

**OFFICIAL HANSARD REPORT**  
**THURSDAY**  
**5 APRIL 2012**  
**10.38AM**  
*Second Sitting*

**The Speaker:** I call on the Second Elected Member for Bodden Town to say prayers this morning.

### PRAYERS

**Mr. Anthony S. Eden [Second Elected Member for Bodden Town]:** Let us pray.

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

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

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

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

**The Speaker:** This honourable House now resumes its sitting. Please be seated.

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

**The Speaker:** I have no messages or announcements, however, yesterday morning we welcomed and added the new Deputy Governor to the membership of this House. I did not invite Members to speak because of the pressure of meetings that were ongoing with the MPs at the time. But I will offer Members

the opportunity to welcome him personally now if they so wish.

Honourable Premier.

### Deputy Governor Welcomed

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, this appointment has been very, very much publically aired, sanctioned, and, I think indeed, welcomed. Certainly from my standpoint and that of the Government, we welcome Mr. Manderson, now the Deputy Governor.

I believe that they have chosen well and that he brings a breath of fresh air to the post and that I believe with his whole demeanour, better relations will be had all around. Certainly, Madam Speaker, I think the Civil Service is very supportive, from all that I see and all that I hear.

I believe the Civil Service with a young top-level management is moving forward into a good era. And with Mr. Manderson at the lead of the Civil Service and with new chief officers who are young, eager to move forward and carry through Government's policies, it bodes well for the country.

I have said many times since his appointment, where I have had chances to speak at various functions, that we just have to put our best foot forward now and give him support and do what the Bible says, "Come, let us reason together," and, where that can't be done, to understand that in every job you have there is a boss—even to him; he has a boss. The Governor is his boss, according to the Constitution. He advises the Governor, but the Governor is his boss.

So, I think the Islands are well served by this appointment; and the House, indeed, with his experience, because he sat here in acting positions before. Now he is in his own right a Member of this House.

On behalf of Government, as I have done so many times already publicly, again for the records of this House, we welcome him. And we are pleased. And I am pleased for more reasons than one. He is from the good district of West Bay, and that says something for me, it means something. It's history in the making.

We have had a long line of good civil servants from the district of West Bay—teachers, headmasters, postmistresses, Collector of Customs; the late Mr. Arthur Ebanks; Immigration, Police. The very first Caymanian police for many, many years, while he lived in George Town, was from the district of West

Bay. Politicians? The district of West Bay has put forward some good talent for this country and I am indeed proud that the new Deputy Governor hails from our district. But more than that, he is a good Caymanian who is well deserving of the appointment.

**The Speaker:** Thank you, Mr. Premier.  
Honourable Leader of the Opposition.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Thank you, Madam Speaker.

I join voice with the Premier in offering heartiest congratulations to the Honourable Franz Manderson on his appointment as Deputy Governor and on being sworn in as an Ex-officio Member of this House.

Madam Speaker, by virtue of section 34 of the present Constitution the office of Deputy Governor has been established, and one of the qualifications of that office is that the holder must be a Caymanian. Mr. Manderson is the second Caymanian to hold that highest office in the public service. And at his relatively young age I think he is to be congratulated on that singular achievement.

He has demonstrated over the years real ability in leadership and great ambition and desire to expand his knowledge and education doing something that not too many civil servants have done, actually going on to the Law School and then being (seconded is probably the wrong word, but) being granted a leave of absence to go over to Walkers law firm to complete his articles. And then doing something that not many people would say is wise, returning from the lucrative private sector to the Civil Service to continue to contribute to his country.

For all of those things I think he is to be commended. I think it demonstrates that he is truly a public servant. I have no doubt that these hallowed Chambers will greatly benefit from his wealth of experience, education, sound judgment and demeanour. I believe he is the quintessential public servant, one who always demonstrates great objectivity, no political bias in the way he handles everything that comes before him and everyone who has to deal with him, regardless of which side of the political divide they sit on. And I say that because I have had occasion to deal with him over the course of my almost 12 years here on many matters in a number of the offices which he has held over those years.

So, Madam Speaker, I am delighted that he has joined our ranks in the Legislative Assembly. But I am also delighted that he has taken up the helm of the public service. There are a great deal of challenges facing Cayman and facing the public service itself, the management of the public service. There is much to be done, much modernisation that is necessary and many, many matters at the operational level which can do with some real insight and improvement.

I believe that he has both the judgment and the necessary compassion, but I believe that he also has the will and the determination to make right a number of matters which are, quite frankly, not right at all as far as the operations of the public service are concerned.

Madam Speaker, one of the matters the operation of which has been (shall I say?) less than stellar over the years, is this whole issue of discipline within the public service. I hope that is one of the areas that he turns his attention to. We simply cannot go on in this country where we have public servants on extended periods of required leave, or whatever the terminology is which has been adopted, while the matter for which they are supposedly being investigated drag on interminably. Not only does it cost the government huge sums of money in the end, which it ought not to do, but it destroys morale and self-esteem for those civil servants and it really and truly brings the whole system into disrepute.

There are also many other matters that are going to have to be addressed which many of us are aware of arising from reports like the Miller/Shaw Report about the management of the public service, the management of public service benefits and so forth, which everybody seems to tip-toe around because nobody wants to take the really hard decisions.

So, Mr. Manderson has more than a plateful of major issues confronting him immediately. But I do believe with his wealth of experience, education, sound judgment and compassionate nature he is well placed to deal with all those things.

So, on behalf of all Members of the Opposition and the Independent Member from North Side, I again welcome him to this House and offer him our heartiest congratulations.

**The Speaker:** Thank you, Mr. Leader of the Opposition.

Does any other Member wish to speak?  
[pause]

Deputy Governor, would you like to reply?

**The Deputy Governor, Hon. Franz Manderson:** Thank you, Madam Speaker, and good morning.

First, I would like to thank you for your very warm welcome to this House. It is a distinct pleasure for me to be here. I also want to thank all the other Members, both the Government and the Opposition, for their welcome.

Since my appointment on 1 February, I have received tremendous support from everyone. I have regular meetings with the Premier and we have discussed matters of mutual interest. I am very pleased with the support that he and his Government have given me.

Likewise, I have also always enjoyed a good relationship with the Leader of the Opposition and

everyone in the Opposition and the Elected Member for North Side. I am confident that that relationship will continue.

In relation to my role as Head of the Civil Service, I have been very much overjoyed and overwhelmed by the tremendous amount of support that I have gotten from all of the chief officers, heads of departments and staff, as we start a modernisation of the Civil Service.

I took note of the comments of the Leader of the Opposition in relation to ensuring that there is accountability across the Civil Service. That is something that I take very seriously. I and my chief officers have discussed that on a regular basis as to how we can drive down accountability and improved performance across the Civil Service.

In relation to some of the outstanding reports, the Leader of the Opposition mentioned in terms of the Miller/Shaw Report, we have other reports that are outstanding. I am very pleased to say that phase 4 of the review of the public service, which we are now commencing, part of that phase will be to dig out all of the reports that we have pending and look at how we can implement them.

I have determined that, rather than us going off and creating new reports, we should actually look at what we have at present and let's work towards getting those reports and the recommendations implemented.

Another part of that phase will be to do a rationalisation of the Civil Service to ensure that the agencies, sections and units are carrying out the mandates and whether they are actually required and whether there can be some amalgamation of services.

It would be remiss of me, Madam Speaker, if I didn't thank the many people who equipped me to be here today. My former bosses at Immigration, Mr. Bostock, Mr. McGuire, and Mr. Connor, all trained me well. The former Deputy Governor, Mr. Ebanks, Mr. Ryan, Mr. McCarthy, all of those persons played a great role in my development. And, of course, my family.

I am sorry my mother was not here yesterday, but she had to be off Island. She has always been a great motivation for me. I must say that whenever I thought of not doing things always the right way, or if there was any temptation, the thought of letting my mother down was the overwhelming reason why I did not do things, or things that I should not have done—even when I was a young boy. So, I want to record thanks to my mother for all of her guidance and support over the years.

I thank also my wife and two children for their love and support. They have put up a lot with me being away from them over the many years that I have worked extra hours. And that is not something that is going to stop now! My son asked me yesterday, "So dad, what does it mean to be 'honourable?'"

*[laughter]*

**The Deputy Governor, Hon. Franz Manderson:** I thought I was always 'honourable,' but he wanted me to explain what that meant, and I did. I said that is a title that comes with being a Member of Parliament. But it also means that you have to live up to being honourable. And that is something that I take quite seriously as other Members of the House do.

I want to just pledge my continued support to the Government, to the Opposition. I have told civil servants that they must be politically neutral, but they must not be neutral about serving the Government of the day. And we are all expected to do that with passion no matter what Government is in power. And that is my job, to make sure that that happens.

I thank all Members and pledge my continued support.

Thank you, Ma'am

**The Speaker:** Thank you, sir.

## STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

**The Speaker:** I have given permission for the Honourable Premier to present a statement. The Minister for Education plans to do his later in the day.

Honourable Premier.

### Moody's Credit Report Analysis

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, I am pleased to present the credit analysis report for the Cayman Islands by Moody's Investors Service issued on 5 December 2011.

Moody's Investor Services is one of the leading credit agencies in the world. Moody's affirmed its Aa3 credit rating with a stable outlook for the Cayman Islands. This rating means that the Cayman Islands' Government's debt obligations (with fixed income and an original maturity of one year or more) are judged to be of high quality and are subject to very low credit risk. This rating is shared by only 14 other countries globally and is the second highest in the region, second only to Bermuda (which has Aa2).

Madam Speaker, this credit analysis comes at a time when advanced economies in the world are faced with the possibility of having their ratings being downgraded. And some have, in fact, been issued with such downgrades.

What does the rating mean? Madam Speaker, this high and stable credit rating could not come at a more opportune time as it signifies the continued borrowing strength in the global financial market for the

Government and institutions in the Cayman Islands amidst an uncertain global economy. In practical terms, it means that the Government and locally registered corporations can borrow funds from the global financial market at a relatively lower cost compared to the majority of countries in the world.

