



**CAYMAN ISLANDS  
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT  
ELECTRONIC VERSION**

**2015/16 SESSION**

**26 October 2015**  
*Eighth Sitting of the Third  
Meeting*  
*(Pages 685-728)*

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

PRESENT WERE:

**SPEAKER**

Hon Anthony S Eden, OBE, JP, MLA  
Temporary Speaker of the Legislative Assembly

**MINISTERS OF THE CABINET**

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

**EX OFFICIO MEMBERS OF THE CABINET**

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

**ELECTED MEMBERS**

**GOVERNMENT BACKBENCHERS**

Mr Roy McTaggart, MLA	Second Elected Member for George Town
Mr Winston C Connolly, Jr, MLA	Fifth Elected Member for George Town
Mr Joseph X Hew, MLA	Sixth Elected Member for George Town
Mr Alva H Suckoo, MLA	Fourth Elected Member for Bodden Town

**OPPOSITION MEMBERS**

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

**INDEPENDENT MEMBERS**

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

**APOLOGIES**

Hon Juliana Y O'Connor- Connolly, JP, MLA	Speaker of the Legislative Assembly, Second Elected Member for Cayman Brac and Little Cayman
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**ABSENT**

Mr Bernie A Bush, MLA	<i>Deputy Leader of the Opposition</i> , Third Elected Member for West Bay
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**OFFICIAL HANSARD REPORT**  
**THIRD MEETING OF THE 2015/16 SESSION**  
**MONDAY**  
**26 OCTOBER 2015**  
**10:35 AM**  
*Eighth Sitting*

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

**The Deputy Speaker:** Good morning. I'd like to call on the Sixth Elected Member for George Town to say the prayers for us.

### PRAYERS

**Mr. Joseph X. Hew, Sixth Elected Member for George Town:** Let us pray.

*Almighty God, from whom all wisdom and powers are derived: We beseech Thee 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 the Cayman 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 amongst us. Especially we pray for the Governor of our Islands, the Premier, the Speaker of the Legislative Assembly, the Leader of the Opposition, Ministers of Cabinet, ex-officio Members and Members of the Legislative Assembly, that we may be enabled faithfully to perform the responsible duties of our high office. All this we ask for Thy great Name's sake.*

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

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

### ADMINISTRATION OF OATHS OR AFFIRMATIONS

**The Deputy Speaker:** I now will call on the Deputy Governor to be sworn in as temporary Ex-officio Member.

### OATH OF ALLEGIANCE

**Hon. Eric L. Bush, Acting Deputy Governor:** 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

**Hon. Eric L. Bush, Acting Deputy Governor:** 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 Deputy Speaker:** On behalf of this honourable House, I welcome the Honourable Temporary Ex-officio Member and invite him to please take a seat.  
Please be seated.

*[Pause]*

**The Deputy Speaker:** Proceedings are now resumed.

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

**The Deputy Speaker:** There are no messages or announcements.

### PRESENTATION OF PETITIONS

**The Deputy Speaker:** There are none.

### PRESENTATION OF PAPERS AND OF REPORTS

**The Deputy Speaker:** There are none.

### QUESTIONS TO HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

**The Deputy Speaker:** There are none.

## STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Deputy Speaker: There are none.

### PERSONAL EXPLANATIONS

The Deputy Speaker: There are none.

### OBITUARY AND OTHER CEREMONIAL SPEECHES

The Deputy Speaker: There are none.

### RAISING OF MATTERS OF PRIVILEGES

The Deputy Speaker: There are none.

### OTHER BUSINESS

#### PRIVATE MEMBERS' MOTIONS

##### PRIVATE MEMBER'S MOTION NO. 4 OF 2015/16— MOTION ON MORTGAGE LEGISLATION

The Deputy Speaker: I now call on the Honourable Minister for North Side to move the Motion.

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

I beg to move Private Member's Motion No. 4 of 2015/16, Motion on Mortgage Legislation:

**WHEREAS many Caymanians are experiencing difficulties with their mortgages and in some cases are losing their equity in the current foreclosure regime.**

**AND WHEREAS there is no current mortgage legislation in place.**

**BE IT THEREFORE RESOLVED THAT Government consider the enactment of mortgage legislation that will offer proper protection to the lending institutions but will also provide property protections to the borrower, as well, and in particular their equity.**

The Deputy Speaker: Is there a seconder?

**Mr. V. Arden McLean, Elected Member for East End:** Mr. Speaker, I beg to second the Motion.

The Deputy Speaker: The Question is: BE IT THEREFORE RESOLVED THAT Government consider the enactment of mortgage legislation that will offer proper protection to the lending institutions but will also provide property protections to the borrower, as well and in particular their equity.

Does the Honourable Member wish to speak thereto?

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

Mr. Speaker, over the last few years, I have had lots of representation from within my constituency, as well as from the wider Cayman, of persons who are losing their houses. And while they and I understand that the lending institutions who finance these houses must have the right to recover their money, and if it boils down to having to sell the property, to do so, there are many instances reported to me which tend to suggest that it is a one-sided operation and that the lending institutions have all of the authority and, in many instances, do not seem to have any social conscience at all.

The unfortunate part of this, Mr. Speaker, is that the majority of these people are not young people under 30. Many of these people are in the twilight of their careers, middle-aged people, 45, 50, 60 years old. I have seen instances where one of my constituents had a 15-year mortgage and had made the payment every single month, on time, for 10-plus years. But the bank was now foreclosing and taking away their house because the person had lost their job due to a downsizing, and because of the ease of these financial institutions getting work permits, was unable, although qualified and experienced, to get a similar job in order to continue to service their mortgage.

Mr. Speaker, in asking the Government to do specific mortgage legislation, I fully understand and expect that such legislation should offer adequate protections to the lending institutions. In no way am I trying to say that the lending institutions shouldn't have final authority to recover their funds. But, Mr. Speaker—and I will give a few examples later on in my contributions—I have seen examples where people are losing hundreds of thousands of dollars in equity on their foreclosure. And it can't be right, Mr. Speaker, that a lending institution will insure a property for close to half-a-million dollars in one year because they are financing the insurance and adding it on to the mortgage payment, which is a separate problem that we need to deal with. And then, a year later when they foreclose, they get some quantity surveyor to value the house at less than a quarter-million dollars. And they even sell the house for a value below that evaluation.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** No, they get them. They go out and hire the valuers, and that again should not be allowed.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** Well, I'll get to that later on, and you tell me whether they're instructing or begging them.

So, Mr. Speaker, if many of these middle-aged people were able to retain their equity, if the house was sold at a proper value, they could start over. They could go and build a smaller house. And many of these banks, Mr. Speaker, are setting these people up for failure, because they're allowing them to borrow all this money, over extend themselves over extended periods, and when they get in trouble, then they're all too happy to take it away and recover what is owed to the bank. And a person gets zero for the equity. And, Madam Speaker—

**An Hon. Member:** Mr. Speaker.

**Mr. D. Ezzard Miller:** Mr. Speaker (I'm sorry—creature of habit), Mr. Speaker—my apologies.

**The Deputy Speaker:** Accepted.

**Mr. D. Ezzard Miller:** Mr. Speaker, the banks or the lending institutions in such mortgage legislation, as I said earlier, must retain the ability to recover what they have lent or invested with the people. And mortgage legislation would not be unique; in fact, I think the Cayman Islands is probably one of the few developed countries, as we like to call ourselves, that doesn't have mortgage-specific legislation. Canada has a long history, going back to early nineteenth century. Jamaica, next door, has some mortgage rules and stuff. UK, again, has extensive rules and regulations on mortgage. In fact, Canada has amended theirs as recently as 2012. And I think the UK has done some recent amendments to their legislation as well, to bring it more in line with the EU.

I'm not asking for us to invent the wheel here. But, Mr. Speaker, we also, I believe, need to be bold in such legislation that we tend to introduce. And we should incorporate in that legislation the ability for the lending institutions to take equity for default payments as opposed to simply foreclosing. Because the object here has to be to help Caymanians stay in their house and the home that they've built. So the lending institutions should be able to take equity, which would also serve two purposes, because they would be more likely to sell it at true value since they would want to get their equity in addition to the balance of the loan but the people stay in the house and to even allow them to rent

We should not be afraid to introduce what the United States, I think, calls *reverse mortgages*, particularly for people at this age. And in the UK, I think they call it *equity release*, where senior citizens can borrow up to 80 per cent of the value of their house on a pre-payment base. And when the house is sold at the time of their death, the lending institution gets its money back.

So, Mr. Speaker, I believe that it is time for the Government to look at this. And also, I believe that if we champion ourselves as one of the leading financial places in the world, we should have expertise locally

that can draft this kind of legislation and bring in these kinds of new concepts and get it accepted so that we offer some protection for our Caymanian people.

Now, Mr. Speaker, here are some of the cases that I've been presented with, so that the public understand that the Government needs to do something here. I had one case presented to me where they had a valuation by DDL for \$515,000 in 2009 when the property was mortgaged. In 2013, Charterland for the bank valued it at \$350,000 when the person started to get in difficulty of default. Then the owner went back to DDL in July 2014 and got a valuation \$465,000. JEC valuation in September 2014 was \$550,000. DDL itself did a valuation for the bank in May 2015 for \$465,000. The bank sold the house for \$299,000 in May 2015. So, that Caymanian lost between \$51,000 and \$166,000 in equity, depending on which one of those higher evaluations you want to take. And the \$299,000 was quite close to what was owed to the bank.

Another case is an evaluation for a 4,500 square-foot two-story house, \$497,000. Charterland evaluation was saying the house was only 3,600 square feet, \$250,000. The bank sold the house for \$250,000, and the difference in the square footage is the upstairs. That person lost \$247,000 equity. And this one I followed through to the Land Registry, only to find that the Land Registry accepted the \$250,000 for stamp-duty purposes and the incorrect square footage of the house because they looked at an aerial photograph. And of course, in an aerial photograph, the upstairs wouldn't necessarily show up.

We have another case where there was an evaluation for the owner of \$550,000 and the evaluation for the bank was \$280,000. The bank sold the house for \$299,999. I wondered, why all these nines? But I believe, Mr. Speaker, that the ceiling for the waiver of stamp duty for Government, I believe, is \$300,000. So this one was sold for a dollar less so they could qualify for the stamp duty waiver, and I believe I am correct in saying that they got the stamp duty waiver.

So, Mr. Speaker, I use those examples just to show that there seems to be great variation. And one of the things that seem to be happening, which, in my view, the legislation should stop, is that the banks seem to be selecting their valuers. And that should be an independent process, or if you go back to the court records, you will see that in years gone by when this stuff always went to court and court set a reserve price, they used to take the median of the valuations and agree on an amount. But because of a Practice Direction No. 5, issued in 2012, when it seems that because there were different interpretations of what our Registered Land Law required, you had different judges giving different interpretations to the rules. And the Chief Justice, in trying to bring some commonality, some judges were very difficult on the lending institutions to take away people's houses, and others were more liberal in allowing them to do it.

So, in an effort to (I assume) bring it to some kind of consistency, the Chief Justice issued [Practice Direction No. 5 of 2012](#). And it said: “In the recent past . . .” (Under the heading) **Practice Direction on Applications under Sections 72, 75 and 77 of the Registered Land Law (the ‘RLL’)**.” And he said in that Practice Direction: “In the recent past a number of decisions of this Court have dealt, in different ways, with the subject of applications under the RLL [which is the Registered Land Law], for leave of the Court to enforce charges under the RLL by way of sale by private treaty.

“These Practice Directions seek to explain the practice of the Court which has emerged as the result of those decisions.

“Typically, Originating Summonses seek the following kinds of relief or variants thereof:

1. Declaratory relief to the effect that the defendant charger (“the Chargor”) is in default of payment under the charge;
2. That the charge be enforced by sale of the charged property by way of public auction or private treaty, [by the charge] acting in good faith and having regard to the interests of the chargor.
3. That a reserved price be fixed for the sale by way of private treaty.
4. That the property be listed for sale on the CIREBA Multi-listing System (“the MLS”).
5. That other terms and conditions of the sale be determined, if any.
6. That leave be granted to issue a Writ of Possession with respect to the property.
7. Alternatively, that the chargee be given reasonable access to the property for the purpose of viewing or for any other purpose in connection with the chargee’s efforts to sell the charged property
8. Costs.

“Whether or not any aspect of relief is granted will of course be a matter for the exercise of discretion by the Court having regard to the particular circumstances of each case, including the conduct of the parties (see section 77 of the RLL and *National Building Society v Cranston* 2011 . . . and *Bank of Butterfield (Cayman) Ltd v. Thornton and Thornton* Cause No. 307 of 2010 written decision . . . 29<sup>th</sup> of March 2011)

“Where the chargee has a power of sale under the charge and has complied with the requirements of the RLL of the giving of notice, the jurisdiction of the Court to exercise its discretion to vary or add to the provisions of section 75 of the RLL to allow the chargee to sell by way of private treaty (in addition to or instead of by way of public auction) will not be in dispute. Section 77 provides that the parties to a charge may vary or add to the provisions of section 75: ‘*provided that such variation or addition shall not be acted upon unless the court, having regard to the proceedings*

*and conduct of the parties and the circumstances of the case, so orders’.*

“Factors of importance to the exercise of the Court’s discretion will include:

- a. That the property must not be sold at an undervalue . . . (*Paradise Manor Ltd. v. Bank of Nova Scotia 1984–85 . . . Bank of Butterfield (Cayman) Ltd. v. Jervis and Jackson . . .*)
- b. That the sale has to be in good faith . . .”  
(And, Mr. Speaker, for brevity, I will not quote the cases, because they are not really relevant to our discussion.)
- c. The best evidence of market value is the reaction of the market . . .
- d. The standard of care required of the charge: that of a reasonable man in respect of the conduct of his own private affairs . . . ;
- e. Leave to sell by private treaty at a *reserve price set by the Court* will not usually be granted without previous attempts to market the property and to sell by public auction on the open market . . .
- f. Before leave to sell by private treaty at a *reserve price set by the Court* will be given, there will usually be to the satisfaction of the Court, evidence at least of attempts to sell by way of public auction (now defined to include sale by listing on the MLS at a reserve price set by the chargee aimed at realizing the true market value . . .
- g. However, leave to sell by private treaty may be granted where there has been no prior attempt to sell on the open market where the Court is satisfied that it is in the interest of justice so to order, especially bearing in mind that . . . a formal public auction could add unnecessarily to the costs to be ultimately passed on to the chargor . . . the order will usually be conditioned as being subject to the charge ‘acting in good faith and having regard to the interests of the chargor’.
- h. ‘*Sale by public auction*’ does not necessarily require a formal auction . . . conducted by an appointed auctioneer but ‘in substance, the sale of a property through the MLS is a public auction’ . . .’
- i. The sanction of the Court of a price obtained whether by public auction (by listing on the MLS or otherwise) or by private treaty, is more likely to be granted where the . . . price had been set by the chargee by reference to an independent valuation. In this way the Court will be able more likely to conclude that the chargee has acted in good faith in exercise of its rights under the charge.

- j. **There is no need for an application to the Court for placement of the property for sale by public auction (whether by way of a listing on the MLS or otherwise) in the first instance by the chargee who, by virtue of the powers given under the charge and section 75 of the RLL, can sell by way of public auction without the leave of the court . . .**
- k. **An application to the Court is necessitated only where leave to sell by private treaty (whether by fixing of a reserve price or otherwise) is required by way of a variation of section 75 of the RLL as agreed in the charge loan agreement.**
- l. **Where the Court considers that a chargee has brought an unnecessary application for leave to sell by public auction, the Court will refuse to grant an order for the costs of so doing . . .**  
**“Other factors which the Court will consider will include:**
- i. **the defendant(s)’ position and whether they have notice of the application;**
  - ii. **whether the defendants are represented and have a proper understanding of the application;**
  - iii. **whether there is any element of unfairness or unreasonableness in the chargee’s application;**
  - iv. **whether an order for costs should be imposed upon the chargor, over and above any right that the chargee might have to recover costs under the charge loan agreement.”**

Madam Speaker, many of . . .

Mr. Speaker. (I have to keep looking at you, sir; I’m sorry.)

**The Deputy Speaker:** No problem.

**Mr. D. Ezzard Miller:** Many Caymanians feel that that directive allows the banks to just go to the MLS listing without going to the court and having a reserve price set. And they believe that that gives the banks an opportunity to appoint their own valuator and to get valuations very close to the balance owed to the bank, in order to sell the property. And they believe that in some instances the lending institution is not necessarily exercising its authority under the Law, by advertising the property properly. Because a lot of this seems to be done through particular real estate agencies that seem to have a list of clients lined up to buy these properties.

Mr. Speaker, even when the court has in the past set reserve prices, I am aware of at least one instance where the court set a reserve price of \$750,000 for a large two-story concrete house on 10-plus acres of land. And the bank made a private treaty for US \$500,000 and sold the property for US

\$500,000 even though there was a reserve price of \$750,000. Of course, the client thought *If the bank sells my house and property for less than it is, they’re taking the loss and I’m out of debt.* But of course, here and again, I think that the mortgage legislation that we bring in should not allow the banks to allow personal guarantees above and beyond the value of the property. What happened in that case was, the bank charged another one of his properties for the difference in the price and wound up taking that as well, because they also sold that by private treaty for a lot less than the real market value. And then they placed that remainder on a third piece of property.

Mr. Speaker, I understand fully, that in most of these cases, it is the person who borrowed the money who gets in trouble. Oftentimes, they use funds that they have to do other things, like going on vacation, et cetera, et cetera, rather than paying the bank. But that does not, in my view, negate the fact that, as that Practice Direction by the Chief Justice says, in that, when the bank decides to take possession of the house and sell it they should get the maximum amount that they can get for the value, and not just near to what the bank needs.

As per the cases I made a little while ago, as I understand, how they value people, is they use either replacement cost, construction cost or they look at similar sales within that area to come up with a valuation. It can’t be that \$200,000-odd variation if these people are conducting these valuations with any kind of professionalism at all. But we all know that in some of those companies when you call them for an evaluation, the first question they ask is, *How much do you need it to be valued for?* And we need the legislation, if the Government decides to bring legislation, which I certainly hope they will, to say that these valuers must be independent and it can be proven that they’re arm’s length from the bank, and also from the person who owes the bank the money.

Now, Mr. Speaker, I have a petition to Members of the House, which I want to read into the record. And I will table it, because it was not prepared in the way to present a petition, and because you know those under our antiquated Standing Orders, or those which finally we are going to get a committee to review them, I hope we can get done before Christmas by the Government and is not going to take forever again, and a day. It requires that things be handwritten and all that sort of stuff. So when they came to me, I told them I would read it into the record and table it.

This is a group of citizens, most of whom have been affected by this foreclosure business, because if you talk to some people, they will tell you that the real estate companies are largely now, not in the real estate market to sell new properties. A lot of them are in the foreclosure business. And they’re deliberately going out and assisting with these foreclosures. And while I will not go as far as to say that there is collusion, Mr. Speaker, I will say this much: that it’s close.

It's close because if you look at the companies involved in this, the law firms, the evaluators and the real estate people, there seems to be a commonality. And others seem to be getting more business than others.

Let me read this petition to Members of the House:

**“TO THE HONOURABLE PREMIER AND MEMBERS OF THE LEGISLATIVE ASSEMBLY OF THE CAYMAN ISLANDS:**

**“The Petition of the Undersigned Concerned Caymanians Organised as Members of an Informal Group, Caymanians Against Economic Injustice (CAEI), respectfully showeth- that many Caymanians are being disenfranchised of their rights to family life due to unfair financial structural and systemic laws, judgments, regulations and practices.**

**“Concerns: That the current rate of unemployment and underemployed Caymanians, many of whom are single parents, are enduring the loss of income resulting in foreclosure, loss of personal property and their family home, breaking up family units to the detriment of minor children, disabled family members, elderly and all ages;**

**“That the effective enforcement of labour laws is leading to unfair discrimination against Caymanians, thus creating loss of income to service their debt obligations;**

**“That the banking (loans/mortgages) laws and regulations which local borrowers follow, are tantamount to predatory lending practices and we believe lack fairness and consistent application to all customers; and there must be priority and enforcement of the Constitution Order 2009 Bill of Rights, Part I; that guarantees our rights and responsibility to pursue ‘economic, social and cultural development’, specifically, section 9 - Private and family life; and section 16 - Non-discrimination.**

**“Proposed solution: Banking rules-**

1. **“Amend the Banking Rules by addressing foreclosure procedures to ensure jurisdiction remains in the Cayman Islands, where the mortgagor, property, source of payment are all located in this jurisdiction.” (I’ll speak to that one in particular, Mr. Speaker).**
2. **“Immediately remove, revoke or amend the draconian legislation and inequitable banking practices which many banks use to continue commencement of court action after three months of consecutive arrears.**
3. **“Adhere to the Cayman Islands Bankers’ Association Code, section 14 directive to assist mort-**

**gagors. It is proposed that there be consideration and application of similar rules of Chapter 13 Bankruptcy/Foreclosure Laws of the United States for local banking regulations, specifically to allow arrears of three months or more to be handled as a separate loan to be repaid within 3-5 years; leaving the mortgaged property to maintain its equitable right to be redeemed by the mortgagor/borrower.**

4. **“Mandate the banking laws that no one is to be barred from negotiating a mortgage/loan/credit facilities after 2-5 years where the Caymanian has gone through a foreclosure/repossession or bankruptcy in the past.**
5. **“Change Cayman’s hybrid system—now arguably a mix between the US and the UK—and adopt a system in relation to foreclosures/ repossession to reflect protection for private family-occupied homes that meet the needs of our people in this jurisdiction. We respectfully petition legislators to show some originality and courage in this regard. In truth, copying our competitor jurisdictions might be practical in other financial matters, but not in arrears that affect our social and economic environment in a detrimental manner.**
6. **“We further propose banking laws reflect similarities to that of the UK in that all mortgage agreements include a Personal Protection Insurance (PPI) scheme to deal with common life challenges, including job loss, loss of one partner’s income through death, divorce, disability or other circumstantial occurrences, with sensible, manageable premiums instead of the current draconian amounts many find impossible to pay.**

**“We are aware of the impact of global policies, procedures from insurance companies, but would advocate further investigation into the level of premiums and the lack of benefits to local poli-**

cyholders. The Supreme Court of Justice has just awarded billions of pounds to homeowners who were ripped off through extortion by insurance providers, who paid commissions as high as 40-60 per cent to agencies who sold for them, which got tacked on to homeowners' premiums. It is not fair that, of the two parties to the insurance contract, the banks' risks are covered, but the homeowners who are paying the premiums cannot claim to cover their unforeseen but reasonable risk over the period of 15-25 years.

