Now, Madam Speaker, you heard the Minister boasting about the structure of the Council and the officers. **“A List of Nominees as put forward by the Nominating Committee at today’s date is as follows:”** That’s how they kept us out of it 15 years ago, you see? They didn’t publish it, but they wouldn’t allow me to submit somebody to be chairman.

Madam Speaker, I wonder why they are not electing a vice chairman, a secretary, a treasurer. Why are they only having election for chairman? Are those offices to remain unfilled? I don’t know who this is, because this doesn’t appear in the Law. And although the Minister is a lawyer, and he tried to lecture me on the correctness of my motion and my “where-ases” and whether it was meaningless and stupid and useless and everything else, there is nothing in the Law about electing a general council member. The Law only refers to council member. So, I don’t know who these “general council members” [are] and what authority [they have] in law.

Madam Speaker, the domino key goes on both ends: **“Please note – you must be a current (2014) member of the National Trust for the Cayman Islands and be 18 years of age or older to vote at the AGM.”**

I will bet you, Madam Speaker, that anybody who is not a member because [they have] not paid their membership fee (because you have to pay for this you know), never got any letter from the Trust inviting them to pay their membership fee and be allowed to vote. When they go there, if they go, they are going to tell them they are not a member because they didn’t pay their fee. I’m not asking anybody; that’s what they did to my people. They paid their fees that night and they wouldn’t make them vote.

Madam Speaker, the point I am trying to make to all honourable Members is that not because the movers and the framers of this intended this to be a good thing, that it is a good thing at this stage. There is plenty wrong with what’s going on in the National Trust, and the Government needs to take it in hand and the Government needs to sort it out. The Law doesn’t say there *may be*, there *might be*, there *could possibly be* district councils. The Law says there *shall be*. The Law says that the preservation of heritage, environmental sites, et cetera, in land in the district must be recommended by that district council. But they are sitting in George Town in a boardroom as an

executive planning how to get land from North Siders cheap.

Madam Speaker, I can tell the Government, because, Madam Speaker, you noticed, when the Minister was naming out families that support the National Trust, he never mentioned the Millers, he never mentioned the McCoys, he never mentioned the Connollys, he never mentioned the Chisholms; none of those people. [He] never mentioned any of them. They own land up there. And, as Mr. McLean said, I can promise them that the day they buy that piece they are joining onto now—

The Speaker: Member for North Side, please make sure you are speaking into the microphone so the Hansard can correctly record what you're saying.

Mr. D. Ezzard Miller: Oh, I believe they can hear me, Madam Speaker.

I promise you that that arc [SOUNDS LIKE] you see them have now, the land that they joined that onto, they ain't going to buy. If they buy that, you know Ezzard Miller is six feet in the Chisholm graveyard. And nobody is going there to build any vault only 48 inches deep. They are going to make sure I'm six feet so they can keep me down, because only this Government gives contracts to people to build vaults six feet and accepts it at 48 inches deep. And they tell me I'm wrong.

Madam Speaker, I am going to rise up my people. I had a conversation with somebody Saturday night where the Trust has approached them (the Minister said they don't approach them) wanting to buy some estate land. I said, Do you realise that when the Trust buys that now that that is not like when you sell it to some private developer and you can call him up and say, *Can I get a couple of mangos? Can I keep my ground there?*

We do this all about in North Side. Plenty people have ground on my land. I don't charge them for it. If they get 100 pounds of yam they give me 10 [pounds] or something like that, out of it. The National Trust cannot give you permission to pick a mango under this Law! It cannot give you permission to hunt a rabbit. It cannot give you permission to set fire to grass piece to kill ticks that are killing your cows! It cannot give you permission to cut down the high land and burn it on top of the cliff to get fertiliser for your yams and you can plant yams in the hole. The Law prohibits them from doing that!

But the Government seems comfortable. *Well, we're not going to enforce it.* Madam Speaker, they don't have any choice!

These people will not even cooperate with the landowners in North Side, all of whom supported the National Trust financially when it was founded, and served for years and years and years on their district councils. And you can't give us a 15-foot easement

over your land because you believe that you are going to be a land lock?

Madam Speaker, if I have to mortgage and sell everything I own, I am going to put up six-strand barbed wire eight inches apart. Tell not a National Trust member to walk across my land to get to theirs because they are trespassing.

I had a run-in with them a couple of years ago. Big ad on the radio: "Leading Delegation to the Chisholm Graves in Forest Glen." I called up the chairman. I said, *That's private property. Stay off it!*

Oh you shouldn't feel . . . I shouldn't feel that way? This ain't their land, you know; it's the people's land.

Now, they can go East End and buy 30 or 40 acre pieces and build a house in the middle of it. That's nice. That's beautiful living. But I can't go up there now and build a house, because I can't get to it. Other persons can't go and live on their land . . . and, Madam Speaker, it nah too many mules around here now you know. My grandfather could grow 50,000, 60,000 pounds of white yam a year up in there. Every year! As a boy, we wanted to ride the mule so bad that we walked the mule out with two yam baskets on him just to get to ride him back. We are trying to get a road to it now, and they are doing their best to stop it!

Remember I spoke about the man doing the cave? Just let me show you. [*Referring to the map*] He could have come across here to get there. They wouldn't make him cross that little corner right there, you know—that *little corner right there*. He had to go buy this house over here (see his road there?) to get to his caves. But they are preserving my heritage, right? They are protecting it. Thought the man couldn't find an alternative, you see. Five or six years from now they will offer him \$3,000 an acre.

Madam Speaker, it has to stop.

I don't know what else we in North Side can do to try to get some sympathy from the Government or try to get some sympathy from the members of the National Trust. Land in Cayman is a precious thing. And I want to remind people that the big demonstrations led against the cadastral survey when they got to Roscoe's and said Government owned every square foot of swampland east of that. You remember that, Mr. Anthony? Mr. McLean will remember it too. Some of the young ones are too young. But the people of North Side, East End and Bodden Town that came down here and forced the Government by closing this town down said, *Listen, unna gonna treat swamp land in the eastern districts, the same way unna treated West Bay and George Town. If you have papers for it, you own it. If you don't have papers for it then give it provisional title. And if nobody else has claimed it in 12 years, it's yours.*

But the Government of the day intended to claim all this [*referring to the map*] because it was swamp land—didn't work.

Madam Speaker, all of us can create an action. None of us knows what the counter-action or the consequence of that action is going to be. We have fought the National Trust for the last 20 years and the Department of Environment trying to take this land away from us; the same people, Madam Speaker, who enjoy all of their economic benefits for their families and their inheritance in West Bay, Seven Mile Beach, George Town, Savannah, a small part of Bodden Town. Now that the development is coming that way we must pay the price for them to salve their consciences because they destroyed what they had in George Town for money. For money! And now they want the children to see a thatch tree. So, we must pay the economic price now.

Madam Speaker, if the National Trust wanted to preserve the Mastic Trail, and they wanted to claim the land 100 feet, 300 feet each side of it. I would hazard a guess that every landowner up there would give it to them before now.

Getting back to the conversation with the gentleman Saturday night: I said, *Let me tell you something now, old boy. Oh*, he said, *they are going to get two evaluations, you know.*

I said, *Yes, but those evaluations are going to be based on recent sales in the area.*

And, Madam Speaker, I didn't make this up, you know, Ma'am. The Minister who responded on behalf of the Government tabled this in Finance Committee. This is produced by the Government—prices that they paid for the land.

In August 2004 \$3,338 [was paid for] an acre.

On February 14, 2011, \$8,757 [was paid for] an acre of good arable land, when a third of an acre on Frank Sound Road is \$90,000. And you are telling me that somebody is not knowingly taking advantage of these people?

Now, Madam Speaker, curiously, we have one piece bought in 2009 where they paid \$40,000 an acre. The question is now, who did they buy that from? So, in 2009 the Mastic preserve was worth \$40,000 an acre. In 2011 it was only worth \$8,500 an acre.

Unna have access to the land register, go and look it up and see who they bought them from.

[Inaudible interjection]

Mr. D. Ezzard Miller: And I said to guy, *They are going to value it based on recent sales and they are going to offer you \$3,000 or \$4,000 an acre.*

He said, *You must be mad!*

Go ahead, leave it alone. But I said, *Here's my recommendation to you: You tell them what I tell every other person who owns land up in there—minimum, \$100,000 per acre! Minimum!*

I know one family member did that too. Wrong guy! They said to him, *Oh, we want to buy this piece*

of land. [He said], *No problem. What are you offering?* They told them they really hadn't decided what to offer him yet. He told them, *You tell them that the first offer needs to be \$500,000 an acre, and then we can talk about anything where we will negotiate up from that.* Well, trust me, they didn't come back.

But, Madam Speaker, this is good arable, valuable land. This is expensive land. This land has great development potential for the families that own it. And I am saying here publicly today to the families and estates that own it: Do not give it away to the National Trust under some proposal from them that they are going to preserve it for you, because you can't get a mango off it.

Madam Speaker, the Minister made a big thing out of the fact that when I said that it had . . . what? To stretch it a mile, I think he said, in order to equate what's happening in North Side to abuse. Well, we had some recent announcements about certain things that we had plenty rules out too, you know. But we know they were abused, at least what is coming out now is indicating that it's abuse. So, having the rules to some of these people doesn't mean anything. They are making up their own rules. And that's evidenced by documents they produce.

Madam Speaker, I didn't make any complaint about the offences under the Law. I think they are reasonable offences for inalienable and Trust law as long as it is confined to small areas and they are really protecting something. Nobody in my constituency would have a problem if this was a 30 or 40 acre site. Nobody! But you can't tell me that it is fair and reasonable to own, according to this document, 500-plus acres in the North Side constituency, 63 acres in Bodden Town, half an acre in George Town, and 3.6 acres in West Bay. Are you telling me that George Town and West Bay don't have any heritage at all? I might agree with you.

[Laughter]

Mr. D. Ezzard Miller: But I don't believe you.

Mr. V. Arden McLean: Other than greed.

Mr. D. Ezzard Miller: Money, money, money.

Madam Speaker, this is not the first time that we have been victimised you know. All along George Town and West Bay coastline and the North Sound for storm belt, they gave up 300 feet. My landowner constituents had to give up 1,000 feet.

I have maps in my possession, Madam Speaker, where they have these environmental over zones lay, and they take half of my family land beside it and they follow the boundary around their land. They don't take a square inch from them but took 30 acres from me. And they tell me that this is all being done scientifically now, you know. Scientifically! The

marine parks were scientifically laid out in the environmental zone. When CUC wanted to put a cable in they went up there with one dory and picked up the markers and moved them a couple of feet to the east—scientifically, of course. They had GPS and fish counters and all that kind of stuff.

Madam Speaker, the point I am trying to impress on the Government is that this is unnecessary. This is unreasonable, this is unsustainable to people in my constituency who need a place to live. So, unless the Government would have accepted my Motion and said that any land they are going to buy and make inalienable . . . and, Madam Speaker, I want to ask the Minister, what is the purpose of the National Trust buying land if they are not going to make it inalienable? What is the purpose?

We had landowners here, Madam Speaker, (right up in here), who in the cadastral survey couldn't produce the papers for the land. And the Government of the day illegally gave it to the National Trust. And years later when one of the family members died and they were cleaning up his house, they found the papers done by the British Council in Panama. And I took the family to the National Trust and begged them to give it back to them. [They] absolutely refused, because they had made it inalienable and they didn't have the time to go and get their two-thirds membership to do it. Well, the chairman at that time, in speaking to us, didn't even know that they could do it. According to him it couldn't be done. I said, *Well sir, there is a section of law that says you can do it.* I had to show it to him—and he's chairman, now, you know! Never read the law.

Madam Speaker, the history of this is not all good. Their continued attempt to expand their kingdom is troubling. And in addition to this, I have already had several discussions with the Minister of Planning. The Government needs to correct, whether it is the Planning Law, or the Land Registry Law, to allow re-parcelling of land, because right now the only people who have any interest in buying any of this land is the National Trust, because they have no interest in developing it.

And if a developer tries to buy a piece the National Trust refuses to give them an easement over it—at no destruction to their land, you know. And, Madam Speaker, that is the unreasonableness of this whole thing.

Madam Speaker, I thank you and the time of the House.

Mr. V. Arden McLean: You did the best my son.

The Speaker: The question is: BE IT THEREFORE RESOLVED that Government consider amending the National Trust Law (2010 Revision) to provide that the National Trust may only purchase land to be made inalienable, after approval of this Legislative Assembly

and that such inalienable land can only be alienated by this Legislative Assembly.

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

Ayes and Noes.

The Speaker: I believe the Noes have it.

Mr. D. Ezzard Miller: Madam Speaker, can I have a division please?

The Speaker: Certainly.

Madam Clerk, please call a division.

The Clerk:

Division No. 23

Ayes: 4

*Hon. Anthony S. Eden
Mr. Bernie A. Bush
Mr. D. Ezzard Miller
Mr. V. Arden McLean

Noes: 8

Hon. Alden McLaughlin
Hon. Moses I. Kirkconnell
Hon. Osbourne V. Bodden
Hon. G. Wayne Panton
Hon. Marco S. Archer
Hon. Tara Rivers
Mr. Roy M. McTaggart
Mr. Joseph X. Hew

Absent: 5

Hon. D. Kurt Tibbetts
Mr. Winston C. Connolly
Mr. Alva H. Suckoo
Hon. W. McKeeva Bush
Capt. A. Eugene Ebanks

**Hon. Anthony S. Eden: Madam Speaker, after listening to evangelist Miller, I say yes.*

The Speaker: The result of the Division: 4 Ayes; 8 Noes; and 5 Absent. Accordingly, the Motion has failed.

Negated by majority on division: Private Member's Motion No. 7/2014-15, Amendment to The National Trust Law (2010 Revision), failed.

The Speaker: I recognise the Honourable Premier for the suspension of Standing Order 10(2) if the House is to continue its work.

SUSPENSION OF STANDING ORDER 10(2)

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

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

The Speaker: The question is that Standing Order 10(2) be suspended to enable 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.

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 8/2014-15 — REVIEW OF THE CAYMAN ISLANDS CONSTITUTION ORDER 2009

The Speaker: I recognise the Elected Member for North Side.

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

I beg to move Private Member's Motion No. 8/2014-15 —Review of the Cayman Islands Constitution Order 2009.

WHEREAS the Cayman Islands Constitution Order 2009 has now been in operation for nearly five years;

AND WHEREAS there are some concerns and practical operational procedures with certain sections of the Constitution;

BE IT THEREFORE RESOLVED that the Government consider establishing a select committee of all members of this Honourable House to review the Cayman Islands Constitution Order 2009 with a view to complete said review within this financial year to allow the necessary referendum to approve or reject any proposed changes in November 2015.

The Speaker: Is there a seconder?

Mr. V. Arden McLean: Madam Speaker, I beg to second the Motion.

The Speaker: The Motion has been duly moved, and is now open for debate. Does the honourable Member for North Side wish to speak to his Motion?

Mr. D. Ezzard Miller: Just very briefly, Madam Speaker.

As the Motion says, the Constitution Order is now . . . November the 6th will be five years. I believe that certain concerns and practical operation with the Constitution have turned up over that five-year period. So, I am recommending that the House appoint a select committee of the whole House to look at it. And, if nothing else, Madam Speaker, we would all be famil-

iar with the Constitution after the exercise if we went through it clause by clause.