The credit rating Aa3, with a stable outlook, indicates four factors analysed by Moody's about our beloved country.

The first factor is that the Cayman Islands is strong economically and is anticipated to maintain that strength for the foreseeable future. The recognition of economic strength is founded in "a very high per capita GDP", notwithstanding the very small scale of the economy and its high dependence on financial services and tourism.

Cayman's per capita GDP is the tenth highest among all the countries (or sovereigns) that are being rated by Moody's. A high per capita GDP gives Cayman the ability to deal with important risks, such as natural disasters, should they occur.

The second factor is that institutional strength within the Cayman Islands continues to be very high. Moody's continues to view highly the country's "**long history of policy consensus and sensible macro-economic approach . . .**" It cited the country's highest score in the World Bank's governance indicators which is higher than most Aa3 rated countries.

The third factor which is likely to surprise our skeptic friends is that our Government's financial strength ranks very high. This is due to the "combination of a historically prudent policy, low levels of debt and easy access to finance." But they go on to say that "given the rapid pace of debt accumulation in recent years, however, this could change if such pace does not moderate and if key debt metrics embark on a trend that would make the comparison of peers in the same rating range clearly unfavourable. Moody's does not yet expect this to occur as reflected in the stable outlook on the Government's rating and recent actions by the Government seeking to limit debt growth support that view."

Although the Government's debt has risen, recently Moody's analysis shows that the debt-to-GDP ratio at less than 25 per cent remains low by international standards. It also cites, that "recent actions (as I have just quoted), have reduced the fiscal deficit and appear likely to result on fiscal surpluses and drops in the debt numbers."

The fourth factor is that the Cayman Islands has no susceptibility to "event risk", such as destabilising political events and major economic shock that will result in the loss of competitiveness of financial and tourism services. Cayman's ability to recover quickly from hurricanes also supports the rating.

Concrete contributions to a stable outlook: Madam Speaker, our Aa3 rating from Moody's commenced in October 2000. I am pleased to say that we

maintained the same rating amidst turbulence in our key source markets.

Whereas other Caribbean nations rated by Moody's are given lower ratings (with the lowest being 11 notches below Cayman), we continue to rank as the second highest in the region. This achievement is thanks to our economy's resilience and the UDP Government's continued fiscal vigilance which resulted in our fiscal deficit falling to 2.6 per cent of GDP in 2010, as compared to somewhere around 5 per cent in 2008.

Without question, Madam Speaker, maintaining this rating has proven difficult at times. Nonetheless, the Cayman Islands continues to perform well and is expected to enjoy a stable outlook. It is a pity that some of the people who mouth off most can't see that in an editorial of some kind.

In addition to our strong fiscal performance, many factors in the economic front support this. The Bank for International Settlements (BIS), placed the country's banking centre as sixth largest in the world in terms of assets as of June 2011. In addition to this distinction, the Cayman Islands' destination stands as the second largest offshore insurance centre and a leader in the offshore mutual funds industry.

The financial services industry's commitment to remain a foremost competitor is also the mainstay of many target and initiatives achieved in recent years, which included the adoption of 22 bilateral agreements to date—almost twice the requirement of the Tax Information Exchange Agreements introduced by the OECD/G-20 a few years ago.

As suggested by Moody's (and I quote), "**The Cayman Islands' institutional strength, a crucial factor in assigning a sovereign rating, is high on a global scale.**"

Tourism and financial services industry have served us well in the past, Madam Speaker, and continue to be this country's key economic contributors today. Based on Moody's assessment, the risk of major shocks in these two industries is low, thus reducing the likelihood of a loss in competitiveness and government finances, and the external position being severely affected. Therefore, barring major structural changes, these sectors should continue yielding modest rates of growth in the medium term.

Positive factors influencing improvements in the present ratings: Madam Speaker, and honourable Members, as noted earlier, our sovereign credit rating is second only to Bermuda in the region, as they enjoy a sovereign rating one notch higher (that is Aa2, Stable). For the Cayman Islands to achieve higher credit ratings, we need to continue raising our per capita GDP through stronger GDP growth, reduce our debt burden, generate higher fiscal savings, maintain political stability, and strengthen our institutions' capacity.

Let me repeat that: For the Cayman Islands to achieve higher credit ratings, we need to continue

raising our per capita GDP through stronger GDP growth, reduce our debt burden, generate higher fiscal savings, maintain political stability, and strengthen our institutions' capacity.

My Government has steadfastly begun the path of strengthening our GDP growth. To this end, my Government will continue to facilitate and encourage initiatives to enhance growth prospects through foreign direct investments, stronger marketing of financial services and tourism, particularly to previously untapped markets. And no amount of petitioning is going to stop the trend! We cannot do it without direct foreign investment. The little pieces that Caymanians can invest in cannot push our per capita income up, which means Caymanians do better. And, Madam Speaker, we need to understand that—all of us in this House, and particularly some outside who are so hopeful.

Further, we have recently signed a framework for fiscal responsibility with the Foreign and Commonwealth Office aimed at reducing our debt burden and improving fiscal stability that eventually leads to fiscal savings. And the only thing I will add to that, Madam Speaker, is that we do not expect to be micromanaged by them. We have managed well and we will not be micromanaged by them. The Constitution tells us where to go, when to stop.

In concluding, Madam Speaker, and honourable Members, I want to end this brief presentation by inviting our residents, our investors and prospective investors, to peruse the Credit Analysis report rendered by Moody's Investor Services. In a global economic environment threatened by downgrades in ratings and economic prospect in most of the known world and in particular to our competitors and those that sometimes mouth against us in the worst shape, they have been downgraded while we have remained intact.

We should be very thankful to God that this report prepared by economic professionals holds up the Cayman Islands as a strong and stable economy. And as the country's leader, I will do everything possible with the help of Almighty God to maintain this good standing, if not improve it, for the good of our beloved Cayman Islands.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Premier.

Are you going to lay that paper on the Table of the House?

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I meant to lay the paper, Moody's Investor Service, the Credit Analysis, Cayman Islands. I think it is good for Members to see.

So, I ask for this to be laid on the Table of this honourable House.

**The Speaker:** So ordered.

## OTHER BUSINESS

### PRIVATE MEMBERS' MOTIONS

*[Deferred]*

**The Clerk:** Private Member's Motion No. 12/11-12—Pension Deductions re Public Service Pensions Law to be moved by the Fourth Elected Member for George Town and Seconded by the Third Elected Member for Bodden Town.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, we propose not to deal with these Private Members' Motions today, but to forward them to the next [Order] Paper.

**The Speaker:** Can we have a motion to do that please?

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I so move. I move that the three Private Members' Motions, No. 12, No. 13, and No. 14, appearing on today's Order Paper, be forwarded to the next [Order] Paper for the next day of business of this House.

**The Speaker:** The question is that the Private Members' Motions on . . .

*[Inaudible conversation off microphone]*

**The Premier, Hon. W. McKeever Bush:** It is a Minister of Government moving it, I don't need a seconder.

*[inaudible reply]*

**The Premier, Hon. W. McKeever Bush:** It does not need to be in my name.

*[Inaudible reply]*

**The Premier, Hon. W. McKeever Bush:** Who said that?

*[inaudible reply]*

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, the Member for East End doesn't seem to understand that I am not troubling those motions. What I am doing is changing the Order Paper, as has been agreed. The Order Paper I can change as a Minister of Government with the permission of the House. I am not affecting the motions per se; the motions will be heard another day, which we have agreed. It is the Order Paper that is being affected.

**Mr. V. Arden McLean [Member for East End]:** Madam Speaker, just on a procedural point, is all I am questioning.

**The Speaker:** Yes, Member for East End.

**Mr. V. Arden McLean:** Thank you.

It is not the Government's business that is on the Order Paper right now, it is "Other Business," being "Private Business." All I am saying is that the Standing Orders require that business of this nature . . . if it's Government business, that's fine; any Minister can deal with it. But if it is "Other Business", someone has to second it. That is the only procedural matter I would like to bring to your attention.

**The Premier, Hon. W. McKeever Bush:** Which Standing Order says that? Which Standing order?

*[inaudible reply]*

**The Speaker:** Would you rephrase your motion please, Honourable Premier? And ask that the Order Paper be amended to remove Private Members' Motions and carry them forward.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, if that kind of clarity makes it easy, then fine. I hereby move that today's motions on the Order Paper . . . the Order Paper be amended in order to carry forward to the next business committee's meeting to be forwarded to the next meeting of the House.

**The Speaker:** Thank you.

The question is that the Order Paper be amended to allow the Private Members' Motions listed on today's Order Paper to be carried forward to the next sitting of the House.

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

**Ayes.**

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

**Agreed: Private Members' Motions No. 12/11-12 (Pension Deductions re Public Service Pensions Law); No. 13/2011-12 (High Cost of Living); and No. 14/2011-12 (Research and Library Assistance in the Legislative Assembly) deferred until later in this Meeting.**

## GOVERNMENT BUSINESS

### BILLS

## SECOND READINGS

### Customs Tariff Bill, 2011

**The Clerk:** The Customs Tariff Bill, 2011.

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeever Bush:** Thank you, Madam Speaker.

For clarity, just let me say that Members are not ready for those three motions, and we had agreed yesterday.

Madam Speaker, I beg to move the second reading of a Bill entitled The Customs Tariff Bill, 2011.

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

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, thank you very much.

I rise to present this Bill on behalf of the Government, a Bill for a Law to replace the Customs Tariff Law (2011 Revision). This Bill seeks to repeal and replace the Customs Tariff Law (2011 Revision); to enable the use of the Harmonized Commodity Description and Coding System in the classification of imports and exports, and to make provision for incidental and connected matters.