**“PENSION LAW –**

7. **“Pension laws can be temporarily amended to allow Caymanians facing immediate foreclosure or currently in arrears or been foreclosed, to have immediate access to their pensions to clear arrears and/or reinvest in local property without having to relocate overseas to access pensions after losing their properties.**
8. **“Our Government representatives/trustees of the people should examine how much money our economy will actually lose by the exodus and impact that it will have on the economy when pension-holders choose to take early retirement at age 50, withdrawing their maximum entitlement per year to establish themselves in another country. They can return to Cayman, get back in the workforce, and the process is repeated, therefore bleeding Cayman's economy again and again when they reach full retirement age, when they could prove to be a greater burden on the financial assistance system if they decide to remain on Island, at which time pensions would be depleted. So, It is better to allow foreclosed pensioners to use their funds to establish security in their own country.**

**“It should not affect terms and conditions in legally binding documents that were in effect prior to directives by the Chief Justice. We seek clarification on the rules/directives, which might be contrary to, or less than rights under our Constitution and as such, any changes should effectively be brought about by legislation.**

**“We suggest that the approved government-guarantee mortgage 35 per cent plan could be used in the case of arrears, by Government issuing a letter of guarantee to the involved banks, which would fall away once the arrears have been fully repaid by whatever means the mortgager pursues and secures. Government can register a second charge on the property for security for the amount guaranteed. The principal could then be refinanced for a period, resulting in payments more manageable than previously agreed.**

**“WHEREOF, YOUR PETITIONERS PRAY THAT YOUR HONOURABLE ASSEMBLY WILL: Grant to the “Caymanians Against Economic Injustice” Group the investigations, reviews, considerations of our rights and make necessary amendments as pleaded above, to promote and enforce non-discriminatory practices in order for Caymanians to have access to family life, property rights, and financial and economic well-being.”**

This is signed by eight persons, Mr. Speaker. And I table it so that all Members can get copies.

**The Deputy Speaker:** So ordered.

*[Laid on the Table a copy of the Petition of the Concerned Caymanians Organised as Members of an Informal Group, “Caymanians Against Economic Injustice (CAEI)”]*

**Mr. D. Ezzard Miller:** Now, Mr. Speaker, in researching the laws in Cayman, I found where the Cayman Islands Monetary Authority in supplement 1, Gazette No. 5 rule, management of credit risk and problem assets Statement of Guidance, credit risk classification provision and management. But this deals mostly with the bank itself and doesn't offer any protections or consideration for the client, and also, the *Regulatory Policy on Licensing Banks*. But one of the things I found very interesting in this document, which was published in Gazette No. 18, September 8<sup>th</sup>, 2014, was . . . and a lot of us have been experiencing these banks and everything now, is buried under *Know Your Customer Policy*. And I digress. But I'll just give you my most recent example, Mr. Speaker.

Last Tuesday, I went to the bank and took out \$42 to buy US \$50 because I was traveling at seven o'clock the next morning. I went to the counter and said, *I'd like to buy US \$50. No, sir, you can't do that. What do you mean? This is CI money. This is legal tender. No, no, no, no, no. You can't buy US like that. No. You have to deposit the money back into your account, right? Then you have to do a withdrawal slip for the US out of the CI account and you get the money.*

Mr. Speaker, it had nothing to do with “know your customer”, according to this regulation. But that's what they tell you it is. That's just so they can charge you. They had already charged me for taking it out of the ATM, you know. Then they charged me for depos-

iting it and charged me for buying the US and for the withdrawal. Now, we know that the banks are not making the kind of profit they were making in the 1980s and 1990s on interest rates and stuff like that. But some of the things they are doing now to people, in Cayman in particular . . . And you know the most interesting part of that, Mr. Speaker, I had reason to open an account in the US and the whole thing was completed in less than a half-an-hour, including my debit card, to walk out. And all I had was one passport picture. I didn't have any job letter, no police record, not anything.

You go here, a bank that I've been dealing with since I left high school—and that's too long ago to identify it right now, Mr. Speaker. They want my passport. They want a job letter, everything under the sun; and police record. Why? Because this is what the Monetary Authority says about *Know Your Customer Policy*. **“The applicant,”** meaning the bank, **“must demonstrate how it will comply with the requirements of the Proceeds of Crime Law as amended, the Money Laundering Regulations as amended, and demonstrate adequate policies, procedures, and systems consistent with the Guidance Notes on the Prevention and Detection of Money Laundering in the Cayman Islands.”**

So, Mr. Speaker, while we and successive governments seem to be quick to make amendments to banking regulations in a financial industry to facilitate other people doing business in Cayman, and people in the financial industry making money, we seem rather reluctant and hesitant to put in place protections for our own people. And I believe it is time to do that, and I believe that such mortgage legislation containing some of the things that I have mentioned will demonstrate to our people that the Government is trying to protect some of their assets as well.

Mr. Speaker, you know, some of the benefits of the Government's putting into this legislation the ability for equity release or reverse mortgage would be that senior citizens could borrow money for health care. A lot of them have houses that they built for \$15,000–\$20,000 in the 1960s and 1970s that are today worth hundreds of thousands of dollars. So they have lots of equity in it. But they could reduce their health care cost to Government. And also, the financial support burden that the Minister of Community Affairs complained about last week, that is growing in leaps and bounds.

Mr. Speaker, the UK, for instance, has just put in legislation to tighten lending policies for the banks, where they will only allow 80 per cent of value, maximum, and a big consideration now is being paid to the customers' affordability, whether they can afford it or not, and only up to 40 per cent of their income. We could put all of that in our mortgage legislation here, because most of the institutions here will not lend you, unless you happen to know somebody who knows somebody, more than 80 per cent of the value of the property. And most of them limit you to 40–45 per cent

of your income in terms of your payment. But we need to put it in legislation so that it forces the banks not to stretch these people out, and when they get in trouble, they then take the assets from them.

Mr. Speaker, I also say that many of us Caymanians are trying to afford more house than we need. But again, if you go to buy one of Frank Hall's low-cost houses, I think the cheapest one is \$285,000. So that's not cheap. You know? And I think the average salary income here is below \$3,000? And forty per cent of that is \$1,200. So, you know, we need to put these kinds of things in regulations so that we can control all parties.

Another big problem that the banks will tell you is the cost of the money that they lend. We can solve that problem easily. All we've got to do is bring back a percentage of the Pension Fund, which is cheap money long-term. And there shouldn't be any problem with saying to one of the commercial banks that the Pension Fund will put their money there, where they can deposit it for 15–20 years, but only under the condition that they will only lend it to Caymanians for home ownership at only 1 per cent spread, 1 per cent more than they're paying in the fund. Because this thing that the Chamber of Commerce and the financial industry have created here called *pensions*, where the only people making anything out of this is the Pension Fund managers, and they're sending it to New York to be invested in failed companies in California on the basis that we're going to get bigger return than we can get locally.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** If it's in cash here, while you might not be making any big returns on it, you're not going to lose it. Right?

Mr. Speaker, if the Mother Country—it's what we call her, right?—the UK, has mortgage legislation, we should be able to have it too.

On the 26<sup>th</sup> January 2015, the UK Treasurer published new mortgage regulatory legislation. Canada, as I said earlier, has the Mortgage and Housing Corporation Act 1985, 1935 Dominion Housing Act; 1937 the Home Improvement Loan's Guarantee Act; 1944 the National Housing Act. Latest rules I found were July 9, 2012, effectively reduced the amortisation period from 30 years for government-insured mortgages to 25 years due to encourage homeowners not to stretch themselves out too greatly. Also lowered the maximum for refinancing to 80 per cent of the appraised value of properties from what was 85 per cent before that. And this was all done to stabilise the 2010 housing market. So, it is not communist, it is not socialist, for Government to intervene and have legislation which protects its people from these institutions.

Now, Mr. Speaker, in doing my looking around the Internet, I came across a very appropriate article, *Exercise of the Mortgagee's Power of Sale in Jamaica*, A Presentation to the Jamaican Bar Association by

Allison Dunkley, now McLean, on June the 15<sup>th</sup>, 1997. And, Mr. Speaker, in her introductory remarks I quote: **“The need to appreciate the extent and manner of the exercise of a mortgagee’s power of sale has become of greater relevance because of the existing economic climate in which there is an increased inability (some may say unwillingness) on the part of a number of mortgagors to meet the monetary obligations of their mortgages. It also takes on added significance in the face of dilemmas surrounding some of our financial institutions and the consequent realization of securities.”**

Now, Mr. Speaker, this problem of foreclosures is in the forefront as a direct result of our economic situation.

**“What, therefore, is the determining factor in deciding to exercise this power? It would appear that in a volatile market there will be moves towards ‘shedding bad securities’ in an effort to recoup the outstanding debt balances. In an article entitled ‘Mortgage Remedies’ by Ronald Greenspan, Q. C., in which he examined the use of the remedies of Foreclosure and Power of Sale in Canada. He indicated that historically the remedy of foreclosure is preferred when property values are stable or rising. But with an uncertain market exercise of the power of sale is preferred. However, within our jurisdiction, after all else fails, and particularly in an unstable economic climate, resort is had to the power of sale with foreclosure by law and practice being a last resort remedy. It may be that procedurally this is a less complicated means of security repayment of the debt that proceeding further to foreclosure. Foreclosure, does, from a mortgagee’s perspective, present advantages in terms of vesting the fee simple and allowing the mortgagee to deal with it e.g. subdividing for sale as lots. However, we must remember that building societies, which are among our primary lenders, are restricted under the Bank of Jamaica (Building Societies) Regulations, 1995 from keeping land so acquired for a period in excess of three (3) years, unless the time has been extended on application . . .”**

Mr. Speaker, she goes on to lay the foundation for the statutory bases of the power of sale. In Jamaica it’s contained in the Registration of Titles Act; here it’s contained in our Registered Land Law. She deals extensively with notice period and how notice is supposed to be done. And I think that there is room for some improvement of that locally, as well.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** No, I think it’s very relevant to our situation here in Cayman, because she deals quite thoroughly with the mortgagee’s duty to the mortgager. And this is, rightly or wrongly, the perception of many people, Mr. Speaker, that they are being

treated unfairly by the banks. Now, whether that is an actual fact in what is transpiring, that is the perception that they get, especially when the process is so quick to reduce the value and take away their equity. But very rarely does it fall below what’s owed to the bank. And if it falls below that, then they turn to the personal guarantee that the person has given. And often, that is personal and several.

But here’s what she says about the mortgagee’s duty to the mortgagor [at section 33]: **“Having examined how the power of sale becomes exercisable, we should now cast our minds to the extent of the duty owed by a mortgagee. This is an area of competing formulations and two (2) main ones can be identified:**

- English/Jamaican
- Australian

**“34. One of the most useful local decisions on this area and generally on the power of sale is Moses Dreckett v Rapid Vulcanizing Company Limited. The judgment of the late Carberry J is a virtual treatise on the case law in the area and well worth perusing.”**

And, Mr. Speaker, one of the problems we have in Cayman is that although we have 600 lawyers, very few of them practice law. They practice financial business. And they set up these precedents, and they get the secretary to clip a couple of pages of paper together and put them in a loop and send them to the client, and they charge them a fortune for it. We don’t have in Cayman what happens in places like Jamaica and other Caribbean territories where there’s a lot of testing of these cases in court because that’s how they earn QC in those countries. Here it’s given by the Governor, usually to most people who haven’t earned it but they’re big in the financial industry and they made \$100 million. But QC’s never seem to be offered to Caymanians. And again, I never understood that. But I don’t know what’s involved in that and everything else.

So, because we don’t have all of this local case history, testing these things in our courts of law, this usually happens when they go after somebody who’s got money and they can afford a lawyer. Because, as we know, our lawyers here are not allowed to take things on percentage of what they get or anything like that. So most of them, when you go see them, they tell you, *Well, Mr. Miller, you need to put me in pocket.* I say, *Put you in pocket? I’m too big to get in your pocket. No, no, no. I mean, you need to write me a cheque or give me some cash.* And that’s usually \$20,000–\$30,000 up front. So somebody in trouble with their mortgage usually can’t afford a lawyer.

She [Allison Dunkley] says: **“Briefly, the facts are that the plaintiff/mortgagor owned land jointly with his mother in Jamaica. The mortgagor granted a mortgage to the defendant who was to supply labour and materials to build on the land. The mortgagor fell into arrears and the property**

was sold at auction for \$6,400, which realised \$117.00 for the mortgagor after repayment of the debt and attendant costs. Eleven months later, the property was resold for \$14,400.00—a 125 per cent profit. The issues focussed on the sale at auction, whether it was properly conducted and the duty owed by the mortgagee.

“35. The issue is far from being free of difficulty. The law has had to deal with two (2) concerns:

- Concern for the mortgagor and a wish/need to protect him from a mortgagee recklessly disposing of his property; and
- Enabling a mortgagee to recover his money from a defaulting mortgagor by realising the security for the debt.

“36. The first approach was demonstrated in decision such as Marriot v Anchor Reversionary Co Ltd and Wolff v Vanderzee, which can be summarised by saying that a mortgagee was bound to act with the same regard and prudence of the owner with a view to having a sale of the mortgaged property to the greatest advantage.

“37. The second approach is exemplified in the dicta of Chitty J in Farrar v Farrar which is well known:

*‘A mortgagee exercising a power of sale is not a trustee of the power . . . He is bound to sell fairly and to take reasonable steps to obtain a proper price . . . He cannot be required to run any risk in postponing the sale, or to speculate for the mortgagor’s benefit.’*

And then it goes on to say, “. . . if he wilfully and recklessly deals with the property, in such a manner that the interests of the mortgagor are sacrificed . . . he has not been exercising his power of sale in good faith.

“ . . .

“Over time, certain clear points have come to the fore and Carberry J highlighted these:

- A mortgagee should not enter into a collusive sale;
- A mortgagee might be held responsible if he or his auctioneer misdescribed [*sic*] the property so that it fetched less when sold;
- A mortgagee would be liable if he took possession and misused the property thereby reducing its value.

“ . . .

“The Court [further] concluded that:

*“ . . . a mortgagee in exercising his power of sale does owe a duty to take reasonable precautions to obtain the true market value of the mortgaged property at the date on which he decides to sell it’ ”*

So, Mr. Speaker, it would be interesting to see if any of these properties that the banks have sold below the valuations of the owner, earlier valuations, have actually been resold since that, and what price

they were resold at. And the only way to track that would be probably through the Land Registry. And I guess it would cost a small fortune to go there and look at the records. But it would be worth, I believe, somebody looking into it.

She [Allison Dunkley] goes on to talk about sale to mortgagee:

“52. Suffice it to say that it is trite law that a mortgagee cannot sell the mortgaged property to himself.

*“‘For a sale by a person to himself is no sale at all, and a power of sale does not authorise the donee of the power to take property subject to it at a price fixed by himself, even though such price be the full value’.*

“53. The rule also applies to the following persons:—

- any officer of the mortgagee
- any attorney or other agent acting for the mortgagee in the sale”

Mr. Speaker, there have been suggestions that some of the people involved in the sales of these properties may, in fact, be selling them to companies that they may have an interest in, or to friends at those reduced prices. And the legislation should be quite clear if the Government decides to do it to prevent that sort of thing. Because if you’re showing a house and the three people present happen to be the real estate agent, the lawyer for the bank and somebody from the bank, and you hear the lawyer from the bank telling the prospective buyer that— *if they think the price is too high, just wait another month because they’re going to lower the price again*. That kind of thing, I think, goes against the grain of what Ms. Allison [Dunkley] McLean is talking about here. And any legislation we put in place needs to clearly prevent that sort of thing.

She then talks about auction, Mr. Speaker, versus private treaty:

“55. Is a mortgagee bound to wait until a particular time before exercising the power of sale either by auction or private treaty? The authorities all make it clear that this is not so. A mortgagee is free to exercise the power at any time of his own choice, subject of course to the duty imposed on him to take reasonable steps to obtain the proper price. There is no obligation to sell at a particular time and thereby possibly reduce any loss which may be sustained by the mortgagor.

“ . . .

“57. It is usual that a mortgagee first put mortgaged property up for sale at public auction and if not successful in disposing of it there, to then proceed to sell by private treaty. However, it is not a legal requirement that this course of events be adopted.

“58. S.106 of the RTA [Registered Titles Law] authorises the mortgagee to sell by public auction or by private contract,” which is similar to our RLL. “The procedure referred to in the forego-

ing paragraph is, it is submitted, usually adopted out of an abundance of caution . . .” And then she goes on to have a lot of case history on that statement.

Mr. Speaker, I don't think it would be unreasonable for legislation to suggest that the property should not be sold for a certain percentage below what the property was valued at the time of mortgage, unless there are extenuating circumstances, because real estate and houses in Cayman, Mr. Speaker, very rarely go down. I think if you look back at the history of real estate, it's more like a staircase. It levels off, goes up, levels off and goes up. There's not much record of real estate and houses reducing in value in Cayman.

So, it is difficult for me, as a legislator, to accept that a house that was valued for over \$500,000 in 2009 can be valued at \$265,000 in 2014 in a respected residential area. This is not a house that is in one of the bad areas, as we would call it, right? This is in a very upscale, respected residential area. So the likelihood of that house reducing in value, short of it having no maintenance, all the windows being broken and having no doors, et cetera, et cetera, it is difficult to understand how it could depreciate in value by over \$200,000.

She [Allison Dunkley] talks a little bit about valuation reports. And she says, “At first instance Wolfe J was of the opinion that failure to obtain a prior valuation could not affect the price obtained at auction, as bidders do not make bids on the basis of prior valuations received by the mortgagee.

*‘Prima facie the object of sale by auction is to give the world at large an opportunity of making an offer at the sale with the hope that in so doing the “best price” or the “proper price” or the true market value . . . will be realised. In the absence of any allegation of fraud or negligence in supplying information as to the mortgaged property or impropriety in the conduct of sale from which it can be inferred that but for such misconduct a better price might have been realised the highest bid at an auction must of necessity be deemed to be the best price . . .’*”

Mr. Speaker, most of us tend to say, *Well, you know, the fair price of any product is what a willing purchaser will pay and a willing seller will sell for.* Well, the absent part of that formula is that most of these foreclosures, the person is not a willing seller and they'd like to keep the house. And they're being forced to sell it, and they're being evicted by the banks, which they have the authority to do under the mortgage agreement in the Law. I just believe that, as a government, we have a responsibility to these people to ensure that reasonableness is not just women fancying. But there are such things in law and regulation

that insist that reasonableness be carried out in these cases.

She goes on to talk about reserve price as well:

“70. Moses Dreckett (supra) is authority for the proposition that in a sale by auction there is no obligation on the mortgagee to fix or have fixed a reserve price because he is entitled to accept the highest bid even if it is below the market value as indicated by a valuator.

“(d) Guidelines

“71. In sales by public auction the following are therefore the pertinent guidelines:—

- a mortgagee need not obtain a valuation of the property being sold, although this may be prudent;
- a mortgagee need not set a reserve price;
- in the absence of collusion or impropriety the mortgagee is entitled to accept the highest bid as reflective of the true market value, despite low bidding and poor attendance.

“72. One may question whether bidding at auction can represent the true market value. Traditionally, people bid low at these sales so is this an accurate reflection of what the property can fetch on the market? Are the 10 or 12 persons present at the auction representative of the market place? Short of having a specific formula to apply the answer seems to be this: *The property having been exposed through the published notices has come to the attention of the persons who are willing to bid for it. They therefore represent the market place within which the property may be disposed of and the bidding reflects the best price which can be obtained via this medium at this time.*”

One of the things that our law requires is to publish it in a gazette. And most of these Caymanians being foreclosed on don't get copies of the *Gazette*. They couldn't afford to subscribe if they wanted to. And I don't believe we send them to the post offices like we used to before. So maybe, if the Government accepts the idea of drafting mortgage legislation, we will have some other form, whether it's in a daily newspaper . . . Some people might say, *Well, that's too embarrassing to the people involved.* But at least it would give it wider exposure than the *Gazette* notice.