Madam Speaker, just to mention some of the areas where I believe we could improve the Constitution, I believe we could properly set up the appointment of counsellors or junior ministers, which is now being done, in my view, illegally. We could remove the position of Financial Secretary because we see that they have fused that position now. So, we could take that out. I believe that all of the constitutionally protected positions should have a five-year maximum appointment period, and I would prefer three years and two, instead of one five. I believe that we need to more clearly define who can sit in this Assembly. In my view, that should only be Caymanians born of at least one Caymanian parent. Some people say the Constitution doesn't make that clear enough.

Madam Speaker, I believe that the Constitution needs to provide within it some authority for the Governor not to have to appoint anyone as Premier or as a Cabinet Minister or a Leader of the Opposition who happens to be under police bail for any criminal activity.

Madam Speaker, I believe that we could introduce a recall clause where Members who are not serving their constituency could be recalled. But I believe that it would benefit all Members.

The Constitutional Commission has just issued a very good document explaining the Constitution. I think all Members should make sure they read that. I have read it over the last two, three days and it is very, very good. It covers a lot of the areas that there may be some confusion over. I was going to give mine to the school, but in the letter that they wrote to me they said they were going to provide copies in all the schools and libraries (I think). I think it is a really well-done document.

I had some conversations with the chairman. I believe that the Constitutional Commissioners could be invited as one of the stakeholders in this select committee to make any proposed changes they think are necessary. All of us Members would be able to get a clear understanding through discussion, questions and answers, with them of why they think changes need to be made so that when it comes to the Floor of this House there could be a bipartisan position. The reason I am recommending we do it now is because it gives us time to complete it. Every other time they have tried to amend the Constitution it always gets caught up in the electioneering process and people no longer look for what is best for the country; they look for where they can get a couple of votes.

So, Madam Speaker, I am simply asking the Government to appoint a select committee which they will have the majority on. I will just be one vote; they will have the ten votes. But I believe we could go through the Constitution and I think it is timely to review it now. It would give us time to put to the public,

which, the way I read the Constitution, I think we have to do that. And I don't disagree with that. Any changes that that committee might propose in November 2015 could be brought in well in advance of the 2017 election so it doesn't become a political football. Thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak? I recognise the Honourable Premier.

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

Section 118 of the Constitution establishes that there shall be a Constitution Commission which is charged with the responsibility of dealing with constitutional matters. Such a [Commission] was appointed. The chairman is currently Mr. David Ritch.

Section 118 provides that the functions of the Constitutional Commission shall be: **“(a) to advise the Government on questions concerning constitutional status and development in the Cayman Islands; (b) to publish reports, discussion papers, information papers and other documents on constitutional matters affecting the Cayman Islands; (c) to promote understanding and awareness of this Constitution and its values; and (d) to exercise such other functions as may be prescribed by a law enacted by the Legislature.**

“(4) In the exercise of their functions, the Constitutional Commission and its members shall not be subject to the direction or control of any other person or authority.”

So, Madam Speaker, this Constitution Commission has been appointed, it has been active over the course of the last year or so. It has been reviewing the Constitution and I am advised by the chairman that by the end of this month the Commission will submit a report to Her Excellency the Governor and, I presume, to myself, with the recommendations for changes to the Constitution. So, Madam Speaker, the Government does not feel that now is the time for us to establish a select committee to review the Constitution.

Once that report has been received, it will be circulated broadly. And I am hopeful that we can reach some agreement about the changes that are proposed.

Madam Speaker, I think I should apprise the House, or remind the House, of the proposal that was made to the United Kingdom Government at the time the new Constitution was actually being negotiated and the consequences of that proposal. It's outlined in a letter to the then Leader of Government Business, Hon. W. McKeever Bush, on the 10th of June 2009; that was about a month after the general elections which changed the Government.

The letter was written by Chris Bryant, who was then the Parliamentary Under-Secretary of State

for the Foreign and Commonwealth Office. He wrote: **“Dear Mr. Bush: As part of the Constitutional Modernisation process the Cayman Islands Government made the following proposal: ‘After the present modernisation process has been completed, further changes to the Constitution should not be made without the authorisation of a referendum unless the change is declared by the Premier and the Leader of the Opposition to be minor or uncontroversial, in which case in which case a resolution of Parliament would be sufficient. The UK Government should be invited to agree that it would honour this referendum requirement.’”**

So, that was a proposal that was made by the Government during the negotiations about the Constitution. What Mr. Bryant said about that though, is this, and I revert to the letter:

“In general the United Kingdom Government approves the idea that substantial constitutional changes should be supported by the people of the Cayman Islands in a referendum. Accordingly, the United Kingdom Government would normally use its best endeavours to honour this referendum requirement. However, there may be exceptional circumstances where it would not be possible or appropriate to do so, and for that reason the United Kingdom Government must reserve its position on this matter.”

So, Madam Speaker, the current situation, as best we understand it, is that changes which are regarded as minor or uncontroversial, or not substantial, are possible without the need for a referendum. Indeed, there may be other exceptional circumstances which the UK determines warrant constitutional change without a referendum. My understanding from my discussions with the chairman of the Constitutional Commission and the correspondence that we received is that they have identified more than 40 areas for proposed change, and that they do not regard those proposals as being controversial or substantial. They are mainly matters to increase the clarity of the provisions.

I think it will require, though, some significant cooperation and agreement on the part of myself, on behalf of the Government, and the Leader of the Opposition, on behalf of the Opposition, about these changes and/or a resolution of the House. If we can do that, those changes can be effected I think quite swiftly and easily without the need for a referendum.

What I wish to propose to the mover of the Motion and the seconder, and indeed, all Members on the other side, is that once we have this report we can have a look at it. And if Members feel there are other changes which can fall into either minor or uncontroversial or not substantial, that those can be fed into the process and that perhaps we can have a list of proposed changes that we can agree upon. And the House can approve that and I believe that the United

Kingdom Government will, subject to them agreeing to the changes, proceed to amend our Constitution Order to give effect to those changes. None of these changes would have the effect of changing the balance of power, constitutionally, between the United Kingdom Government and the Cayman Islands Government and none of the changes would make any significant modification to the present constitutional construct. Those kinds of changes would need to go to a referendum.

So, what I would hope I can persuade the mover and seconder of the Motion that we should not go down this road at this point. Let's wait on the report, which I expect by the end of the month, and see whether we can develop a laundry list ourselves, based on that of changes that we can agree upon.

I should say, just so that no one is labouring under any misconception, that this Government will not initiate a referendum with respect to constitutional change during this term. So, we are not proposing to go down the road of any changes which would be considered significant. I have been, and many on this side have been, involved in the referendum process. We know how much effort it takes. We know what a huge distraction it is, and it is not something the Government is prepared to entertain during this term.

So, we are hopeful that these constitutional changes that are being proposed will be of a nature that we can agree on them in this House as being minor, uncontroversial, or not substantial, and that we can go through the clean-up exercise which we all agree is necessary with respect to the current Constitution without winding up in a major national debate and controversy which lasts another year or two and results in a highly polarised referendum. Having been through two referenda in my time here, I understand there is no such thing as a simple referendum. So, we are not planning to embark on that particular process.

I hope that what I have said has been helpful and that it will meet with the approval of the mover of the Motion, and that we can agree to take this forward once we get the report of the Constitutional Commission. Thank you.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Final call, does any other Member wish to speak?

If not, I will call on the Member for the district of North Side for his reply.

Mr. D. Ezzard Miller: Madam Speaker, given the explanation of the Honourable Premier, I will have no difficulty in withdrawing the Motion at this time. I would only express one concern.

If recommendations come from the Constitutional Commission that are important to the improved good governance of the country, I wouldn't want us to simply eliminate it because a referendum might be

necessary and just not move forward on it because it might be a little difficult to do. I believe that there are some changes that need to be made to the Constitution to improve the governance structure of the Constitution.

But, Madam Speaker, with the leave of the House I will have no problem, given the Premier's explanation, to withdraw the Motion at this time.

The Speaker: The question is that Private Member's Motion No. 8/2014-15 be withdrawn.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Private Member' Motion No. 8/2014-15 – Review of the Cayman Islands Constitution Order 2009 withdrawn.

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 9/2014-15 AMENDMENT TO THE PENAL CODE LAW (2013 REVISION)—CRIME - THREE STRIKES AND YOU ARE OUT

The Speaker: Elected Member for North Side.

Mr. D. Ezzard Miller: I beg to move Private Member's Motion No. 9/2014-15, Amendment to the Penal Code Law (2013 Revision)—Crime - Three Strikes and You are out:

WHEREAS the Cayman Islands are experiencing increasing crime, particularly in the offences of robbery and burglary;

AND WHEREAS in some Districts these crimes are being committed by repeat offenders;

AND WHEREAS there have been instances where stolen goods have been found by the police and owners at pawn shops;

BE IT THEREFORE RESOLVED that Government considers amendments to the Penal code Law (2013 Revision) to provide a system that mandates custodial sentences of up to ten years for either robbery or burglary on the third offense and to provide similar sentences for those who have more than three offenses on their next offense;

AND BE IT FURTHER RESOLVED that Government considers introducing legislation to regulate "Pawn Shops" and other business that may accept stolen goods, with severe penalties for handling stolen goods, including closing of the business on their third offense.

The Speaker: Is there a seconder?

Mr. V. Arden McLean: I beg to second the Motion.

The Speaker: The Motion has been duly moved and is now open for debate.

Does the Elected Member for North Side wish to explain his reason for the Motion?

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

I won't bother to rehash the statistics that were presented by the Sixth Elected Member for George Town because I have similar statistics on robbery and burglary. I am not proposing that this three-strikes and you're out is the panacea for all crime, particularly robbery. But I believe it is one more step in the right direction.

I have received representation from the Youth ACT: Education Empowerment Success. I don't really have a lot of time for people who have to belittle what other people are doing in order to justify what they are doing. Madam Speaker, I can only speak from my experiences in my own district. Everybody in my district knows who the four or five people are who do the robberies. When they are incarcerated we don't have any problems. But for some strange reason in recent times, there seems to be a lot of leniency in the court system and even though people like me write letters to the Chief of Police offering to advocate on behalf of the victims before the judge, or at least the DPP, because, as I understand the Penal Code, there are two levels of offences, one where you can get up to a year; and a category b or a (I mightn't have the order correct), where you can get a longer custodial sentence. There seems to be a lot of reluctance on behalf of the DPP to up the level of these repeat burglaries.

I believe that some of these people know that they already have forty-eleven offences, because I would probably guess that the person the Sixth Elected Member for George Town said had 41 offences and got community service was from my district. We had a similar offence where repeat, repeat, repeat, and the judge gives community service. We have even had where one of these repeat offenders had been summoned to jury duty. I am not sure how that happens, whether it's a random thing where any test is applied after the random selection to eliminate people or not, but if it isn't, maybe we need to look at doing something about that.

Equally so, Madam Speaker, in recent times it has increased, because I believe that these pawn shops provide a quick and ready cash sale for the stolen goods. That's why I have included them in this Motion. My grandmother used to tell me the receiver is just as bad as a thief. These people are obviously receiving stolen goods. I took the time to send an FOI to the police and I have a list of stuff, which I will table so Members can see. It's a lot of stuff, Madam

Speaker; it's two pages. Between August and September they recovered 21 TVs from various burglaries at this particular pawn shop. And they are still operating. In October we have a guitar, a MacBook, boat propeller, iPad with grey case (that's 31 October); 19 October 2010, two gold bracelets, gold rings, gold Harry Winston Watch, bracelet, two gold rings, two pieces of gold watchband, one eight-spine bracelet, gold ring and gold watch. November 2011, the report concerns a theft where the FedEx employee was interfering with packages of scrap gold being sent to the States for smelting and on at least seven occasions they smelted it before the police got there.

August 2011, tools; May 2011, tools; August 2013, Nikon DS 100 digital camera. March 19, 2013, complaint—saw boy running from house, ring stolen, recovered from the same shop. Yellow gold chunky chain link bracelet, yellow gold ring with wine and flower design in platinum incusted with approximately eight small diamonds, rose gold wedding band, yellow gold ring with four half-carat diamonds in a straight row mounted on a strand of prongs, Harry Winston yellow gold ring, diamond half-carat solitaire in a square mount.

So, Madam Speaker, I also know that one of my constituents had some of her jewellery stolen and she went to this store and found it. It was something like between \$4,500 and \$5,000 worth of jewellery that they had bought from the thief for \$50, and had it out now to be sold. So, I think it is time . . . there is evidence that this is happening. All I just named is from one store, because that's what my FOI requested. I would assume that there are other fencing operations in the Island, but this one, to me, is alarming enough to have us put in the Penal Code that the third time the police search your premises at a pawn shop and find stolen goods, your business licence should be cancelled and you should spend some time in Northward too along with the thief.

Madam Speaker, I ask the Government to support the Motion.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Final call, does any other Member wish to speak?

I recognise the Honourable Deputy Premier.

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

The Government is cognisant of the points the Member has brought out. The resolve section, that Government considers amendments to the Penal code Law (2013 Revision) to provide a system that mandates custodial sentences of up to ten years, Madam Speaker, the Government is in a position to consider this.

Also, Madam Speaker, I thought the Member for North Side did a very good job in explaining his

resolve on the pawn shop issue. I don't think that it's a demand on the Government to go through and repeat what he has said, because I think how he explained it is very easy for all of us to understand.

So, yes, Madam Speaker, we too are agreeing to consider the resolve as well. And if the Member is not aware, we are also working on some legislation for a Secondhand Dealers Bill as well, which I think the Member will be happy to hear.

So, with those few words I would just like to say to this honourable House and to the Members that we are in a position to consider this. Thank you.

The Speaker: Does any other Member wish to speak?

The Sixth Elected Member for George Town.

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

I just wanted to say a few words in support of the Government considering the Private Member's motion.

Whilst as I stated in my contribution to the Private Member's Motion brought by myself earlier this week, something has to be done about crime. As I said, and I say again today, the sentencing is only one-half of the solution. If we do not take a holistic approach to crime and consider and pay the same attention and put the same amount of effort and money towards early intervention, preventative programmes, and rehabilitation as we do to sentencing and housing of prisoners, then we are going to continue in a perpetual circle.

The mere criminalisation of certain behaviours serves as a deterrent to most of us in society. But the question is: What do we do with those individuals who, for one reason or the other, have no fear of the deterrents set by sentencing guidelines, which, just from the fear of losing their freedom or the understanding of losing their freedom, which most of us hold dear, will not dissuade them from criminality? Those persons must and have to be rehabilitated.

The issue of crime and punishment has as much to do with the Honourable Minister of Finance, as much to do with the Honourable Minister of Health, as much to do with the Honourable Minister of Tourism, as it does with the Honourable Premier and Minister of Home Affairs. If we implement tougher sentencing without proper diversion programmes, and especially for those multiple offenders, the result would be a prison filled with those convicted of non-violent and petty crimes.

According to a report conducted by Stanford University, half of the inmates serving a life sentence under the three strikes are those serving for non-violent crimes, including stealing loose change from a parked car, possessing less than a gram of narcotics, and attempting to break into a soup kitchen.

According to Wikipedia, under "three strikes," in November 2000, California voted to scale the "three-strikes you're out" to offer drug treatment rather than life in prison. It also went on to say that the three-strikes you're out cost \$500 million per year to implement, and creates other social and economic costs which are associated with the policy. Again, the statistics that I gave, which the honourable Member for [North Side] made reference to, tells us in this House that not enough of the preventative type of sentencing is happening.

Madam Speaker, I would rather see one of our young people rehabilitated, educated and reintegrated into society as a contributing member of our community than see them spend a lifetime in jail. With a budget of \$15 million per year to operate HM Northward Prison, it would make more sense to me that we take advantage of prisoners when they are there and have them attend serious rehabilitative programmes such as those I mentioned in my debate on my Private Member's Motion.