The current system used for classifying exports and imports is not detailed enough to provide useful information to the Government. The current Customs Tariff Law comprises of approximately 221 commodity groups which are categorised under 22 tariff code sections. The vagueness of the Tariff Code makes it very difficult within a reasonable degree of accuracy to report the volume and value of many specific items that are imported and exported to and from the Islands. Therefore, much meaningful policy guidance is unavailable to the Government which could be accessed if the quantity of the various items being imported could be more specifically tracked.

The Government is unable, for instance, to calculate the sufficient position—how much revenue will be gained or lost if a policy decision is taken to increase or decrease customs duties on any of a range of specific items.

Madam Speaker, the Harmonized Commodity Description and Coding System of tariff nomenclature, is an internationally standardised system of names and numbers for classifying traded products. The Harmonized System is developed and maintained by the World Customs Organization formerly called the Customs Cooperation Council, which is an independent intergovernmental organisation with over 172 member countries.

The Harmonized System comprises of about 5,000 commodity groups and is organised into 21 sec-

tions and 96 chapters, accompanied with general rules of interpretation and explanatory notes. The System begins by placing goods within categories of live animals and plants, other natural products, and from there proceeds to categories of increasing complexity.

The Codes with the broadest coverage are the first four digits. These four digits are referred to as the heading. The Harmonized System further classifies goods in accordance with the International Nomenclature through the six-digit level and, where needed, applies added subdivisions down to the eight digit level. This is for localised use and may be further broken down, if necessary, by local authorities for specific application of rates of duties, et cetera.

Adopting the Harmonized System brings many advantages to the Government and the trade community including keeping abreast of the latest internationally accepted nomenclature in classification of goods, transparency in classifying goods, the ability to target specific goods to protect locally produced products, targeting of specific products that have been identified to assist in diversifying our economy, assisting the Government in making better informed economic decisions, facilitating a more efficient collection of revenue, providing increased stats for the comparison of trade with other countries, and providing better national stats.

In addition to the Harmonized Codes, the Customs Tariff Bill, 2011, also amends Schedule 5 to remove the [\$]1,000 environmental tax from mechanical powered lawn mowers, golf carts, all-terrain vehicles and similar off road vehicles. Why would we do that? As many Members would know, the Government purchased four X-ray machines and one mobile X-ray scanner, capable of scanning all cargo containers and packages entering and exiting our Islands. The Government is confident that these X-ray scanners will serve as a crime prevention measure. We will be able to far more effectively deter the importation and exportation of illegal drugs and firearms to and from these Islands, and to apprehend such illicit imports if persons are still stubborn enough to try.

The X-ray machine scanner became operational on 3 February this year. Madam Speaker, the five X-ray machines and scanner cost approximately US\$3 million. This amount does not include annual maintenance and operational expenses. In order to recover the additional costs of the five X-ray scanners along with the annual maintenance and operational cost, the Bill includes a \$100 fee for each cargo container that is imported or exported throughout the Islands or through the Islands. The \$100 fee is shown as an amendment to Schedule 5 of the Bill.

This Bill merely increases the number of import commodity groups from 221 under the existing Customs Tariff Law (2011 Revision), to over 5,000 commodity groups under the proposed Bill. I say this Bill merely increases the number of commodity groups

from 221 to over 5,000 and for good reason. The Customs Tariff Bill 2011 does not increase any of the import duty rates under the existing Customs Tariff Law.

In addition, the Customs Tariff Bill 2011 with its 5,000 groups will actually make the work of officers much more efficient and transparent to the customer. In addition, all duty free items under the existing Customs Tariff Law will remain duty free under the Customs Tariff Bill 2011.

Madam Speaker, let us look at one example of a common commodity. And that is unsweetened fruit and vegetable juice. If one was to look for "unsweetened fruit and vegetable juice" under the existing Customs Tariff Law, the import duty rates can be found on page 7, under tariff code 8.31. The import duty rate for unsweetened fruit and vegetable juice is 22 per cent. Under the Customs Tariff Bill 2011 unsweetened fruit and vegetable juice can be found on page 47 under tariff codes 2009.10.00 through to 2009.90.00. Madam Speaker, one will see that the duty rates remain at 22 per cent. It does not change.

Cameras are another example, Madam Speaker. On page 14 of the Customs Tariff Law, under code 90.11, cameras are duty free. Under the Customs Tariff Bill, 2011, on pages [204], and [205] under Tariff codes 9006.10.00 and 9006.90.00, one will see that cameras remain duty free (that is under the Customs Tariff Bill, 2011).

The proposed tariff does not seek to increase or decrease the rates of duty as mentioned before, but mainly to provide description codes that are internationally applied thereby enabling us to become more transparent and specific in our classification of goods.

Based on the description codes Government and the business trading community can obtain specific trade stats on any specific item being imported or exported. The subject of introducing a flat rate of duty across all codes to make the cargo import process easier, will not work because the cargo process must remain such that goods are declared by their codes in order to receive the trade stats that are beneficial for government from the system.

The declaration of goods is not made according to the rate of duty alone, but by using the description codes and rate of duty. This data will enable both government and private sector traders to better plan their activities.

The detailed clauses of the Customs Tariff Bill are as follows:

Clause 1 provides the short title and makes provision in respect of the commencement of the legislation.

Clause 2 is the interpretation clause.

Clause 3(1) and Schedule 1 prescribe the duties that are to be charged, collected and paid through Customs to the Treasury upon goods imported into the Islands. Clause 3(2) and Schedule 2 enable the

importation of certain goods free of duty. Clause 3(3) and Schedule 3 prescribe package tax rates.

Clause 4 and Schedule 4 of the Bill prescribe warehouse and transit shed charges.

Clause 5 and Schedule 5 of the Bill prescribe miscellaneous charges in respect of imported goods.

Clause 6 empowers the Governor in Cabinet to waive or reduce certain duties in relation to persons in Cayman Brac or Little Cayman.

Clause 7 empowers the Governor in Cabinet to amend any of the Schedules.

Clause 8 empowers the Financial Secretary to rectify any clerical or printing error appearing in Schedule 1.

Clause 9 repeals the Customs Tariff Law (2011 Revision).

Clause 10 contains savings provisions.

Madam Speaker, at this point I want to thank the Financial Secretary, the Collector of Customs, the Honourable Attorney General, and all their teams who worked hard and long hours to produce this Bill. They will tell you that this was long overdue. Madam Speaker, I can that for many years we have called for these changes. We are therefore very happy as a Government to commend the Customs Tariff Bill to this honourable House for passage.

**The Speaker:** Thank you, Mr. Premier.

Does any other Member wish to speak?  
[pause] Does any other Member wish to speak?  
[pause]

First Elected Member for George Town.

**Mr. D. Kurt Tibbetts [First Elected Member for George Town]:** Thank you, Madam Speaker.

This Bill which seeks to repeal the Customs Tariff Law (2011 Revision) is indeed, as the Honourable Premier has just said, very welcomed. There has been many a year and through several (and I say several with knowledge) successive Governments that this Bill has been worked on. It has gone through several series of Cabinets and it is now finally before this Legislative Assembly.

I don't speak to the fact that it has been a very onerous task to discredit anyone; I speak to that fact to say how much of a real chore it has been to finally have it completed, because it is indeed very exhaustive in its entirety. Madam Speaker, obviously at this point in time one could call it a new and comprehensive Bill.

The Codes which are all being referred to now . . . I believe those who are dealing with customs import duty forms, the entry forms, as part of their job, whether they are under the employ of specific firms or brokers, I don't know if in the immediate they will say they welcome it. I believe for the large part they will, but perhaps it is going to take a little bit of getting used to because of what they are used to over the

many years. But that's like everything else. You get to know the little "isms" and "schisms" of the newborn baby and pretty soon you know how to make sure the baby sleeps through the night.

So, Madam Speaker, we on this side certainly have no difficulty and we are very happy to support this Bill. The Premier has gone through the preamble of the Memorandum of Objects and Reasons for the Bill outlining the intent and the objects of this Bill.

Madam Speaker, I have to take a minute here to say (and it is perhaps the first time I have mentioned it in a public forum) that over the years when we have had to examine this and talk about it, and every time I look in the definitions section and I see open and closed brackets and the definition of the word "undertaker" I have to say to myself, *My God, they could have found a different word.* In this instance, "undertaker" certainly has no application to what one would normally think the word means. It actually refers to a supplier of electricity for reward. And while it may seem to be somewhat jovial, Madam Speaker, I haven't really taken the time to find out whether this too is an internationally used terminology and, if so—

*[Inaudible interjection]*

**Mr. D. Kurt Tibbetts:** I am told by my learned friend behind me that it is. If so, I guess we have to accept it. I will simply try studiously to avoid at any point in time looking through this Bill to look at the definition pages so that I don't have to encounter it. But if that is the case, then so be it. I wish all the "undertakers" well.

Madam Speaker, it perhaps is not worthwhile going into the very specific parts of the Bill at this time, simply because it does what it sets out to do, which is to repeal and replace the old law and bring all of the different categories of goods in line.

I searched in the Customs Law and somehow it has evaded me thus far, but I seem to remember . . . and I also was reminded by the Member for North Side that there was a section in that Law (which can certainly be called companion legislation, that is the existing Customs Law), that speaks to an offence if anyone who is perhaps filling out an import entry form uses the wrong code when doing so.

Now, I don't know what penalties may be applied for that, Madam Speaker, but I certainly wish to bring it up in this vein to say . . . and I am very happy that my good friend the Collector of Customs is here today so he can hear the discourse. Madam Speaker, we must appreciate that while there are those who are well versed in dealing with these import entry forms, especially the brokers and those who are specifically employed by firms to deal with this on an almost daily basis, that even they may well have some difficulties early in the game and be a bit confused.

The way they are all tabulated now, you will find many individual items having different codes than they previously had in order to bring everything in line. We bring this up to make sure that even though I was not able to pinpoint, I do remember there is some section where this can be an offence if the wrong code is used.