Then she [Allison Dunkley] talks a little bit about private treaty:

“73. Whilst the duty is the same it seems to be harder to discharge when selling by this means. The extent of this is seen in the decision in Joan Adams (supra). In this case the Bank sold the mortgagor's property by private treaty. It accepted an offer of \$395,000 and declined to accept a higher offer from a purchaser identified by the mortgagor. A valuation report was obtained by the mortgagee in December 1998, who subsequently made an Agreement for Sale by private treaty in June 1989. It did not advertise the property. The

**court determined that the mortgagee had not discharged its duty. The Court spoke to the need to expose the property to 'prospective purchasers in the open market.'"**

Mr. Speaker, one of the things that the people perceive that is happening is that the banks are marketing these houses through specific real estate agencies to specific people. And if that can be documented, we need to do something about it, and not because one real estate agent sells more of these foreclosures than another, means that there's any collusion in the place—but it could be. And if you see them all at a certain bar together, smoking cigars, and all three people are there represented, they might not just be talking about the sunshine and the weather. And there are people who claim that they have evidence of this. And there are people in this process who also claim that they believe the civil servants in Land and Registry are in some way connected to this in that they are accepting these reduced valuations.

I gave you the case earlier where they accepted the size of the square footage of a house that was substantially less than the actual square footage of the house. And all the Government Land Registry person had to do was run upstairs to Planning and get a copy of the plan and they would see that the house has an upstairs. But if you look at it from a satellite photo, it's hard to tell that the house has an upstairs, looking from the roof down. But they accepted the reduced valuation. And I might add, the person was allowed to get the benefit of stamp duty waiver.

*[Inaudible interjection]*

**Mr. D. Ezzard Miller:** But normally, you know, the opposite happens in the Land Registry, in that they often try to get more in their evaluation than what you actually paid for the property. And if they value it more, you have to pay on their value, not on what you paid for it. Even though all of your documentation might say you paid \$200,000, but if they value it at \$300,000, the stamp duty is calculated on the \$300,000. So, I think the Government needs to look into that possibility. And I believe that the people involved would be willing to provide the relevant government agency with the information that they have, because, Mr. Speaker, a house is either 4,500 square feet, or it's 3,600. It can't be both. But you can see any evaluation based on square footage how the 3,600 would be substantially lower than the 4,500.

She [Allison Dunkley] also goes on, Mr. Speaker, to suggest some guidelines. Sticking to the valuation reports, she says that:

**"74. In Joan Adams (supra) the mortgagee obtained a valuation report of the open market valuation in December 1988 and sold six (6) months later without further valuation or advertisement. However, this was not sufficient to discharge the duty.**

**"75. Another decision worth examining is that of the 1986 English Court of Appeal in Predeth" (I don't know why they make these names so difficult to pronounce) "v Castle Phillips Finance Co. Ltd and Anor (supra). In this case a mortgagee disposed of property by private treaty. The valuator was instructed to carry out a 'crash sale' valuation, which connotes a more rapid sale than 'forced sale'. This would have given the mortgagee the lowest valuation. The court affirmed that the mortgagee had failed to obtain a valuation on the basis which the exercise of reasonable care would require and in compliance with its duty to the mortgagor i.e. current market value.**

**"76. So, regard must be had not only to the fact of obtaining a valuation report but also to the basis of the report. The cases appear to consider whether the report is for:—**

- **current market value vs another value, such as crash sale;**
- **the property in its existing state or in a future state e.g. in instances in which construction is underway is the value reflective of the incomplete or the anticipated completed state. This was considered in Zachariah Sharief (supra);**
- **the purpose of sale or otherwise eg. [sic] loan financing.**

**(b) Advertising**

**"77. The Courts also examine what steps are taken to advertise a property and bring it to the attention of prospective purchasers . . . The mortgagee did not advertise before selling by private treaty. This, coupled with a misdirection on its part as to whether or not there was a binding contract in place at the time the mortgagor identified a purchaser offering a higher price, led the Court to conclude that the standard of the duty of care had not been met.**

**"79. Similarly in Predeth, (supra) the mortgagee failed to instruct any agents to expose the property and his own efforts were accepted by the Court of Appeals as wholly inadequate."**

Getting back to what I said earlier, Mr. Speaker, maybe we need to, in this legislation, include some other form of notice other than in the *Gazette* that gives it more exposure. And the MLS is a very restricted thing. Because if you don't happen to be a member of CIREBA, I don't think you can get access to their listings. And if you think it's difficult for a Caymanian to get a job in the financial industry, try the real estate industry. That's a locked-down market. And that needs to be investigated.

CIREBA is supposed to be a non-profit organisation, which supposedly have collected billions of dollars over the last decades, because every sale that they make, certain fees go into that. And there's no public accounting of the money and where it is. But if you apply to them for a job, they tell you you've got to be trained. So, *Okay, I'd like to sign up to your course.*

Well, you can't sign up to the course unless you have a job. So it's kind of difficult to get in. And if you go and open your own thing, hang up your own shingle, then they bad-mouth you to their clients.

She [Allison Dunkley] suggested some guidelines:

**“79. What, therefore, is required before entering into a sale by private treaty? The following guidelines are suggested:**

- **obtain a valuation report indicating current market value and reflective of the mortgaged property in its current state and condition**
- **expose the property to open market by adequate advertising viz:**
  - **listing with realtors**
  - **accurate advertising in newspaper akin to the method utilised by auctioneers, over a reasonable period of time (note that sales by auction usually have at least four [4] insertions.**
- **be cognizant and have regard to offers procured by the mortgagor or otherwise prior to the entry into a binding agreement for sale.”**

She then talks a little bit about what happens to the funds when the bank actually gets more than they're owed. And there are some complaints here that some properties have sold for more than the value of the mortgage, and the client is having difficulties getting the difference from the banks.

She says: **“86. S. 106 of the RTA allows the mortgagee to sell once there has been default and provides that there shall be liability to the mortgagor for any loss sustained. It further provides that,**

**“... no purchaser shall be bound to see or inquire such default . . . shall have been made . . . or whether such notice . . . shall have been served or otherwise into the propriety or regularity of any such sale . . . and any persons damnified by an unauthorised or improper or irregular exercised of the power shall have his remedy only in damages . . .”**

So, Mr. Speaker, what I am seeking the Government to do is not rocket science. There are many examples we can use. It is not breaking the mould. It is just something that I believe we could do, which would give the people we represent some additional comfort to what exists in the Registered Land Law. I ask the Government to consider supporting the Motion. Thank you, Mr. Speaker.

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

I call on the Honourable Minister of Financial Services.

**Hon. G. Wayne Panton, Minister of Financial Services, Commerce and Environment:** Mr. Speaker, thank you very much. Good morning.

*[Inaudible interjections]*

**Hon. G. Wayne Panton:** Mr. Speaker, I rise on behalf of the Government to respond to the Private Member's Motion No. 4 of 2015/16, brought by the Member for North Side and seconded by his colleague, Mr. McLean.

*[Inaudible interjection]*

**Hon. G. Wayne Panton:** Mr. Speaker, I apologise. The Member is correct. I should refer to him as the Member for East End.

**Mr. V. Arden McLean:** Elected.

**Hon. G. Wayne Panton:** I think he would be elected if he is here. Sorry, I was looking at the Motion when I referred to that.

Mr. Speaker, the Motion was read by the Member for North Side, and in his first recital he said many Caymanians are experiencing difficulties with their mortgages and in some cases are losing their equity in the current foreclosure regime. There are certainly significant elements of truth in that. Perhaps not as many as we might think but there are Caymanians who are experiencing significant difficulties. I'll talk about some statistics a bit later. But, Madam Speaker—Mr. Speaker, whether it's 100—

**Mr. D. Ezzard Miller:** And you kept correcting me?

**Hon. G. Wayne Panton:** I caught myself.

Whether it is 100 Caymanians or five Caymanians, it is still a problem for those individuals. Statistics don't mean anything to those people who are going through the problem. And we are certainly cognisant and sympathetic in respect of that.

Mr. Speaker, the second recital of the Motion refers to . . . Well, it says, “WHEREAS there is no current mortgage legislation in place.” Mr. Speaker, unfortunately that is a recital which is not accurate.

**Mr. D. Ezzard Miller:** Show me the Law.

**Hon. G. Wayne Panton:** Perhaps the Member would say that there's nothing called *mortgage legislation*. But the Registered Land Law, Mr. Speaker, deals with the form of security that we have in Cayman, which is a legal charge. That is the form of security we use in relation to securing or utilising property to secure loans and borrowings. And, Mr. Speaker, that is reflected in Division 3 of the Registered Land Law between sections 64 and 82. So there are a total of 18 different sections.

Mr. Speaker, I started off saying that the Government is sympathetic to the issue, and I will confirm that the Government will or is prepared to support the Motion. But we will need to amend the recital suggesting that there is no mortgage legislation. Because while it's maybe generally referred to as a mortgage, what we have here is, strictly speaking, a legal charge. And there is a distinction. So, Mr. Speaker, with your permission, I would like to move an amendment to the Motion to remove that recital so that we can continue to deal with the amended Motion.

Mr. Speaker, perhaps we can have an indication from the Member from North Side whether he is okay with that.

**Mr. D. Ezzard Miller:** It is not so. I don't agree with him. If he wants to amend it, he can amend it, just file the amendment and give notice. Advise the Speaker that there is a notice of an amendment. You had this for a long time and you could have filed an amendment a long time. We have to do it according to the rules; you've got to do it according to the rules, too. File your amendment and ask the Speaker to give a notice and let me see what it is.

*[Inaudible interjections]*

**Hon. G Wayne Panton:** Mr. Speaker, based on the indications from the Member from North Side, I think it would be useful at this point if you would indulge us with a short break, that I may have a discussion with the Member to see if we can resolve this particular issue to be able to move forward with the Motion.

**The Deputy Speaker:** We'll take a break until 12:20.

**Hon. G. Wayne Panton:** I'm obliged, Sir

**Mr. D. Ezzard Miller:** We might as well do lunch now, Mr. Speaker, because this is not going to be done in five minutes.

**Proceedings suspended at 12:09 pm**

**Proceedings resumed at 2:11 pm**

## **OTHER BUSINESS**

### **PRIVATE MEMBERS' MOTIONS**

#### **PRIVATE MEMBER'S MOTION NO. 4 OF 2015-16— MOTION ON MORTGAGE LEGISLATION**

*[Continuation of debate thereon]*

**The Deputy Speaker:** Proceedings are resumed.

When we took the break earlier, the Honourable Minister of Financial Services was proposing an amendment to the Motion.

Would you like to present the Motion, Mr. Minister?

#### **AMENDMENT TO PRIVATE MEMBER'S MOTION NO. 4 OF 2015/16—MOTION ON MORTGAGE LEGISLATION**

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

Mr. Speaker, in accordance with the provisions of Standing Order 25(1), I seek leave in accordance with Standing Order 25(2) to move the following Amendment to Private Member's Motion No. 4 of 2015/16, as follows: To delete the second WHEREAS section, which reads as follows: "AND WHEREAS there is no current mortgage legislation in place."

**The Deputy Speaker:** I have given the waiver on this.

Does the Minister wish to speak thereto?

**Hon. G. Wayne Panton:** Mr. Speaker, just very, very briefly. As I indicated prior to indicating that I was seeking to move this Motion, to do this amendment, whatever name we call it, whatever nomenclature we use, the Registered Land Law contains provisions which are quite specific to charges, which is the form of security that's utilised in the Cayman Islands—that is, a legal charge which is utilised in the Cayman Islands to secure property in relation to residential mortgage applications.

Mr. Speaker, I think even in other countries, and I believe the Member for North Side was reading from an article which, in itself, was talking about the law and the provisions in Jamaica in the context of residential mortgages, but it was referring specifically to, I think it was . . . and I haven't had the opportunity to see it, but I believe it was the Registered Titles Law or something to that effect. So, clearly, Mr. Speaker, we do have legislation here which deals with security in respect of borrowings for residential homes' purposes. And I'm simply seeking to clarify that it isn't exactly correct to say that there is no mortgage registration Law in the Cayman Islands. And that will put the Government in a position to support this Motion. Thank you very much, Mr. Speaker.

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

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

**Hon. G. Wayne Panton:** No, thank you, Mr. Speaker.

**The Deputy Speaker:** The question is that the second "WHEREAS" be deleted— "**AND WHEREAS there is no current mortgage legislation in place.**"

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

**Ayes.**

**The Deputy Speaker:** The Ayes have it.

**Agreed: Amendment to Private Member's Motion No. 4 of 2015/16 passed.**

**The Deputy Speaker:** We are now debating the Motion as amended.

**PRIVATE MEMBER'S MOTION NO. 4/2015-2016,  
AS AMENDED—MOTION ON MORTGAGE  
LEGISLATION**

*[Continuation of debate thereon to PMM No. 4/2015-2016, as amended]*

**The Deputy Speaker:** Would the Minister like to continue his contribution?

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

Mr. Speaker, as I was saying, Government fully recognises and acknowledges that there are people in our country who are facing difficulties in the context of mortgages and losing their homes. But there are provisions within the Registered Land Law which set out the basis for their security. It also sets out the rights and obligations of the parties—that is, what is called the *chargor*, which is the borrower, and the *chargee*, which is the lender, or the bank. And I think, for our purposes, it would be easier for us to just talk about borrower and lender, or bank.

Mr. Speaker, section 64(1) of the Registered Land Law specifically provides that **“A proprietor may, by an instrument in the prescribed form, charge his land or lease or charge to secure the payment of an existing or a future or a contingent debt or other money or money's worth or the fulfilment of a condition, and the instrument shall, contain a special acknowledgement that the chargor understands the effect of section 72, and the acknowledgement shall be signed by the chargor or, where the chargor is a corporation, by one of the persons attesting the affixation of the common seal.”**

So, Mr. Speaker, even in the first paragraph, we see clearly, first of all, that you can create a charge, which in this case it's a legal charge, to secure the payment of money or the performance of an obligation. And even in this first subsection, 64(1), there is a protection built in which requires that the borrower has to sign an acknowledgement that they understand the effect of section 72. (And I'll mention that subsequently, Mr. Speaker, because that section contains the bank's remedies.) So, we have a requirement that you can borrow and you can use your real estate to secure the borrowing whether it's for commercial reason or whether it's for residential. In fact, Mr. Speaker, the majority of these would proba-

bly be residential charges. But whatever the reason, there is a requirement that the borrower understands and has a clear knowledge of what the potential ramifications are in terms of the bank's remedies if they fail to pay or comply with the obligations.

Mr. Speaker, before we even get to the remedies of the bank, in terms of section 72, there is a specific section which deals with what is called the right of redemption, which effectively means your ability to—having granted a charge, having granted security over your property—pay off the monies owned or perform the obligations that are being secured and have a discharge of the charge and clear your land so that there's no longer any legal charge.

Section 70(1), Mr. Speaker, reads: **“Subject to this section, a chargor, on payment of all money due and owing under the charge at the time of payment or on fulfilment of any condition secured thereby and on payment of any costs or expenses properly incurred by the chargee in exercising any power conferred on him by section 72, may redeem the charged land, lease or charge at any time before it has been sold under section 75 . . .”**

So, Mr. Speaker, even if a default has occurred and even if the right to sell the property has arisen, provided that they have not sold the property, an owner, a borrower, has the ability to pay that off, pay off the debt, pay off the obligation, the principal and interest, pay off any costs which the bank may have reasonably incurred.

Further, section 70(2), Mr. Speaker, actually gives the chargor the ability to redeem the charge or the property free of the charge prior to the date of payment by compensating the lender for any interest during the term and paying up any outstanding principal and interest. So, the Law provides for a way in, in terms of providing security. It provides for a way out, Mr. Speaker, in terms of the ability for a borrower to get free of that.

Mr. Speaker, just to move on quickly to section 72, which contains the remedies, that provides, in section 72(1), that **“If default is made in payment of the principal sum or of any interest or any other periodical payment or of any part thereof, or in the performance or observance of any agreement expressed or implied in any charge, and continues for one month, the chargee may serve on the chargor notice in writing to pay the money owing or to perform and observe the agreement as the case may be.”** So, if there's a default in that case, Mr. Speaker, which continues for a month, the bank has the ability to serve a notice asking their borrower to pay up the amounts outstanding.

Section 72(2) provides, Mr. Speaker, that **“If the chargor does not comply within three months of the date of service, with a notice served on him under subsection (1), the chargee may—(a) appoint a receiver of the income of the charged property; or—(b)”** (this is the important one in most contexts) **“sell the charged property . . .”** So that

clearly sets out what the remedies are, Mr. Speaker. And it clearly sets out the time frame within which those remedies can be performed or can be exercised. And it requires, Mr. Speaker, for a notice in writing to be given to the borrower.

So, in effect, in terms of the exercise of the power to sell the charged property, which, we'll see a little bit later, specifically initially relates to a sale by public auction as opposed to private treaty or a third party, arm's length-type sale, those are provisions which serve to protect the borrower from abuse by the lender. They can't simply come in and take their property and sell it. And, Mr. Speaker, I can say that I have heard of instances where concerns have been raised about the timing on some of these. I've heard people suggest that the banks are making decisions to move to the sale after a month. I think it's clear from the provisions of this Law here, Mr. Speaker, and particularly section 72(1) and (2), that it isn't possible to do it after a month. There is at least a four-month period of time.

In fact, Mr. Speaker, there is an earlier provision which could extend that four months to seven months, which is in section 64(2). But usually, that is dealt with by the terms of the charge. And that [section 64(2)] reads that **"A date for the repayment of the money secured by a charge may be specified in the charge instrument and, where no such date is specified or repayment is not demanded by the chargee on the date specified, the money shall be deemed to be repayable three months after the service of a demand in writing by the chargee,"** or the bank. So, Mr. Speaker, that is another example of protections in terms of requirement to receive written notice and time periods to elapse to give the borrowers an opportunity to pay up and bring their mortgages current and cure any defaults that may have been ongoing prior to that.

As was said, Mr. Speaker, we have heard of rumours or suggestions that that is different, that some banks are moving faster than that. I'm not sure; I have asked and what I have said publicly, Mr. Speaker, is, that if there are examples of this sort of thing happening, then, as the Government, we need to know what they are. I mean, the individuals involved have a responsibility themselves to try to get the necessary advice and complain to the bank, complain to the Bankers' Association, and ultimately, potentially file an application in court, seeking redress if the registered landlord is not being complied with. But certainly, I have said publicly that if someone can bring me documentation that demonstrates that that is the case, then I will be the first one to go down to the bank with them to address this issue, because that clearly cannot be allowed to happen, if it indeed is the case.

Mr. Speaker, moving on to section 75, and there are a number of other sections that I am, obviously, passing by in the Registered Land Law which are specific to this area and add clarification. But I'm

simply going through this in terms of dealing with the specifics of the notice requirements, that the requirements are to be in writing and what the remedies are and how those remedies are to be exercised, simply to demonstrate that this section of the Registered Land Law deals specifically with this area and has prescribed events that have to happen, and in some cases sequentially and over a period of time, in order for these rights to arise.

So, just moving to section 75, Mr. Speaker, the relevant . . . Well, I will read 75(1) just for clarity in terms of context. Section 75(1) reads, **"A chargee exercising his power of sale shall act in good faith and have regard to the interests of the chargor,"** (that is, the interests of the *borrower*) **"and may sell or concur with any person in selling the charged land . . ."** (I will skip to section 75(2) . . . Sorry. Let me just go back to that for a second, Mr. Speaker.) So, selling the charged land, the important bit which follows that is **"by public auction for a sum payable in one amount or by instalments . . ."**

Now I will skip to section 75(2), Mr. Speaker, because that provides that **"Where the chargor is in possession"** (that is, the borrower) **"of the charged land or the land comprised in the charged lease, the chargee shall become entitled to recover possession of the land upon a bid being accepted at the auction sale."** So, what that is saying, Mr. Speaker, is that the borrower is in possession of the property even where a right of sale has arisen, and the bank can only be entitled to recover possession of the land once they have sold it, for the purposes of being able to hand over vacant possession of the property.

Mr. Speaker, there is another provision which adds distinct clarity to this process, as well, and that is section 78, which provides for the no right of entry into possession, or foreclosure. Section 78 reads, Mr. Speaker: **"For the avoidance of doubt, it is hereby declared that the chargee"** (meaning the bank) **"shall not be entitled to foreclose, nor to enter into possession of the charged land or the land comprised in a charged lease or to receive the rents and profits thereof by reason only that default has been made in the payment of the principal sum or of any interest or other periodical payment or of any part thereof or in the performance or observance of any agreement expressed or implied in the charge."**

So, Mr. Speaker, while a default may have occurred, while the notices may have been given in writing, and the four months may have passed, and the right to sell by public auction may have arisen, the bank does not have the ability to foreclose or to take possession. I refer back to the earlier section, which provided that you can only get possession once the property has been sold. So that provides a level of accommodation to the borrower, Mr. Speaker. And just for clarity, Mr. Speaker, foreclosure in this context is a specific remedy which the Registered Land Law is

saying a bank does not have the right to, simply because a right of sale has arisen, because you are in default in terms of the payment of principal or in terms of the payment of interest.

*[Inaudible interjection]*

**Hon. G. Wayne Panton:** Mr. Speaker, I am being encouraged to address the distinction between a public sale, sale by private treaty, public auction and, I am assuming, including the Multiple Listing System. So, Mr. Speaker, under Practice Directions issued—and the Member for North Side, the mover of the Motion, referred and read from much of the Practice Directions, which is number 5 of 2012. And just for clarity, again, Mr. Speaker, this Practice Direction is not an action or exercise of a power to change the law or make the Law provided to the Chief Justice. This is the ability—I think it is under the Grand Court Law, certainly under one of the relevant Laws which gives the Chief Justice the power to issue Practice Directions, which he does very frequently in many, many other contexts as well as this one. And certainly, it is a reflection of the statutory provisions, as well as any relevant case law. And I think when the Member for North Side was referring to it; he certainly referred to some of the relevant cases. But I agreed at the time that it probably wasn't necessary to read through those.