Madam Speaker, we have got to introduce programmes such as restorative justice. We have got to look at doing things like attaching conditions to our young people in prison that they cannot leave the prison without achieving certain academic achievements. We have to offer them technical and vocational types of training within the prison. And we have to offer them alcohol and drug rehabilitation if needed. And, Madam Speaker, we should attach that to their sentencing that they cannot leave, or perhaps they get shorter sentencing if they complete these programmes. And not just programmes that we pay lip service to, but real programmes.

Madam Speaker, if we do not focus on preventative and early intervention programmes, coupled with proper rehabilitation of our prisoners, the rate of recidivism and inherent criminals will continue to rise. Along with that will be the cost of policing and the cost of housing prisoners. Madam Speaker, I stand here today to say that I support the Government considering this Motion, but I also plead that when we are considering this Motion and when we are considering the three strikes and you're out, that we, at the same time pay very, very close consideration and commit ourselves very, very much to making use of our offenders when they are in custody to make the best of the time when they are there in prison.

If we are going to say to our young people, or to any of our citizens that after three strikes you are going to serve a minimum of 10 years, we have got to do everything we can in those three previous convictions to rehabilitate them, otherwise we are failing them and we are failing our country and all we are going to do is add to the cost of our prison services and swell the population of the prison.

So, Madam Speaker, I agree wholeheartedly. Let us look at what was done in the past, let us review

what happened in California, let us take a tuff stance on crime, but let us put our money where our mouths are when it comes to rehabilitating and preventing crime from happening in this country. As far as the pawn shops are concerned, I don't think I have to say much more about that. I congratulate the Member for North Side on his tough stance on this. Thank you, Madam Speaker.

The Speaker: I recognise the First Elected Member for Bodden Town.

Hon. Anthony S. Eden: Thank you, Madam Speaker.

I too rise to support the Motion before the House. I see it complementing what the Sixth Elected Member for George Town brought a few days ago. I see it as a comprehensive approach to dealing with crime.

Madam Speaker, I am sure you and those of us who have been here a while, remember 12 to 15 years ago when we talked about reviewing the Penal Code—not just certain sections. We made amendments to some of it. But I think we should consider getting back to that and putting some teeth into the laws.

Madam Speaker, we can trace most of these incidents back to the continual breakdown of the family unit, broken homes; some children with one parent. In this day and age when . . . I don't look at the Internet, but I am made to understand and I know TV programmes . . . all they seem to do is glamourise crime and criminals. We, as parents, need to be soul-searchers, to make sure that we know what our children are watching, especially when they are by themselves and on TV and the Internet.

I remember, and Madam Speaker, you will too, several years ago when we first talked about this. We talked about early interventions and to bring parents to more accountability. I specifically remember the Honourable Premier advocating years ago they should attend juvenile court with these children, and not just the social workers.

So, Madam Speaker, I just wanted to offer my support to this. It can complement and, we, in our position as legislators, have to keep trying. We cannot legislate for everything, but we need to look at this in the comprehensive manner in which we are now starting to do and I hope with God's help we can make a difference.

The Speaker: Does any other Member wish to speak?

Minister responsible for Health.

Hon. Osbourne V. Bodden: Thank you, Madam Speaker.

Let me commend the mover of this Motion and also the Sixth Elected Member for George Town

for his contribution just now and my colleague the First Elected Member for Bodden Town.

As the mover alluded, we have in our communities, chronic, perpetual thieves and burglars. Some of them I think by now are beyond . . . (and I might get some criticism for this), but some of them are beyond redemption. They have been doing this for so long; they have had a lifetime of it. They are in and out, in and out, in and out. As the Member for North Side said, quite rightly, the spikes are there to prove when they are out, and everything is quiet when they are in.

Madam Speaker, I would like to be part of a community that's building bigger schools and having better sports, bigger stadiums than one that's known for bigger prisons. I think that, as the Member for George Town said just now, we need to definitely focus very much on preventative measures and it has to be from school. It can't wait until the tree is old and strong before you try to bend it. You have to bend it when it's young and pliable.

As Minister of Youth and Sports, I work every day to improve what's happening with our young people through the youth policy, through our sports policy. We work hand-in-hand with education to try and improve things together across the school system. But at the end of the day, a lot depends on our society and parenting in our society.

You know when your child is going astray. If you are paying attention as a parent you should know. And parents—I have called on them before from this forum—need to be parents. And parents need to take responsibility and be held accountable for a lot of the actions that we see as these young people develop. You don't usually reach the age of 30 or 40 and start to become a thief or a burglar. Occasionally someone at a late age gets hooked on drugs and things will happen to them. We have seen that too. But, generally, the life of crime starts quite young and one thing leads to the next and you get that invincible feeling. And then you get that no-care feeling where just another little run in to Northward to get my dental and my health checks, get into the gym and pump some iron and come out looking good. Within a few weeks, a couple of months, you are right back down in the same old gutter. We need to break that vicious cycle.

I was very happy yesterday to be privy to what is coming in some of our rehabilitation laws that we are looking at in getting people back into the community, getting people back on track. Someone may look at this Motion and say, *Well, it's just talking about burglars*. But let me tell you, a burglar is a bad thing, because you see, although we may be talking about aggravated burglary now, but who knows, when an individual is caught doing what they shouldn't be doing, how they will react. And then there goes a very serious incident. So, I don't take it lightly.

The actions of the pawn shops in this whole thing, I know that the police have a certain view. I have my own view. I think that since they have come on the scene we have seen an increase in certain activities. I think that police sometimes see them as an advantage to have to be able to trace things and use them for information, a bit like other things that they make use of to track criminals. But I think that we need to rein them in as well. The Secondhand Dealers Bill that is in the works will pay particular attention to those.

But crime is a very, very serious thing, Madam Speaker. In a country that has an economy based on tourism and finance, and coming from the background just some 40, 30 years ago where this place was tranquil and you could leave your home, your property unattended, open, to where we are now, if we're not careful, Madam Speaker, all that are fighting for, all the finance, all the Bills that we are bringing, everything else will all just not be worth a penny or the paper that their written on because you won't be able to stay here. We're not there yet. And a lot of people say we're still paradise for many, and that's true. But the signs are there, Madam Speaker.

It's quite scary, you know. If you pay attention to what you see sometimes on Facebook and you see young people with guns, drugs and money next to them, and you wonder—*This can't be Cayman!* Well, it is Cayman. And you wonder why the police can't catch them, because they are up on Facebook!

Madam Speaker, we have to take these things seriously. I commend the Member for North Side for making another attempt at reining in some of the writing on the wall. We know and have spoken about this before about the vacation homes in his district, and others that are being broken into, stolen from regularly. I have friends who own some of those homes. I know for a fact that some of them are thinking about selling. At one time the wife would come alone and the husband would stay back. Now she's scared to come on her own. Or, if she comes she has a big stick, or something, next to her bed which might not be any use. Serious times!

We have to be tough on crime. My First Elected colleague from Bodden Town likes to say you can't pussyfoot with this; it's time to get tough. So, I commend the mover and I commend those who have spoken. I hope that the Motion will pass safely through this House.

One thing I will caution about too, before I sit, is that Private Members' Motions have a way of being like reports that we commission—they collect a lot of dust. I remember being here and having two motions in particular that I always remember, that passed beautifully and haven't seen the light of day up until now. One was on Minimum Property Standards and the other was Long-term Mental Health.

Thank God I'm Minister of Health now, and we are going to have mental health facilities and, again, that goes really into this as well, because a lot of these folks who are committing these crimes need serious help. I am not putting them down at all. Some of them really need help. And they are crying out in many cases. Some of them want protection from themselves. So, Madam Speaker, it's all convoluted. It's like a deck of dominos. You can't stand them up, hit one, and the rest not fall. It's all joined up. Therefore our ministries have to work closely together. We have to work closely together as a Government, administrative, political, judicial, our prison services, Opposition, everybody. We have to work closely to make the right steps and ask for God's guidance, wisdom in all that we do for our people. Thank you.

The Speaker: Does any other Member wish to speak?

The Second Elected Member for George Town.

Mr. Roy M. McTaggart: Thank you, Madam Speaker. I rise this time so I won't get overlooked as I was earlier.

I thank you for the opportunity to address this Motion before the House. Like the one before by my colleague sitting to my left, I am delighted to lend my support to the Motion as it is currently before the House. I congratulate the Member for North Side for bringing it.

My view is that this Motion . . . sorry, not the Motion, but the present system as it exists, no longer acts as the true deterrent that it was intended to be. And the issue of the continuing escalation of crime and seriousness of it needs to be addressed. I view the Motion and the efforts to bringing the "three strikes and you're out" as being one facet of what is clearly a very multi-faceted issue and problem. While we are seeking to increase and put a deterrence factor, I am also mindful that there are efforts that need to be made with regard to the prevention.

Madam Speaker, like every other Member of this House I also received the memo from the President of the Youth ACT encouraging us not to accept this Motion. I truly support the efforts of Youth ACT and what they are trying to accomplish and the efforts and programmes they are promoting in trying to deter and help rehabilitate people who have erred and gone astray. But that is just one aspect of it too, and it is part of what I perceive as what needs to be a holistic and comprehensive approach to crime and to deterrence. Their efforts are to be commended. They deserve to succeed. And if they do succeed, in my view they will seek and help to deter a lot of crime from actually taking place so that the three strikes you're out doesn't really come into play, it's of no consequence.

But I also recognise too that in society there are some who, no matter what you do, decide that they are not going to conform and will not seek to live and work within the law. And the law must be there to punish and to do the very best to deter. It's for these reasons why I strongly support the concept of three strikes and you're out.

In some ways too, Madam Speaker, in my own home, in raising three children we had a similar sort of thing. If I had to tell you three times, three strikes you're out, you're going to get punished. It worked quite well. Very seldom did I ever have to implement it and act. But, I had to do so. And when that line was crossed and the discipline was applied, I have to say probably 100 per cent of the time the offence was never committed again. It was all a part of parenting and teaching my children as they grew that there has to be that respect for authority and there were rules and boundaries upon which they were not to step outside of, or else there would be consequences. And I view that today as the same in the wider society.

These things are not necessarily designed to be mean, but to really ensure that society and civil society are able to function and that people who do break the law are dealt with in an effective way.

Madam Speaker, just a few comments on the Secondhand Dealers [Bill] as mentioned here, which I am aware of, having seen a copy that is at a very advanced stage of development in the Government. I have to say that it is only within the last six to eight months that I truly became aware of the number of second-hand dealers in this country and of the effects that this industry that has grown up over the last five to ten years, how having been completely unregulated it has contributed to the proliferation of (best way to describe it) the laundering of stolen goods, and how it has facilitated criminals in disposing of those goods thereby receiving cash in exchange.

I agree very strongly that there needs to be legislation such as this that puts rules and policies in place that govern the operations of these entities, that they too much conform to good governance in their operations, thereby ensuring that the type of business they conduct is legitimate, that it is not the proceeds of crime, and, that they too must conform with knowing their customer and the people who they are dealing with. So, I say that I welcome all of these things in terms of the Secondhand Dealers Bill when it is brought forward to this legislature, and I commend too, the "three strikes and you're out" legislation to this House this afternoon. Thank you.

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

Fifth Elected Member for George Town, followed by the Fourth Elected Member for Bodden Town.

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

I rise in support of Private Member's Motion No. 9/2014-15, brought by the Member for North Side. I indicated on Friday that I would support this Motion.

I am young enough to remember when politicians in this honourable House ignored calling a spade a spade, ignored situations, commenting on gangs or "groups of boys" as they were called back then. There was a time when I would drive anywhere in West Bay. That time has long passed. But, Madam Speaker, to be fair to my colleague from West Bay, there are other parts of the country where I won't go after certain hours.

Madam Speaker, in my heart of hearts I think that's because we as a country, we as legislators, we as a people ignored, or chose to ignore what was happening in front of us, what was developing into a cancer. When people are as brazen to rob a bank in the middle of George Town on a workday in high traffic, when people are brazen to rob jewellery stores with guns and masks, first thing in the morning, when the lifeblood of this country is tourism and finance, it shows me that it has gotten too far.

Whilst I have great sympathy for some of the people who have contacted me about this Motion, and whilst I agree wholeheartedly that it might not be the answer, this I believe is something that would be supported by the majority of my constituents. It is something that I believe is necessary to show that those who would thwart the laws of society no matter what their background or mental health is, we have to answer them sometimes in the same vein as they bring it to us.

Madam Speaker, when this Motion was put down for reading, I read the Yolande [Forde] report on crime, just to look over it again and see where the balance could come in. Like I said, this may not be the answer. I think the answer lies somewhere along the lines of what some of my colleagues have already indicated in their support of the Motion. As a community we have to try to deal with this. We know who some of these individuals are long before they start carrying out crimes. We see them in their home environment. We see them in school. We see them in other organised activities, including church groups, et cetera. The old people used to say, *Hmm, you've got to watch that one.*

Madam Speaker, if we see these things as parents, as pastors, as teachers, as neighbours, and we don't try to address them, if we don't try to bring attention to them when they are molehills, how can we then when it's gone too far try to reset that button, assuage our consciences and say, *Let's slap them on the wrist because it wasn't their fault?* Education, religious guidance, all these things are interventions that each and every member of this society . . . and I know that everybody in this room grew up at a time when

anybody on the street could clap you if you were misbehaving.

Madam Speaker, everybody in here grew up at a time that if you were out and were misbehaving, before you got home your parents knew what you had done. And you'd better not lie; you'd better not try to say you weren't doing something, because you were going to get it twice!

Madam Speaker, when we see these criminal profiles, and we see the badly behaved boys and girls at an early age, it is time for intervention. You can't look at somebody that has a rap sheet longer than some novels, having not tried in the past to do anything about it and then keep giving them a slap on the wrist, because I believe crime escalates and the criminal intent, the criminal wrongdoing escalates over time. Some people will be past the point of no return.

We heard from some of the ministers that they will be doing their part in their ministries. Some of my other colleagues spoke about other motions and bills moved to try to add some support to at least slowing down some of these behaviours. But, Madam Speaker, the one thing that we often forget, and the Sixth Elected Member for George Town raised this in his motion on Friday night. We forget the victims sometimes. What do we say to those people when we say it is because of somebody's background, upbringing and family circumstances, that they just killed their son or robbed their place? Are we expecting for them to say, *I understand they had a bad background so they are welcome to my property, they are welcome to come into my home and do what they do to my family?* Madam Speaker, a debt to society is owed when you break society's laws.

I wholeheartedly echo the sentiments that were already said, including the need for balance, including the need for us as legislators to try to rehabilitate when we can. I wholeheartedly agree. We need to intervene early. We need to put 100 per cent effort into doing so. But when we have done all that we can as a society, and when we have gotten to the place where we have individuals that don't fear the law, don't fear the consequences, don't care about life, grieving families, destruction, theft, Madam Speaker, we need a harsh response to those types of individuals. And we need to stop justifying their actions.

Madam Speaker, there are some issues that we as a country have failed to do and continue to fail to do when it comes to that side of things. And I say rehabilitation intervention, et cetera. We need to endeavour to do better. As lawmakers that's part of our task. Also as lawmakers we answer to the people of the Cayman Islands and I believe that the sentiments raised by the Member for North Side also echo what society wants at this stage.

With those few words, I fully support the Member for North Side and I will be voting yes on this

Motion. And I will be voting yes when the time comes to count.