You see, Madam Speaker, I am sure the spirit of that was for something intentional, trying to evade or avoid duty. But it can easily happen accidentally, especially when this new law (as I am sure it will become law) comes into effect and people begin to work with that. I say all of that to say that I trust that the Collector of Customs and his department will be patient with the customers who come in front of them to have their goods cleared, if and whenever (as I am sure it will be more *whenever* than *if*) these little incidents may occur, and simply work through them until everybody gets used to them.

While that may seem trivial, I certainly think it is worthwhile bearing in mind and perhaps those officers on the front line who have to deal with the customers can be acutely aware so that they can help the whole process along until people get familiarised with it.

Madam Speaker, my colleagues and I certainly welcome this Bill and give it our full support. At long last it is here. And just before I close, I want to say that for many, many years the entire country at many, many levels has suffered from the inability to have up to date and accurate statistics, because the old law was really vague (perhaps the kindest way to explain it). Let's leave it at that; it was vague. But with this new law it will not only assist the Government in making specific policy decisions . . . and I use an example, Madam Speaker.

There have been instances since my 20 years in this Legislative Assembly when duty has either been taken off of specific items or duty has been added on to specific items. And it was all guesswork even when whoever was in Government at the time got up and expounded about the advice they got, and this was how much it was going to be. And the truth of the matter is, Madam Speaker, no one—including those good, supposedly very sensible people who swore on everything that was holy that what they were saying was true—knew what they were talking about because they had nothing to go by.

This will make all the difference in the world. So when you make your projections now based on all of your trends, you will physically be able to go back and say, *This is how much this reaped, and over the last five years this is how much the fluctuation was and this is what the trend shows*, and be able to use all of that information to give proper statistics so projections can be made perhaps much more accurately—although they are projections and will be projections.

Madam Speaker, I want to say that we believe that that is perhaps one of the most important functions that this new law will be able to perform.

So, once again, Madam Speaker, we welcome the Bill. And we are quite happy to give it our support. Thank you.

**The Speaker:** Thank you Member for George Town.

Does any other Member wish to speak?  
[pause] Does any other Member wish to speak?  
[pause]

Fourth Elected Member for George Town.

**Mr. Ellio A. Solomon [Fourth Elected Member for George Town]:** Good morning, Madam Speaker. Thank you very much for the opportunity to just make a short contribution in regard to this particular Customs Tariff Bill.

Madam Speaker, I just want to have recorded that this is in my opinion a good proud moment not just for the Government but a proud moment for the country. I have said on many occasions before and after entering this honourable House that I believe that we can make tremendous progress in the country by dealing with some of these arguably intangible things. By making adjustments to these intangible things we can still bring about some very tangible benefits to the people of the country.

Madam Speaker, the reality is, as has been highlighted by the two previous speakers, that it is a situation where this country would have existed for decades where [policymakers] were unable to be able to look and make accurate decisions that are going to affect the lives of people. Understand the gravity that we are talking about, that in 2012 there is the reality, the admission, that [policymakers] for years in this country would have either taken off duty or put it on without really having the sort of accurate information that they need to be able to ensure that they can have . . . I don't even think you can say "ensure" but at least to better ensure they are going to have the desired results.

So, Madam Speaker, it is a tremendous step in the right direction and I highlight and underscore it from the standpoint that even as we go forward, understand that there are all these tangible things that we can do, whether it is the construction of buildings, whether it is more roads or . . . the list goes on. I wish to highlight and earmark this; that it is a case that I know, for example, even in Bermuda where a system like this was introduced well before 2000. And I know, having had personal contact, for example, with the Collector of Customs that they have been working on this for a long period of time.

So, Madam Speaker, to know that today in 2012, in the year of our Lord, that we finally have legislation brought by the Government that is going to allow this fine tuning, allow the opportunity for more

accurate information to be able to be gleaned and, therefore, better decisions made, I think it is important. And I am a proud member of the Government of the day that recognises that these intangible things are truly what are going to bring about tangible benefits for the people of this country.

Madam Speaker, I know that oftentimes our public, the people out there looking in, have their trust and confidence in whoever the Government is to be able to make the good decisions on their behalf. I believe it should not be dodged or ducked from them in any way at all; there should be no opaqueness about it that for years we could not glean accurate information to be able to make accurate decisions. And we wonder how today, we are in this country 2012 with all the economic difficulties and challenges that we have, how are we supposed to really get things started, kick start things when you can't say to someone how much aluminum in coming into the country, how much nails, how much wood, how much milk, how much bread. You can't be able to determine how the construction industry is doing based on all of these accuracies that we will now be able to capture as a result of this legislation. How did we do it?

Bottom line of it, Madam Speaker, to a large extent we were working in the dark. So, Madam Speaker, I wish to have it reflected in the records that finally we seem to be getting some sunshine in the Government, some sunlight shining through that actually for once we are taking a step in the right direction appreciating that we don't have to spend millions, hundreds of millions, of dollars in just pure tangible things, but to make some significant modifications to some of these intangible things of which I know many of the civil servants have been working on for at least over a decade. I personally know about that.

We have an obligation to the people of this country to make accurate decisions. So, Madam Speaker, I rose to my feet to highlight it because it should be given the emphasis that I believe it deserves. And that is, Madam Speaker, that for years, arguably decades, working in the dark. So, Madam Speaker, I applaud the Government and I think at the end of the day, as I have said before, I am a proud Member right now, in 2012, the year of our Lord, to know that finally we are on the pathway to be able to make accurate decisions to be able to get this country back on the recovery that it should be in part and parcel for intangible changes such as this that would bring about tangible benefits for the people of this country.

**The Speaker:** Thank you Member for George Town.  
Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker.  
Madam Speaker, I had no intention of speaking because the point person on this just happened to

be the First Elected Member for George Town. However, since the Fourth Elected Member for George Town has spoken . . . I don't know if the word "disabused" is the right word, but I want to try to clarify some of the . . . and I agree with the Fourth Elected Member for George Town that this thing has been long in the making.

When I was elected and entered this honourable House in 2000, I was appointed to the Public Accounts Committee [PAC] with the present Minister of Education as Chairman. One of the first orders of the day in that PAC was looking at this system within months of our being appointed .

We had the now Collector of Customs as well who made presentations to us. So, I agree that this thing has been long in coming. But to insinuate, or otherwise, that it is due to the lack of commitment on the part of any Government over the last 10, 12, 14 years, or the Civil Service, would be wrong. And it would be remiss of me not to allay the fears or concerns of the people of this country or other legislators as well.

Madam Speaker, even as a Minister of Cabinet I followed up with the Collector of Customs who came to give us presentations. As a matter of fact, I met some of them in some Caribbean islands looking at this during my time as a Minister. They were constantly trying to get this system in place. But the problem was always that the technology was not suitable for what we wanted and they were doing tweaking here and there, and what have you.

So, it wasn't their fault. It wasn't any Government's fault, because the UDP served three or four years during that period that we were desperately trying to get this system in place. And in defence of the Collector of Customs, Mr. Powery, he used to pull his hair out every time he talked to me about getting this system in place and the benefit of it.

The present Minister of Education as well, and the Third Elected Member for West Bay, when we sat on PAC, we were putting so much pressure on Mr. Powery that I recall one time the Chairman said, *Well it's not his fault; he can't get it in now*. So, there were efforts made on the part of every Government, I would venture to say over the last three or four Governments, that tried to do this.

I am glad it is here. Certainly, it will bring more efficiency and effectiveness to the Customs Department, but more so, to the statistical data we need as a country to make national decisions, particularly when it comes to revenue, whether we subtract or we add, the effect those decisions are going to have on future revenues of this country.

Whilst I am not going to be overly critical of the Fourth Elected Member for George Town—

**The Premier, Hon. W. McKeever Bush:** You don't need to be critical at all.

**Mr. V. Arden McLean:** —I think I should—

*[Inaudible interjection]*

**Mr. V. Arden McLean:** —remind him that there are many of us who have been here . . . the Leader of the Opposition was on that PAC; the current Premier has wrestled with this; the First Elected Member for George Town, as Leader of Government Business, wrestled with this. I am sure there are other Members, former Members of this honourable House, who have wrestled with this, so—

**The Premier, Hon. W. McKeeva Bush:** The rule is, we got it done.

**Mr. V. Arden McLean:** —we have to remember that some things take long and some things take longer than others. And if the UDP was so good they would have put it in from 2001 to 2005 too. But the fact is that—

**The Premier, Hon. W. McKeeva Bush:** You see who is being political now?

**Mr. V. Arden McLean:** The fact is that because of the lack of the system being able to be adjusted to suit our particular environment and requirements we couldn't get the computer system. And that was only one of the many reasons why we didn't get it, as I understand it, because presentations were made to us whilst we were in Cabinet as well.

So, Madam Speaker, I too congratulate the Director of Customs and his staff, all of them, because I know they have worked extremely hard to try and get this. And it just so happens, that it has now come under the UDP Government after all these many years. Regardless of which Government was in, I guess this is the time. Life unfolds as it should. So, when we are patting ourselves on the back, it is just a matter of timing.

I certainly would not take away from the pat they wish to put on their own back, but they are only doing their job.

*[Inaudible interjections and laughter]*

**The Speaker:** Order now.

**Mr. V. Arden McLean:** Yes, Madam Speaker, they can't disrupt me.

So, in a roundabout way I guess I should say congratulations to the Government for having . . . now the time has come to put it in and we are . . . but it is not all to their credit. It is to the credit of the Civil Service and former Governments as well who pushed for it.

Madam Speaker, that's one of the difficulties we have in this country. There is no continuity. Everybody takes credit and never looks back and gives credit. That is why many of the times in this country we go two steps forward and one step backward. And—

*[ongoing interjections and laughter]*

**Mr. V. Arden McLean:** —particularly this Government. They tend to take credit for everything that started as if the country has—

*[Inaudible interjection]*

**The Speaker:** Order please.

**Mr. V. Arden McLean:** —only just been found—

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, I wish he would debate—

**The Speaker:** Order please!

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, on a point of order. Will the Member debate the Bill? The Member can't understand what I am asking for. I am asking for the Standing Orders to be adhered to.