The important bit, Mr. Speaker, is paragraph h. on page 4 of the Practice Direction No. 5 of 2012, which deals with the reference to “**Sale by public auction**” in the Registered Land Law. It says, “**Sale by public auction does not necessarily require a formal auction with a bidding process conducted by an appointed auctioneer but 'in substance, the sale of a property through the MLS'** (or the Multi-listing System, which is run by CIREBA (the Cayman Islands Real Estate Brokers Association), **'is a public auction . . .'**” And there is case law, which is cited as authority for that conclusion.

So, Mr. Speaker, what this means is that when the power of sale arises under section 75, that power of sale is to be exercised initially by a public auction. The court has said, as reflected in this Practice Direction, that that reference to public auction can also mean or also includes the concept of listing under a Multiple Listing System. A public auction is designed to afford the opportunity for those interested in purchasing the property to come along, bid on the property. The price for the property is usually a reserve price for the property set, which is based on a valuation or two valuations, and the median is taken. If the bids which have been received during the public auction do not reach the reserve price, then the property would be withdrawn.

The MLS (Multiple Listing System), Mr. Speaker, is a system which allows the property to be listed and open to all brokers to sell their property as a listing of their own. In most cases, Mr. Speaker, they

will list that property as part of all of their properties listed for sale under their own name. And each member broker of the Cayman Islands Real Estate Brokers Association can do the same thing. So, in effect, the conclusion is that that is a form of a public auction. Perhaps it has greater reach; perhaps it lasts longer in terms of [the fact that] a public auction is an event, which can pass in an hour or two. The MLS listing can go on for some time. And of course, it is listed at an asking price and I would imagine, in most cases, that, that is above what they would regard as the reserve price.

So, it is in that context then, Mr. Speaker, that, a property can be listed on the Multiple Listing System, and it is treated, for the purposes of sections 72 and 75 of the Registered Land Law, as a sale of the property, a sale with the banks exercising their power of sale by way of a public auction.

Mr. Speaker, there is another methodology through which the property could be sold. And that is what is called a sale by private treaty. The Member for North Side, in moving the Motion, referred to—I believe it was some document. It was an article or some sort of submission written by Ms. Allison McLean [PHONETIC], which talked about sale by private treaty as well. And that, Mr. Speaker, is where, having done a public auction and not having had any success with it, if the bank has someone who has been in touch, either directly or through a broker, and has made an offer with the bank that he thinks is a fair offer, that offer can be accepted with the permission of the Grand Court. And thus, it becomes a sale by private treaty.

So, on the one hand, you have to go through this public auction exercise, whether it's a public auction in terms of an event or whether it's a public auction in terms of an event or in terms of the Multiple Listing System, by way of analogy, and in that case, that is seeking to establish—to solicit bids to establish what the market value is to sell it; sell the property so that the bank can recover its invested capital and any interests and costs that they have expended.

On the other hand, where that fails, if someone comes along and makes a particular offer and the bank is willing to accept it, then they go to court and they seek the approval of the court. Now, of course, the Practice Directions also specifically deal, Mr. Speaker, with the approach that the courts should take in terms of ensuring that the property must not be sold at an under-value, that the sale is in good faith, that they are satisfied of the value, that the standard of care required of the bank is that of a reasonable man in respect of the conduct of his own private affairs. Once those are satisfied and the bank is satisfied that attempts have been made to sell it by public auction to establish what the market value is in that way, if the court feels that those efforts have been made and this is an offer, the best offer that they're going to get in relation to this property, the court can authorise the sale by way of a private treaty.

So, those are the normal circumstances under which the property which is secured in respect of any loan can be sold to recover the proceeds.

One of the very, very critical things that should be obvious from all of this, Mr. Speaker, is that the lender and the borrower need to be in dialogue as soon as there is an indication of difficulty by the borrower; whether that is a missed payment or perhaps it is an underpayment. Those are red flags that should be able to trigger concern with the bank and the borrower.

One of the things that we have done, Mr. Speaker, is to try to encourage that. When we took office, I think shortly—perhaps it was towards the end of 2013, a lot of the retail banks across Cayman were invited to come to a meeting. There were discussions along the lines of recognising that there was a problem and seeking ways for banks to be able to assist their borrowers in a better way, in a way which was more constructive and had a better end result. Whether that was by way of a restructuring of the loan, whether it was by way of a principal holiday so that they only paid interest—all of these things, and others, were discussed with the banks. The banks were encouraged to be as lenient as possible, to be as accommodating as possible, because the Government felt that the economic conditions were continuing to improve and that people would have a chance to work through some of the issues they were having.

The banks went away. They agreed to do that. They engaged in publication of notices in the press, Mr. Speaker, to address some of these concerns to bring it to the attention of the public and their borrowers, that they should be in touch with them, contact them the minute they feel that they have any issue. What happens, Mr. Speaker, is that when people get the first notice (section 72 notice), it scares them. They stick their head in the sand. They hope it goes away. That is not the best way to react to a situation like this. Leaving it alone, ignoring it, won't help it to go away, Mr. Speaker. And I know the Member from North Side also indicated in his submission that there are people who, for whatever reason, perhaps get themselves in difficulties as well because they don't have the right approach to managing their money and priorities in terms of spending. And I agree. That is a reality of life. But bad things happen to a lot of good people, too. And there are a lot of good people who are undergoing this process, and it scares them. It is embarrassing. It is a very emotive thing. And we all understand that.

We have all had constituents who have brought these issues to us, discussed them with us. And very few of them, Mr. Speaker, can sit and have a discussion about an issue like this without getting very emotional, oftentimes coming to tears. And either at the same time or very shortly after that, we are in tears with them, because we understand what it means for these folks to be faced with something like this, to be faced with losing a property that is the cen-

tre of their life, is the epicentre of their being, their family's being. Every memory that they have may be encapsulated in that property. It could even be that it's originally family land and there's a huge sentimental value to it.

So, these are all issues that we recognise. And a few days ago, Members were talking about wishing that they had a magic wand that they could wave to fix it. We wish that was the case all the time, Mr. Speaker. Unfortunately, it isn't. And these problems will get bigger if they're ignored. If someone is having difficulties, I implore them—I have said so publicly in the past; I will say it again here—I implore them to contact their bank as soon as possible.

A lot of the people whom we see, Mr. Speaker, they have been in problems and been in a default situation for months and months and months, in some cases years and years. Those are very difficult to resolve, because when you have lots of interest and outstanding principal, which we would call arrears. When you have a lot of arrears like that, it is very difficult to try to resolve the situation, particularly where somebody's personal circumstances have changed, whether it's because of illness or whether it's because they have suffered through a redundancy at work or the company has shut down. Whatever it is, these are very, very difficult issues.

As I said earlier, Mr. Speaker, the reality today is that the problem is getting less. One of the things that the banks have told us in our discussions—and we had discussions in 2013 and we had discussions in 2015, earlier this year—is that from their perspective, conditions are improving. The numbers of non-performing loans are going down. And what we have today is a reflection of problems that were caused by the economic crisis, by the long, dragged-out drawn-out recession that we endured. But it is getting better.

Whether it is getting better or not, Mr. Speaker, the people who are involved in it, they're involved in it. It's their house, it's their property, it's their life, and that is what means everything to them. So anything that we can do to help them, Mr. Speaker, we try to do. And if it means looking at the laws as they are today, and even if extending an opportunity to Mr. Miller to have constructive discussions, we are willing to look at whether we can change anything, or what we can do to improve the circumstances.

We are already doing some of it, Mr. Speaker. We are doing some of it. Minister Archer and I had a press conference some months ago. And at that time, we outlined some of the things that we were engaged in, certainly, more on a personal level because we weren't using government resources. We were doing it out of our own pockets to try to help people. One of those . . . it was two connected, but different initiatives, Mr. Speaker. One of them was having public seminars by hiring a Caymanian who does this to run these seminars, make it publicly available, encourage people to come, even having refreshments available and having it at a reasonable hour so that they could

get home and deal with their family needs and children and be able to attend. And they would have these refreshments available to them.

The idea, Mr. Speaker, was to get people to come out and listen to some of these things. And I will tell you, frankly speaking, after listening to some of the very, very helpful suggestions and techniques, I am sure Minister Archer joins me in saying that we both learned a lot from that. One of the things demonstrated was a component on reducing your expenses. It is amazing how much we can reduce our expenses, our cost of living, if we just think about it.

One of my uncles used to holler at me when I was a young boy, and I would walk out of the room and leave the light on, leave the fan on. He would holler at me, *You think it's black cat birthday, owa?* Simple things like that, it is too often we get up and leave the TV on and it's running. Anyway, these are all things, Mr. Speaker, that are very relevant. And this individual, Mr. Ralph Lewis, I thank him publicly for what he has done. And I will say that we are going to continue doing these programmes so the public can look out for further advice as to when they start up again. But they were done in Bodden Town, George Town and West Bay, dealing with debt management, dealing with reducing the cost of living.

You know, some people will say, *What are you doing that for? That doesn't help those of us who are in trouble.* There are elements in there that can help all of us. It helps people who are in trouble today. And it certainly helps people to avoid being in trouble tomorrow if we are conscious of those very good suggestions.

So, that is going to be an ongoing thing. But there's another related component of that, as I said, Mr. Speaker, but separate, which is that Minister Archer got the assistance and had, I think it was five or six—six individuals who were retired bankers, senior people with very senior credit experience in the banks, to volunteer to give freely of their time to assist our people who needed help in these areas. And they have been working in conjunction with the seminars, people who come to the seminars who identified themselves as needing further one-on-one assistance in a very confidential setting with these people who are very, very experienced.

They are ex-bankers. So they know, they understand what is driving the banks' perspective and what the options are that the banks might be willing to consider. So they're able to help give advice as to how to resolve some of these problems. And we've done it in the past, and I'd certainly like to thank them. I'm not going to name them now, but I'd certainly like to thank them very much for their willingness to engage in that, because it demonstrates their contribution and their care for their fellow man in our community.

Mr. Speaker, there are lots of other things that we have been doing. But one of the things specifically mentioned is, I have been having discussions with the

Bankers' Association in connection with seeking to have their banking code amended to specifically include provisions dealing with borrowers who find themselves in difficulty. So, while we can get up there, we can encourage people publicly to go and contact their bank, this code really means that banks in Cayman that were subject to this, they now agree that they will . . . If they see a customer who has a potential difficulty, if there is some red flag, they will contact them immediately.

Mr. Speaker, I will table a copy of the Banking Code for your reference and others'.

**Hon. G. Wayne Panton:** But with your permission, sir, I would like to just read section 14 of the code.

**The Deputy Speaker:** Go ahead.

**Hon. G. Wayne Panton:** Thank you, sir.

Mr. Speaker, this starts off with "**FINANCIAL DIFFICULTIES—HOW WE CAN HELP.**" Section 14.1, says, "**We will consider cases of financial difficulty sympathetically and positively.**"

Section 14.2, "**If you find yourself in financial difficulties, you should let us know as soon as possible. We will do all that we can to overcome your difficulties. With your co-operation, we may be able to develop a plan, with you, for dealing with your financial difficulties. And we will fully document it with you.**"

Section 14.3: "**If it appears to us from the operation of your account that you may be in financial difficulties, our first step will be to contact you to discuss the matter.**" That's what we've been encouraging both banks and borrowers to do.

Section 14.4: "**The sooner we discuss your problems, the easier it will be for both of us to find a solution. The more you tell us about your full financial circumstances, the more we may be able to help you.**"

Section 14.5: "**FINDING A SOLUTION. Each borrower's situation is unique, but generally in determining a solution that best fits your circumstances, the following will be considered: (a) your personal circumstances; (b) your overall indebtedness; (c) the information (financial and otherwise) that you provide; (d) your current repayment capacity; and (e) your previous repayment history.**"

Section 14.6, Mr. Speaker, is headed, "**ALTERNATE REPAYMENT OPTIONS**".

"**Your lender will explore all options for alternate repayment arrangements which are viable for your particular case. Such alternate repayment arrangements may include: (a) interest-only payments on the loan/mortgage for a specified period of time; (b) permanently reducing the interest rate; (c) temporarily reducing the interest rate for a specified period of time; (d) an arrangement to pay interest and part of the normal capital amount for a specified period of time; (e) deferring payment of**

all or part of the scheduled loan/mortgage repayment for a specified period of time; (f) extending the term of the loan/mortgage (reduction of monthly payment); (g) changing the type of the loan/mortgage; (h) adding arrears and interest to the principal amount due.”

It continues, Mr. Speaker.

**“Where an alternate repayment arrangement is offered by a lender, you’re encouraged to take appropriate, independent legal and/or financial advice.**

**“Where it is concluded that the loan/mortgage is not sustainable and an alternate repayment arrangement is unlikely to be appropriate, your lender will provide you with the reason(s).”**

Section 14.7 deals with what they call *repossession*. I think, Mr. Speaker, that that is simply a reference to exercising their power of sale, because as we saw from section 78 [of the Registered Land Law], they don’t have the power to possess property. I suppose repossession suggests that they may have sold it to them in the beginning and taking it back, but we know that’s not happening. So it provides: **“Where your loan/mortgage is in arrears your lender will only commence legal proceedings for repossession of the property where your lender has made every reasonable effort to agree an alternate arrangement with you or your nominated representative.**

**“Notwithstanding this provision, where your loan/mortgage is in arrears, your lender may apply to the court to commence legal proceedings for repossession of the property.”** Again, I think they mean exercise the power of sale. The two cases suggested there are- **“(a) in the case of a fraud perpetrated on the lender by you; or (b) in the case of a breach of contract by you, other than the existence of arrears.”**

The last section, Mr. Speaker, is headed **“PROPERTY SALE”** and it says, **“Where a lender has disposed of property which it has repossessed, the lender will notify the borrower of the following information and of his/her liability for (a) the balance of any outstanding debt, if any; (b) details and amounts of any costs arising from the disposal which have been added to the mortgage loan account; and (c) the interest rate to be charged on the remaining balance, if any.**

**“In circumstances where we pass your debt to another organisation, for either sale or debt collection, we will always choose reputable firms.**

**“No repossessed property”—and again, that’s the exercise of the power of sale—**“will be disposed of by your bank through the direct sale to any employee, relative or close associate of an employee.”****

So, that last section there, Mr. Speaker, is trying to avoid some of the allegations that perhaps there

are people within the bank who are lining up some of these distress sales in terms of the exercise of the power of sale by the bank to friends or individuals. Mr. Speaker, it is not in the interest of the bank for anything like that to happen. They will, therefore, be very cautious in terms of keeping an eye on something like that, and they will be the first one to deal with it, because it is their capital that they are losing, it is their capital that they’re eroding and it is their shareholders who are losing out. So, no bank is going to agree to that.

Mr. Speaker, I think what is set out in this code of conduct is good. I suspect it probably could go a little bit further, and I will have further discussions with them. What is reflected here was a part of an initial discussion, which I assumed we would continue in terms of finalising something that reflected more of the concerns that we, on the Government side, may have. But I think what they’ve done so far and what they’ve adopted so far is good. It can go further. It can deal with issues like making sure that when they’re getting valuations, they’re cognisant of the concerns which the Member for North Side, in moving this Motion, alluded to, and do what they can to avoid those.

Mr. Speaker, there is another Practice Direction I don’t have to hand at the moment, which actually lists the approved valuers, which can be utilised, which the court will recognise as being approved valuers for the purposes of the exercise of these powers. And in particular, if you come to court seeking an order for a sale by private treaty, you’re definitely going to have to have somebody from this list. And the court’s position is if you come with two valuations that are different, they will take the median.

So, Mr. Speaker, there are a number of areas and a number of initiatives and a number of actions which have been taken to try to address some of these issues, to put these issues in the best possible situation, where those who are in them, those who are experiencing them in terms of a mortgage default can find a way to resolve them if it is possible. But I think sometimes, with the best will in the world, Mr. Speaker, we have to recognise that circumstances have changed so much it is not possible to fix the problem in terms of the status quo in keeping the property and everything else. The earlier it is recognised, the better it will be. Sometimes, the individual involved needs to sell the property and the sooner they do it, the fewer difficulties they will have or concerns they will have in terms of a forced sale; therefore, potentially, the better the value they will realise. So, all of these actions are designed to ensure that people are put in the best possible position to find a solution or to make decisions early enough that it is helpful to them.

Mr. Speaker, the Member for North Side, in moving the Motion, referred to a number of examples and people who have made representations to him. Many of them made representations to all of us. I think, Mr. Speaker, I recognised some of the numbers he was quoting. And I can tell you that some of those

folks, at least one of them is very near and dear to me. And I have other family members who are having similar difficulties. So I don't want anybody to believe that I don't understand it or that any one of us over here doesn't understand it, because I know there are many of us who have family members who are in similar situations.

There was an ad, just as an example of the confusion that can be brought about, Mr. Speaker. There was an ad in the *Compass* on October 20<sup>th</sup>, bottom right-hand corner, on page 5 (Mr. Speaker, I won't name the company), which is set out there, and I'll certainly make this available to you, sir. But the heading of the ad is: "Are bank foreclosures a great deal?" And the response was, "Sometimes!" It went on to say: "Usually, the bank instructs a realtor to sell the property for what is owing to the bank. And lately, this seems to be what the market will bear." [UNVERIFIED QUOTE] That, Mr. Speaker, is patently wrong! Patently wrong.

*[Inaudible interjection]*

**Hon. G. Wayne Panton:** No, I don't name them. It's a public document, but I'm not going to call the name at this point. Because I think it represents . . . These people are not lawyers either. What it represents is a lot of misunderstanding around the issues. Because what they went on to say was actually very helpful as well. They said: "Local banks do not take missed mortgage payments lightly. They make repeated attempts to help the homeowner to see if they can work with them. If you or your spouse has lost some income, then call your bank right away and communicate with them to avoid eviction." [UNVERIFIED QUOTE] Now, I will quarrel with the eviction side of it as well, because that only happens when there is a sale. But the first part of that is wrong. And this is where we have some issues, Mr. Speaker.

There are some banks that have actually instructed their agents to remove any references to *bank foreclosure* in their ads for these properties, because the minute you do that, Mr. Speaker, then, you have concerns raised by the Member for North Side that somebody says, *Well, you know what? Let some of us get together and wait. Let's wait this out and see how far down the property goes*, because that is what has to happen. If a property isn't sold over a period of time, they will keep re-testing the market, because their obligation is to take reasonable steps to get the market value. It isn't to hold out for 10 years to get a value that was set on the house two years earlier or six months earlier. It's to get the market value at that time.

And yes, that is a willing seller and a willing buyer. And the Member noted that in this case we're not talking about a willing seller. But of course, the seller is not the owner. The seller is the bank, exercising their right of sale to realise their security.

So, these things, you know, this is a very unfortunate reference, because now it adds credence to the concerns that people have, that the banks are instructing the realtors to just sell it for what they have in it. And we know that most banks are only going to lend you up to 80 per cent of the value. So, most of the time, there is going to be equity. There's going to be value built up in the properties—not in all cases, not in all cases. But in most cases, that would be the case. And this suggests that the bank is taking an unreasonable approach and simply saying: *Sell it for what I have in it*. That's not what the bank can do. That's absolutely wrong!

So, I would ask realtors, Mr. Speaker—because they are a part of this business community; they are a part of this society as well—to help be a part of the solution on this issue and make sure that when you write things like this, when you do your ads, make sure that it is helpful, clear and accurate advice and statements, not something which is going to create significant concerns with people, because you're part of the problem then, and you have raised concerns in the eyes of people, unnecessarily.

Mr. Speaker, the last point I would make is that this ad has the usual real estate sign. And right at the top of it, which we can drive around and see elsewhere as well, *Bank forces sale*. Again, that isn't helpful. That is not helpful in an environment where people feel that they're losing their homes, they're losing value that's in the home and realtors are a part of a problem which seems to be driving the values down rather than really trying to find what the market value is. So that's an example of activity and behaviour that I would like to see change, Mr. Speaker.

**The Deputy Speaker:** Minister, you have about one hour left.

**Hon. G. Wayne Panton:** An hour? Thank you very much. I won't be too much longer, I don't think. I hope.

Mr. Speaker, I mentioned that the marketplace is improving, that the numbers of mortgages that are in default are coming down. But we do have a situation now where we've had a spike in some of the foreclosures going on. The year 2013 was the highest previous high. In 2014, it dropped very significantly. And I think, in large part, that that was a reflection of the banks having discussions with their customers and seeking ways to accommodate them.

While I am on this, Mr. Speaker, I know that there is this concern. Some people will argue that five months or four months isn't enough time and isn't enough notice for the borrower to be able to resolve some of their issues. But I haven't seen one situation yet, Mr. Speaker, where the banks have stuck to their specific statutory notice periods and then sold the property right afterwards. The reality is, on the basis of the Practice Direction from 2012, they are listing these properties after four months, or they are accommodating the borrowers for some considerable

time after that, in most cases, in discussions to try to find a way to restructure the loans.

Many of the banks have said to me, Mr. Speaker, that, having engaged in some of these exercises to try to find solutions where the owner can stay in the property, continue to own it and restructure the loan so they can try to work out some of the issues, they find that a month or two later, they're back in the same position. They're not meeting the restructured obligations and agreements that were reached. I don't know, Mr. Speaker. It could well be that they are not being fully open with disclosure to their bank as to what their true situation is. It could be that their ability to deal with their finances is not great. It could be that their priorities in terms of spending just aren't what they should be. But they do seem to, in some cases, lapse back into some of the difficulties.