The Speaker: The Fourth Elected Member for Bodden Town.

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

I also rise to give my support to this Private Member's Motion. I want to begin by thanking the Member for North Side for putting this important Motion forward, and to the Member for East End in assisting him in doing that.

Madam Speaker, most of the Members who spoke prior to me outlined in great detail their concerns with crime and its effects on these islands, and their sentiments that we need to be tougher on crime, we need to ensure that we are not too soft on crime. We have seen a significant change in recent times, Madam Speaker, where our islands are no longer considered the safe sanctuary that they once were. We have seen where over time conditions here have changed. Our people are now a lot more careful at night, a lot more careful about their possessions, their homes, their children. There is a constant rising fear among the communities that crime is becoming a little bit out of control and that the Government needs to do something about it.

Madam Speaker, I have attended numerous community meetings in Bodden Town that the police have held. I can account for what has happened first hand from listening to the individuals who have attended those meetings and voiced their concerns. There is significant concern in Bodden Town, in particular, with robberies and home invasions.

I know that the police have been tasked with keeping our district safe. And I fully support them in all that they are trying to do. But I have also listened carefully to the police and the officers who are tasked with that awesome responsibility, and I do believe that more can be done to assist the police. I think we need to get back to a point where the community has a better relationship with the police. I have seen many times where the community has become unhappy with actions taken by the police, or the lack of action, or the deployment of resources, the strategic decisions that have been made. But I don't think we get anywhere by criticising the police because they do perform a job that not many of us would chose to do. And they have to be commended for that. Many of them put their lives on the line to protect ours.

What I want to encourage from this legislature, is more support for the police. Where there is something that needs to be corrected, let's correct it. But let's not sit back and wait for the inevitable.

Madam Speaker, I believe in rehabilitation and I believe in prevention. I learned quite some time ago in dealing with my own child that once a child hits

the age of 13 they are pretty much matured in their thought patterns and their likes, dislikes and characteristics. It's prior to age 13 that you have to get a hold of children and make them understand right from wrong and how they are to conduct themselves within society. If we leave children with problems for too long, they develop into adults with problems. And I think we have seen quite a bit of that.

I am going to chastise some of the parents because I have seen examples of bad parenting. I have seen parents who encourage bad behaviour in their children. And I have seen that for a number of years to the point where it's now showing its face in the district.

Most successful families practice what I consider tough love. I think that is the stance that this Government must take. We have to ensure that we offer every opportunity to our young people to make something of themselves by making sure that they get the right education, the right opportunities, jobs . . . and I will talk about that more later on. But when they do mess up, we need to practice tough love.

This Motion calls for harsher punishment for adults. What I would like to see is something in the middle of the spectrum where we can actually get a hold of young offenders, young problem children, children who are exhibiting a certain behaviour or propensity to become adult problems, and deal with them. I know we have various institutions here that were designed for that. But I feel that in recent years the focus in those institutions has fallen off and we need to ensure that going forward we focus on those.

We can't have the good suffering for the bad. We need to ensure that whenever we highlight issues with our young people that we deal with them. And we have to focus on the environmental factors that encourage criminal activity—drugs, poverty, gangs, all of those are encouraging the degeneration of our young people. It is causing major problems for the police, major problems in the communities and in the long run it is going to affect and touch each and every person living in our community.

This Motion calls for harsher sentences. I do believe that we have been a bit soft on crime historically. I think it was maybe disbelief that we would ever reach this point. We have even gotten to the stage where we happily clear criminal records for individuals who have proven that they have made the effort to improve themselves and became productive members of society. And I fully support that. But prevention starts from an early age. And we don't want to actually get to the point where we have to be expunging criminal records. We want to get to the point where we have a productive set of young people coming out of our high schools that can take their rightful places in society and become productive members of society, not criminals that we have to rehabilitate.

One of the major concerns, Madam Speaker, obviously, is jobs. We talked about this during this very sitting of the House when dealing with another Motion. I can't say it enough times and I can't give it enough emphasis; our young people are becoming criminalised by the mere fact that some of them can no longer afford to take care of themselves or their families. I have seen way too many of them come into my office asking for assistance, asking me to help them find jobs. Some ask for assistance to buy food to feed their families. It becomes overwhelming at times. The other three representatives of Bodden Town and I don't have the resources or the ability to help each and every one. So we have to tackle this problem from another level. We need to get tough on crime, but we also need to get tough on employers who refuse to hire our young people.

We have to lead the way and show our young people that we haven't forgotten about them and that we are here looking out for them in providing opportunities for them. We have a responsibility to try and better the lives of every one of the constituents that put us in this honourable House. And when I see the way that some of our young people are going, it really concerns me. The problem is becoming an epidemic and I am fortunate enough to have gained the respect of some of those individuals. They do come and share their concerns with me. When I am out and about in the district they do talk to me. I think I have a good grasp of what is going wrong and I am thankful that I am part of a Government that is willing to do something about it.

The Second Elected Member for Bodden Town spoke about what he has seen on social media on Facebook. As recently as yesterday we were discussing some of those images. Young Caymanians, probably not even 13 or 14 years old, posing in pictures holding firearms, flashing gang signs, holding drugs and money in their hands—more cash than any of us in here make. And you wonder what's gone wrong.

Madam Speaker, when all the dust settles and everything clears we are going to be here—none of us have any plans to go anywhere else—and that problem is going to be right here in our laps to deal with. So, either we deal with it now, or we wait until it gets worse and we have a problem that we can't resolve.

I don't believe that we should allow businesses to remain and operate here if they are in some way, shape or form, profiting from crime. The police have explained and I think that normally you wouldn't hear a policeman tell you point blank that he is concerned about pawn shops and other types of businesses that have popped up around here. But when the police get to the point where they speak out publicly against it, we need to listen.

The pawn shops are facilitating criminal activity. And whether it's intentional or not, it needs to stop

because they are providing a market for stolen property and that property comes from the homes of decent law abiding Caymanians. So, I fully support this Motion and I fully support bringing the pawn shops under control.

I am also happy to see that this entire House seems to be united in standing to deal with this important issue. I have noticed this is becoming a trend when it comes to issues of national importance. And I want to commend everyone in this House that has chosen to support this Motion so far. It shows that we are right minded, we are working for the right people and we are working together. I think that is the Government that the people elected not too long ago.

Madam Speaker, with those few short words I just want to encourage everyone to support this Motion. And I certainly will be voting yes.

The Speaker: Does any other Member wish to speak? Does any other Member wish to speak? Final call, does any other Member wish to speak?

Elected Member for North Side, please exercise your right of reply.

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

I just want to thank all honourable Members for supporting the Motion. I can assure the Sixth Elected Member for George Town that I too believe very strongly in rehabilitation. I took a lot of stick here in 1989 when I tabled the one and only National Drug Plan this country has ever produced, and the emphasis of that was demand reduction through education with an emphasis on rehabilitation.

I made a statement that the drug plan was looking to the future because those who were already hooked on drugs, that generation, may have had to be written off. And boy, didn't I take the stick for making that statement.

But I believe in the interim period we have now succeeded in writing off at least three or four generations because we didn't follow the demand reduction mode through education and the rehabilitation. So, I believe in rehabilitation. But some of these people, particularly the ones I talk about in my constituency, I have personally tried to rehabilitate. At least two of them I have found four jobs for in the last three or four years. And I know other people in the community that have tried to give them employment, tried to encourage them not to do. But the truth is they are better off at Northward than they are at home.

As the Minister of Health said, they get free healthcare, they get three square meals a day, they have a dry roof over their head, they watch TV and, if you listen to them, they get all the drugs they want. So, they are a lot better off in Northward.

I think we need to help them out and put them in there for about 10 years and at least we have a long time to work on rehabilitating them. And they are

confined to where we . . . if we can't influence them in 10 years, we are not going to be able to influence them in one year. So, I hope that the Motion doesn't die the fate predicted by the Minister of Health, but that we can look forward to, at least in November, some amendments to the Penal Code to address both of the anti-crime motions that were approved here today.

All of us know that it is not all the answers; but at least it is one. It is part of the answer. And for those who are on the borderline and those who understand long-term incarceration, it will help to prevent them from actually going down the route of crime.

I thank all honourable Members for their support, Madam Speaker.

The Speaker: Member for North Side, you had some statistics that you wanted tabled. I so order that it's now tabled for the purposes of the record.

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

The Speaker: The question is: BE IT THEREFORE RESOLVED that Government considers amendments to the Penal code Law (2013 Revision) to provide a system that mandates custodial sentences of up to ten years for either robbery or burglary on the third offense and to provide similar sentences for those who have more than three offenses on their next offense;

AND BE IT FURTHER RESOLVED that Government considers introducing legislation to regulate "Pawn Shops" and other business that may accept stolen goods, with severe penalties for handling stolen goods, including closing of the business on their third offense.

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

Ayes and one audible No.

The Speaker: I believe the Ayes have it.

Agreed: Private Member's Motion No. 9/2014-15 – Amendment to The Penal Code Law (2013 Revision) Crime - Three Strikes and You are out, passed.

The Speaker: We will now take the break for the afternoon. We should make all endeavours to be back by 6:30.

Proceedings suspended at 6:00 pm

Proceedings resumed at 6:47 pm

The Speaker: Please be seated. Proceedings are resumed.

Madam Clerk, the next item of business please.

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 10/2014-15— AMENDMENT TO THE LABOUR LAW (2011 REVISION)

The Speaker: I recognise the Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I beg to move Private Member's Motion No. 10, standing in my name, which reads:

WHEREAS the Cayman Islands has been subject to the global recession since 2008;

AND WHEREAS the unemployment rate has risen steadily since 2008;

AND WHEREAS the Labour Law is expected to provide protection for the Labour force;

AND WHEREAS it has long been recognized that the provisions of the Labour Law are inadequate to protect Caymanians from unscrupulous employers;

AND WHEREAS the Government has indicated that it will bring amendments of the Labour Law to the Legislative Assembly;

AND WHEREAS there have been numerous complaints by Caymanian employees of employers releasing them from their employment, under the guise of downsizing due to economic hardship;

AND WHEREAS employees being released other than in accordance with the redundancy provisions of the Labour Law are being paid severance pay of one week wage per year of employment, and given an additional one week wage per year of employment, as gratis pay;

AND WHEREAS many employers are being advised that if they pay said severance pay and a gratis it can be considered an unfair dismissal pay award in accordance with the Labour Law if employees challenge their dismissal;

AND WHEREAS employers are applying for work permits to fill the positions previously held by Caymanians improperly dismissed on grounds of redundancy;

AND WHEREAS the National Workforce Development Agency and the relevant Immigration Boards are never made aware of the tactics being used by employers, and continue to issue Work Permits;

BE IT THEREFORE RESOLVED THAT the Government consider amending the Labour Law to require employers who claim downsizing through redundancy of Caymanian employees, where foreign work permit holders are employed,

to prove such redundancy to the Labour Department and notify the relevant Immigration Boards;

AND BE IT FURTHER RESOLVED THAT the Government consider increasing the amount of award by a Labour Tribunal for Unfair Dismissal to an amount equal to up to 3 years wages at the employee's latest basic wage at the day of dismissal.

The Speaker: Is there a seconder?

Mr. D. Ezzard Miller: Yes, Madam Speaker, I beg to second the Motion.

The Speaker: The Motion has been duly moved and is now open for debate. Does the Member for East End wish to speak thereto?

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

Madam Speaker, I have been here long enough to understand that you should not measure your success in here based on what immediately preceded you. So, I approach with caution.

What I do know is that the motion which preceded this was about protection of us all, hopefully. And that will get kudos for Members of this legislature. What this one will bring for us is that we will be . . . or at least me . . . I will capture a place in the annals of the editorial, following on with what has been going on all week. Every time you bring something that helps or protects our own people, we are—

[Inaudible interjection]

Mr. V. Arden McLean: No, no, I know. I didn't want to use such strong words, but—

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, we are taken to task, I think is the right way to say it.

Madam Speaker, let me begin this presentation by saying that this Motion is in no way brought here to embarrass the Government. I am well aware, as I said in this Motion, that the Government is bringing some . . . whether it's an amendment or a total repeal, or whatever, to the Labour Law. As to when that is coming, I don't know. But the circumstances are such, this thing has gotten so far out of hand that I want to impress upon the Government one of two things: 1) If we are going to repeal the Labour Law or amend it in short order, I would like these things included therein. That is my proposal. And if that is not forthcoming in short order, I would impress upon the Government to bring some kind of amendment to the Law because it shouldn't take very much to do it to put it as a stopgap until we can get to the substantive amendments or the repeal or the revision . . . well, not

revision, but it's got to be repealed or amendments [made] to the Law.

Madam Speaker, I know the Premier said vilified. Maybe we will be vilified for this. But sometimes you have to do what you have to do. One of the things that I believe the Fourth Elected Member for Bodden Town said, is, that it's obvious that when it comes to issues of our people we are united.

Some people who come to this country don't understand its history. So, let me enlighten them a little bit about how East Enders used to work. You hit one, you have to hit all. Whilst we talk about the editorial talking about "In search of a united Cayman," Madam Speaker, I am the last one to come to the aid of the Premier, because I know where he comes from. I know he is very capable of defending himself, or, for that matter, the Minister of Finance. But the only lack of unity in this country happens to be perpetrated by the editorial board of the *Cayman Compass*. And today I am of the view, my personal opinion is that that editor, or owner, is a plant in this country to destabilise it. And it is the responsibility of the powers that be to find out what he is, what he's doing here, and why he's going on the way he's going on.

He's talking about uniting Cayman. He is the one who is splitting up the Caymanians. And the last time, Madam Speaker, I saw somebody conducting themselves in this manner, was when we had to chase Gibbs and the Attorney General out of this country. And we knew they were MI6. That is a proven fact. This one comes from America. I need to know if he is the other side of MI6 in America—CIA—with the intent to destabilise my country.

I know he buys ink by the 45-gallon drum. He has plenty to buy. He likes to say that the Premier shouldn't say that those coming here shouldn't tell us what to do and what have you. And then he talks about those that came. He has no point of reference for this country. He needs to go back in the history of this country and the history of those that he would name in his paper and understand that it's only in the evening of life that they received atonement for the sins they visited upon my people. Especially South Sound!

He likes to drive along that road now? He may very well be living there. Let me enlighten him . . . it was a swamp. Ask him who filled it in and made millions off of it; the same ones that they are revering right now and brought so much to us because we were just seamen.

Do you know what I told the Prince of Edinburgh? The Queen's husband . . . what's his name now?

Mr. Alva H Suckoo, Jr.: Duke of Edinburgh.

Mr. V. Arden McLean: Duke of Edinburgh. While standing next to me, he said to Desmond Tutu, "Oh,

you know, Cayman's only export at one time was seamen." [UNVERIFIED QUOTE] [It was] at 10 Downing [Street]. I looked at him and said, "Yeah, and they were so good that they built the country and your people are all there now."

[Inaudible interjection]

Mr. V. Arden McLean: Load it? I am loading you up too. That's how it works.

Madam Speaker, you see, somebody told me one time that we create our own enemies. And that we have! We create our own enemies, our own dragons that spit fire at us and consume us in their fire. That man is the same one who talked about there is nobody that can talk about . . . Madam Speaker, just give me one break up here and let me read this thing.

It says: "**The premier averred that, 'a Caymanian who strives, who wishes to work, who does what is necessary to get the qualifications and the training' should not be passed over for a job opportunity in favour of a non-Caymanian.**

"Not only do we agree with that position, we aren't aware of anyone, expatriate or Caymanian, who has ever argued seriously to the contrary." [[Cayman Compass](#), 17 September 2014]

He lied!