**The Speaker:** Thank you, Mr. Premier.

Member for East End, have you finished? Please continue.

**Mr. V. Arden McLean:** Madam Speaker, is there a ruling on that? Because, the Fourth Elected Member for George Town started, that's why I said I got up, because he was—

**The Premier, Hon. W. McKeeva Bush:** Oh no; no, no.

**Mr. V. Arden McLean:** —politicising it—

**The Speaker:** Um. I have—

**Mr. V. Arden McLean:** —as to—

**The Speaker:** I have allowed latitude in all debates in this House to all Members. Please continue, Member for East End.

**Mr. V. Arden McLean:** Madam Speaker, that is precisely what is wrong with our country. I didn't realise that the amnesia was so short.

*[laughter]*

**Mr. V. Arden McLean:** I mean I was saying they were forgetting it because it was previous years, but they are now forgetting within minutes that it was the Fourth Elected Member for George Town that started.

**Mr. Ellio A. Solomon:** No sir.

**The Premier, Hon. W. McKeeva Bush:** Ellio what did you say?

**Mr. V. Arden McLean:** Madam Speaker, anyway, again, you know, we can insinuate anything, but I guess all others are dumb and stupid. We shouldn't measure people in that manner, Madam Speaker.

I congratulate the Government for getting it to the Legislative Assembly. I congratulate the Collector of Customs, his staff; I congratulate the drafters of this Bill, I congratulate former Governments who pushed for this as well, and say to them, *It is finally here*. And this is what we have been looking for, for a long time, for Governments—this Government and future Governments—to make proper decisions on our revenue, our finances in this country. This is only one arm, one piece of it and there are many others that need to be done that I am sure this Government will not get through with in their four-year period.

Thank you very much.

**The Speaker:** Thank you Member for East End.

Does any other Member wish to speak?  
[pause] Does any other Member wish to speak?  
[pause]

First Elected Member for Cayman Brac and Little Cayman.

**Mr. Moses I. Kirkconnell [First Elected Member for Cayman Brac and Little Cayman]:** Thank you, Madam Speaker.

Everybody has been duly commended for bringing the Bill, so my comments are very, very short.

The Collector has done a good job from the standpoint of letting the general public know that the Bill was coming. He and his team spent some time in Cayman Brac and Little Cayman and it would be remiss of me if I didn't just ask a few questions that I can leave with the Honourable Premier and him. I think that the meetings that were held were very informative and did quite a bit for the population itself, understanding that when you move from 250 items to 5,000 items there is a tremendous burden on the importers.

The information basically is available. I believe that the larger importers and business people of Grand Cayman will integrate this into their computer import system and this will be done quickly and automatically. The fear for the smaller importers in Cayman Brac and Little Cayman, and I will say in Grand

Cayman as well, is that the burden of trying to get to know this system is going to take a little while.

I would say that he is knowledgeable about this, but the fear of the constituents that I represent directly is that it is going to be put on top of them and they will have difficulty in how they address it and deal with on barge day (we have a "barge day," as we call it, every week), and how they actually get their war-rants filled out.

So, I ask you to have your team look into how the merchants and the private citizens of Cayman Brac and Little Cayman and Grand Cayman that are importing can be facilitated.

*[Inaudible interjection]*

**Mr. Moses I. Kirkconnell:** Sorry?

And the staff themselves can look into how they can assist them and move them into this knowledge that we need and how we attain it.

Madam Speaker, the last quick question I have that I will leave with the Honourable Premier is that on page 58 of the Customs Tariff Bill where it says "motor gas \$0.75." I didn't see any provision if Cayman Brac and Little Cayman, or Cayman Brac will be dealt with under the other clause that gives Cabinet the power to change . . . but I will just leave that because when a new duty rate came in there was a little bit of a lapse in communication to Cayman Brac.

So, with those few comments, Madam Speaker, I thank you.

**The Speaker:** Thank you, First Elected Member for Cayman Brac and Little Cayman.

Does any other Member wish to speak?  
[pause], Does any other Member wish to speak?  
[pause].

Minister of Education.

**Hon. Rolston M. Anglin [Minister of Education, Training and Employment]:** Madam Speaker, this Bill before the House is indeed one that I believe all Members will be supporting, from everything that I have heard. Certainly, it is a Bill that is a significant step in the right direction in terms of the legal architecture that assists in the governance of our country.

Madam Speaker, it has been a piece of work that has been in the works for quite some time, and ultimately, it does come down to a point in time where it has to be brought to the House to be dealt with and passed into law.

Now, Madam Speaker, I believe it is only right that in doing so, whoever is the Government at the time has to ensure that we not only deal with all of the implications for implementation and ensure that we get those as right as possible, and listen very carefully to debate and some of the key questions that will be raised to ensure that we do cover off all of the very

important points. For example, the point raised by the previous speaker is one that this Government continues to take very seriously to ensure that all of the relevant concessions that have been in place continue to exist for Cayman Brac and Little Cayman. However, Madam Speaker, that is a point that has been at the forefront of Government in dealing with this Bill even at the presentation stages and stages of bringing it to Cabinet for consideration for onward transmission to the Legislative Assembly for consideration.

I am happy that I am part of a Government that is bringing a well needed and sensible piece of legislation, showing that the Government continues to demonstrate competence in dealing with the overall administration of the country. Whether or not there are those who find it difficult to admit that is another matter. However, that is just how life goes. There will always be those who will want to detract in some way or another in regard to anything that a government does because it's convenient for them to do so.

Madam Speaker, this issue is one that I as a legislator had great interest in from one of my very first meetings of the Public Accounts Committee when I was Chairman of that Committee. It was clearly explained to us back then what was needed in regard to moving the system forward and ensuring that we modernised our system in such a way that would be of benefit to the country. So, lots of work has gone in and we do have to ensure that we thank all of those involved—the Collector [of Customs] and all of the staff who have diligently pushed forward in regard to ensuring that this day would come, and to also thank the Premier and Minister of Finance and the entire team for ensuring that he moved forward to get this to this stage where we can have a Bill before us to consider so that we can move forward as a country.

This is significant in regard to how we are now going to be able to better manage our country in regard to the gathering of information and the monitoring of exactly what's happening at the individual item level in this country. That can only be good and serve for us in regard to better administration of the country, but also enhance the capacity to forecast revenue and know exactly what's happening and be able to track and have the types of statistical information that the community would also find useful and of benefit. So, it is not only going to provide possibilities for great use in terms of Government, but it is also going to give a real possibility now to provide much more reliable and credible information and detailed information to the wider community.

Madam Speaker, with those few comments I fully endorse and give my support to the Bill before the House.

**The Speaker:** Thank you, Honourable Minister.

Does any other Member wish to speak?  
[pause] Does any other Member wish to speak?

[pause] Does any other Member wish to speak?  
[pause]

If not, I will call on the mover of the Bill to make his reply at this time.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I thought that I would not have to answer at all. But some people can't resist the chance to take a swing at me. So, when they were swinging they were stumbling all over the place.

Nobody has to stand to give me any credit, Madam Speaker. I have been here long enough. You are not going to find anything named after McKeever Bush. I don't want it. I don't come here looking for praise or anything else; I come here to do a job and work. And that is why I have been returned seven times—because I work. If I find something that needs to be done, I try to get it done. I might make a mistake in getting it done, but I try to get it done.

There was no call for all of that this morning. None! And it shouldn't have been allowed because nobody stuck to the Bill. And the truth is, I don't think that there was any insinuation of a lack of trying by various Governments. There was no such insinuation by the Member from this side. I think the Member was saying more that his Government had gotten it done. That's all he said. There was no reason for the Member for East End to carry on and on and on talking about who gets credit.

I have never gone to do something yet that somebody else started that I didn't get up and praise that person. And if they think that I am that kind of person then they ought to see it different, Madam Speaker, for the many things that I have done to praise people and not take any for myself, the many policies that I have initiated. But do you expect any better coming from them? They were the people that opposed the awards that I tried to put in place for people. I tried to get the National Hero [Award] done and they criticised me for that too.

I am used to that. I am just happy that as far as this Bill is concerned it makes good working for this country and the next person who comes along and finds a bad situation will have it a little bit easier. So, there was really no call for all of that hullabaloo. But the truth is that they wanted to take that swing at me. He has been itching all day from yesterday to cause a row in here. That's all it was.

Madam Speaker, let me not humour him. His . . . whatever it was—I wouldn't call it debate—was not worthy of my reply except for what I have just cleared up. There was no insinuation of a lack of trying by various Governments. The First Elected Member for George Town said it, that this has been over a period of years that it has been tried to get done. And when I closed my debate I thanked everybody, the AG, the Collector of Customs and their teams, because those are the people who really had to do the work—the

people who produced the Bill and the Customs Department.

It just so happens that the Customs Department falls under me. And when I was presented with it I was too glad to say I hope you're going forward and the Collector of Customs has always been pushing and pushing trying to get this new system or new law in place. So there was no need for all of that this morning. None whatsoever! I am not going to waste any more time here, Madam Speaker, by trying to reply to the Member for East End who just garbles up everything he can when he wants to.

*[Inaudible interjection]*

**The Speaker:** No comments across the floor please.

The question is that the Bill shortly entitled the Customs Tariff Bill 2011 . . . 2012

*[Inaudible interjection]*

**The Speaker:** I'm sorry, it states 2011. The Customs Tariff Bill, 2011, be given a second reading.

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

**Ayes.**

**The Speaker:** The Ayes have it. The Customs Tariff Amendment Bill 2011 has been given a second reading.

**Agreed: Customs Tariff Amendment Bill 2011 given a second reading.**

### **Immigration (Amendment) (No. 5) Bill, 2011**

**The Clerk:** The Immigration (Amendment) (No. 5) Bill, 2011.

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, I beg to move a Bill entitled a Bill for a Law to amend the Immigration Law (2011 Revision).