There are others, of course, who successfully go through the process. But whatever the case is, Mr. Speaker, the banks have been engaged in the exercise of leniency. And even when they're listed, even when these properties are listed on the MLS or they go through a public auction event, it is taking up to a year or more to sell some of these properties. In some cases, the default has gone on for years, the exercise or the attempt to exercise the right of sale has gone on for years. They don't have the ability, nor frankly do they want to put the owner out of the house. Because then they have the responsibility—they don't have the ability but they would have the responsibility if the owner walked away and left it, to deal with the upkeep of the property and try to prevent it from degrading further. So it's always better from the bank's perspective, Mr. Speaker, to have individuals who have something vested in that, to stay on. But I wanted to say, to make it clear, Mr. Speaker, that in fact, in practice, what happens here today is that rarely do you have a situation where, even with the four-month notice, that a power of sale can be exercised quickly and the person has to look for another home. It very often goes on for some period of time.

Now, of course, it creates difficulties for the banks, Mr. Speaker. They have to provide additional reserves against these losses. They don't have the ability. They have less capital available to make available to other potential borrowers, new customers. So, this is a problem for them, too. And they would like to be in a position where they're getting money in. Even if it's less than what they originally agreed to, they're better off getting something. And it's a sign of good faith, it's a sign of a commitment if a borrower can help to work through an issue, agree to a restructuring with the bank and stick to that. Because the banks are better off for it, the borrower is better off for it, and at the end of the day, the banks will then be getting a return on their capital, getting their expended capital in, and they have money to be able to lend out to others who are seeking to pursue the same dreams, to own the same types of residential properties, to start businesses.

So, Mr. Speaker, these are all very, very intertwined and important issues. It is not simply a case of the banks being difficult. Banks, from what I can see, have been very accommodating. But we still need to ensure that those concerns that exist out there do not exist. And if they do exist, that we address them, because we cannot have people taking advantage of those who find themselves in difficulties and oftentimes who are less able to afford lawyers, who are less able to understand the issues, because they don't have the commercial exposure. And they go out and become subjected to some of these issues. We can't have that happening, Mr. Speaker.

So, Mr. Speaker, I think between everything, I wanted to outline what the position was with the law, what the provisions were in terms of the notice—the fact that it was written notice, the fact that it had to be over a period of time, one month in the first case, and then after three months the power of sale arises. I wanted to make sure that that was clear in people's minds so they understood it. Not everybody does.

It's important for our people to understand that whenever they sign up to a section 64 charge, there are consequences and there are problems that can occur if they find themselves in a position where they're not able to meet those obligations. We want to avoid that as much as possible. We want to try to help people avoid that. And if it's a case of being able to manage their affairs better, manage their finances better, we're trying to address that. If it's a case of needing specific advice, we're trying to address that by having the volunteers who are willing to help.

Government, Mr. Speaker, is not in a position, and we have seen attempts to take government money to give to people to pay on mortgages is not the solution. It doesn't work.

*[Inaudible interjection]*

**Hon. G. Wayne Panton:** No matter where in the world it's been exercised, whether it is Grand Cayman, Cayman Islands or Timbuktu, these types of things never, never really work. And it is not the most effective use of limited public resources.

So, Mr. Speaker, I want it to be clear that we understand the concerns. We are finding ways to help. We're having discussions with all parties, including the banks. The banks have responded by including a new section 14, which I've read out, in their code of conduct. And frankly, Mr. Speaker, those discussions will continue. We will continue to have discussions on this, I have no doubt. But this is something that concerns us, whether it's 5 people or 150 people. It is a very difficult thing, and we need to assist where we can in the right way, in the most effective way.

So if, in our review of this going forward, there is some way to address it legislatively in a balanced way, which doesn't impact banks' ability to reasonably recover their capital, to reasonably make some kind of return on their capital and to protect the interests of

our own constituents, and, importantly, I think, Mr. Speaker, also to allay the fears of some of our own constituents. If we can do that and if we can do that through legislative action which is balanced in that way, we will seriously consider bringing that legislation; whether it's an amendment to the Registered Land Law, or whether it's a bespoke law, maybe even (to please the Member) a specific Law, call it the Mortgage (Something) Law. If we do that, that will be how we're trying to address this issue, Mr. Speaker.

Mr. Speaker, with those words, I hope they have helped to clarify the picture, both for the Members of the House, if necessary, as well as those in the public. I hope that that is of assistance. And just in relation to the Banking Code, Mr. Speaker, the Bankers' Association intends to send copies of that around to all the MLA's. They also intend—they have it on their website—to do a limited run. But these things, while they are not pieces of legislation that you can hit the bank over the head with, these are public commitments. The bank is standing out there and saying, *We're going to do this. We're going to treat you this way.* That's what the Code of Conduct is for. And it may be that that is just as effective, and sometimes it could even be more effective, Mr. Speaker, than having a specific piece of legislation.

Mr. Speaker, thank you very much. And I think I'm well within my time. So, thank you, sir.

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

I recognise the Honourable Member for East End.

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

I do not intend prolonging this, not for any length or period of time. But certainly, Mr. Speaker, I hear the Member for North Side. I hear the Minister. And it's obvious that we have a problem that needs to be addressed, be it the nine or otherwise.

First of all, Mr. Speaker, let me address this amendment that this Government is bringing. I notice that . . .

*[Inaudible interjection]*

**Mr. V. Arden McLean:** What do you mean I can't address it, Mr. Premier, when it is a part of the Motion I'm addressing?

*[Inaudible interjection]*

**Mr. V. Arden McLean:** I am going to address the amended Motion.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Thank you very much. This is the amendment to it.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Mr. Speaker, as the original Motion says: "WHEREAS many Caymanians are experiencing difficulties with their mortgages and in some cases are losing their equity in the current foreclosure regime.

"AND WHEREAS there is no current mortgage legislation in place.

"BE IT THEREFORE RESOLVED THAT Government consider the enactment of mortgage legislation that will offer proper protection to the lending institutions but will also provide property protections to the borrower, as well and in particular their equity."

Now, the Government's change has removed the second WHEREAS. They have deleted "AND WHEREAS there is no current mortgage legislation in place." So, there is only one WHEREAS now, as amended, and the resolution to the first WHEREAS. Now, Mr. Speaker, my question to the Government is: Why are you keeping the RESOLVED? What's the use of considering the enactment of legislation if you say there is one, and you took out the one that said there is none? I'm confused. If you take that out, and then the RESOLVED is asking the Government to consider enacting it . . . I could understand if the Government had said there is no *specific, current* legislation in place, but they removed the whole thing.

So, the Motion as amended now says: "WHEREAS many Caymanians are experiencing difficulties with their mortgages and in some cases are losing their equity in the current foreclosure regime.

"BE IT THEREFORE RESOLVED THAT Government consider the enactment of mortgage legislation that will offer proper protection to the lending institutions but will also provide property protections to the borrower, as well, and in particular their equity." So, it's the same thing. So we're admitting that there isn't, and they're going to consider putting it in. That's how I read it. Anyway, Mr. Speaker, be that as it may, at least they have committed to it.

Mr. Speaker, there is a problem. I don't know how, where or when, how to put my finger on it, but we have a problem. And it's more than a few Caymanians who are having the problems. And, Mr. Speaker, I agree with the Minister. There are instances that people do not go in to correct these things. And there are different reasons—embarrassment that they have lost their jobs, embarrassment they can't go and sit down and discuss these matters because it exposes more of their personal difficulties that they're experiencing. And they're afraid that gets out on the street, because we're a small community.

I can think of one situation where a bank's lending portfolio was bought out. And there was a mix-up in when the person should have come in, when they were supposed to resume paying their mortgage

and the likes. And I can't say that there wasn't fault on both sides, Mr. Speaker. I wouldn't venture that far. But certainly, the person, as the Minister talks about, came to me. We're the catch-all, we're the save-all; we know that. And we have to do something about it. So I wasn't trying to get into the bank and their clients' business, Mr. Speaker. I was merely asking to try and I called, asking them to try and see what they could do. Because I know the single mother and her child who is trying to get off to college. It's right at that time. And the person had lost her job. I didn't know the intricacies of the case, but I just wanted them to at least . . . I was properly told to go do my job as an MLA and leave this out of my job.

Of course, I told the gentleman, *This is my job. You may not necessarily believe that I should be calling you. But I am trying to save a resident and your bank from having to go through all these difficulties.*

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Yes, and I wasn't trying to share it, Mr. Speaker. I really wasn't trying to get them to . . . But that's what they said; that's precisely what they said. So I said, *No, I'm just trying to see if this person can come in. You can give an appointment to this person.* And then eventually, at the end of it, after the person was extremely mad, Mr. Speaker, I must admit they agreed to meet this person.

You know what? The person is now paying their mortgage. I don't to this day know the intricacies of that. But I was only trying to facilitate the getting-together of these people so you could save both. The bank wouldn't have to go out on a limb to exercise their right of sale. And the person could live in their house.

Now, during that difficult period . . . And I hear the Minister say the real estate—they cannot, they will not evict until the sale has been completed. They can't. Now, I don't know who gave those people the authority to tell the person that they were now the agents to sell this house and they had one week to get out. Now, Mr. Speaker, I can't say there wasn't again a mix-up. But certainly, we all had to try and resolve that as well, because there's no place for the young lady to go with her child, big 16, 17-year-old child. So we have to be careful. Yes, the Minister got up here, and he went through everything, what they can do and what they can't do, what is morally he believes is wrong, and what is ethical or right. But that is in black and white, and how those lawyers see it. *This is what this means and that is what that means*, and how maybe all of us see it if we read these things. But what goes on, on the ground is completely different from this black-and-white.

Sometimes, it just so happened that all the times that I've been in it, it is different, I don't know how we can figure that one out. I've got the worst luck. I've got to lock out the Irish. I'm special, the Minister tells me.

Mr. Speaker, we are faced with Caymanians having their difficulties. And I'm not here to say why, how, when. But certainly, Mr. Speaker, we as a legislature, we as a government have the responsibility, because much of those difficulties that our people are experiencing emanates from these laws that do not help Caymanians. And I'm not talking specifically of the Registered Land Law. Mr. Speaker, I'm talking more about immigration law, labour law, in particular. Because, Mr. Speaker, we continue to hear our people talk about how they are made redundant! That's what gets them in trouble!

Mr. Speaker, I had one of my residents last week, Thursday or Friday, a constituent, call and said . . . I haven't spoken to this woman about any personal problem for years. They have their own house, everything. She's been with the company for, I believe, it was 12 years. And they made her redundant the day she was going on vacation, the Monday. And on Friday they made her redundant. And they had someone in Monday morning doing her same job. But part of her job was the courier for the company or something. And they hired one of those companies that do courier services. It was four Caymanians whom they laid off, made redundant.

The IT person, who is another Caymanian, they laid them off and brought in a contractor to do that job. They laid-off the receptionist and outsourced it to one of the (I don't know the name) recruitment agencies that we have in the country. That is not redundancy! And that is what is happening with our people! That's why I brought that Motion that every redundant position must be told to the Labour Board. Mr. Speaker, the Minister spoke of the banks and if I don't get it right, he can correct me. I have noted that the bank says much of the problem was caused by the economic downturn, I believe that was, in essence, what you said, where people have now lost their jobs. But more importantly, we, Mr. Speaker, are allowing our people to lose their jobs on the basis of redundancy by the companies, and there's no audit of it. That's where we must come in.

The enforcement arm of the labour and immigration must be more robust to ensure that Caymanians are kept in place unless gross misconduct or something of that nature, or there is true redundancy, Mr. Speaker. You can't claim that it's redundant or you're downsizing and then do the same thing with someone else. In many instances, it's their friend's friend whom they're bringing in. And they're probably coming from another company, too. In the meantime, I have a constituent who is now wondering how she and her husband are going to keep a roof over their children. And then it comes right back to their mortgage.

Now, Mr. Speaker, I am in support of the Minister saying we have to do something about it. But it's not that cubbyhole. It's not only those blinders on for the mortgages. It is much bigger than that, that we

need to address, the Government needs to address, the Immigration Board.

Well, if there are any boards in this country that are not fit for purpose, it just happens to be them. I can say that from experience—not fit for purpose. Caymanians are not protected. Mr. Speaker, I'm not saying that we need to go overboard to protect Caymanians and put protectionism in place. But they have a right to a job in their country first and foremost.

We like to say that that's not a prerequisite because you're Caymanian. Well, I say it is! So, it's not a prerequisite for an American to get a job in America or what? And a prerequisite for the English to get a job in England? Oh, it's everybody, they're first and then we're second? No, no, no, no, no; that's not how this works! It's a prerequisite if I'm Caymanian—second, qualified. And if I'm on the job, if I'm not doing my job, then I don't think it's the Government's place, nor my place, to interfere in someone who is not doing their job. Provisions are in the law. You will be fired. But don't tell me you're making them redundant, and before the ink is dried on it, Mr. Speaker, you hire someone else! Wow! Wow!

The Labour Law also speaks about constructive dismissal, you know.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Well, that is not going anywhere. The lobbyists are going to wipe you out on that, Minister for Labour. You don't worry about that one.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** That will never see the light of day. The hinges of hell are not going to be blacker than what that will encounter.

Mr. Speaker, I am not blaming this Government in particular, but that's the only one we have right now. It is more encompassing than losing their mortgage. Their right, their *right*, their God-given, inalienable right to have a job in this country—and not having it is what is causing them to suffer. And until we, those of us in these hallowed halls, build up the political wherewithal, the political will to do different . . . And I know, Mr. Speaker, you think that they haven't labelled me as anti-business? That's what some of them over there say. And that's fine. That's fine. They obviously, all those over there, if I am anti-business, they are anti-Caymanians. And I can tell them, without fear of successful contradiction, only Caymanians get once every four years to hold a lead pencil in their hand. Unna, remember those lead pencils? And if you think business is going to save you, if you don't have a balance between business and those people with those lead pencils, who work in their business, who fear they're going to lose their jobs—if you think there is anything more revengeful than that number-five

lead pencil or number-two lead pencil, stick around till the general election.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Number two we use?

Thank you, Mr. Deputy Premier. Number-two lead pencil. Unna, hear about the might of the pen? Unna, try to remember the might of the pencil. It's they who are going to decide whether we kept the proper balance between the businesses that unna say I'm anti, and those that unna say I am always yelling the place down for.

Mr. Speaker, I have concerns about how it is communicated to me, and the Minister said something in his contribution about the power of sale and they keep testing the market, and that could be a long period of time before that power of sale is exercised. And they keep testing the market to see what it can sell for, but it should not be indefinitely, of course. It would be interesting to see how long that testing of the market goes on. With the same ad that the Minister spoke about, Mr. Speaker, the Minister wouldn't say who it was. But this is public. The newspaper is public. In that same ad he was talking about was a real estate agent advertising their listing. And the more attractive that ad can be, obviously, one will be drawn to it if you're looking for sales.

It's Capital Realty, Mr. Speaker. It's Capital. That's what it says. Now, I don't know who Capital is. But it has a depiction of one of the sales—I don't know what they call them, the little sales arms that they put on property signs. And it says, "*Bank forces sale*", Capital showing what they put up. And they say, "Usually, the bank instructs the realtor to sell the property for what it is owing to the bank. And lately, it seems to be what the market will bear."

Now, Mr. Speaker, if a realtor—what's this, a quarter-page, one-eighth or something they call it—can spend that kind of money to say that, without successful contradiction, then it's got to be true. That is our problem! The Minister stood up here for nearly an hour-and-a-half trying to convince us that they can't do it. And the real estate agents who say at the bottom: "*Check out our bank foreclosures on our website.*" And typed in: "*Bank forces sale for a list.*" They can say it and draw you to their website to look at it, well, it must be true. The Minister has said they can't do that.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** And the people, the very people, the petition to Members of the House, these very people are saying it, Mr. Speaker, that that's what they do, because they have experienced it! And more than them; these are the ones who bear that embarrassment and come out front, who are brave enough. And they are saying they did it to them! And the Minis-

ter says they cannot do it, and the real estate agents are saying they're doing it.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Well, at the very least, Mr. Speaker, we know we have a Bankers' Association, those who collude, you know. All the commercial banks that collude, work on that. And that's my opinion, Mr. Speaker.

Mr. Speaker, the Minister, I agree, he said when they do things like this, it's no wonder the people believe that. But, Mr. Speaker, those banks should, at the very least, come out and contradict it! What is the Minister, some defence? He has their brief or what? He's trying to stop people from believing it? No, the Minister doesn't have their brief.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Prove it! I don't need to prove it anymore. You need to frame this and put it up in your office.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** It is nonsense? You mean Capital is nonsense? Understood, Mr. Speaker, false advertisement, defamation, all those kinds of things can come out of this. If I were you, Minister responsible, I would invite the banks to sue these people if that's the case.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Now, you agree with me old buddy? They are destroying the banking business in this country if that's the case! And you mean to tell me . . . Mr. Speaker, we need to be logical about this now.

You mean to tell me Capital gets all of these bank foreclosures and they never go to sit with the bank personnel? They've got to sit with them to tell them what they're doing, and what-have-you. I mean, it doesn't take Einstein to figure that one out. I mean, a dummy like me can figure that one out. If I need to sell my house, I go and sit down with the real estate agent. And I tell them what I want. And I'm not going any lower than that, because that's what I've got in it. *Here is what I want. Here is the replacement value. Here is what I wanted. I'm not going any lower than this.* You mean to tell me the bank doesn't do the same thing? Oh, come on now. Of course, they do. Of course, they do. Don't try to see-saw me all over the place.

Mr. Speaker, I don't mean to get here and, I guess, become belligerent on the Government or anything of that nature. I just want to impress upon us that, if all these things are out there . . . One of those ladies, I believe that spoke with you who may be very close to you, came to me one time, too. I didn't know what to do. The same 500 thing and they sold it for

200-and-something. It may be the same person who lives close in our vicinity up there. And I understand, Mr. Speaker, because many people are going through divorce. They had tragedy in their lives, whatever, lost their jobs. They don't have the time to go into the bank. It's not the bank's fault all the time, Mr. Speaker. But certainly, we need to find out exactly what is going on to see what can be done. And, you know, if you're not on the job, it's highly unlikely that they're going to refinance your . . . You know, even if you had another job where your wages are much lower, they may consider refinancing you and bringing the payments down to meet your obligations so you can . . .

Mr. Speaker, something is radically wrong, and we need to go back a little bit and fix that immigration. They're giving everybody and their brother, sister, uncle, aunt a work permit while Caymanians are being kicked out to the curb. I'm anti-business? Is that the claim? Is that really the claim? So, what happened with those Caymanians, Mr. Speaker, that our sidewalks are littered with them? Don't they have a right? Don't they? Can't they? We are really turning our country into a Third World underground country.

Why is it that we hate our people so much? I wonder if we understand. When the tide rises, all boats should rise, and we need to stop rejoicing when the hole is in the other end of the boat! Because I assure you, whilst that man in the other end of the boat, where his feet will be wet first, you will soon be sitting in water, too. Okay? Trust me. We should rejoice when we see people rise. That's that much less for us to worry about as representatives, in particular, but more so as a country. And then we won't have all these downturns in the economy that affect us so drastically. Unna need to remember, it is a cycle. Every 10 or 12 years, we have the downturn. Do you remember when the last one was? It was 2008. You know what? It is now 2015.

It is due in three years' time again! The one prior to 2008 was when? It was 1998/99, Mr. Speaker. True to form, before that, it was 1990.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** 1990! When we came in here in 2000, the Minister for Works was the Leader of Government Business, and they had to go borrow money to pay the recurrent expenditure. Since I have been here, we had three—two, two, two.

Mr. Speaker, the Minister of Finance, now you know he is not getting into anything about how it came about. He wants to know if I contributed to it. Every one of us did, including you, but you were not here, but you contributed to it, too. A little levity is good, especially with him. He always tries to knock you off your game.

Mr. Speaker, I will not stand here, nor will I stand on the street corner, and say, *Stop the banks from exercising their right of recovering their value.* No, I won't do that, Mr. Speaker, because they have

every right to do that. All I'm saying is that we need to ask them to be a little more receptive, if they are not being. The Law is very specific. You've got to get valuations and get the median and start from there. But, now I don't know. There are stories out there of it not being done in that manner, and there may be a few that are not done in that manner. But I think, more importantly, the banks, the institutions, need to be a little more receptive to the plight of our people who have fallen on bad times. That's all I believe we can ask in many instances. That's what has to happen.

There needs to be a way of structuring those loans as well. Because we hear of loans going on, mortgages going on forever in infinitum, and it's the same amount all the time and going up. Anyway, Mr. Speaker, those are the issues that we need to look at. There are many of us who don't even owe anything on our homes. And it's okay. I don't have a problem with that. But we cannot measure others by ourselves. Mr. Speaker, that's the purpose of representative democracy, to help people, to make provisions for them. I can't get them a job. But I need to make provisions so they can get a job. That's what these hallowed halls are about. And the day we forget that, we have lost sight of why we're here. We have lost sight of the central piece of the jigsaw puzzle when we are not bettering people's lives. That's all it takes for us to do it.

Mr. Speaker, the Minister spoke of this Code of Conduct. I hope it is properly implemented. I hope it is properly followed. I hope it is religiously followed. I haven't received a copy of it yet, but I suspect that I will, because it was laid. But I hope it is balanced and all parties concerned benefit as a result. And, you know, the Minister, in his discussions, it's always with the people at the top. And there may be people down at the bottom or middle who don't necessarily go all the time with the requirements of the bank and do it before it is due, because we all have got little egos in this country; every one of us.