He is the man that told that same Premier that it's a shame that only Caymanians run this country. He should have told me so. He better be glad it was him he told. Of course, I was not very pleased with the Premier, who was Minister of Education at the time, that he didn't tell me in his presence what he had said. That's who we have in this country. Then we go and give him status!

Who do you think would do that?

[Inaudible interjections and laughter]

Mr. V. Arden McLean: Madam Speaker, I have been here long enough to understand. And he should take note. And I know this is going to be the big headline tomorrow. I hope he's listening good, because it doesn't bother me one iota.

[Inaudible interjection]

Mr. V. Arden McLean: Oh, I always get Fridays.

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, there is no pre-requisite to enter these halls. The people of East End chose me to represent them. Whilst they were doing that they extended to me the privilege of standing on this floor and defending them without possibility of prosecution. Every time he comes with these edito-

rials trying to split this country up I am going at him from this floor.

Leave!

The Speaker: I know that you are very passionate, and I have noticed that you are not labouring to make your deliberation, but could you meander back to the Motion fairly soon?

[Laughter]

Mr. V. Arden McLean: Well, Madam Speaker, I will bow to your wishes and to your ruling. But he is meandering all over the place too and trying to kill us too!

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, he's the same one causing the labour problem, if you want me to go back to labour.

Madam Speaker, the fact that people like him can get out there and beat us, as legislators, means that his friends, or maybe him, I don't know what his practices are in his company, or his supposed company, I don't know what his practices are, but that is why we are here with this same labour thing because of attitudes like this. They all think they have us by the short and curlies.

Madam Speaker, I know that the Premier is going to say that I shouldn't do this, but, Madam Speaker, my last lick on him I invite him to read the lyrics from the Eagle's song, "The Last Resort." That's where we are now. And I would draw particular attention to the verse which says:

"Who will provide the grand design, what is yours and what is mine?"

"Cause there is no more new frontier" (we already went over every piece of land, even though the Minister out there doesn't think so) **"we have got to make it here."**

I want to draw that to his attention. We are going to make it, or we are going to break it. And anything I do in advocating on behalf of my people, I make no apologies for it. I want him to understand that. So he can write . . . I hope he doesn't have a 45-gallon drum of ink tonight.

Thank you, Madam Speaker. I needed to get that one off my chest.

Madam Speaker, I was mindful a few weeks ago when I occupied the front page to put in a motion for the Government to assist me with calling for an amendment to the law to require all newspapers to publicly display their beneficial ownership. But we are going to get to that one, because we need to know whose interest is being served. I know who my masters are. They are up in East End. I wonder who their masters are; all of them.

[Inaudible interjection]

Mr. V. Arden McLean: Oh, for God's sake, hush 'bout that one.

[Inaudible interjection]

Mr. V. Arden McLean: Oh, Madam Speaker, I get very passionate when it comes to the people that I love. But they look like they are trying . . . and with this Labour as well.

Madam Speaker, it looks like they are putting barbed wire up and they are corralling the Indians on the Great Plains, that's what they are trying to do to us. It won't be in East End. Unna can do what unna want down there.

[Inaudible interjection]

Mr. V. Arden McLean: He's one of them that has those spurs on his heal but we are going to burn them off. We are going to take them off there.

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, let me get back to the Motion.

Madam Speaker, I believe this started with us in the recession. I recognise that the Minister of Finance made a statement recently and he said that things are starting to show signs of a come-back. I believe between 2013 and 2014 he said that the unemployment rate of Caymanians declined to 9.4 per cent from the 10.5 per cent in 2012.

He also went on to say that in contrast the unemployment among non-Caymanians increased by 23 per cent resulting in an unemployment rate of 3.1 [per cent]. Now, somebody needs to tell me how non-Caymanians in this country are on the unemployment list. But we will have to find out from the ESO on that particular thing.

Anyway, Madam Speaker, I am happy to know that, and I did put in here that it has rose steadily since 2008, which is true. In 2008, just before the recession, I believe we were five or four-point-something unemployment rate. But now that it's started to contract, that is welcomed news.

Madam Speaker, we know the purpose of the Labour Law is to protect the labour force, whether it's Caymanians or those who are working here as visitors. For years we have recognised that the provisions in that Labour Law just do not do the job that it is required to do. And in keeping with that, in 2004, I think, a new employment law was passed and never put in force. Two Governments since then, one included me, did not do anything about it. So, I am not trying to embarrass anybody. What I am saying is the time has come for us to step up, because the majority of the

people being disenfranchised because of the lack of proper provisions just happen to be Caymanians.

Madam Speaker, very little has been done to the Labour Law since it was brought in force, which was in 1987. And very little major changes were ever put in place to enhance that Law. If it had gotten as much as the Immigration [Law], we might have gotten something right. But then we got that all wrong too—so . . .

But, Madam Speaker, one of the things under the Labour Law is that the existing penalties do not provide deterrents for employers to comply with the Labour Law. Some of the rookies over on that side talked about those penalties the other day. I think it was the Fifth Elected Member for George Town. They circumvent the law and the penalties are insufficient to even deter them, much less stop them.

Madam Speaker, in doing my research for this Motion I happen to have a friend who lives in the Turks [and Caicos Islands] and he indicated that I should look at their Labour Ordinance (I think it is called). It was very instructive, Madam Speaker, and I would encourage all Members of this honourable House to have a look at it. It is superior to our Law. It has extreme protections for the people of the Turks and Caicos Islands, the “belongers”.

Madam Speaker, I don't want to read all of it, but all provisions for redundancy . . . and, yes, Madam Speaker, we have similar provisions for redundancy in our Law, but there are some that are very, very pointed.

For instance—⁵“**[72.] Where the principal reason for the dismissal of an employee was that he was redundant, but it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by him and who have not been dismissed by the employer, and either—(a) that the reason (or, if more than one, the principal reason) for which he was selected for dismissal was one of those specified in section 70(1); or (b) that he was selected for dismissal in contravention of a customary arrangement or agreed procedure relating to redundancy and there were no special reasons justifying a departure from that arrangement or procedure in his case, then for the purposes of this Part, the dismissal shall be regarded as unfair.**”

Madam Speaker, our redundancy doesn't even go that far. But the tribunal that they have there as well has wide-sweeping powers. Here our tribunal can inquire into it, but they are only allowed to award up to one week for every year the [employee] had been on the job. In the remedies for unfair dismissal,

the employer better know what they are doing down there.

“84 (1) If the employee's complaint of unfair dismissal is found to be proven to the satisfaction of the Labour Tribunal hearing the matter it shall award the employee one or more of the following remedies—(a) an order for reinstatement whereby the employee is to be treated in all respects as if he or she had never been dismissed; (b) an order for re-engagement whereby the employee is to be engaged in work comparable to that in which he or she was engaged prior to his or her dismissal, or other reasonably suitable work, from such date and on such terms of employment as may be specified in the order or agreed by the parties; (c) an award of compensation as specified in subsection (4); (d) or such other remedies as the Labour Tribunal may order.”

Section 84(4) says: **“(4) An award of compensation shall be such amount as the said Labour Tribunal considers just and equitable in all the circumstances having regard to the loss sustained by the employee in consequence of the dismissal in so far as that loss is attributable to action taken by the employer, and the extent, if any, to which the employee caused or contributed to the dismissal. The amount awarded shall not be less than 2 weeks' pay for each year of service for workers with less than two years' service, and one month pay for each year of service for workers with more than 2 years of service of seniority. An additional amount to such loss should be awarded where the dismissal was based on any of the reasons under subsection (2) . . .”** (which is contrary to reinstatement” if it were reinstatement)

“85. (1) Where on a complaint under section 83 the tribunal finds that the grounds of the complaint are well-founded, it shall explain to the complainant what orders for reinstatement or re-engagement may be made under section 88 and in what circumstances they may be made, and shall ask the complainant whether he wishes the tribunal to make such an order, and if the complainant does express such a wish the tribunal may make an order under section 86.

“(2) If on a complaint under section 83, the tribunal hearing the complaint finds that the grounds of the complaint are well-founded and no order is made under section 86, the tribunal may make an award of compensation for unfair dismissal, calculated . . .” (based on those over there that I just read).

Madam Speaker, I am just getting into the amount of compensation. It's extremely lengthy, Madam Speaker, and I don't want to bore the House with all this, but . . . **“88. (1) If an order under section 86 is made and the complainant is reinstated or, as the case may be, re-engaged but the terms of the**

⁵ Employment Ordinance (Turks and Caicos Islands)

order are not fully complied with, then, subject to section 92 the tribunal shall make an award of compensation, to be paid by the employer to the employee, of such amount as the tribunal thinks fit having regard to the loss sustained by the complainant in consequence of the failure to comply fully with the terms of the order.”

“88 (2) (b) except in a case which the employer satisfies the tribunal that it is not practicable to comply with the order, the tribunal may make an additional award of compensation to be paid by the employer to the employee of an amount not less than thirteen nor more than twenty-six weeks’ pay.”

Madam Speaker, as it goes on, “91(7) If the amount of any payment made by the employer to the employee on the ground that the dismissal was by reason of redundancy exceeds the amount of the basic award which would be payable but for subsection (6) of section 90” (which I read) “that excess shall go to reduce the amount of the compensatory award.

“92. (1) The amount of compensation awarded to a person under subsection (1) of section 88 or of a compensatory award to a person calculated in accordance with section 91 shall not exceed thirty-five thousand dollars.”

Madam Speaker, I read all of that to say that this tribunal’s orders cannot even be looked into by a higher court unless it’s on a point of law. That’s the kind of power they have given their tribunal. That’s what I am trying to impress upon the Government. We need to put something in place to deter these people from firing Caymanians. Madam Speaker, I am not talking about firing for cause, because the provisions are in our law for that. If it’s gross misconduct, nobody in this world can save you from that; or other matters as well. But, when it is proven that it is for unfair dismissal, then, someone must pay that Caymanian.

Madam Speaker, I must say that I had my own troubles recently in my constituency. But since then I have received representation from at least five people who are not constituents. The most recent was last week Tuesday. As the Member for North Side and I got off the radio, there was a gentleman outside who had just been dismissed by Ritz Carlton for nothing, according to him. Of course, Madam Speaker, I never went into any detail, I didn’t do any research or anything of that matter because he said it was with the Labour Department.

Madam Speaker, it cannot be . . . no, let me put it this way, I know every Member of this honourable House, including your good self, Madam Speaker, has had representation on that same thing. There is not one who can hold their hands up and say that they have not had representation over the last year about these people letting Caymanians go on the basis of redundancy. Now, we have to do something about it.

And I am not rushing the Government. I want them to deal with it in a timely fashion.

Madam Speaker, during June I was inundated with complaints from my constituents who were working at an establishment in East End, namely, Tortuga Club. There comes a time when you do what you have to do to defend your people. And I know there are consequences to everything I do, Madam Speaker. I can’t control the consequences, I can control the actions. But my actions are honourable; my actions are noble in this cause. I went and got a gallon of ink as well and I wrote the authorities that be—who just happens to be the Minister.

I wrote the Minister in July, and I said, “Dear Minister: Re: Morritt’s Tortuga.” And I am going to call it out because it’s time. I have had enough of it.

“I write in relation to several issues at Morritt’s Tortuga that have come to my attention through representation by the Caymanian staff.

“Over the last month I have received numerous complaints of unfair employment practices being carried out by owners and management of the captioned establishment, namely: 1) an employee, Mrs. Janet Browning, of 25 years dismissed, apparently without reason with claims of position redundancy; 2) accusations of the restaurant manager, Mike Finity [PHONETIC], mistreating employees and making unsubstantiated reports to the owner, David Morritt, which resulted in the dismissal of Caymanian staff members; 3) claims of the owner preparing to dismiss 20-plus Caymanian employees and interns; 4) the approval of a temporary work permit for Chris Johnson, the son-in-law of the owner as the operation manager while a Caymanian, William Connolly, was in post.

“On Tuesday, 8 July, I met with Mr. David Morritt, Chris Johnson, and Mike Finity with the hopes of assisting where possible to calm the situation by informing them of the complaints received. To my amazement I was informed that William Connolly was terminated the previous day and that the human resource manager, Joanne Watler [PHONETIC], had resigned just hours prior to my arrival. In the case of Connolly, he was being accused of hiring family members and rehiring former employees who were dismissed for drinking on the job.

“Mr. Johnson accused the management, prior to his arrival, of overstaffing the establishment and not addressing discipline matters reported by managers, such as drinking and sleeping on the job. As a result, it was decided to reduce the staff complement in line with the pre-Ivan levels based on staff-per-unit ratio. When told that he must have documented evidence to dismiss, he indicated that he was new to the job and had been advised that he only needed to pay severance pay and unfair dismissal. He was advised to consult with the Labour Office prior to proceeding.

"Based on the number of complaints and this admission by Chris Johnson, it is apparent that there is more than meets the eye at this establishment.

"There are many unanswered questions, such as, why was an employee of 25 years terminated without documented evidence of any wrongdoing? What are the circumstances surrounding the issuance of a work permit to Chris Johnson, who has no previous hotel management experience, while a Caymanian was in post? On what basis are 20-plus Caymanians' jobs being terminated? If Mr. Johnson's admission can be believed, we are facing a potential problem with Caymanians being terminated without cause and the Labour Law provisions being inadequate to prevent such abuse and not protecting the Caymanian work force.

"Subsequent to my meeting, I continued to receive concern from the Caymanian staff. Some have been released. Mr. Finnity appears to be manufacturing reasons to discipline staff which resembles constructive dismissal. In addition, he is applying for a work permit for a current work permit holder to be shared with another company (Dart). It seems rather disrespectful to downsize by releasing Caymanians and applying for another work permit during that process. This practice seems to be the order of the day and Immigration is none the wiser or lacks the investigative processes to address the antics being used to disenfranchise Caymanians.

"Your kind attention to this matter is appreciated. If I can be of further assistance to this process please let me know using the contact details provided." [UNVERIFIED QUOTE]

Madam Speaker, the Minister got back to me and it was being dealt with by the Labour Department. So, I put pen to paper again and I went to every member on the Business Staffing Board; the chairman, everybody.

"Dear Sir:

"Re: Morritt's Tortuga Club.

"Attached please find a letter sent to the Minister of Labour recently concerning labour matters at Morritt's Tortuga. As a result of my letter and other complaints to the Labour Department by former and current staff members, the Department has conducted a number of inspections of the premises. Follow up with the Department staff has revealed that they have given Mr. Chris Johnson written warnings of infringements of the Labour Law. Additionally, the Immigration Department has been informed of the Labour Department's findings.

"Like my concerns I expressed to the Minister of Labour, I believe there are a number of areas that your board and your good self should pay particular attention to, namely: How could a temporary work permit be granted for Mr. Chris Johnson while an experienced Caymanian was in post? Additionally, Mr.

Johnson has no previous experience as per section 44 of the Immigration Law (2013 Revision).

"While Mr. Johnson claims to be downsizing the staff complement for economic reasons, on what basis is he applying for a shared work permit for one Rameses Marianna [PHONETIC]?"

"In the matter of Mrs. Janet Brown, an employee of 25 years, why was she apparently terminated without reason? And who will be she be replaced with on the business staffing plan?"

"Does Mrs. Mimi Morritt possess a work permit? And what is her position at the establishment?"