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

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, in 2009 the Cabinet appointed a committee called the Immigration Review Team (IRT), under the chairmanship of Mrs. Sherri Bodden-Cowan, to undertake a review of the Immigration Law. The principal purpose was to undertake a comprehensive review of Immigration policies, procedures and practices and make recommendations for changes to the Immigration Law, Directions and Regulations, in light of the

economic issues now facing the Cayman Islands as a consequence of the global financial crisis.

The Immigration Review Team considered and developed a number of initiatives as part of the Cayman Islands Government's effort to stimulate the local economy by creating inward investment incentives. Madam Speaker, in most cases the ideas for these initiatives originated within the financial services sector consultative bodies, such as the Cayman Finance and others.

The Government has been trying to drive forward a number of initiatives aimed at encouraging inward investment as a means of stimulating economic recovery. To this end, the Immigration Review Team was introduced to consider and make proposals in respect to two particular fields as contained in this Bill.

Madam Speaker, this Bill proposes a new category of permanent residence for persons of independent means and variations to the requirements for a certificate of direct investment. A new Immigration category was introduced in 2011 for high net-worth individuals who were willing to invest a minimum of \$2.4 million and a licensed employment generating business in the Islands. Out of this, persons would be granted a certificate of direct investment valid for a renewable period of 25 years. The base requirements turned out to be too onerous and very little interest was received. It was proposed that the net worth requirement of \$6 million be removed and the minimum investment in real estate be reduced from \$2.4 million to \$1 million.

With respect to the requirement that the investment must be an employment generating business, it is proposed in this Bill that this shall mean a business in which at least 30 per cent, rather than 50 per cent, of the total number of employees are Caymanians.

Madam Speaker, by contrast, research by private sector advisory bodies has found that there is interest from wealthy retirees for a category of permanent residence rather than a 25-year certificate, as is currently being offered. It is proposed to introduce a new category of permanent residence for persons who invest a minimum of \$750,000 in developed real estate in the Islands who have good character and health and whose resources are sufficient to support themselves and their dependents.

This category will be known as a certificate of permanent residence for persons of independent means. It will also be possible to apply to the Caymanian Status and Permanent Residency Board to have the certificate varied to allow the right to work for any employer, but in a particular occupation or occupations. The spouse and dependent children of such persons shall also be allowed to reside in the Islands but without the right to work.

Madam Speaker, should the holder of such a certificate die, or, upon the dissolution of their marriage, the surviving or former spouse will be allowed to apply for a certificate in their own right if they meet the eligibility requirements as a dependent of the holder of residency certificate for persons of independent means.

The dependents of a holder of certificate of permanent residence of independent means who reaches 18 and was listed in the original application and is of proven good health and character may also apply for permanent resident *simpliciter* without having to meet the eight-year residence requirement. A quota control will be in place in residence of the new certificate of permanent residence for persons of independent means.

Madam Speaker, the significant difference between this facility and the existing provisions for persons of independent means is that this facility can be varied to allow such persons to take up employment in the Islands. If the certificate is subsequently varied to allow the right to work they will be required to pay an annual fee equivalent to what would be paid by a work permit holder in the same occupation. It should be noted that the holder of this certificate will be entitled to apply for naturalisation as a British Overseas Territories citizen and the rights that follow.

The new Immigration category for persons who create a substantial business presence in the Islands: Madam Speaker, as per continued interest from foreign investors, a new category for persons who create a substantial business presence in the Islands is proposed. It is proposed for persons who establish or have established a substantial business presence in the Islands in approved categories.

The requirements of this category that the person owns or proposed to own a minimum of 10 per cent of the shares in an approved category of business is that he is or will be employed in a senior management capacity of the business, even if he is not a shareholder and that he would be legal and ordinarily resident in the Islands for a minimum of 90 days in any calendar years. This application for a residency certificate substantial business presence will be made to the Chief Immigration Officer, however the Department of Commerce and Investment will play an important role with regard to assessing compliance with the business criteria, for example, verification that the applicant owns 10 per cent of the shares, and that he possessed the required entrepreneurial background.

In cases where the applicant is in the process of becoming a shareholder in an approved category of business, but they have not yet completed all licensing requirements, they may be issued with an approval in principle for a period of six months. Once they then meet all requirements they will be issued with a full certificate valid for 25 years renewable upon application.

The certificate will entitle the holder to reside in the Islands and to work in the business in which he has invested, or by which he is employed in a senior management capacity. The spouse and dependent children of such persons will also be allowed to reside in the Islands. Provision will also exist to allow the Chief Immigration Officer to amend the certificate in the event the holder marries or divorces, changes his occupation within the business, or needs to add a child as a dependent.

The new Immigration category for persons coming on short business visits: Madam Speaker, Regulation 11 of the 2011 Revision lists a number of activities that a foreign national arriving in the Islands can engage in for up to seven days without the need of a work permit. This Bill proposes a new Immigration category for persons coming on short business visits. Because the list was not updated in many years categorising activities under the provisions of the Regulation, it became challenging and created frustration at the port of entry between arriving passengers and Immigration officers at the controls.

It was also a disincentive for companies in other countries to form business relationships with businesses in the Cayman Islands. It is also difficult for an immigration officer to decide quickly whether the person standing in front of him requires a work permit for the stated purpose of his visit. In 2009, a select working group was appointed, chaired by a deputy chief immigration officer and comprised of representatives from local business, with a mandate to review the activity list and, where possible, identify measures that would allow local merchants to conduct business with overseas partners with a minimum of difficulty.

This facility is not intended to cater to professional employees as defined under the Law. The Immigration Review Team reviewed the working group's report and proposed a number of changes to the list of exempted activities contained in Regulation 11, as well as the introduction of a new facility for such visitors.

Madam Speaker, business visitors coming to this Island for business purposes for up to five days, who would otherwise require a work permit, can apply for, pay, and obtain a work visa at the airport. The proposed amendment to the Law will empower a senior immigration officer at the airport to determine the application and arrangement can then be made with the customs officer for collection of the fee.

It is important to state that in order to avoid abuse a person issued with a visitor's work visa will not be allowed to transfer to a temporary work permit whilst in the Islands, and they will not be allowed to apply for more than one visitor's work visa for the same sponsor in any calendar month.

New procedure for recreational sports fishermen to obtain immigration and customs clearance

when going on fishing expedition to the Pickle Bank and other distant fishing grounds: Madam Speaker, this Bill also introduces new and improved procedures for recreational fishermen to obtain immigration and customs clearance when going on fishing expeditions to the Pickle Bank and other distant fishing grounds. In the past, a number of local sports fishermen have lobbied for a more convenient way to comply with immigration requirements when going on long range recreational, non-commercial, fishing expeditions to areas such as the Pickle Bank and other distant fishing grounds. And I hope nobody takes this up now and tries to beat this to pieces and grab all of the credit for it either.

The departure times for these expeditions is usually based on weather forecasts, tides and travel times to the chosen location, and often it means leaving during the night. And all of us who do that recreational fishing know about this. Some of us in this House, my good friend from East End—

**Mr. V. Arden McLean:** Don't call my name.

*[Laughter]*

**The Premier, Hon. W. McKeever Bush:** —he is one of them.

*[Inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** And the Fourth Elected Member for West Bay, and I. And I think maybe even the First Elected Member for George Town, knows—

**Mr. V. Arden McLean:** Oh no, he *nah* going outside the reef.

*[Laughter]*

**The Premier, Hon. W. McKeever Bush:** But, Madam Speaker, it's true.

The departure times for these expeditions is usually based on weather forecasts, tides and travel times to the chosen location, and often means leaving during the late night. In view of the present procedural requirements that the boat captain must obtain clearance from customs and immigration authorities in person, this is problematic for all concerned.

The Department of Immigration, HM Customs and the Portfolio of Internal and External Affairs are satisfied that the nature of these recreational sports fishing expeditions represents a very low risk to border security. It has therefore been agreed by these agencies that the clearance procedures can be simplified by introducing a new procedure by which boat captains will provide details relating to their expedition

by telephone or email to immigration and customs authorities rather than in person.

Madam Speaker, to be allowed to use this new procedure the vessel must first be registered with immigration authorities who will retain details relating to description, capabilities and ownership. Prior to departure the captain will be required to provide by mail, email, or telephone, information relating to the number of persons onboard and their identities, the destination and the intended duration of the trip. This information will be retained for use in the event of an emergency. It has also been agreed that non-Caymanian crew members who are legally and ordinarily resident in the Islands will be allowed to travel on such fishing expeditions without having to be examined by an immigration officer upon return.

Given that the vessel will be in international waters, or the territorial waters of another country, all persons on board will be required to carry their passport.

Immigration appeals: Madam Speaker, I would like to turn at this time to proposed changes on the matter of immigration appeals. In a number of other proposed amendments to the Immigration Law (2011) that will address problems which have come to light in respect to certain aspects of the Law, in its present composition described by section 11 of the Immigration Law (2011), the Immigration Appeals Tribunal is unable to keep up with the number of appeals being received each month as well as the very significant backlog that has accumulated over the past several years. This Bill proposes that the Law be amended to permit the tribunal to sit up to six divisions simultaneously rather than the two at present, thereby increasing the number of appeals that can be heard each month.

This will be achieved by increasing the number of deputy chairmen from two to five and by providing for a panel of tribunal members rather than this being a fixed number of 12 persons presently. Additionally, the Bill proposes in regard to the composition of the Immigration Appeals Tribunal that the quorum be reduced from five to three members.

Certificate for specialist caregivers: Madam Speaker, the introduction of a certificate for specialist caregivers was introduced in 2010 as a means to assist families who are suffering significant hardship as a result of their domestic helper being rolled over. In most cases, the helper had been with the family for many years and was essential in tending to the particular needs of a sick, elderly or handicapped family member. Not only had they become attuned to the particular needs of that person, but in many cases the person being cared for had developed a close emotional bond with the helper.