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Say what? Not you? Honestly, no. We all have those. And we have been around here long enough where we hear them in the Immigration about, *Oh, that one with that one's wife and that one with that one's husband and stuff—we can't give them Cayman status* and all that kind of stuff. This country is small, Mr. Speaker. We know it's there. Let's not hide our heads in the sand. It is there. And then we've got people at the higher echelons, the hierarchy, who will tell people that people like Ezzard and me, they shouldn't listen to because we have no currency. We can't do anything. We have no currency in effecting anything. That's true. But all those who say that, tell them that I've got a mouth. And no one has stitched that tongue of mine to the top of my mouth yet and holding it in that one spot.

That's what happens in this country. We just have so many problems with Arden because Arden

speaks; so many problems with Ezzard because Ezzard speaks. What a shock of surprisasion. We're going to be around for a while, you know. We may not be in here; but we will be worse out there. You remember the little Pacman, Mr. Speaker, that little game? Watch how you get nyam up if I'm not in here. The only control you have over me is in here.

Mr. Speaker, besides this mortgage thing, which is one issue, the Government needs to go back and look-see what's also causing that particular issue. We need to go back and look-see what is causing our children to be rude, our children's truancy, not going to school. What's causing it? Two parents working till twelve o'clock at night trying to make two ends meet. Is that it? What is causing the robberies? The economy, whilst it's rebounding, it has not caught up with where we were and everybody on a job. But you know what, Mr. Speaker? Everybody else can come here and get a job. Everybody else can come get a job, and we don't look-see whether or not there are suitable Caymanians available. I'm convinced of that.

Immigration and NWDA [National Work Development Agency], is not fit for purpose. I have an opinion. Mr. Speaker, based on what representation has been made to me, a million Frenchmen cannot be wrong. Everyone has the same complaint. They go and register with the NWDA. You mean to tell me every one of those people, searched me out, got together to collude the story so they could tell little me? No, Mr. Speaker; that's the problem. The behaviours, the habits—people learn it. But our thing is that we think that Caymanians are stupid and they cannot repeat the actions against them. Surprise, surprise, Mr. Speaker, we love to think that there are smart people inside here? Oh, no. That's Topsy thing—*Oh, no. Oh, no.* You need to look on the outside of these halls. And if you think there are smart ones not out there, wait until May 2017. Thank you, Mr. Speaker.

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

I call on the Honourable Minister of Finance.

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

Mr. Speaker, with respect to the Motion, I would just like to say that I think there isn't anyone in this Chamber who doesn't understand the gravity of the issue. Certainly, I myself have done all that I could afford to do for those with whom I've had contact concerning the foreclosures. But, Mr. Speaker, I always like to approach an issue from as many angles as possible. I look for the immediate, and then I look for the long-term. The immediate, of course, is always to do what is required at that particular time. And as I said, you know, I tried on more than one occasion to assist as best I could. I think there are times when perhaps the mortgage has gone beyond assistance.

Once you have gone beyond that point, then the question becomes, well, how do you prevent that occurring? Not necessarily to that individual again, but to someone else. And, Mr. Speaker, that is the approach that I've taken to this whole matter of foreclosures and people struggling, because the Elected Member from East End just made a valid point. Recessions, economic recessions come more than once in your lifetime. There's no set number of years as to when they come, but one thing is certain—after the boom, there is a recession.

So, Mr. Speaker, when this became an issue, I thought, *Well, what is it that I can do other than just the immediate assistance?* And because Minister Panton is responsible for the financial industry, I like to respect the reporting lines across our Cabinet. And I spoke to Minister Panton, and he and I agreed that we should meet with the Bankers' Association. But, Mr. Speaker, from that meeting with the Bankers' Association, we suggested that we would put on these personal financial management seminars. Because many times, or from discussions with the banks, for some people, it wasn't necessarily the loss of income; it was the inability to manage the income.

With respect to the loss of income, the three primary reasons that we understood from those meetings with the Bankers' Association, why people were struggling with their mortgages, number one was the breakup of the family unit. We know that economic hardships create hardships within the family. And once there are financial pressures and stresses, then it causes some relationships to break. So once there was a loss of a partner, then there was a significant loss of household income, which then prevented the responsible party from servicing that mortgage debt. So, breakup of the family unit was the number-one reason.

The second reason, which was quite a surprise to me—or to both of us, I should say—was the people just giving up. According to the bankers, people just gave up on their mortgages, and some of them just leaving the Island. They would just come to the bank and say, *Here. Take the keys. We're leaving.* That was the number-two reason. That was a great surprise to me.

The third reason, Mr. Speaker, was the loss of jobs. And of course, there are myriad of reasons as to the loss of jobs. Some was redundancy. Some was outright dismissals. Whatever the reason was that they lost their job, the fact is the loss of the job and the inability to service the mortgage was not, according to the bankers, the number-one reason. It was the breakup of the family unit.

So, Mr. Speaker, when you think that the financial stress caused the family unit to break up, well, then you think, what can you do to ensure that while people are still working, they understand how to manage their income? So, we suggested to the bankers that this is what we had in mind; that we were thinking of putting on these personal financial management

seminars. And they thought it was an excellent idea, because it would have helped others who were not yet about to fall off the cliff. It would have helped those understand, *Well, how do you manage your money so as not to have financial stress within the relationship and the home?*

So, as Minister Panton just mentioned, we've had several of those seminars; some in Bodden Town, some in West Bay, and some in George Town. And I think there were several Ministers who were involved in that effort, and it was not a Government initiative, because it wasn't paid for by the Government, from the Government's budget. It was paid for from personal income, personal finances on the part of the Ministers themselves.

So, Mr. Speaker, when you look at the situation as it is now, the truth is the economy is growing—the local economy, that is. The global economy is also growing. But it is still very fragile. And everything that you read, tells you that, while there's growth, there's also possibility of recession again. So, it is not wise for anyone to think that it's all behind us. I can't say. I don't have a crystal ball. I don't know when it will happen. But if history teaches you anything, you know that it will happen again.

Mr. Speaker, the Elected Member for North Side tabled a petition, which I've read. It's a petition concerning, I think, it's "Caymanians Against Economic Injustice." And it's pretty much asking the Government to see what they can do in conjunction with the banks concerning mortgages and foreclosures. And Mr. Panton spoke of a code, a code of conduct for the banks with respect to mortgages. And, Mr. Speaker, I think that together we will see how much that code can reflect what is necessary for the banks to be protected. Let's face it, Mr. Speaker. If the banks feel as though they have no protection once they've loaned the money, well, it doesn't take a genius to figure out (1) they're going to lend less money; or (2) they will lend the same money with higher requirements; or (3) the people who establish these banks and put in the money in the first place will find another way to invest their money. They may come out of the banking business altogether and go into something else in another industry. So, we have to try to strike that happy balance between protection for the bank and protection for the borrower.

There is one thing in the petition that has some merit. It speaks to . . . Not to say that the petition itself is without merit, Mr. Speaker. But there's one thing when I read it that I thought does give some hope with respect to preserving property values, because while the bank has a right to protect its asset, which is the loan, what is happening—and I know this from listening to several people and from my own experience. What is happening is that because the surveyors use a comparison approach to arriving at the value of a property, they look at properties within that area that are sold in the last several years, I think it goes as far back as four or five years. I think; I'm not

absolutely certain, but I think, if I recall correctly from what I read in my own valuation. And then, included in those comparable sales would obviously be some that have sold at reduced prices because of foreclosures. And this is happening across the Island.

So, if there were some way of allowing the property owner to sell the property before it was foreclosed upon, and I think this petition speaks of taking the arrears, putting that into a separate account and then giving the mortgagor time to pay that off, as well as try to service the existing mortgage while they're trying to sell the property. And then, from those sale proceeds, you would then pay off the substantive mortgage. And from the equity in the sale, you would then pay off the arrears. Of course, failing to do that, the bank would not allow the transfer.

So, that provides some protection for the mortgagor, which would be the person who owns the house and who owes the money. It would be some protection for them, because then their property would not have been sold at an undervalue price, so to speak. The bigger picture is that it then would help prevent the sale of properties at undervalue, and then the consequential dragging effect, dragging down or reduction on the values of other properties that are not in trouble. So there's a real risk that, should this continue without some thought as to where it's going, you could then have an overall effect, pulling down the values of all of the properties, even those who have not had any problems in meeting their payments.

**The Deputy Speaker:** We have reached the time of adjournment. I'll call on the Honourable Premier to move Standing Order 10(2).

**Moment of interruption—4:30 pm**

### **SUSPENSION OF STANDING ORDER 10(2)**

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

Mr. Speaker, I move the suspension of Standing Order 10(2) in order that the business of the House may continue beyond the hour of interruption. Mr. Speaker, we would like to continue until we finish all of the business of this meeting this evening, because there are issues with Members either having to travel or actually being away, including the Speaker and your good self.

**The Deputy Speaker:** The question is that this honourable House now continue past the hour of interruption.

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

**Ayes.**

**The Deputy Speaker:** The Ayes have it.

**Agreed: Standing Order 10(2) suspended.**

**The Deputy Speaker:** Minister of Finance, please continue.

**Hon. Marco S. Archer:** Thank you, Mr. Speaker.

So, Mr. Speaker, as I was saying, we have to find a way to ensure that the effect that we are seeing now, where the properties that are being foreclosed on and being sold at reduced values, we have to try and ensure that that does not continue to impact the rest of the market. Because what we would then have, are many people who would say, *It does not make sense for me to invest, because my property would be worth less as we go on.*

Mr. Speaker, I believe that with the Code of Conduct that the Third Elected Member for the District of Bodden Town and Minister of Financial Services have presented here this evening and tabled, I do believe that in discussions with the bank, we can get to a position where those situations as I've just described can be alleviated or even prevented altogether.

Now, Mr. Speaker, how does one avoid oneself falling into the same unfortunate situation as some others have before? Without the loss of an income, Mr. Speaker, I think at this time, and, I don't know how long I will be a representative, but one of the things I hope that I will be remembered for, is for always trying to give the best advice that I knew how to give. Mr. Speaker, right now, it would be wise for borrowers not to overextend themselves, be prudent with what they do, and not because the bank is willing to lend you should you just borrow unnecessarily. Should another recession come (I don't know when), you would want to be in a position where you can afford the debt that you have.

Mr. Speaker, we have heard of many people who weren't necessarily struggling to make the mortgage payment, but were struggling to make overall debt payments and didn't know how to choose which one was most important. And as a result of that, they were then defaulting on the mortgage. Mr. Speaker, credit card debt is often as dangerous or is probably one of the most dangerous debts to get into. That becomes a debt spiral. Most people—

*[Inaudible interjection]*

**Hon. Marco S. Archer:** Correct. It is one of the most common and the most expensive, yes.

So, Mr. Speaker, at this stage, for those who are not in danger, they ought to take steps to make sure that they do not come close to being in danger.

Mr. Speaker, the Minister for Financial Services just mentioned that we will host another round of seminars this year before the Christmas because we want to get people to understand how to manage their money. Christmas has a way of taking all of us to the cleaners. We want to show our love at that time of

year. And we've been conditioned to thinking that the only way to show your love is to lavish gifts on people.

So, we will host another series of seminars before the Christmas, to educate those. And this is a case, Mr. Speaker, where you can only help those who want to be helped. The old saying is, *You can take a horse to the water, but you can't make him drink*. In some cases, it is true. Going forward, next year, Mr. Speaker, we will host additional seminars. And we will review the attendance and see whether or not it makes sense for the Government to make this a long-term programme. Because in all fairness, and hopefully this will not offend anyone. We were brought up through the high schools. We were taught many subjects but no one taught us how to manage money. There were not sufficient life skills classes in the high schools. We were a growing financial centre, number five in the world at one point. I don't know where we are now, but I'm sure we're somewhere still near the top.

**An Hon. Member:** Six.

**Hon. Marco S. Archer:** Number six.

The banks were there willing to lend us. And many people never saw the problem with the way in which they were being offered funds. It was easier to get a loan to buy a car than it was to get a loan to buy a piece of land. But the car depreciates; the land appreciates.

We were offered credit cards, and many people went for credit cards. And credit cards are good. They serve their purpose. You can't rent a car overseas without the use of a credit card or, you know, having access to one. But it is not just having access to these things. It is to know which one is best and, once you have it, how to use it.

So, Mr. Speaker, the new cars are beautiful. The exotic cars are nice, I would have to say; I don't own one. Yes, I'm being told that the correct word is *luxurious*. But we shouldn't have our priorities misplaced. Your priority is always that asset which enables one to have somewhere to lay their head. So, we're going to put on these seminars, Mr. Speaker, to teach people how to manage their debt, how to manage their income and expenditure, how to prioritise. And we hope, Mr. Speaker, that even though it is free, that they will be well attended, because we have this belief sometimes that if something is free, it can't be any good. So if it's free, it isn't worth going to. Mr. Speaker, you and I know that the best thing in life is free.

In conclusion, Mr. Speaker, we hope that a year from now, the world economy, the Cayman Islands economy will be in such a state that there will be greater levels of employment and there will be less chance of people struggling financially and less chance of foreclosures. And we also hope that, with the introduction of this Code of Conduct for the banks, we can get to the point where homeowners, even if

they are foreclosed upon, would feel as though they were treated fairly. Right now, among those who have suffered through it, there is the belief that they are not being treated fairly. We want to do all that is possible to deal with that issue. And once we have done that, Mr. Speaker, we always need to remember that we have to protect people and their homes, but we also have to recognise that the banks lend with the hope of being repaid. And when they aren't repaid, then they obviously would want to recover their money in some way.

So, Mr. Speaker, with all of that said, the reasons for the difficulties with the mortgages are the breakup of the family unit because of financial stress; people who just decide to leave the Island and turned in their keys and said, *We're gone*; and then those who have lost jobs. If we can get the economy moving faster and we can get more people back into work, then we would obviously reduce the risk of greater foreclosures. If we can educate our people about how you manage your money and how you prioritise as to what you spend on, which debt do you tackle first, then, Mr. Speaker, I believe that a couple of years from now, even if there is another downturn, you will see that people are a lot more aware and in much better positions financially to weather the storm and preserve their most valuable assets, which are their homes. Thank you, Mr. Speaker.

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

I call on the Honourable Minister of Education.

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

Mr. Speaker, I rise to just very briefly add my contribution to this Motion with respect to efforts that we as the Government have been taking, but also as individuals within this Government, and to also echo the concerns that have been echoed by colleagues on both sides of the aisle with respect to what is happening in practice in some instances versus what should be happening according to the law. And obviously, Mr. Speaker, as the last speaker just mentioned, everyone in this Chamber appreciates the concerns that have been expressed with respect to our people, some of our people being in an unfortunate situation of having to lose their home.

Mr. Speaker, there is nothing more sacred than one's home. And so, whether it is one person or a hundred people, it affects the lives of many other people who are either a part of that home or have some connection to that home that's being lost. And so from that perspective, we are certainly concerned about trying to do what can be done to try to address the situation.

You heard, Mr. Speaker, on a number of occasions the efforts spearheaded by the Minister of Finance and the Minister of Financial Services with

respect to the personal financial planning seminars. And I just want to say and put on the record, Mr. Speaker, that, a separate, but I guess you would say complementary, series of financial planning seminars which actually predated those that the Minister spoke of previously, was actually held. I facilitated in my constituency office in West Bay in March of this year to do the exact same thing, Mr. Speaker, which is to basically help our people get a better understanding and appreciation of making sound financial decisions about how to manage their finances, about prioritising their spending, prioritising their income versus expenses and making choices that will help them to be more financially prudent in the long run.

So, in March of this year, there were two financial planning seminars which were facilitated through my constituency office, and again the same presenter, Mr. Ralph Lewis, was the person who actually presented at those seminars. And I know at that time, those seminars were being sponsored by IAMCO [I AM Co.] And so, I reached out to Mr. Lewis, saying that I would like to help to facilitate the rounds of meetings that he was intending to have in West Bay in particular, because he was not having very much success, it seemed, to drum up people when he was going to the districts. And so, using the contacts that I have built up over the past two years through the office, we were able to get over 20 persons. I think at the first seminar they had close to 25 people, and the second seminar had over 20 persons as well. And so, I know from the participants, people were very, very excited, and they were happy to have been able to participate in these free seminars. And so, I certainly would encourage persons who may not have been able to come out to the seminar hosted by my constituency office or hosted by the Ministers of Finance and Financial Services, on the next round of seminars which are being planned, which we've just heard about, please take every opportunity to do so.

You know many of us, we have to and we learn to balance our budget, so to speak. But there are always ways to learn to improve those techniques. Many of us have not had the formal training as to how to go about even, you know, doing your basic set of accounts. And that in itself can help you to be able to track—track your expenses, track your income and make solid financial decisions accordingly. And as the Minister said about being wary of taking advantage of the credit that's available—credit cards, free credit—can be a bit of a double-edged sword if we are not well equipped to know what the possible ramifications are of getting caught in the debt cycle. And unfortunately, Mr. Speaker, some of those situations lead to foreclosures, which we are speaking about today.

So, Mr. Speaker, my only point in adding to this contribution is to say that with respect to arming yourself with information, knowledge is certainly personal power. And what we want and aim to do is one of the key things, one of the key planks of this administration which is to try to arm our people with in-

creased knowledge and understanding of how to better manage their finances, better manage their financial decisions and, therefore, better manage their homes. Because as I said, Mr. Speaker, we certainly appreciate the fact that one home lost is one home too many. So with that, Mr. Speaker, I would like to just close my contribution. Thank you.

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

I call on the Honourable Minister for Community Affairs.

**Hon. Osbourne V. Boddan, Minister of Community Affairs, Youth and Sports:** Thank you, Mr. Speaker.

Mr. Speaker, I rise to give a short contribution in support of this Motion. As Minister of Community Affairs, as you know too well, when all has come crashing down, it ends up in my lap. And I'm in charge of that safety net that the Government does its best to provide. But, Mr. Speaker, this all ties in at the debate we had last week on the Opposition Leader's Private Member's Motion in relation to our social condition, because as I said then, we have to take a multi-faceted approach to solve some of the issues that we are dealing with.

The Minister of Finance just explained the three main reasons for people's defaulting. And certainly, everyone in this House is cognisant of what's around us and what we're called on, because each and every one of us also provides a part of that safety net for our people, or else we wouldn't be here. We're here because we care, and we're here to offer them advice, support and guidance.

Mr. Speaker, oftentimes, as the Minister of Financial Services said when he contributed, when they come to us it's too late. The horse has already bolted. And you find when you start to look into it that it's been years. You didn't know what was going on because you saw these people living normal lives. You saw them traveling; you saw them driving nice cars, you know, wearing nice clothes. And you know? It's been going on with them . . .

*[Inaudible interjection]*

**Hon. Osbourne V. Boddan:** Not all of them. But sometimes, it's a case of how people prioritise. And the Leader of the Opposition, in his debate last week, he spoke at length to these people who, oftentimes, have the cell phones and the whatnot. He spoke to that. So I'm not saying anything that we all don't know here. We see people who live beyond their means. And there are those who simply cannot do any better, especially when the home is broken and a dual income was providing that comfort. And now it's one income and the mother has two, three or four children. And the dad is gone, probably not contributing as he should. And suddenly, somebody who was living a

comfortable lifestyle is now in a state of disarray and in trouble with the bank.

Many times, I offer advice in terms of their speaking to the bank and maybe going on a six-month interest-only period, because I know the banks will work with them. And sometimes that advice is taken and it actually helps. But sometimes it's simply too far gone. And all you can do, as the Minister of Financial Services said, is sit and cry with them because it is simply too late. And then, we as the Government find that we have to get the Needs Assessment Unit involved, and we provide rental income and, you know, school lunches and utilities and the works, food vouchers.

It is certainly a trend that we don't want to see increasing, Mr. Speaker. And I think lately it has become a worrying one. We've seen an increase in it. Whether the stats show that it's going down or coming up or whatever, we know that more and more it's being brought to our attention. I guess more and more people are seeking help. And sometimes people suffer quietly; sometimes they don't. And the petition shows that people are really desperate for some assistance.

I think it is fair to say the banks, in most cases, are very fair in their dealings. But we all hear of the various claims. And these are the worrying ones, where people inside the banks get deals on these failures. We hear of valuing property below where it should be, and therefore the equity is not there for the person to move on with, as it were. Because if there is some equity when in default, then at least they can probably get into a government home or a Frank Hall home or something or other with that as a deposit. But when they lose everything, as I said in my debate last week, it is a blow when the one thing that you have that you've worked so hard for, your home, is taken away from you. Your kids are displaced. You're displaced. I mean, it must be the worst feeling in the world. And I can tell you, I've spoken to so many of these people. I've dealt with so many of them, that it is a feeling of despair. Some of them just feeling like just totally giving up; the world is against them. And we have to try our best as a community, as a government, to support and ask the banks and all of the people involved in this arrangement to make sure that the dealings are fair and that the very last resort is the removal of someone from their home.

Mr. Speaker, we have enough problems in society as it is. The last thing we need is a bunch of homeless people. We have issues with our young people. We have, you know, people who are simply going against normal rules and who love to challenge the police, and there's constant conflict. There are those who are hardcore criminals. So, Mr. Speaker, we have our drugs, we have our gang culture. These things are already enough for us to deal with. We don't need a situation where, in a small two-by-four island that we're talking about, this many people displaced and out of their homes.

So, as Minister of Community Affairs, someone who lives this daily, basically dealing with people when they are down and out, I am saying to all and sundry, please let's work together to minimise this. Let's do whatever it takes in the interest of keeping people and families together. I say to people out there, live within your means. Keep your families together where possible. For those ladies who have kids for those men not holding up their end of the deal, *deadbeat dads*, as they are sometimes called, do what you have to do. Take them to court. Make sure that they hold up their end of the bargain as well, because, otherwise, you're going to find yourself before long, with your lovely home which was being well cared-for before all of this happened, without a roof over your head, walking around with no hope, with the kids not being properly cared for. That's not the kind of society that we want to build in these Cayman Islands.