"While I appreciate the Tortuga establishment has stood the test of time in the district of East End, not only as a responsible corporate citizen, but as a favoured employer, I nevertheless question the objective and management practices of late. There appears to be a deliberate attempt to release the Caymanian staff and replace them with foreign nationals while circumventing the provisions of the labour and immigration laws. Over the last month, at least two other instances of similar situations have come to my attention wherein employers are apparently deliberately releasing Caymanian employees on the basis of redundancy. These actions must be treated with the utmost attention and addressed with immediate dispatch. As such, it is my intention to bring this matter to the attention of the Government through the legislative process." [UNVERIFIED QUOTE]

Now, Madam Speaker, I know I am going to be vilified for reading all that out. But I'm okay with that. I don't have a problem with that. If I leave it and allow it to fester, more and more Caymanians are going to be sitting on the side lines. It needs to be addressed. It is important that these things be addressed.

Madam Speaker, I believe that we have a perfect opportunity here to send a message to all those who would otherwise treat Caymanians with absolute disdain. Madam Speaker, they told us we needed education. And they then told us we needed experience. How much more experience do you need than 25 years on the job? Madam Speaker, this is not putting together the shuttle, you know. This is a banquet manager, or an events manager, or something of that nature. Twenty-five years. Not one disciplinary complaint on this lady's file in 25 years—built the establishment—and just out of the clear blue sky because they bring in some FOREIGNER to take over? What are we doing? Where are we going? We are worse off today than we were 40 or 50 years ago.

Yes, Mr. Legge, we went to sea, but those who were left behind built this country to what it is today. Madam Speaker, at least we were working. We had the mother of the Third Elected Member for West Bay down at the Galleon as a waitress. We had Andy Martin as bar tender. We had our painters. We had everybody who was working. Here we are . . . Madam

Speaker, it cannot be. It's impossible for me to understand how Caymanians could get so dumb in a matter of 10 or 15 years, 20 years. You mean to tell me we didn't do anything?

Madam Speaker, it's not that. It is too much friends they are bringing in to take the place of Caymanians. Those who get here bring their friends. Those who spy on us bring their friends and their family. And we are short-changed in our own country.

Madam Speaker, I want it to be known that I have lived through some tough times in this here country, long before all of them who came out of Jordan and New York, the papers up in New York and all that. Okay? I have seen it. Much of it is a distant memory. But I have seen enough to know that when the bubble bursts what is going to happen.

We are skating on thin ice and I hear it cracking. Madam Speaker, I hear it cracking. If we don't address these matters we are going to have problems. We talk about bringing motions on taking money from work permit. I want everybody to understand that that doesn't take away from those Caymanians in the workplace. Now they are not going to throw them on top of the Minister of Education with her programme with that little \$7 million. They have a responsibility to train them on the job. But that's what they want to do.

And, yes, the Second Elected Member for George Town is looking at me. I know he has friends that are eager to jump on that accreditation thing. And I want to see that. I support that. But they must understand that we are not letting them off the hook. Whether the carrot has honey or brown sugar on it, it is not going to happen. We cannot afford to do it. They say they don't have an obligation; you gained the work permit with those conditions on it. You understood what they were. But what they are doing, Madam Speaker, you notice they don't have to train anyone on a work permit. It doesn't say that, you know. So, it's easier for them to hire someone on a work permit.

Madam Speaker, I really need to sit because everybody isn't getting the gist of this. But it aggravates me, eh? Immigration Law: Oh, the nights I stay up trying to understand these things.

"[44 (1)] The Work Permit Board, the Business Staffing Plan Board or the Chief Immigration Officer, as the case may be, in considering an application under section 42 . . ." (which, Madam Speaker, says, **"In this Part, unless the context otherwise requires, a reference to the Chief Immigration Officer in relation to the granting or renewal of work permits shall be construed as including a reference to anyone specifically designated by him to perform those duties."**)

" . . . (a) shall, in respect of an application for a grant; or (b) may, in respect of an application for a renewal," (remember now, this was a grant I was talking about) **"subject to any general directions which the Governor may, from time to time,**

give in respect of the consideration of such application, take into account the matters listed in subsections (2) to (4).

"(2) In relation to the prospective employer, that- (a) he has demonstrated his genuine need to engage the services of the prospective worker; (b) he has, unless he has been exempted by the Governor or by the Board, sought, by advertising in at least two issues for two consecutive weeks in a local newspaper, to ascertain the availability of any one or more of the following in the order in which they are listed- (i) a Caymanian; (ii) the spouse of a Caymanian; (iii) the holder of a Residency and Employment Rights Certificate; and (iv) a person legally and ordinarily resident in the Islands who is qualified and willing to fill the position; (c) in the case of an application in respect of a professional, managerial or skilled occupation, the Board or the Chief Immigration Officer, as the case may be, is satisfied as to the extent to which he has established adequate training or scholarship programmes for Caymanians; and (d) in the case of a worker who has a term limit of ten years under section 52(1), the extent to which the employer has contributed to the national training initiative."

This thing is littered with it about training, you know.

"[44] (3) In relation to the worker- (a) his character, reputation and health, and where relevant, the character, reputation and health of his dependants; (b) his professional and technical qualifications and his experience and competence to undertake the position applied for";

So, what are they doing with somebody up there as operation manager that has never seen a hotel room in his life? What are we doing? Is this what our country has become?

Madam Speaker, I am ready and willing to work with the Government to stop this abuse. We need to stop the deliberate destruction of our people. Madam Speaker, that's true, it's psychological warfare. And the only one losing is us. And the ink on this is not psychological. This one is direct. This one here is direct. I need to tell him, I need to send him a message. You are not part of "we", okay?

We are we. He is not part we. He doesn't deserve to be part of "we"; me and you that bucked out our toe ya! He doesn't deserve it! Every . . . you know, honestly.

Madam Speaker, let me politically go at the Premier, the Premier comes at me. The Government comes at me, I will go at them. That's what this debate is about. Let all (Roy Bodden thing) . . . all and sundry know that when you touch one in here you are touching all of "we". As soon as we come up with something to try to help our people . . . ah, boy, we're causing

division. Causing division? He should have been ya back then.

Madam Speaker, you know, I thought it was necessary for me to read these, not to embarrass the Government or the Minister that I wrote the letter to, nor the immigration people because they have been in contact with me and they are working on it.

Now, Madam Speaker, there are provisions in this Immigration Law which prevents the boards or the chief immigration officer from issuing a work permit, you know, by law, particularly if they are not qualified. I was told that Mr. Johnson, who is not qualified to hold that position, got a temporary work permit, and it's up the end of September. I trust we are going to see his back. We can't permanently give him a work permit when a Caymanian is available and willing to do it. We need to stop it! And the restaurant manager too! He must bid his staff good-bye.

Poor old Benson, he said we like to wear our hearts on our sleeves. And we do that so often. We would not be in this kind of mess if we had reserved the right to come to your house and pick you up in the middle of the night and you must know that you got on your full suit—not pyjamas—because we're putting you on the plane and carrying you out. We must reserve that right. But he's right in his editorial.

Some of the division is among us as Caymanians because we have sold our very soul for the almighty green, some of us. We don't venture into the areas where our people are not doing so good because we don't want to be seen there. That's not our place to be. So, we stay in our ivory towers and we support those in other ivory towers, not giving any concern, any account of those who the Fifth Elected Member for George Town is trying to make provision for and the Sixth Elected Member is trying to ensure that they don't go in our House, and the Member for North Side.

Many of us are not concerned about them. But when they visit our doorsteps, then we start crying. And then when they hear legislators putting something in place for, say, 10 years, we applaud legislators. But then as soon as we force them in the law to adhere to the provisions of keeping Caymanians on the job and giving them opportunity, opportunity, opportunity so that they can survive in their own country, we are vilified. That's what they do us. And we sit down here and roll over? Good thing this country is not run by one person. I promise you that. I am glad we are living in a live a vibrant democracy, Madam Speaker. It's wrong.

Each one of us has had to put our hands in our pockets to help our constituents. I ain't ashamed of it. Why? Because they just got terminated! *Why were you terminated? No reason, Mr. Arden. I don't know.* You think that's fair? Do all of you think that's fair to our people? And the Premier is coming looking

for, what, \$70 million for your social services? Do you all think that's fair?

Madam Speaker, how can we allow these people to arbitrarily destroy our people? And the reason I say three years . . . and now looking at the Turks and Caicos one, I must tell you I want to make an amendment here and leave it wide open.

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, my thoughts were, though, that you terminate someone at three years before retirement, he has no place to go. Nobody is going to take any chances with them. If it's five years, somebody may say let's take him or her for five years and get the experience that they gained over those years. Three years? You are a lone wolf out in the Mojave Desert. You're done. They must pay for it!

If the Government is so mindful, I made enough noise at them, but they are not even going to be mindful to respond to me. But if they are so mindful to accept this, maybe they want to change it and put in more. If you are so mindful to consider these things . . . I know they are being considered. Maybe the three years wasn't . . . they were looking at something else. But now that we have the benefit of not having to reinvent the wheel, and we have another overseas territory that has more provisions for their people than we currently have, maybe we want to look at it and try to get a little closer in line with that. I don't know.

We need to stop these people because their lawyers are advising them, Madam Speaker, that if they pay the severance pay, which is one week per year for every year up to 12 years . . . can you imagine? That's the other one that needs to be changed. No, no, I'm talking about one week per year. You work your life making money for people and they give you one week severance pay for every year you were there. Twenty years? There are provisions in there, depending on the amount of years you were there. It steps up one month after 20 years and that kind of stuff.

Madam Speaker, we need to give people more. We need to send a message to these people who would otherwise try to circumvent the law. Their lawyers are advising them to pay the severance . . . you know you look at people like you don't believe them when they say so. That man told me his lawyer told him so. And then pay them one additional week as gratis per year so that if they challenge it, then the tribunal will say their hands are tied, they already got more than they could give them.

Madam Speaker, they are what we have here talking about they are working in the best interest of our people? Oh no. N-o-o-o! You know what, God forbid, that those same glass windows get broken by those same people ya nah. We don't want to say it, but that's the practical part of this entire thing.

Madam Speaker, I must tell you I never aspired to be anybody who stood in the middle. I am taking one side. Now, I may have to be up front, but I am taking one side. And I already know which side that is. And I am sure that nobody can be that foolish to think that I am not taking the side that I represent in here.

Madam Speaker, it doesn't matter to me whether you are from Timbuktu or wherever. If you are Caymanian I have to defend you. But I also have to protect Caymanians from some other Caymanians! I can't allow them to take advantage of the less fortunate. That's our job, to bring some balance, some equality, in the governance of this country and the lives of our people.

Madam Speaker, I have other things I could say but I don't want to prolong this torture that I am giving to my colleagues. I await to see what the Government says and then we will go home for the weekend or whatever. But, Madam Speaker, I implore the Government. I can't say do it tomorrow. We can't do that. But at the very least, I know my bringing this I have won already. If the Government accepts it, Madam Speaker, I bet you won't see any redundancy starting tomorrow, or they will go out and get rid of everybody.

Madam Speaker, our Immigration Board and the NWDA need to keep a closer watch on these people. They are fooling them. They are lying to them and going and giving them all kinds of stories. And our people on those boards or in the departments, in their efforts to try and support the businesses, just do it. They must learn to be like Ronald Reagan, trust, but verify. You cannot trust these people, many of them. I am not saying it's everybody. I would never say that. I would never be so bold, because I know people, businesses, in this country that don't do that. It's against their moral standing, their beliefs. But there are many others who will do it, who don't pay insurance, who don't pay pension. And then government departments require some of my constituents, if they want to go clean the civic centre, they have to go and get a business licence. And they have to be in good standing. Can you believe that—for \$500, \$600 per month? This will soon be like America, you know.

Madam Speaker, I submit my being to the Government and I hope that they find some piece in their heart to understand that this is for the betterment of our people. I may not have done it the way they wanted it to be presented, but I did my best.

The Speaker: Does any other Member wish to speak?

I recognise the Minister responsible for Labour.

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

Madam Speaker, I rise to give the Government's response to this very timely Private Member's Motion brought by the honourable Member for East End and seconded by the honourable Member for North Side, which asks that the Government consider amending the Labour Law to require employers who claim downsizing through redundancy of Caymanian employees, where foreign work permit holders are employed, to prove such redundancy to the Labour Department and notify the relevant Immigration Boards; and to consider increasing the amount of award by a Labour Tribunal for Unfair Dismissal to an amount equal to up to three years wages at the employee's latest basic wage at the day of dismissal.

Madam Speaker, possibly to the surprise of some in this Chamber, I am happy to accept this Motion to consider making changes to the relevant provisions in the Labour Law. On behalf of the Government, the Government is happy to consider making those changes to those sections dealt with in this Motion, namely, that of redundancy and unfair dismissal. In fact, Madam Speaker, it is already being considered by the Ministry and the Government and discussions are well underway with the Legislative Drafting Department as to amendments related to the relevant provisions in the Labour Law to address the mischief that this Motion seeks to address.

Madam Speaker, as the Members have rightly pointed out in the recital to the Motion, the Government does indeed intend to bring amendments to the Labour Law to the Legislative Assembly in the near future. And the final amendments are being made to the proposed draft Bill to amend the Labour Law prior to its submission to Government for discussion and final approval, at which time a period of public consultation will ensue.

Madam Speaker, the Government is already convinced that the issues raised in this Motion need to be addressed in relation to the proposed Labour Law reform. And we have already taken steps to try to address them in the draft Bill. In fact, the Government's approach to addressing the issues will likely encompass, to some degree, what is being proposed here today. But it will not be limited to the actions that the two honourable Members are proposing in their Motion.

Madam Speaker, I thank the Member for one important correction that he made in his delivery, which is that the unemployment rate of Caymanians has not steadily risen, namely, since we have took office. We have seen a significant drop in the employment [*sic*] rate from 10.5 per cent to 9.4 per cent for Caymanians. That, as he indicated—

[Inaudible interjection]

Hon. Tara A. Rivers: Unemployment, correct! Unemployment rate, thank you (it's late)—the unemploy-

ment rate amongst Caymanians has dropped to 9.4 per cent and so that, coupled with the other economic indicators in the country is signalling a positive outlook for the future.

So, Madam Speaker, before actually dealing with the aspects of this Motion, I just wish to provide some background and context into some of the work that the Ministry and the Department of Labour have been carrying out for some time now on the comprehensive reforms to the Labour Law.

For many months the Ministry and the Department of Labour have been receiving solicited as well as unsolicited feedback from practitioners, employees and other stakeholders in the Islands, including my fellow colleague from the district of East End, and we are now moving towards effecting priority amendments to address and intervene in emerging problematic areas, some of which are addressed in this Motion today.

Madam Speaker, the Labour Law (2011 Revision), which is the current version in operation, as was indicated earlier by the Member, was originally enacted in 1987. It has been amended on several occasions in order to address specific issues during that time creating the 1989, 1993, 1995, 1999, 2000, 2006 and 2007 versions. The most recent of these reviews happened in 2010 when the Law was amended to facilitate compliance with the ILO [International Labour Organization] Convention 182 on the worse forms of child labour, as well as to remove the years of service cap or limitations in relation to severance pay, retirement and resignation allowance and the remedy for unfair dismissal, and the separation of the job placement functions from the department as part of the Ministry's realignment of pensions and labour which resulted in the 2011 consolidated revision.

Madam Speaker, the last attempt for the comprehensive review of the Labour Law, as was indicated as well, was undertaken in the early part of the last decade and resulted in the Employment Law 2004. The commencement order was never issued to bring this law into force, however. But the Employment Law has been reviewed by the Ministry and some relevant aspects will be taken forward in the draft Bill to be considered by caucus and Cabinet in the first instance.