Although the facility has been well received, the provisions in the Law did not anticipate the situation where the holder of the certificate to mean that

the employer dies or becomes no longer capable of holding the certificate. The Bill proposes that amendment be made to the effect that in such a situation the certificate may be transferred at the discretion of the Work Permit Board to another competent holder provided that the employee will continue to care for the same sick elderly or handicapped person named in the certificate. This ensures—which is ultimately the purpose of this facility—that the sick elderly or handicapped person continues to receive the case they need.

**Student visas:** This Bill proposes a change to the section of the Law that pertains to student visas. Currently, the Law prescribes that only the Chief Immigration Officer in person may determine applications for student visas. This Bill imposes an unnecessary onerous burden on the Chief Immigration Officer and this Bill proposes that an amendment be made to the Immigration Law to allow an officer of the rank of assistant chief immigration officer or above, to determine such application.

Madam Speaker, I might have said the Bill, but I meant the Law.

**Business visitors' permits:** Madam Speaker, it has come to light that there is a loophole in the current provision that would technically allow employers to employ former employees during their break-in-stay because as it stands business visitors' permits are not defined as work permits under the Law. In order to remove any question that the former employee could be considered to be legally and ordinarily resident in the Islands during the time that he spends here on a business visitor's permit and therefore circumvent the break-in-stay requirement, this Bill proposes to amend the Law so that such persons will be prevented from being eligible in respect to a business visitor's permit.

In concluding, the Government believes that the amendments contained in the Bill introduce reasonable and sensible inward business incentives. We believe that this will attract the right caliber of persons to the Island who will significantly invest, support, work, live and indeed contribute to the economy. Identified challenges that have been put forward in this Bill will support particular functions, prevent abuse and improve customer service standards generally.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Premier. I think we will break for lunch now before we begin the debate.

We will break until quarter to three?

*[Inaudible interjection]*

**The Speaker:** We will suspend proceedings until 2.30 pm.

**Proceeding suspended at 12.39 pm**

### Proceedings resumed at 3.00 pm

**The Speaker:** Proceedings are resumed. Please be seated.

When we broke for lunch, the Premier was completing his presentation of the Bill. He has asked permission to add to that presentation, and I have granted it.

**The Premier, Hon. W. McKeever Bush:** Thank you very much, Madam Speaker.

I thought that this would enlighten Members because I had not spoken on it and I wanted to outline it. Under the present provisions of the Law those persons seeking to acquire the right to be Caymanian through descent are required to be legal and ordinarily resident in the Islands at the point of submitting the application. The only means, by which those persons can obtain that legal and ordinary status currently, is either via a work permit or a student visa.

Madam Speaker, as you can imagine, this has been a very contentious situation in that the child or grandchild living overseas who wished to apply for the right to be Caymanian as a result of their close Caymanian connections must first have to obtain a work permit or student visa. So, Madam Speaker, we wish to simplify this process and make it much easier for the children and grandchildren of Caymanians to be recognised as Caymanian without any undue bureaucracy. We propose to do this by removing the legal and ordinary resident requirement currently in the Law.

This change in the Law will foster the return of the children and grandchildren of Caymanians born in the Islands and allow them to enjoy the benefit of living and working in the country of birth of their parents. Madam Speaker, this is a very important aspect of this Law and I certainly thank you for your indulgence for me to be able to raise it.

**The Speaker:** Thank you, Honourable Premier.

Does any other Member wish to speak?  
[pause] Does any other Member wish to speak?  
[pause]

Member for North Side.

**Mr. D. Ezzard Miller [Member for North Side]:** Thank you, Madam Speaker.

The Bill before us has two or three aspects to it which I would like to support. One of those is the provision the Honourable Premier just mentioned, that is the removal of the residential requirements for claiming the right to be Caymanian. I support that, Madam Speaker.

I also support the section of the Bill that allows the fishermen to meet the immigration requirements when going offshore in an easier fashion. I support the

section of the Bill that allows for the business visas at the airport and I also support the downgrading, so to speak, of the student visas not having to be done administratively by one person (that is, the Chief Immigration Officer), but it can be delegated lower down the line.

However, Madam Speaker, the provisions in the Bill that relate to permanent residence and the changes that are being made to that give me great concern. And with those things remaining in the Bill I think that I will have to vote against the Bill because the price that I would have to pay for future generations of this country, in what is being done with the various forms of permanent residency, is too high a price to pay for the couple of good things that exist in the Bill.

Madam Speaker, my first concern is that I have two Bills; one that was circulated to me, and a green copy that has been gazetted. There are some differences in those Bills, and I have seen an amendment that has been tabled by the Honourable Premier which addresses most of the things that have been left out of the green Bill.

One of my big concerns, as I have stated publicly, was part of the administrative changes in terms of how the tribunal would function. I am happy to see that after discussions with the Deputy Governor the new amendment satisfies my concerns. I am happy to see that provision maintained in the Bill that records shall be kept.

Madam Speaker, I have some concerns about why we are lowering the requirements for the PR for business requirements from 50 Caymanians to 30 Caymanians and I think the Premier mentioned that he is also lowering the investment requirements because nobody had taken it up. You will recall, Madam Speaker, that the concerns I expressed when it was being done earlier in this political administration, that I did not believe that immigration problems were the problems that were causing the slowdown in the economy or the ability to get the economy back off the ground. I thought that there were other more pressing concerns for doing business in Cayman that were having negative effects on the economy as opposed to simply immigration provisions.

We were led to believe that there were many persons and businesses that would have taken advantage of that provision. And it doesn't seem that we had too many over the period of time it has been on the books. I don't believe that lowering it now is going to attract any more people to it because I think there are more negatives in the community to attracting business than people wanting or being granted permanent residence.

Madam Speaker, I have one other concern with the administrative, and I am not sure, maybe the Honourable Premier can explain in his winding up, in clause 3, which refers to changing "twelve [other]

members" to "a panel of persons." I am not entirely sure what is meant by "a panel of persons"; whether they are people who may be eligible for, and they can be appointed when and as required to form one of these tribunals under one of the six chairmen; or whether there is going to be a number of people who make up the panel who are going to be appointed in the normal way that board members are appointed and we can move them around to meet with the chairmen.

Madam Speaker, I have serious concerns about people who can come here and take advantage of our immigration legislation, be granted permanent residence on the basis of independent means and then we are going to amend the Law to allow them to apply for a variation of that permanent residence (once it's granted), to allow them to work. I kind of think that that defeats the purpose, because, as I understand it, these people could possibly get Cayman status within six or seven years anyway. If we are granting permanent residence to people on the basis of independent means, their having enough money to live in this country without working, and it can't keep them going for six years, then I think we are granting it to the wrong persons.

I think if you have gotten permanent residence because you have independent means there should be no possibility of then applying to the Board to get a work permit after that once you have set up here.

Madam Speaker, I also have huge concerns about clause 12 which introduces another kind of residency with a new [section] 37D, for people who can own as small as 10 per cent of a company and they can get permanent residence, which I think is good for 25 years. Or, even if you are just a senior manager. The concern I have about that, Madam Speaker, is that the [Bill] goes on to say in [clause 12, new section 37D(2)], "**For the purposes of this section, the expressions "approved category of business", "senior management capacity" and "substantial business presence" shall have the meanings ascribed to them in the Regulations.**" I would have hoped that those definitions would have been prescribed in the [Bill] because I might not even see the Regulations as the Immigration Law Regulations are not subject to negative resolution, as I recall. So, those would be made in Cabinet and people like me would never know what the definitions mean and what kind of businesses we are allowing people to qualify for a residency certificate for 25 years in this country.

I don't support that provision at all, Madam Speaker.

This residency, as I understand it, is not going to be granted by the Permanent Residency and Cayman Status Board; this is going to be granted by the Chief Immigration Officer. And it can be renewed for a further 25 years I would assume.

In addition to getting the right to permanent residence argument about it, they are going to be allowed, or they could be allowed to work in the business. And it doesn't say here that that ability to work in the business requires the scrutiny of a work permit process. The way I read it, once they get the PR that will also entitle them to work in their business of which they own; a minimum of 10 per cent.

The other thing that concerns me in that same clause is the conditions under which the spouse may continue to reside here and how it can be terminated. These kinds of phrases in legislation always concern me—“. . . unless the Chief Immigration Officer is satisfied that there are special circumstances.” [New section 37D(8)]. I think that is far too wide a discretion. I think the children should be subject to the same conditions as the spouse once they are past university age so to speak. And those conditions in [clause 12, new section 37D] (7)(a) and (b) are that **“(a) the spouse can demonstrate to the satisfaction of the Chief Immigration Officer that he can support himself and any dependent children without having to become gainfully occupied in the Islands; or [(b)] the holder is granted permission to remain under any other provision of this Law.”** That's the part that worries me. And then [with] the children it's under special circumstances. I don't know what those “special circumstances” mean and could entail.

Again, in section 12 of that same [new] section [37D(11)]- **“(11) The holder of a Certificate issued under this section may at the discretion of the Chief Immigration Officer have his right to reside in the Islands revoked if- (a) his ability to operate or work in the business to which the Certificate relates is lost as a result of the revocation or non-renewal of a required licence.”** Again, I think the conditions here . . . I would be happy if that “may” were changed to “shall.” And that if you lose the conditions under which it was granted, the residency permit *shall* be revoked, and not “may” be revoked again.

Madam Speaker, as I said, I support some sections of the Bill, but the opening up of the permanent residency and allowing people to come through the backdoor, so to speak, and avoid the scrutiny of the work permit processes, troubles me because Caymanians are having a hard enough time now competing because of, in my view, the lack of enforcement by the boards in the requirements of the Immigration Law and under those conditions, Madam Speaker, I can't support the Bill.

**The Speaker:** Thank you, Member for North Side.

Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Does any other Member wish to speak?