So, Mr. Speaker, with those few words, I just wanted to echo all of my colleagues, what they have said, and to offer my support in whatever we can do to reverse this trend. Thank you, sir.

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

If not, I call on the mover to utilise his ability to respond.

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

Mr. Speaker, I listened very attentively to the Minister of Financial Services responding on behalf of the Government. And I note that he spent much time justifying and explaining what the Government seems to think is adequate legislation to deal with mortgages in the country, and even at as far as to amend the legislation to remove the second WHEREAS in the Motion because mortgage legislation, to their satisfaction, existed.

Now, Mr. Speaker, I never indicated in my opening remarks, I don't believe, that we didn't have some provisions under the Registered Land Law that allowed this process. But I tried in moving the debate to raise the debate to a higher level to look to provide in mortgage legislation the matters that are not provided in the Registered Land Law. But I don't expect that any of those will see the light of day, because neither of the Ministers responding mentioned any additional rules, laws, regulations to try and preserve some of the equity that these people are losing. No mention was made of other alternatives such as reverse mortgages, et cetera, or other things that might offer some comfort to some of the concerns of the Minister of Community Affairs.

Mr. Speaker, you know, it is true we don't need legislation to achieve these things. We shouldn't need legislation about crime, either, because if people lived righteously and properly, there would be no crime. We should not be concerning ourselves so

much today on patting ourselves on the shoulder that some of the people are doing this the right way. We should be very much concerned that some people may not be doing it the right way and that we put rules in place to prevent them from not doing it the right way.

Mr. Speaker, the Chief Justice, in his wisdom, issued a Preamble to the Practice Direction that I referred to in moving the debate. And he says: **“Applications to the court for orders sanctioning sales by private treaty pursuant to section 77 of the RLL [Registered Land Law] are sought by way of variation of the operation of section 75 which allows the chargee to sell by way of public auction acting ‘In good faith and having regard to the interest of the chargor’.”**

He goes on to say: **“Practice Direction No. 5 of 2012”** (which is what I quoted from in moving the debate) **“directs that the objectives of a public auction as contemplated by section 75 can be achieved by way of listing on the Multiple Listing System by reference to a reserve sale price that reflects the fair market value of the property. This will usually be achieved by using two independent valuations (taking the median of the values where the valuers disagree). Where the reserve price is not met within a reasonable time, the discretion in the chargee to instruct its agent gradually to lower the reserve until the true market price is realised, must also be recognised.”**

**“This Practice Direction confirms that an application for leave to sell by private treaty will not be entertained unless there has been a fair attempt to market the property for sale on the open market, including by way of public auction and keeping with Practice Direction No. 5 of 2012.”**

The problem I have with that, Mr. Speaker, is this—that that now is confined to the MLS listing because he has now said that that satisfies *the objectives of public auction as contemplated by section 75 can be met by simply listing it in the MLS system*. Now, Mr. Speaker, the problem with the MLS system is that it's accessible only by members of CIREBA. And that is not, in my view, what is a public auction, because all they have to do is keep it listed in the fine print and wait for it to keep coming down to sell it to their friend. And, if you're in the real estate business and you're not a member of CIREBA, you have no access to this listing.

While I am not a lawyer (thank God), but Mr. Speaker, there are—and I listed some of them in moving the Motion—huge discrepancies in what valuers place on property and what the bank gets as the valuation and what the bank is selling some of these properties for. And the directive, while it allows the MLS to be regarded as public auction, it says that it should take the median of the two as the reserve price, I am aware of instances where that has not happened.

And, Mr. Speaker, while the Minister plays and believes greatly in the banking code, for those people who do not want to abide by this code, it's not worth the paper they're written on. This is the regulatory policy in licensing banks. Nowhere in this document does it require a bank licensed by the Cayman Islands to adopt or abide by this banking code. This is the rule, management of credit risk and problem assets, statement of guidance, credit risk qualification, provisioning and management. Again, nowhere in here is there any requirement to subscribe to and practice that code.

So, maybe the Minister will insist that the Cayman Islands Monetary Authority will include in their requirements in the future that all class A banks and all banks here subscribe to and adhere to this banking code, because they're building it in their favour.

Mr. Speaker, there is nothing I can find in that banking code that prohibits or even suggests that they shouldn't do it. The banks providing property insurance, one of the things that they're doing, Mr. Speaker—and, I'm not asking anybody this; they tried to do it to me. They offer to insure your house because they can do it cheaper than the regular insurance broker, and they simply add it on to your mortgage. And some of these people are getting in trouble because, when they add on the payment for the year for the insurance, it is more than the principal will have reduced for that year had they not had the insurance with the bank. So at the end of the year, even though you've made your 12 payments, you still owe the bank more than you started off in January because your insurance ate that all up.

Next thing they do is to offer to give life insurance. But this is a very curious one. And my bank offered me life insurance based on the value of the mortgage, and I could continue to pay the premium at that level if I died before the mortgage was paid off. My wife or my estate or any person whom I named would get the difference between the balance of the loan and the value of the life insurance. Of course, I asked, *Can I keep that insurance after the mortgage is paid off? Oh no, no, no, no, no*. Now, I don't know anything in the insurance law that allows a company to cancel my insurance when I'm continuing to pay the premium. But they made it clear that, when the mortgage is paid off, the insurance is no longer available.

The other alternative was they would reduce it annually to match the balance of the mortgage, and you reduce the premium because it goes down along with the mortgage. But again, when the mortgage is paid off, the life insurance is no longer available. And these are the kinds of things that the Government needs to look into, because that cannot be proper, Mr. Speaker.

Mr. Speaker, I have done my job. I have raised the issue in this honourable House. I have said what I believe are some of the things that the Government should consider in drafting legislation. So,

Mr. Speaker, I leave it up to the Government, with one caveat: Expect me to be just as much a stickler about this as I am about whistle-blower legislation or I was with *one man, one vote*. All I have got on my hands is time. So expect that come the next Meeting, there will be a question to the Minister of Finance of *What is being done about specific mortgage legislation?*

Thank you, Mr. Speaker.

**The Deputy Speaker:** The question is that, BE IT THEREFORE RESOLVED THAT Government consider the enactment of mortgage legislation that will offer proper protection to the lending institutions but will also provide property protections to the borrower, as well and in particular their equity.

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

**Ayes.**

**The Deputy Speaker:** The Ayes have it. Private Member's Motion No. 4 of 2015/16 is duly passed.

**Agreed: Private Member's Motion No. 4 of 2015/16, as amended, passed.**

## PRIVATE MEMBER'S MOTION

### AMENDED PRIVATE MEMBER'S MOTION NO. 5 OF 2015-16—MOTION ON PLEASURE BOATING

**The Deputy Speaker:** I call on the Honourable Member for North Side.

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

I wish to move Private Member's Motion No. 5, 2015/16, standing in my name—Motion on Pleasure Boating:

**WHEREAS** there has been an increase of pleasure boats both in size and speed operating in Cayman waters.

**AND WHEREAS** many of these new boat owners have no experience or knowledge of the rules and safety on the water while operating these large high-powered pleasure boats.

And, Mr. Speaker, I filed an amendment to the RESOLVED section. So I will amend the RESOLVED section now, so that we have one debate.

**The Deputy Speaker:** Please, go ahead.

**Mr. D. Ezzard Miller:** BE IT THEREFORE RESOLVED THAT Government consider introducing regulations under the Port Authority Law, for enforcement by the Marine Police Unit, that anyone owning or operating a pleasure boat bigger than 21 feet and powered by engines larger than 150 horsepower be required to undergo training and pass a required test with the Port Authority con-

cerning safety, rules of navigating and operating a boat in Cayman waters.

**The Deputy Speaker:** Is there a seconder?

**Mr. V. Arden McLean:** Mr. Speaker, I wish to second the Motion.

**The Deputy Speaker:** The question is that Motion No. 5 of 2015/16, as amended—BE IT THEREFORE RESOLVED THAT Government consider introducing regulations under the Port Authority Law, for enforcement by the Marine Police Unit, that anyone owning or operating a pleasure boat bigger than 21 feet and powered by engines larger than 150 horsepower be required to undergo training and pass a required test with the Port Authority concerning safety, rules of navigating and operating a boat in Cayman waters.

The Motion is open for debate. Would the mover wish to speak thereto?

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

Mr. Speaker, the Port Authority Regulations 2012 revision, in section 31 deals with power boats and pleasure boats. And I quote:

**"31.(1) It is the duty of every person having control of a power boat within territorial waters—(a) so to navigate such boat as to avoid collision with or injury to every vessel or person present in, on or under the water in the area occupied by or disturbed by the said boat or the wash or wake thereof; and (b) to navigate such boats with due care and consideration for other persons having regard to the prevailing conditions and the reasonable likelihood of other persons being present in or coming into the area occupied by such boat and the wash and wake thereof.**

**"(2) No person under the age of fifteen years shall drive or navigate a power boat save under the control of a person over that age.**

**"(3) Every person in control of a power boat shall when so instructed by the Director—(a) heave to; and (b) bring his boat alongside any place indicated by the Director, and otherwise comply with any navigational orders issued to him by the Director.**

**"(4) When any dispute arises as to who is in control of a power boat every person present therein shall be deemed to be in control until he proves the contrary.**

**"(5) As between power boats and other vessels, all other vessels have right of way.**

**"(6) No person shall operate a ski-boat unless—(a) the area of the sea in which it is operated is free from swimmers and divers; and (b) its crew keeps constant watch on other vessels and is satisfied that no danger to such vessels or to swimmers or divers is involved.**

**"(7) The minimum crew for a ski-boat is two persons, one at the helm or wheel and one acting as lookout.**

**“(8) No water skiing may be conducted unless the sea is clear for one hundred yards ahead and fifty yards either side of the ski-boat.**

**“(9) The Director may, by notice in writing published in the Gazette and in one newspaper printed in the Islands, exempt from any or all of the provisions of sub-regulations (5) and (8) such person or persons as may be therein specified for such period of time, in respect of such place or places and subject to such conditions as are in such notice also specified.”**

Mr. Speaker, the problem we have with this is that there is no requirement by the boat owner or the operator of the boat to have knowledge of these Regulations, because there is no test required. What the Motion is seeking is to ask Government to implement a system of licensing boats 21 feet and greater, powered by 150 horsepower and greater, so that people who are on the water can have comfort that other people around have knowledge of rights-of-way and other navigation and what a green buoy and a red buoy means, et cetera, because there are quite a few things in the Port Authority Regulations that apply to these boats. But unless we have a way of insisting that they do a test, there's no way of proving that they have knowledge of these rules.

So, Mr. Speaker, what the Motion is seeking is, I don't think the Government needs to write a whole pile of new regulations. Most of the safety requirements are already in the Port Authority Regulations, because the Port Authority Regulations' separate sections deal with safety equipment and the ability of the Port Authority or somebody designated by the director to inspect these boats for safety equipment such as life jackets and flares and whatnot. And the number of life jackets is often related to the number of people on board, and the kind of warning equipment and flares and stuff is also related to the size of the boat.

There are also provisions already in the Law where anyone owning a boat now more than 21 feet should, in fact, be paying to Government an annual licensing fee for that boat. And that is contained in section 148, where it says, **“148. (1) The owner of a vessel specified in sub-regulation (2) shall, on or before 31<sup>st</sup> January in each year, obtain from the Director in respect of the vessel a licence upon payment to the Director of the fee specified in sub-regulation (2) in respect of such vessel . . . (2) Each of the following fees listed under the heading “Fee” shall be payable in respect of the vessel listed immediately opposite under the heading “Vessel” . . .”**

And it goes on to say, **“Vessel”—**

- **Local vessels twenty-one feet and under, Nil;**
- **Jet ski-boat, or wave-runner, used for private purposes, Nil;**
- **Jet ski-boat, or wave-runner, used for commercial purposes, \$150;**

- **Local vessels over twenty-one feet but not over thirty feet, \$200;**
- **Local vessels over thirty feet but not over fifty feet, \$300;**
- **Local vessels over fifty feet but not over seventy-five feet, \$500;**
- **Local vessels over seventy-five feet, \$1,000.**

**“(3) Each licence fee to which this Part refers shall be paid on or by 1<sup>st</sup> January in each year or from the date on which it was granted and shall expire on 31<sup>st</sup> December of the year in which it was granted.**

**“(4) Where a person acquires possession of a vessel after the 1<sup>st</sup> January in any year, the fee payable shall be apportioned and calculated from the first day of the quarter of the year during which the person acquired possession of the vessel at the rate of twenty-five per cent of the whole annual fee for each quarter or part of a quarter of each year.**

**“(5) Licence fees shall be payable once in each calendar year.**

**“(6) The Port Authority shall remit the licence fees collected by it under this Part (less two per cent of the total collected) to Government on a monthly basis within thirty days of the collection of the fees for a particular month.**

**“(7) The Governor in Cabinet may, from time to time, waive, reduce or suspend any or all of the fees specified in this regulation in relation to any person or group of persons in the Cayman Islands.”**

Now, Mr. Speaker, under [Part VI] Recreational Activities, we have such things as:

**“143. (1) No person shall for reward let out a vessel to be engaged in a recreational activity on hire until he is satisfied that every person intending to use such vessel is equipped with a life jacket of a kind approved by the Director and that such vessel is seaworthy in its condition and equipment and that at least one person competent in vessel-handling is included in the crew.**

**“(2) Vessels anchored more than two hundred yards from the shoreline must carry riding lights by night unless otherwise authorised in that behalf by the Director or in areas protected by reef.**

**“(3) Vessels, unless engaged in rescue operations, must keep clear of swimmers and divers.**

**“(4) All users of the sea must refrain from interference with buoys, markers and racing officials.**

**“(5) At least one person shall remain on board and act as lookout on any dive-boat or other vessel whilst divers therefrom are down.”**

That particular one, which is now, completely ignored, Mr. Speaker, because if you are out there on the water, you cross dive-boat after dive-boat flying

the flag of divers down, but no lookout on the boat. And many of these dive-boats, they have the dive master operating the boat. Some of these people come out of areas they have never seen saltwater before, never seen a boat before. But because they've got a dive master qualification, they put them to drive the boat as well, and everybody is in the water; there's nobody to look out.

These are the kind of things that these dive companies need to know. And the Port Authority needs to have the ability to determine that they have this knowledge, and then they can enforce the law. So, Mr. Speaker, as I said earlier, I'm not asking the Port Authority, I don't think, to write any whole pile of new legislation, but to introduce a way to test people so that we know . . . and if you don't think this is a problem, go to Rum Point any Sunday evening from about 4:30 till 6:00 pm, when they're all leaving. Everybody's going in their own direction. There's no respect to boats on the starboard side or sailboats have the right-of-way or anything else. Everybody's going crazy. And most of them have been partaking of alcoholic beverages for the whole afternoon.

I can tell you that I have been there in my little boat, which is very small, and several times . . . In fact, recently I've had to actually not just stop, but I've had to reverse to keep somebody from running over me in a 28-foot Boston Whaler with twin 300-horsepower motors on it. And the stern of the boat remains in the same place; it doesn't move.

The point is, Mr. Speaker, that there are enough boats out there in the water now being driven by people who have no knowledge of the rules regarding the road. We had one Caymanian who was fishing and almost lost his life. Had he been doing what he normally does, putting his lines overboard and go in the bunks to sleep, he could have been killed. Luckily, he was still on the stern of the boat. You know? And I think even now, he's having difficulty recovering his loss.

So, I think it is time that the Government put in place something to regulate these boat owners, Mr. Speaker. Thank you.

**The Deputy Speaker:** We are now debating the Motion as amended. Does any other Member wish to speak?

I now call on the honourable Member for East End.

**Mr. V. Arden McLean:** Mr. Speaker, I am going to be extremely short.

One of the things that I would like for the Minister to respond to when he responds is the provisions for marking channels and dangerous areas within—around the Island, to tell you the truth, Mr. Speaker. I have seen so many times the channels are partially marked. And that goes on for months on end before anyone gets to it, and sometimes years that the chan-

nels are not properly marked. And I would ask that the—

*[Inaudible interjection]*

**Mr. V. Arden McLean:** Yes, the lights, in particular I'm talking about the lights on the channel markers. And it's sometimes difficult for people, particularly people who are not accustomed to a different channel—they know the side that the lights have to be on, but if you're going out in that particular area, you don't even know which side or how to line up. Sometimes, you only have one light, really, on those channels. So I would appreciate if the Minister could address that in his response.

The other thing—and I know it is not necessarily related to this but the Port Authority has a part to play. Some time ago, the Minister will remember, Mr. Speaker, we did a motion in here about clearing of people, of sport fishing boats, pleasure boats, to go into international waters. And we were trying to get it in, I guess, some policy between Port Authority, Customs and Immigration, I think it was. Because right now, we all have to check in with Port Authority when we're leaving, and when we come back as well. And so, the Port Authority plays a pivotal role in that. And they also give us a rotation number when you're going to Cayman Brac and Little Cayman, the Sister Islands.

So, I don't know where that's at. And I'm wondering if the Minister would have some information on it, because it's been years now. And it was a simple, simple policy that was required to allow people to clear in advance or register their vessel in advance, and then notify the Port Authority when you're going to the high seas, and part of the provisions we all agreed on was that each individual would carry their own travel documents. But you had to notify Port Authority just in case there was a problem on the high seas, that Port Authority would know where and which ship it was and which boat it was and how many souls were on board and the likes. And it would have a register of that vessel, all the necessary tonnage and the likes.

I only say that just to remind everyone. And I don't know if the Minister can respond to that. But certainly, we would like . . . I know the Fourth Elected Member for West Bay has been asking me if I know what the situation is with it, and many others who do this have been asking, because it has always been, Mr. Speaker, that those who are not going . . . Right now you're required to clear your vessel to go into international waters. That is for the purposes of knowing that we left the country and if anything happens. The person who does not clear now, Mr. Speaker, they will never clear. Whether you allow them to pre-register their vessel or not, they're going to go because of some illegal activity. But the fact is that legitimate fishermen, sportsmen want to be able to register theirs so that they can notify the authorities just in case something happens.

So, we need to look into that in addition to this situation that the Motion speaks about. Thank you, Mr. Speaker.

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

I now call on the Honourable Minister of Tourism, the Deputy Premier.

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

Mr. Speaker, I rise to respond to Private Member's Motion No. 5 of 2015/16 on behalf of the Government.

Mr. Speaker, there has been an increase of pleasure boats both in size and speed operating in Cayman waters. We agree with that, Mr. Speaker. For many years, it continues to increase. And, Mr. Speaker, many of these new boat owners has no experience or knowledge of the rules, safety of the water while operating these large high-powered pleasure boats. The Government agrees with that as well, Mr. Speaker.

Mr. Speaker, the amendment is moved, accepted. The RESOLVED of that, Government consider introducing regulations under the Port Authority Law, for enforcement by the Marine Police Unit, that anyone owning or operating a pleasure boat bigger than 21 feet and powered by engines larger than 150 horsepower be required to undergo training and pass a required test with the Port Authority concerning safety, rules of navigating and operating . . .

Mr. Speaker, the Government is well aware that when you implement new tests and new procedures, sometimes it starts to bind into red tape and it starts to deter from the purpose you were trying to accomplish. But in this RESOLVED and the amendment, what the Member has actually done is made it easy for the person who is new to the water, has the 21-foot or over boat, because they have to license that boat as well, Mr. Speaker.

So, we can certainly see the reasoning behind the amendment. And I believe that the safety and the merit of the Motion have taken into consideration the issue of creating another barrier. And this will make it safer for everyone, which I believe is certainly the intention of it, that as you license your vessel, you will also have the opportunity to find out more about our waters, more about rules of the road, more about what needs to be done to protect yourself, your boat and the people whom you're with the water with and enjoying your boat with.

Mr. Speaker, the way forward on this, as the Government agrees to consider introducing regulations, will be for the management of the Port Authority, in concert with the Maritime Authority, the Royal Cayman Islands Police Marine Unit and the Department of Environment to consider what type of testing would be needed, what kind of guidelines would be needed and

what would be most effective for the people who are enjoying the water around the Cayman Islands.

So, Mr. Speaker, the Member for East End asked about the marking of the channels. Sometimes, it's not only the marking; it's also the lights. That is the responsibility of the Port Authority. I would say to him that we will certainly speak to management of the Port Authority. And I give him the undertaking that we'll find out what the maintenance procedures are there and if they're comfortable that they're getting the channels marked in a proper way.

I also give him the undertaking that the Acting Deputy Governor now is getting the information on the rotation numbers and the sailing from Grand Cayman, Cayman Brac or Little Cayman back and forth. And once that is available, I will give that to him as well.

So, Mr. Speaker, with those few words, the Government will be voting in support of this Motion. Thank you.

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

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

**Mr. D. Ezzard Miller:** Thank you, Mr. Speaker—only to thank the Government for accepting the Motion. And I look forward to the waters being safer for all of us. Thank you.

**The Deputy Speaker:** The question is that, BE IT THEREFORE RESOLVED THAT Government consider introducing regulations under the Port Authority Law, for enforcement by the Marine Police Unit, that anyone owning or operating a pleasure boat bigger than 21 feet and powered by engines larger than 150 horsepower be required to undergo training and pass a required test with the Port Authority concerning safety, rules of navigating and operating a boat in Cayman waters.

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

**Ayes.**

**The Deputy Speaker:** The Ayes have it.

Private Member's Motion No. 5 of 2015/16 is duly passed.