Madam Speaker, Cabinet approved and the Ministry issued initial drafting instructions to amend the Labour Law back in February and March of this year. However, I am made to understand that due to limited resources and various legislative drafting priorities, the Government is unable to bring forward a finalised discussion draft as yet. But, Madam Speaker, this is anticipated in short order. I have once again impressed upon the Department of Labour and the Legislative Drafting Department, of the urgency of dealing with this matter.

Madam Speaker, irrespective of the current economic conditions in these Islands and globally, there are compelling arguments for reform and clarification of the Labour Law to benefit both the employee and the employer. Other progressive countries are also carefully examining and amending their labour legislation either despite or as a result of the current economic conditions.

So, Madam Speaker, very briefly, the drafting instructions which frame the discussion draft for the Bill to amend the Labour Law seeks to achieve the following objectives: to clarify several areas in the current Law which cause operational and interpretation challenges for users, employers and employees alike; to effect a number of housekeeping and tidying up, such as removing reference to the "Department of Human Resources" et cetera.

Also the amendments to the Law will seek to clarify and enhance the powers of the director in eligible cases where conciliation and mediation may allow those cases to be settled in house, rather than going to the volunteer led tribunals. This should lead to a more efficient and timely disposition of some appropriate labour matters.

Most notably and relevant to this particular Motion in hand, is that the draft Bill will enhance the penalties and sanctions in areas which are now subject to sustained abuse, including unfair or unreasonable workplace practices, unfair and constructive dismissal, improper occupational safety and health practices.

Madam Speaker, the revisions to the Law will also look to generally align the Labour Law to the new vision of the Ministry and Department with respect to best practices awareness and specific standard operating procedures. At the present time, Madam Speaker, the drafting instructions reflect approximately 80 proposed amendments to the Labour Law. There may be additional, depending on the discussions and deliberations with Cabinet and caucus.

Madam Speaker, during the past year, amongst the 956 inquiries and complaints received from aggrieved employees for various disputes, there were a total of 202 cases of terminations where compensation for severance and unfair dismissal were being sought. Many of those cases, approximately 80 per cent, were resolved by the Department of Labour through bringing the disputing parties together and reaching fair and amicable settlements through informal conciliation and mediation. However, cases which could not be resolved through that process and where the complaint had merit, the matters were referred to the Labour Tribunal.

Madam Speaker, in those circumstances, if the complainant was successful at the Labour Tribunal hearing and where an appeal was not lodged by the opposing party, the Tribunal could only award severance payment at a maximum of one week for

every completed year of service, in accordance with section 41 of the Labour Law; and, where applicable, a maximum unfair dismissal award of one week for ever completed or proportionate year of service, in accordance with section 55 of the Law.

Madam Speaker, this Private Member's Motion seems to be primarily seeking to address the mischief as it relates to terminating employees, particularly with respect to Caymanian employees, for reasons such as downsizing and redundancy due to economic hardships. And, I may also add, for other reasons such as globalisation and regionalisation, but failing to follow the rules for terminating on the grounds of redundancy, which is clearly outlined in section 51(2) of the Labour Law.

Madam Speaker, the other mischief for rectification identified in this Motion involves the ability of employers who engage in these types of unreasonable and damaging practices to continue to obtain work permits, either grants or renewals, often for the same or similar type job that another employee, namely a Caymanian employee, was terminated from, on the grounds of redundancy.

Madam Speaker, there should be some form of reporting or proof requirement for employers to meet to justify these actions. This Motion calls for it and this is something that the Government has already been considering when looking at making changes to the Labour Law.

I may add, Madam Speaker, that due to the disparate multi-agency structure of labour and employment administration in these Islands, namely the Department of Labour and Pensions being responsible for the regulation and enforcement and compliance aspect of the Labour Law; the Immigration Department being responsible for administering and regulating the foreign worker regime and enforcing the Immigration Law pertinent to such immigration or employment practices; and the NWDA being the main government vehicle for the training and development of the local workforce and the registration of job seekers, Madam Speaker, this type of inter-agency collaboration and connectivity may be somewhat of a challenge under the current regime. But, Madam Speaker, the Government is committed to continuing to look at and improve the multi-agency culture of compliance and we have made a significant step in that by connecting the avenue for job seekers, i.e., the National Workforce Development Agency [NWDA] to the Immigration Department and its boards with respect to considering work permits.

And, Madam Speaker, as I discussed in my contribution yesterday on the motion with respect to the accreditation programme, which was accepted by the Government, I walked through some of the important employment related provisions in the Immigration Law, as did the Member for East End in his contribution. But there is one section that I did not men-

tion and that I think is worth discussing, because it is relevant not only to what this Motion is seeking to achieve, but also in terms of what the Government is seeking to achieve with respect to ensuring that the laws that currently exist are being enforced, and that Caymanians are being given real opportunities to take advantage of the work and employment opportunities in the country. And that is regulation 5 of the Immigration Regulations, which states:

“(5) Where a Caymanian has applied for a position, the Board shall, for the purpose of being satisfied of the matters specified in subregulation (1), take into account the following information supplied by the applicant for the grant of the work permit-

- (a) the names of all the applicants for the post;**
- (b) the qualifications, working experience and background of all the applicants;**
- (c) the reasons given for the choice of the successful applicant and for the refusal to employ the other applicants;**
- (d) a copy of the refusal letter and interview report for each unsuccessful Caymanian applicant; and**
- (e) a copy of the job description and resumes of the non-Caymanian applicants.”**

Madam Speaker, as a result of numerous complaints received and lodged, both with the Immigration Department and with the National Workforce Development Agency about Caymanians applying for positions and their applications somehow ending up in file 13, the push was to create that nexus between the NWDA and Immigration, so that Immigration is aware of which Caymanians have applied for positions through the vehicle provided.

As the Fourth Elected Member for Bodden Town said in his contribution yesterday with respect to the registration process, it may be time for the Government to seriously consider how to better improve the transparency of the job availability in the market by either having jobs go through, or be registered or posted at the NWDA. I would also like to reiterate the call for having a transparent registry of positions as it relates to positions currently held by work permit holders to give an indication of what jobs are coming to the market, and when, so we know exactly what jobs are available for persons who may be made redundant for valid reasons that may necessarily need to find another position and transition into another position that may be coming available which is not publicly or currently known, given the current structure.

So, Madam Speaker, getting back to the particular mischief at hand, the request for significantly increasing the award for unfair dismissal, this Motion is asking the Government to increase the award from

one week's pay of the latest basic wage for each year of service with that employer for up to three years, or 156 weeks' wages at the employees latest basic wage at the day of dismissal.

Madam Speaker, the movers have concluded that these provisions in the Labour Law are inadequate with respect to the one week's pay. And, Madam Speaker, the Government agrees. These sections of the Law will be reviewed and we will have amendments to address the issue of the inadequacy of the one week's pay with respect to unfair dismissal and severance.

Madam Speaker, by accepting the Motion I would like to outline how the Government intends to improve and strengthen the current legislative and institutional systems governing this aspect of labour administration in the Islands, which I trust will enjoy the unanimous support of this honourable House when the legislative package is introduced here, hopefully later this year.

Madam Speaker, for the benefit of honourable Members and the general public, let me quote from the Labour Law (2011 Revision) on how section 51(2) in relation to termination on the grounds of redundancy is constructed.

“(2) Where the reason for the dismissal of an employee was that he was redundant but it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking, who were employed to perform work of the kind he was employed to do and who have not been dismissed by the employer, and— [(a)] that those other employees do not hold the same status as the redundant employee for the purposes of Parts III to V of the Immigration Law (2011 Revision) (Caymanian status, permanent residence and work permits); and [(b)] that the redundant employee was selected for dismissal in contravention of a customary arrangement or agreed procedure relating to redundancy and there were no special reasons justifying a departure from that arrangement or procedure in his case, then, for the purposes of this Part, the dismissal shall be regarded as unfair.”

So, Madam Speaker, even though the current Labour Law contains a section which is clear about the basis for determining the fairness or unfairness of the action as it relates to redundancy, as well as the potential compensation, the problem that exists is that the Department of Labour and the other regulatory agencies have no prescribed means of collating and reporting the employment redundancy circumstances or cases that may exist.

For example, what currently exists is that unless an employee makes a complaint to the Department of Labour for unfair dismissal under section 51(2) “Redundancy”, then the department would not otherwise know about it. So, at this juncture I would

like to commend those employers who do in fact consistently inform the department of cases of anticipated redundancies or terminations on other grounds simply to get advice or to notify the department as a matter of best practice or common courtesy.

However, Madam Speaker, whether the department is aware or not aware of a termination due to redundancy, the department's only remit under the current legislative regime is to take action under the Labour Law. Currently, there are no established protocols and certainly there are no powers in law for the Department of Labour to do anything more than inform other counterpart regulators, such as the NWDA and the Chief Immigration Officer, of the relevant cases of complaint and possibly the decisions with respect to labour tribunals and any relevant hearing.

Madam Speaker, the Member for East End confirmed in his contribution that the particular case he was dealing with, has, in fact, happened in that the Department of Labour has conducted investigations, they have weighed in on their interpretation of what is happening and they have informed the relevant agency (in this case being the Immigration Department) of their findings. However, the actions of those other relevant agencies, such as the Immigration Department and Board, would be at their discretion within the parameters of the existing Immigration Laws and regulations. And, as I said, there are provisions in the Immigration Law which would allow for them to act in these circumstances.

Madam Speaker, the Member has provided an example of another jurisdiction, namely that of the provisions found in the Turks and Caicos similar legislation. And I thank the Member for that information. As it will be left to the Government to establish the administrative and institutional systems to implement the provisions of the amended or new labour legislation, the Government commits to doing that prior to the enactment of any amendments to the Labour Law which seek to resolve the loopholes in the multi-agency enforcement of redundancies under section 51(2) of the Labour Law.

Firstly, we will have to establish the legislative framework and the procedures for determining what constitutes a breach of section 51(2) of the Labour Law, when this is amended. Additionally, we will have to operationalise these procedures by establishing a protocol or regime to require: 1) the mandating of reporting of redundancies and all forms of employment terminations by employers to the Department of Labour, whether the employee filed a complaint to dispute or not. We would need to determine the appropriateness of specifying what type of information is required to be provided by the employers to the department in those circumstances. And, Madam Speaker, we would need to establish the data sharing protocols with other independent regulatory service

agencies, such as the Immigration Department or its boards.

Madam Speaker, having conducted a brief legislative survey of how this issue is dealt with in other jurisdictions, the Ministry has already begun to identify potential solutions to addressing the reporting requirements that would be necessary in order to effect the changes that both the Motion speaks to and to what the Government is intending to bring forward with respect to redundancies.

Madam Speaker, in some jurisdictions redundancies which exceed a certain threshold number, say, for example, 20 or more employees in the case of Ireland, in those instances employers are required to report, and failure to report may lead to summary conviction of an offence and hefty fines. So, one of the things Government will have to determine is the appropriate threshold in the context of the Cayman Islands employment regime.

Madam Speaker, in addition, information about the plans for redundancy to be reported can include reasons for the plans of redundancy:

- The number and description of employees it plans to make redundant.
- The total number of employees employed at the organisation in question.
- How employees will be selected for redundancy.
- How and when redundancies will be made taking into account any agreed procedure.
- How redundancy payments will be worked out.
- The effect on the contract and earnings where transfer or downgrading is accepted rather than redundancy.
- Defining the conditions for choosing which employees will be made redundant, and how conditions will be applied.

For example, will it be appropriate to choose people from across the whole organisation, or from a particular department? Arrangement for travel, removal related expenses where the employee accepts work in a different place, if the company is a multinational company and that option is available.

- Whether the redundant employee may leave during the notice period or postpone the date of the end of a notice without losing any entitlement to a redundancy payment.
- Whether an employee can keep any company benefits when they are made redundant.

These are some of the considerations that will need to be had with respect to determining appropriate reporting protocols with respect to redundancy.

Madam Speaker, employers need to show that in choosing a particular employee or employees they had compared them in relation to the agreed selection criteria with those others who might have been made redundant and that, as a result, the employee was fairly selected. I would argue that consideration also needs to be given whether a claim for unfair dismissal may also arise where an employer has failed to undertake a reasonable search for alternative work throughout the organisation prior to dismissal.

This proposal ties in directly with what we are trying to achieve with respect to re-tooling and re-skilling our people. If a position is being made redundant and there is another appropriate position in which the person that is being made redundant could possibly fill with some level of training, with some level of support, especially if that position is currently held by a work permit holder. And, as the Law clearly states, there is no right to assume renewal of work permits pursuant to the Law unless there is a prescribed term associated with that permit.

Madam Speaker, this is the kind of thing that we are expecting employers to do when it comes to making a determination whether or not it is absolutely critical to make the employees, and in this case in particular, Caymanian employees, redundant in this market.

So, Madam Speaker, in accepting this Motion to consider this matter, I am pleased to say that the Government will attempt to effectively develop and capture the enabling provisions to implement appropriate procedures to help to operationalise the legislative requirements relating to the redundancy in the draft Bill to amend the Labour Law to be produced hopefully in short order.

Madam Speaker, with respect to the issue of unfair dismissal, again, the preamble of this Motion seems to focus primarily on unfair dismissal as it relates to redundancy. But, Madam Speaker, I am here to state that the Government will be bringing forward amendments to the unfair dismissal regime more broadly. So, issues of unfair dismissal as it relates to unfair dismissal in general, constructive dismissal, including for issues of discrimination, victimisation, harassment, the compensation for these types of unfair dismissals will also be enhanced in the draft Bill.

So, whereas the Motion is primarily concerned with redundancy, given the experience that the Member outlined in his presentation, the Ministry intends to propose a healthy increase in the severance benefit as well as that for unfair dismissal where applicable, but, of course, Madam Speaker, other than in cases of for cause, or fair terminations for performance or misconduct related issues.

Again, Madam Speaker, for honourable Members' information, and the general public, here is the excerpt of section 55(1) to (3) of the Labour Law dealing with remedies for unfair dismissal:

“55. (1) Where, upon a complaint of unfair dismissal, a Labour Tribunal has determined that the dismissal was unfair it may order the payment by the employer to the person dismissed of a sum of money by way of compensation for unfair dismissal.

“(2) In making an award of compensation under subsection (1), a Labour Tribunal shall have regard to-

- (a) the length of the continuous employment of the person dismissed immediately preceding the dismissal;**
- (b) the likelihood of the person dismissed finding other comparable employment;**
- (c) the salary of the person dismissed immediately preceding the dismissal;**
- (d) the period up to the likely retirement age of the person dismissed and any entitlement to a pension which he may then have;**
- (e) the degree of unfairness of the dismissal; and**
- (f) such other matters as may be prescribed.**

“(3) The amount of an award of compensation under subsection (1)” (that is unfair dismissal) “shall not exceed one week’s wages for each completed year of service.”

Madam Speaker, I am confident that honourable Members in this House will agree that while the considerations made in section 55(2) of the Labour Law in making the award of compensation for unfair dismissal, the factors to consider, those are solid. Those are reasonable. But, Madam Speaker, the actual compensation awarded in subsection (3) being restricted to one week’s wages for each completed year of service is woefully inadequate.

Madam Speaker, this is hardly a deterrent to powerful employers with deep pockets and/or employers with ulterior motives. It is also a pittance for an employee who has been unfairly dismissed—and that is the key, Madam Speaker, it is with respect to unfair dismissal—and for that employee to now have to seek new employment to rebuild his or her career after potentially being tarnished or ostracised in a small community such as this, as a result of unfair dismissal.