**Agreed: Private Member's Motion No. 5 of 2015/16 passed as amended.**

## **PRIVATE MEMBER'S MOTION**

### **NO. 6/2015/16—MOTION ON WATER SPORTS ZONES**

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

**Mr. D. Ezzard Miller:** Mr. Speaker, I wish to move Private Member's Motion No. 6, the Motion on Water Sports Zones.

**WHEREAS** there are a number of water sports zones created under the Port Authority of the Cayman Islands.

**AND WHEREAS** these water sports zones are not properly demarcated by buoys and there are intrusions in some of these zones by boat owners anchoring large boats that prevent the proper use of these zones.

**BE IT THEREFORE RESOLVED THAT** Government consider properly demarcating these water sports zones and amending the rules to prohibit the anchoring of boats in these zones.

**The Deputy Speaker:** Is there a seconder?

I recognise the Honourable Leader of the Opposition.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Mr. Speaker, in the absence of the Member from East End, who had to step out, I am pleased to second the Motion.

**The Deputy Speaker:** Thank you.

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

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

Mr. Speaker, these water sports zones were created in 1986, I believe, you know, Leader of the Opposition. It was you and I who did this.

*[Inaudible interjections]*

**Mr. D. Ezzard Miller:** In the Port Authority, there are two regulations that apply to them. Regulation 146 says that "**The areas described in Schedule 8 are designated as watersports areas.**" And, Mr. Speaker, Schedule 8 identifies nine such water sports areas: one in West Bay Beach, north of the Public Beach; one in South Sound, 600 feet east of the Channel; one in Frank Sound, 600 feet east of the Channel; one at East Point, on the coast east of the Lighthouse; Colliers Cay; Rum Point; Water Point; Duck Pond Bight; and Cayman Brac.

The problem we have, Mr. Speaker, is that Regulation 30, which is "Restrictions on all vessels," (30(5)) says: "**Except in an area designated under regulation 140 as a watersports area and marked by buoys, no vessel shall exceed a speed of five knots when within two hundred yards of the shoreline.**" The problem that exists, Mr. Speaker, is that these zones have never been properly demarcated. They are not unlike the two dive zones in North Side, which for some strange reason, we just can't get buoys put up, or markers on the shore either.

The fact that these water sports zones are not properly buoyed off with a specific buoy that says, *Water Sports Zone*, what they have done in the area

that I am familiar with, up around Rum Point, is that they have put the five-mile 200-yards restriction on it. And these water sports were created specifically for people who wanted to teach their children to water-ski, et cetera, et cetera, and so we could do these kinds of water sports—wakeboarding and whatnot. And they were specifically intended that you could exceed as the regulation says; you could exceed the five-miles-per-hour in those designated areas.

What is happening is that when people go down around the Rum Point area, for instance, and attempt to teach their children to water-ski or wakeboard or on a tube in their boats and they exceed the speed limit within the zones, people are calling the police. And the police are coming there and telling the people they can't do it, because they don't seem to have full knowledge of the Port Regulations either. And what the Port Authority simply needs to do is to produce a specific buoy for these water sports zones, and to clearly mark them as water sports zones, which will allow people to enjoy the water sports.

Some of the ways that they are identified in the Regulation, I believe, needs to be reviewed, because I don't know that the description there in some of them is entirely accurate. These were created at the same time that we brought in the Marine Conservation Laws and whatnot. And the one here prescribed in the Regulation for Water Point (I know about Water Cay Point), I don't think is accurate because that would put the water sports activity into the environmental zone. And that was never intended. It was always supposed to have been from the point of the public beach at Kaibo west to the end of that area there.

I would volunteer to meet with the Minister or the Port [personnel] to try to get the ones in my area properly demarcated. And I'm sure other persons in here would be happy to meet with them to demarcate the areas in their areas. But the point is that 1986 to now is a long time. And they really need to be properly demarcated. Thank you, Mr. Speaker.

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

I recognise the Honourable Minister for Tourism, the Deputy Premier.

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

Mr. Speaker, I rise again on behalf of the Government to accept the Private Member's Motion No. 6 2015/16, Motion on Water Sports Zones.

**WHEREAS** there are a number of water sports zones created under the Port Authority of the Cayman Islands.

**AND WHEREAS** these water sports zones are not properly demarcated by buoys and there are intrusions in some of these zones by boat owners anchoring large boats that prevent the proper use of these zones.

Mr. Speaker, I believe the Member gave a good explanation of what happens because of water-skiing and the speed that you need in these zones and the reason they were there. I don't think I need to go over that again. But I will say that the point that was made between himself and the Leader of the Opposition—this was 1986 when these zones were originally put there. It certainly goes to the point that it is time for this to be reconsidered. And that is what the Member in this Motion is asking for, Mr. Speaker. He says Government consider properly demarcating these water sports zones. We had a talk; his offer of being involved in helping in his district, I think was well received. I'm certainly very open to that and thank him for that offer and other Members whom I'm sure, obviously, will make that offer as well—the Leader of the Opposition from West Bay and Cap, and my colleagues.

The next step in the consideration, as this does fall under the Port Authority, Mr. Speaker, the Port Authority will need to review the present locations and look at where they might need to be tweaked and moved because of what originally was an area that was used for skiing or other sports, may have moved to a more convenient area as the population shifted a little bit. Thus, the Port Authority will look at these areas that are now designated for water sports. And they will endeavour to see how they can clearly be demarcated and safely outside the 200-yards stipulation.

Mr. Speaker, once all of the exact coordinates have been received and the input on the reference map, it would then go to the board of directors for approval and be forwarded on to the Ministry for consideration of how we move forward with it. So again, Mr. Speaker, the Government will be accepting this Motion. And thank you for the time you've allowed me.

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

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

**Mr. D. Ezzard Miller:** Only again, Mr. Speaker, to thank the Government for accepting the Motion, and just to explain why I think it needs to be the added rider of no anchoring. Because, particularly in the Rum Point area, we get the situation where people are coming up and anchoring 30–40-foot sailboats and other live-aboards in these water sports zones. And they have out 50 to 75 feet of anchor rode and then they have a kayak behind it on a rope occupying another 25–30 feet. So it's well over 100 feet that you can't go perpendicular to shore in these areas. And I just think that the prohibiting of anchoring in these zones . . . But most of those boats can anchor outside the 200-foot limit and we will be safe. So, thank you, Mr. Speaker.

**The Deputy Speaker:** The question is: BE IT THEREFORE RESOLVED THAT Government con-

sider properly demarcating these water sports zones and amending the rules to prohibit the anchoring of boats in these zones.

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

**Ayes.**

**The Deputy Speaker:** The Ayes have it. Private member's Motion No. 6 of 2015/16 is duly passed.

**Agreed: Private Member's Motion No. 6 2015/16 passed, as amended.**

## STATEMENTS BY HONOURABLE MINISTERS AND MEMBERS OF THE CABINET

**The Deputy Speaker:** I now call on the Honourable Minister of Community Affairs for his Statement, which was a bit late this morning.

### EMERGENCY PROGRAMME FOR FINANCIAL ASSISTANCE TO PREVENT SOCIAL DETERIORATION

**Hon. Osbourne V. Bodden:** Thank you, Mr. Speaker. I am much obliged for the opportunity.

Mr. Speaker, based on the recent debate by the Leader of the Opposition on his Private Member's Motion No. 7 of 2015/16 regarding an *Emergency Programme for Financial Assistance to Prevent Social Deterioration*, in which he asked the Government to embark on yet another Save the Mortgage Programme, I wish to remind this honourable House and the entire public of what happened the last time this was tried four years ago by his Government:

On the 13<sup>th</sup> of December 2011, the UDP Government established the Save the Mortgage Programme, which was intended to assist Caymanians who were facing financial difficulties and who had become delinquent on their mortgages. Mr. Speaker, the majority of the funds for the Save the Mortgage Programme came from Dart Realty (Cayman) Ltd. as part of the National Roads Authority Agreement with the Cayman Islands Government. This Agreement is commonly known as the ForCayman Investment Alliance.

Under the Agreement, a total amount of US \$5 million was advanced to the Government, with US \$2.5 million, or CI\$2.05 million, going towards the Save the Mortgage Programme. The Government subsequently approved a further CI \$200,000 for the programme during the 2012/13 fiscal year. Therefore, the total amount of funds available to the Save the Mortgage Programme was CI \$2.25 million.

The programme was designed for applicants to receive a maximum loan of up to CI \$20,000 from the Government. The loan proceeds were paid directly

to the bank in order to cover the applicants' delinquent mortgage payments. It was intended that applicants would continue to pay their mortgage with their bank and would also make monthly payments to the Government on the Save the Mortgage loan.

Mr. Speaker, to be eligible for a loan under the Save the Mortgage Programme,

- applicants had to be Caymanian;
- applicants had to have received a Demand Letter, Foreclosure Order and a Default Judgment from their bank;
- they had to be delinquent on their mortgage payments for at least three months;
- applicants and banks had to agree to the Government's taking an additional charge on the mortgaged property in the amount of the Save the Mortgage loan; and
- banks had to agree to restructure the applicants' loans so that monthly mortgage payments were more manageable for applicants.

The loans under the programme were interest free with repayment periods of up to 50 years. Therefore, Mr. Speaker, if an applicant received the maximum loan amount allowed under the programme of CI \$20,000, the applicant could opt to repay the loan over 50 years, which equated to a manageable monthly payment of CI \$33.33. Mr. Speaker, to summarise: a CI \$20,000 loan, over 50 years to repay and a CI \$33.33 monthly payment. Mr. Speaker, the Government also gave applicants a grace period of six months before the commencement of monthly loan payments to the Government.

Mr. Speaker, 143 applicants were approved for loans under the Save the Mortgage Programme. The total amount of funds disbursed to banks under the Programme was CI \$2,204,626.

Mr. Speaker, the Ministry of Finance has been monitoring the effectiveness of the Programme since its inception. Banks are required to inform the Government on a regular basis as to whether or not the applicants have defaulted on their mortgages since receiving the loan under the programme. In addition, the Treasury Department tracks those applicants who have defaulted on monthly loan payments to the Government. Based on the information received from the banks, 82 per cent of applicants have again defaulted on their bank mortgages since receiving loans under the Save the Mortgage Programme.

The Treasury Department confirms that 62 per cent of the applicants have defaulted on their payments to the Government for the Save the Mortgage loan. Mr. Speaker, that's on the \$33.33 to the Government, 62 per cent defaulted. Mr. Speaker, the delinquency rates clearly indicate that the Save the Mortgage Programme was not effective. The majority of applicants have once again defaulted on their bank mortgages despite receiving financial assistance from the Government.

In closing Mr. Speaker, the Government acknowledges that there are Caymanian families who

are facing financial hardships since the downturn of the economy in 2007. Businesses have closed down, banks and trust companies have downsized and Caymanians have lost their jobs. Over the past seven years, unemployment has risen to as high as 6.3 per cent and inflation has increased by as much as 4.1 per cent. However, it is being forecast that the unemployment rate will decrease to 5.7 per cent over the next two years [Obtained from the Labour Force and Employment 2011 and 2013 and Consumer Price Index indicators on the Economic & Statistics Office's website. And obtained from Premier's 2015/16 SPS speech—Unemployment rate is anticipated at 5.7 per cent during 2015/16].

Mr. Speaker, some Caymanians are still finding it difficult to meet their routine household expenses, and as a result, some have defaulted on their mortgages. The Government has been in discussions with local banks and given the assurance that they will work with clients and make foreclosures only when they have exhausted all options and have been as lenient as possible. This process will be a fair one, and all will be done to protect the equity in property that is in excess of what is owed, and this will be payable to the client.

It should be noted, Mr. Speaker, that the only real beneficiaries of the Save the Mortgage plan in 2011 were the banks, which gained some \$2.25 million. We're working hard as a Government to get people back to work and tackling this from all angles through the various agencies at our disposal. We have gone as far as to organise financial planning meetings with constituents, as we heard earlier, to offer them guidance and personal financial planning advice by experts. We work each and every day to help constituents who find themselves in hard economic times, and we will continue to do this whenever the need arises. It is our goal to build a society where our people prosper by working hard.

We are saddened that some folk have lost their homes in recent years, and we will do all we can to reverse this trend by working with all concerned. Thank you, Mr. Speaker.

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

**The Deputy Speaker:** Leader of the Opposition.

#### SHORT QUESTIONS

*[Standing Order 30(2)]*

**Hon. W. McKeeva Bush, Leader of the Opposition:** I should like to ask some questions under Standing Order 30(2).

**The Deputy Speaker:** I thought it was 11(6) you were coming under, on adjournment.

*[Inaudible interjection]*

**The Deputy Speaker:** Oh, okay.

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

Mr. Speaker, just before I ask the question, I should say that the Minister should look at the Motion again, because I did not ask to create any Save the Mortgage; I said that that's what was needed. But the RESOLVED section said that Government consider putting sufficient funds aside immediately for a plan with a programme which will address, as an emergency, the worse cases found by Social Services or reported to them. And I talked about various aspects of social deterioration.

Mr. Premier, if you want to direct the whole House, why don't you have 18 votes?

I have said to the Speaker that I need to preface my question with what I was saying, because we can't allow the House to be told that I was asking something that I didn't ask for. I asked for a programme to address the various problems.

Mr. Speaker, can the Minister say what did the Treasury find out about why the persons were not meeting the little payment that they had to meet? Did the Treasury do any study to find out that?

**The Deputy Speaker:** Honourable Minister of Community Affairs.

**Hon. Osbourne V. Boddén:** Thank you, Mr. Speaker.

Mr. Speaker, the reason we did this is because, as it was not a request, but the Leader of the Opposition in his Motion suggested that such a scheme should be revisited. Therefore—

**Hon. W. McKeeva Bush, Leader of the Opposition:** Mr. Speaker, I have to object. I did not specify any specific programme. I pointed to the need, and I pointed to the need not only of those losing their homes, but people who were having problems generally because of economic conditions. It wasn't that I was asking for any . . . and if I was, I would have said so. I didn't, because I knew that would be a further objection by the Government.

**The Deputy Speaker:** Honourable Minister of Community Affairs.

**Hon. Osbourne V. Boddén:** Thank you, Mr. Speaker.

Anyway, Mr. Speaker, in relation to the information, the question that the Leader of the Opposition asks in relation to the default on the \$33, I have been provided this information by the Finance Department, Ministry. And, no, I was not given the reason as to why and whether they looked into why that \$33 was defaulted.

**The Deputy Speaker:** Honourable Leader of the Opposition.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Mr. Speaker, can the Minister say whether the Treasury pointed out that the reason why they cannot pay a little is that they don't have jobs? Can he answer that one? And two: whether, Mr. Speaker . . . That one would be sufficient.

**The Deputy Speaker:** Honourable Minister of Community Affairs.

**Hon. Osbourne V. Boddén:** Mr. Speaker, once again, I do not have that specific information. But the point of this is to show that bailing people out under schemes such as this, basically failed in large part, because for whatever reason, the mortgages were still not paid.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Mr. Speaker, obviously, the mortgages were paid. The Statement says that mortgages were paid.

Mr. Speaker, can the Minister say once they entered and payments were made by the Government to the banks, how long were they in their homes?

**The Deputy Speaker:** One more question after that. Honourable Minister of Community Affairs.

**Hon. Osbourne Boddén:** Mr. Speaker, I do not have that information, sir.

**The Deputy Speaker:** I now call on the Honourable Premier.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Mr. Speaker, I did ask for . . .

*[Inaudible interjections]*

**The Deputy Speaker:** The Honourable Premier will move the adjournment.

## ADJOURNMENT

**The Premier, Hon. Alden McLaughlin:** Mr. Speaker, I move the adjournment of this Honourable House until the 18<sup>th</sup> of November.

Mr. Speaker, I wish to explain that we had indicated that the House would return on the 11<sup>th</sup> to present the Strategic Policy Statement, but we still have not finalised that Statement, and thus I am proposing that we push the date back, a further week, to the 18<sup>th</sup> of November.

And, Mr. Speaker, before I sit down, I would just advise Members of this honourable House that Ms. Indiana Watson, known best to us as *Miss Bev*, will finish some 16 years of service in this legislative assembly on Friday. And I thought it was fitting that, on behalf of the Members of this House, we should offer her our thanks and appreciation for all the work that she has done. For most of us, she is known as *the lady with the Laws*, the individual to whom we can

always turn to provide us with copies of the laws at very short notice.

She is a most pleasant and helpful individual, and I personally have found her so useful and so helpful in the 15 years that I have been here. And I know she will be sorely missed by all of us. And we wish her well in her future endeavours, and again thank her for 16 years of good service to this Legislative Assembly.

**The Deputy Speaker:** Thank you, Mr. Premier, and I certainly endorse that, along with all of the other Members of this Honourable House.

The question is that this House do now adjourn until 10:00 am on the 18<sup>th</sup> of November.

All those in favour, please say Aye.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Please. Thank you—

**The Deputy Speaker:** I recognise the Leader of the Opposition for a couple of questions he has.

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

Mr. Speaker, I want to add to the Premier's few words on Miss Bev. We are really sorry to see her go. It is a pity that, at her age when she's still capable of working, that we still have the situation where they are leaving them and putting them out to pasture when the House needs the experience.

Anyway, she has been a good civil servant, and we certainly appreciate her and all that she has done here in this Assembly. Her mannerisms, her Christian attitude and, of course, the work that she has done here, staying at times.

#### DRUGS STOLEN FROM THE POLICE STATION

**Hon. W. McKeeva Bush, Leader of the Opposition:** Mr. Speaker, we were told by the Deputy Governor on the revelation that so much cocaine and ganga was stolen from the police station that we would have a meeting in camera to inform us on the matter of why the breach in security in such a serious situation. But he didn't get back here. And I certainly want to hold the Government or the Office of the Governor to that meeting to inform us on what is the situation with the security.

**The Deputy Speaker:** I acknowledge the Honourable Acting Deputy Governor.

**Hon. Eric L. Bush, Acting Deputy Governor:** Yes, sir, Mr. Speaker, the Deputy Governor has asked for the details to be provided by the Commissioner of Police. The Commissioner is off-Island on official leave at this time. As soon as the details are provided, the Deputy Governor will answer the questions.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Mr. Speaker, I take that to mean, and I know we're not supposed to debate it; it's not a debate.

**The Deputy Speaker:** Yes.

**Hon. W. McKeeva Bush, Leader of the Opposition:** But I'm trying to get information. I take that to mean, because I have spoken to Mr. Bush, that they're saying they will write it. I thought what we asked for was that sit-down meeting in camera face-to-face with the Commissioner so we can talk back and forth to find out where we are, where the country sits with such a breach. It's not an answer in writing.

**The Deputy Speaker:** Honourable Deputy Governor.

**Hon. Eric L. Bush, Acting Deputy Governor:** Thank you, Mr. Speaker. That's understood; the first step is to get the information from the Commissioner of Police and then how it's relayed will be discussed with the Deputy Governor and Members.

**The Deputy Speaker:** Thank you.  
Honourable Leader of the Opposition.

**Hon. W. McKeeva Bush, Leader of the Opposition:** Thank you, Mr. Speaker.  
The other matter that I wanted to raise was—

*[Inaudible interjections]*

**Hon. W. McKeeva Bush, Leader of the Opposition:** In writing? No, I don't think he said so. I think he's meaning to have them sit down with us. I think so.

#### JET-BRIDGES LANDING COST

**Hon. W. McKeeva Bush, Leader of the Opposition:** Mr. Speaker, in answer the other day, the Deputy Premier and the Minister of Tourism answered that the jet-bridges were estimated at \$20 million because the construction difference in how the second floor would have been the landing for the jet-bridges rather than what we have now.

Mr. Speaker, I would ask the Minister of Tourism to re-check to correct his Statement, the project plan. The one that I have is the one that was put together by the same contractor that is the contractor now, it was \$4,650,000 for the jet-ways; the same one that was explained. So I'd ask him to recheck it and please, once he rechecks it, we can have a discussion, but if I could, have something in writing from him to that extent, because it is in the record otherwise. Thank you, Mr. Speaker.

**The Deputy Speaker:** Honourable Minister of Tourism.

**The Deputy Premier, Hon. Moses I. Kirkconnell:**  
Mr. Speaker, thank you very much for recognising me.

I'm not sure what the Leader of the Opposition is referring to. I see his document there. That is not the business case or the consultant's report that we are building the airport from now, I don't think. Maybe he could clarify that for me.

**Hon. W. McKeeva Bush, Leader of the Opposition:**  
Mr. Speaker, it's been so many plans and everything else running around here recently that I don't know which one is which. However, the one that we looked at, the one that the board, that we looked at, Owen Roberts International Airport Terminal Improvement and Expansion Programme: Presentation to the Cayman Islands Airports Authority Board for Discussions Purposes, 25<sup>th</sup> of April 2012, the estimates for those. And I'll give you a copy of it if you don't have one. But that's the one that I had that I was given from that presentation, which I didn't attend, but I got a copy of it.

**The Deputy Speaker:** Honourable Minister of Tourism.

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

I would look forward to receiving the copy of that. And I appreciate that that is something we know nothing about. That was from 2012, before my time here as the Minister responsible. I can confirm and assure the Leader of the Opposition that all the reports that have come to us are as was stated in my answer to him. But I will be very happy to have that and compare it.

**The Deputy Speaker:** Finally, the question is that this Honourable House now do adjourn until 10:00 am on the 18<sup>th</sup> of November 2015.

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

**Ayes.**

**The Deputy Speaker:** The Ayes have it.

This Honourable House stands adjourned until 10:00 am, the 18<sup>th</sup> of November 2015.

**At 6:09 pm the House stood adjourned until 10:00 am, Wednesday, 18 November 2015.**

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