So, Madam Speaker, even though the Motion calls for a consideration for calculation to be determined at the employee’s latest basic wage at the day of dismissal, as a further means of strengthening the compensation for unfair dismissal, the Ministry and

the Department are of the view that the law should be further improved by replacing the words “latest basic wage” to “the highest average annual basic wage during employment with that employer.” Madam Speaker, this is an important improvement and it is also timely due to the changing employee demographics, as well as taking into account the wage seasonality of some jobs and professions or employment sectors.

For example, some people working in the hotel and tourism industry may be working “full time” hours for part of the year and “part time” hours for the other part of the year. So, this proposed change—which, of course, would need to be approved by all Members in the House for it to become Law—would mean that any employee working in industries such as that would not necessarily be given their dismissal at the rate of their latest basic wage if they were on a part time employment for that particular period of time. It is the highest average annual basic wage during the employment with that employer. That is a proposal and one which will need further discussion of the Government in this instance.

Madam Speaker, therefore, in accepting this Motion to consider increasing the amount of award for unfair dismissal for up to three years’ wages, consideration will be given to what is proposed by the movers, and the Government will be bringing enhancement to the Law in due course in accordance with the ongoing review and fine tuning of the draft Bill to be brought forward for consideration by Cabinet.

Madam Speaker, as I said, the Motion asks for the Government to consider, and that’s exactly what I have demonstrated on behalf of the Government, that we are able to consider and we will be bringing changes to these specific provisions because this is not only in line with the movers’ vision, but also the Government’s vision for what needs to happen in order to protect vulnerable employees in these instances.

Madam Speaker, the compensation for unfair dismissal, which is enshrined in the Labour Law (2011 Revision), being one week for each year of service, is the same benefit which was prescribed in the Labour Law in 1987, so too in 2014—twenty-seven years later. The last comprehensive review of the Labour Law which culminated in the Employment Law (2004) . . . it is interesting to note that compensation was not proposed to be increased there either. However, in connection with this matter specifically, the only improvement made in the Employment Law (2004) was with respect to including constructive dismissal and its definitions; unfortunately, there were no applications or sanctions. So, Madam Speaker, the Member was right in his analysis about there being only a few substantial amendments brought to the Labour Law since 1987 in this regard.

In conclusion, the Government agrees with the honourable Members who brought this Motion,

that the current penalties and compensation award provisions in the Labour Law are inadequate and they do not serve as a deterrent. And also, the provisions can be manipulated by shrewd employers or their legal advisors.

Madam Speaker, we too (the Government) are deeply concerned about this unsavoury practice. We know there are many employers who abide by the Law, many employers who will go above and beyond the Law, especially given that we recognise the legislation in this area is quite weak. So, by bringing these amendments we are in no way castigating *carte blanche* all employers. But we are saying to those employers—and you know who you are—if you are not abiding by the laws currently, I am here to put you on notice on behalf of the Government that there will be stricter legislative regime to ensure that people, employees, Caymanian employees in particular with respect to redundancy, and employees in general as it relates to unfair dismissal, that there will be strengthened protections to ensure that people can feel that once they do the job that they were hired to do and that they don't have issues of disciplinary and other concerns, that they should be afforded some level of protection with respect to their compensation, their ability to remain on the job, et cetera.

Madam Speaker, I give this House the commitment that the Government will look to address these issues in the impending amendments. And we will also turn our attention to creating or improving the operational and institutional systems to properly administer and enforce the Law in these and other important areas which we have already begun to do with respect to the work of the Department of Commerce and Investment, the Department of Labour and Pensions, the NWDA and Immigration as it relates to Trade and Business Licences and other areas of regulatory compliance, health insurance, et cetera.

So, Madam Speaker, here is another example where this House is in fact united in our concern about the unfair treatment of our people who are hardworking, who are determined to succeed, but, in some instances, are treated in a most unsavoury and untenable fashion. And as a legislature it is clear that we are determined to do something about these abuses which we know exist in the market today.

And, Madam Speaker, I would like to publicly accept the invitation by the Member for East End to work on moving this process forward in that I would be happy to get the research that he has done on this matter. I would be happy to sit down with the Member to discuss his concerns, and any other Member for that matter, to review the proposals and to ensure that at least due consideration is given to the concerns that have been aired to, as he said, all of us in this House in one form or another. In this instance, Madam Speaker, united we stand and as a people, divided we will fall.

So, I congratulate the movers for bringing this Motion. And as a Government we are determined that we will act to deal with the issues and the mischief that this Motion seeks to address. Thank you.

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

Final call, does any other Member wish to speak?

The Member for North Side.

Mr. D. Ezzard Miller: Thank you, Madam Speaker. Just to thank the Government for accepting the Motion to amend the Labour Law. And just to add one other item that I believe the Government could consider when they are looking at the Labour Law.

One of the reasons given from employers to people like us when we ask them why they are making Caymanian jobs redundant and keeping people on work permits, is because of the amount of money that they have invested in the permit. Under the current Immigration Law I think you can only get refunds if the person has worked for less than six months. Once you work one day over six months, they don't get anything. So, it might be a carrot to say to them that we'll prorate the work permit fee over a 12 month period so that even if they put somebody off in the 10th month they will get 1/12 of the fee back.

They are going to find every excuse in the world not to comply with the Law willingly. But I certainly believe that many Caymanian workers can be comforted tonight by the position taken by the Government, and I am also confident that there are going to be several employers who are going to be worried that the Government is prepared, at long last, because, Madam Speaker, I was here, not as one of the architects of the law, but certainly one of those who advocated to bring about the Labour Law, in the 1980s. At that time people like myself knew that the rewards for unfair dismissal were very low, but unfortunately at the time, those were many of the compromises that the Government had to strike with, particularly the business people and the employers in order to get any labour legislation on the books at all.

So, Madam Speaker, once again, I thank the Government and I also am willing to work in any way that I can to help bring this. I would just also say to the Government that having warned them, we don't want to wait too long before we bring the actual law, because there will also be those who when they hear that the Government is about to do something constructive, they will be deliberately looking to get rid of those before the law comes into force. And we don't want to give them too long a period of time to do that. So thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

I recognise the Fifth Elected Member for George Town.

Mr. Winston C. Connolly, Jr.: Thank you, Madam Speaker. I rise to give my support to the Motion brought by the Member for East End.

I listened to both the proposer of the Motion and the Minister of Employment. There were common themes in each of their statements. We have to remember at all times why we are doing what we do, why we gave up a lot of family time, a lot of other precious time that we could be doing other things, and it is love of country, a love for our own people. When we see those people being abused—and it's at every single level, Madam Speaker, from the bottom to the top—and being done with impunity, it's our role, it's our responsibility, it's what we were elected to cure.

Madam Speaker, I can't add much more to what was said. But I will say that I am 100 per cent behind this Motion, and I am glad that the Government that I am a part of and all the Members in this honourable House feel the same way.

We are an inclusive people, Madam Speaker. We have always opened our borders with open arms. But at times people . . . and I don't know if it's just because they are not used to being greeted with such friendliness, or they take that as a sign of weakness. Madam Speaker, there are no fools in this House. We see and we've experienced a lot of what we are talking about.

Madam Speaker, I will always say this: If we are not doing this for the good of Cayman and Caymanians first, then why are we doing any of it?

Madam Speaker, with those few words I just want to thank the Member for bringing the Motion. He has 100 per cent of my support. Thank you.

The Speaker: Does any other Member wish to speak?

I recognise the Fourth Elected Member for Bodden Town.

Mr. Alva H. Suckoo, Jr.: Thank you, Madam Speaker. I will be equally brief.

I just wanted to rise to give my support for this Motion and to thank the Member for East End for bringing it, and to also thank the Minister for rising to accept the Motion and committing to accept this Motion and to do more of the same in the near future. I think it is timely. I think that this country needs this sort of attention at this point, and our people have been crying out for the Government to step in and fix something that has gone drastically wrong in this country.

I wish to thank all Members of this House for supporting this Motion. Thank you.

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

I recognise the Second Elected Member for George Town.

Mr. Roy M. McTaggart: Thank you, Madam Speaker. I will be equally as brief as my two previous colleagues, but to also say publicly that I am fully supporting the Motion that is before us.

I believe there has been an overhaul of our employment laws, and labour practices have been long, long, long overdue. This Motion is timely. Recognising that a review of the Labour Law had already been underway, it's even more critical now that these things be incorporated as the Minister has so ably stated. They will be considered as part of the review that is ongoing. I am looking forward to seeing the final product, debating it and considering it, and ultimately approving it. But I stand firmly with the Member for East End and with the Government bench on this in supporting the amendments and moving this forward to its conclusion.

With those few words I thank you, Madam Speaker.

The Speaker: Does any other Member wish to speak?

The Honourable Minister responsible for Finance.

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

I too rise to give my support to the Motion, the Honourable Minister of Labour, already having accepted it on behalf of the Government, but just to say that as everyone else has said, it is timely. I do believe that with the review of the legislation and successful passage in time to come, we would hopefully strike a happy medium between what is affordable by the employer and what is deserving on the part of the employee.

And, Madam Speaker, I don't think that anyone should fear being ridiculed by anyone else because it appears that if you say nothing you are ridiculed, so you might as well get up and try to do what's in the best interest of the working people.

So, Madam Speaker, I am thankful that this has come at this time. We will do our best to ensure that it is brought to the Floor of this honourable House for passage. Thank you.

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

Final call, does any other Member wish to speak?

The Third Elected Member for West Bay.

Mr. Bernie A. Bush: Madam Speaker, I too rise to congratulate the Member for East End and the sec-

order from North Side on this timely [Motion]. I want to thank the Government and congratulate the Government for accepting it.

I and the others on this side support it. My only wish for this [Motion] is that it will also extend to protect civil servants. For too long what has gone on in the private sector, they are held to one standard and a different standard has gone on in government. So, let's hope this will protect civil servants as well.

Thank you very much.

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

Final call, does any other Member wish to speak?

If not, I will call on the Member for East End to exercise his right of reply.

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

I know when to hold them, when to fold them, and I know when to be graceful in victory. I don't know so much about defeat, but . . .

[Laughter]

Mr. V. Arden McLean: But I know when to be graceful.

Madam Speaker, I want to thank the Government in particular, and all honourable Members for recognising that this Motion is timely, but importantly the content therein, how they are needed in a country that is otherwise wanting, needing, is in need of help.

The Minister said, in accepting this Motion, that there may be things different from the way I asked. Well, I guess I said at the beginning that now that I have done some research since the Motion was in, which I usually do before, but I don't know what caught me up. And she talked about highest average annual basic wage during employment, I think, or something like that. I am perfectly fine with all that; just bring it.

Madam Speaker, it's always good when we work together on these issues, contrary to public opinion that we don't know how to work together. I believe it can be said when there are issues of such importance that this country comes together regardless. On the 11th we stood in here and we talked about how much we worked together after Hurricane Ivan. If you want to see Caymanians work together, create adversity.

So, I am happy to work with the Government, with the Minister. I invite her to look at the Turks and Caicos [Ordinance], it is quite instructive.

Madam Speaker, having said that, it is not usual to hear veteran legislators say this, but I must say that these young Turks, these rookies are coming into their own.

An Honourable Member: Hear, hear.

Mr. V. Arden McLean: I want to extend that by saying 14 years is not something you shake a stick at. Fourteen years of contribution to my country and it will be 16 at the next general election. I am feeling quite confident that I can fade into the sunset if these continue to come as fast as they are coming.

[Inaudible interjection and laughter]

Mr. V. Arden McLean: I am fairly confident in that.

If it's necessary for me to fade into the sunset, no legislature changes all of the people in one fell swoop. And there are enough here that we just need to get them a little further along the way and the Fifth Elected Member [for George Town] said a while ago that there aren't any fools in here. And that's true. We are seeing that manifest itself on a daily basis. But those of us who have been here for so long are getting ready to fade into the sunset. So—

[Inaudible interjection]

Mr. V. Arden McLean: I know. You want to stay here forever.

[Inaudible interjection]

Mr. V. Arden McLean: But it will be time for all of us to understand that we are not fixtures in this House. We are here but for a time, and this real estate belongs to someone else. We occupy it but for a time. And these are coming. They are only young, Madam Speaker, in the sense of how long they have been in here, you know. I am not committing myself to being any older than any of them. Okay?

Madam Speaker, let me thank the Government again and I look forward to the introduction of an amending Bill here to look at this Labour Law. We need to do something about it. We need to ensure that our people are protected, which they are not right now.

I believe, Madam Speaker, this must be the last thing on the Order Paper, so, let me say good bye to everybody. I don't know when we will be back. But I trust that it won't be very long. Hopefully we can bring the Labour Law back by then. But . . . that is pushing it, the Minister says.

Madam Speaker, thank you very much, again, for your indulgence. I look forward to working with the Government whether that is through the Minister or committees or whatever to get this thing done as quickly as possible.

The Speaker: The question is: BE IT THEREFORE RESOLVED THAT the Government consider amending the Labour Law to require employers who claim

downsizing through redundancy of Caymanian employees, where foreign work permit holders are employed, to prove such redundancy to the Labour Department and notify the relevant Immigration Boards;

AND BE IT FURTHER RESOLVED THAT the Government consider increasing the amount of award by a Labour Tribunal for Unfair Dismissal to an amount equal to up to 3 years wages at the employee's latest basic wage at the day of dismissal.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Private Member's Motion No. 10/2014-15 - Amendment to the Labour Law (2011 Revision) passed.

The Speaker: Just before calling on the Honourable Premier, I wonder if the First Elected Member for Bodden Town still wishes to say a word.

OBITUARY AND OTHER CEREMONIAL SPEECHES

Mr Hubert L. Bodden

Hon. Anthony S. Eden: Thank you, Madam Speaker. It almost slipped my mind. I appreciate you reminding me.

This is just to acknowledge and extend sympathies to the family of the late Mr Hubert L Bodden who passed away on Wednesday [3rd] September, 2014. To his wife, Liz [PHONETIC], son Barry and his wife Karen; Cindy-Kay [PHONETIC], his daughter, his brothers Abshire, Sammy, and Jerald [PHONETIC]. We all remember how he was a great son of the soil who believed in doing so many things within the community. I always remember the effort he put on Newlands Road where they kept that immaculate, he and his brother Jay. I know that on behalf of you, Madam Speaker, and all of my colleagues in the Legislative Assembly we would like to indicate our great appreciation for the efforts he put into beautifying Cayman and to sympathise with the family.

Thank you, Madam Speaker, and have a good evening.

The Speaker: Honourable Premier.

ADJOURNMENT

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

The LORD giveth and the LORD taketh, blessed be the name of the LORD.

Madam Speaker, this has been, I think, one of the most productive meetings of the Legislative Assembly that I have had the good fortune to be part of. I want to thank all Members for the way they have gone about the task. All of the motions were not easy, and all of the motions were not unanimous, or the position was not unanimous, but Members have conducted themselves in the best possible way and with the greatest statesmanship that one could ask for. I want to convey to all Members my thanks and my pride in their conduct and the work of this Legislative Assembly this meeting.

I want to thank you, Madam Speaker, and the staff of the Legislative Assembly for working late every evening since we've been here. But it has meant that we've gotten through three Government Bills, I have forgotten how many questions, five or six statements and ten Private Members' Motions in five days. That's a pretty good record. I want to thank everyone again for their hard work.

I move the adjournment of this honourable House sine die.

The Speaker: The question is that this honourable House be now adjourned sine die.

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

Ayes.

The Speaker: The Ayes have it.

At 9:06 pm the House stood adjourned sine die.

[This page intentionally left blank]