If not, I call on the mover of the [Bill] to wind up the debate.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, the only Member from the other side that speaks would be the one who spoke. And I do not expect any better than the kind of debate of what I heard from the Member. That is his *modus operandi*.

The Member castigates the Government about work permits. He castigates employees and employers about work permits. He accuses everyone about conflicts of interest. He tries to make Caymanians believe he wants no other people working in Cayman but Caymanians, yet he was to hire hundreds of Cubans and people from Santo Domingo to work at the Ritz Carlton. That is the kind of hypocrisy we hear! Eight hundred of them! Cuban tourism workers or workers from Santo Domingo!

Madam Speaker, many persons have worked on this Immigration legislation. And no matter how much we try to change . . . and there are numerous changes to try to pacify all concerned. You have business people who need work permits, and they come to you to remedy situations. You have parents and grandparents who have children, and they want them to be able to come here without undue restrictions. You have people in need, the elderly; people who have children who need somebody to care for them all the time—and it does not necessarily have to be a handicapped person either—for different reasons.

There are dozens of situations existing in the running of this country that need to be rectified in order for people to move and live and have their being with as less worry as possible.

The Immigration Department, the Director of Immigration, whomever they are (we know who it is right now) are hounded. They are cursed. We complain about not getting anything done. The boards are cursed. It is all because we in this country expect to have the kind of GDP that I talked about this morning, to expect to have the kind of per capita income, expect to have the kind of standard of living that we have without having anybody here from the outside. That is the problem in this country. That is why we have had so many changes in the Immigration [Law] because they do not want other people here.

The Member who just sat is one of them on the radio every day of this week. And as soon as you put something forward it is a conflict of interest, or it is a lack of integrity, or there is some bad meaning pushed to it by that Member. And he is one of the biggest culprits who did it. Didn't he have an employment service of some kind in this country? What hypocrisy that you have to put up with!

The Bill will not damage generations of Caymanians nor will it stunt Caymanians progression or create a negative for a business person which would stop them from doing business that he keeps talking

about. I do not know what he is talking about. Maybe it is that kind of conflict that was conducted as Chair of the Work Permit Board some time ago, with those 800 Cubans and 800 from Santo Domingo. Maybe that is what the Member is talking about!

That is what can damage generations of Caymanians. That is what creates the kind of conflict that we might be hearing about. That is what they may be talking about as to honesty and integrity. The absence of it in their actions says a lot about their integrity.

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** I don't conduct any immigration business except this one which is for all and sundry to see. That is what I do as the Leader.

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** It is a pity, Madam Speaker, that the people of this country are not told the truth on the airwaves of this country. Every day there is a diet of rubbish and half-truths and half-cocked stories. And it is all to do with immigration and related right back to this Bill. I heard it this past week.

Madam Speaker, you know what is going to damage Caymanians? When they put in that 'one-man-one-vote.' Let me draw the comparison there.

**The Speaker:** Ah, you are kind of off the subject here—

*[laughter]*

**The Premier, Hon. W. McKeeva Bush:** No I ain't off of it, Madam Speaker. But I will bow to your ruling because I am relating what he is talking about—damaging Caymanians—one action as against the next. That is what I am relating here. That is the analogy I am giving; the enclaves that are going to be built up in George Town when you have one in the swamp and one in South Sound and one in central George Town.

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** That is what is going to damage Caymanians—they better tell Caymanians the truth—not this Immigration Bill. This Bill . . . you know what it is trying to do? The problem with us in this country is that we expect the Immigration Law to cover every aspect for us, because we want everything and yet we do not want anybody here. I keep saying, they do not like their neighbour but they want to borrow his bicycle.

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, the time the foreigners were getting was when some of them were in power; maybe the same one who was speaking just now.

**The Speaker:** Let's keep the back and forth across the hall to a minimum.

**The Premier, Hon. W. McKeeva Bush:** Well, I trust that you are speaking to both sides.

**The Speaker:** I certainly am.

**The Premier, Hon. W. McKeeva Bush:** That's good!

*[laughter and inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** Because I will tell you what? I am in frame for them to answer their remarks this afternoon. I can take the heckling.

Don't come and talk about what is being done for foreigners! There is as much being done for Caymanians and small Caymanian businesses except for the fees that we had to put on immigration. And we had to put in the fees on immigration or put in income tax! Or property tax! And we chose to go this way, or the country would not have any revenue!

And perhaps our salaries would have had to be decreased much more. Have we forgotten? Don't come talking about what we are doing for foreigners. That's a story that sells on the radio every day that I am telling you about, Madam Speaker. Oh, he is doing it for foreigners! You want to tell me it is foreigners' grandchildren who we are doing this for? No!

You want to tell me that it is foreigners—only foreigners—who have a mother who is an invalid, or a grandparent or an aunt who is an invalid or a family member who is handicapped? No it is not!

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** We have them and we need help. So why do you come talking rubbish? Because you can say so? Because you can get on the radio every day and talk it?

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** *[Addressing inaudible interjection]* The country needed help back from 2005 to 2009! That's when we needed help.

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** When we have to pay the road fees now that you see on the headlines . . . where is that money going to come from? It is going to come from us? We have business that can generate that kind of [money]? No!

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** Let's tell the truth.

**Mr. V. Arden McLean:** You appealed it or not?

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, if the Member wanted to speak he should not have walked out, you know. The Member for East End should have sat there in his seat. But you know what—some people like to sport a new shoe but they can't take the pinch!

**Mr. V. Arden McLean, Member for East End:** Oh, I can take mine and you are going to take yours.

**The Speaker:** Please stop the back and forth across the Chamber. And please let's continue this debate.

*[inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, if the Member would stop . . . I have the floor so when you are referring please tell that Member to shut his clack over there!

*[laughter]*

**Mr. V. Arden McLean:** Calm down. Just finish man. You are going to get a heart attack on me—

**The Premier, Hon. W. McKeever Bush:** You think so. I am enjoying this as much as you.

**Mr. V. Arden McLean:** Or you are going to get crucified and nailed to the Cross.

**The Premier, Hon. W. McKeever Bush:** They have done that so often that I am used to it now, Madam Speaker. But I have already gotten down off of that Cross.

**The Speaker:** Let's go somewhere else with this. We do not need to be talking about crucified and nailed to the Cross. If you want to think about that, this is a good season to think about who was crucified and nailed to the Cross for all of you, and all of us.

Now Mr. Premier, please finish your debate so that we can get this matter under the wraps.

**The Premier, Hon. W. McKeever Bush:** Thank you very much, Madam Speaker.

As I said, the Member for North Side should not talk about protecting Caymanian interest. He was the biggest culprit in not doing so. He has forgotten. He has forgotten!

**Mr. V. Arden McLean:** Poor old Ezzard.

**The Premier, Hon. W. McKeever Bush:** Nah no poor old Ezzard! He has forgotten this email!

Pass it out to them so that they will have it on record. Pass it out to them! In fact pass it to everybody. See the lawyers sitting in the back, give it to them too. Pass it out!

**Hon. Alden M. McLaughlin Jr., Leader of the Opposition:** Where's Ezzard?

He brought Joey in here for lunch and that is why he could give it to them.

**Mr. V. Arden McLean:** Yeah.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, while that is being done, let me address this matter about appeals.

We are not restricting the Appeals Tribunal to a membership of twelve because we need to expand the numbers so that we can have more tribunals as needed. Having a panel of members allows us to have as many tribunals and reduce the membership when a backlog is no longer there. That's what we need to do.

Substantial presence certificates allow the certificate to be varied to allow the owner to work in the business and encourage inward investment.

Madam Speaker, there is a need to encourage inward investment. We should never forget where this world was in 2008, and what happened to us! And I say the more that we put on the table, the more that we have to choose from, the better off we are when the dips come in the economy. That's the purpose of attracting inward investment.

They should remember that we had nothing. There were deficits. They said [\$]18 [million] and the Financial Secretary said [\$]81 million. Where did the money come from? Had we gone ahead from 2002 and created some kind of dock where we could have had transshipment, think of where we would have been from then until now.

The Panama Canal is opening up. The bigger ships in the world are going to be able to come to this side. They cannot get into the United States ports; they need the midway ports. We could have created one. You know what that would have done? The kind of diversification that we keep talking about; you know what that could have done? No, we need inward investment and we have to make the environment for people to want to come here. We cannot sit down day

after day criticising people who are spending money here and employing our people.

Madam Speaker, when I supported Dart in 2002, you heard the furore in this country! But I ask today, what would have happened if they did not have Camana Bay? And not just today you know. What would have happened from 2005 to 2008, or 2009, when they were building Camana Bay? Whose supporters got the work? Some of theirs, Madam Speaker! They were glad to get it!

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** Yet today those people are the worst people in the world. But I know how that works.

I remember when Berkeley Bush was building the dock. It was the worst thing in the world to build the dock! If it wasn't for that dock—we never got any since that—I wonder what would have happened to us.

Too many things are being criticised in this country today. They are not giving a chance. And the truth is that I have decided that I am going to go forward and offer myself as a representative. But you get tired, Madam Speaker. They can throw me out. I am not saying there is not somebody else to come. Maybe there are many others. But they are going to get some people one of these days who are going to turn it around. But headed down they are not going to be able to stop the downward trend.

We can turn it around now, and we are doing that. The economy is moving around. We are talking about inward investment now. The economy is inching back up, but some people are determined to stop that because they see that as helping the Government. We know the politics, Madam Speaker. We know the politics. We are not just born yesterday; we have been here a long time.

Madam Speaker, I want to thank the IRT (Immigration Review Team). And I want to thank the Director and her staff who worked there and put in hours and hours of time, sometimes beyond the call of duty in conducting the affairs of immigration in this country. And I certainly want to thank the Deputy Governor who has worked with them, and with us as a Cabinet, to try to get a position that satisfies the many needs which have been put before us as representatives. And I want to particularly thank Mrs. Sherri Boddencowan for her hard work here.

The Immigration Review Team is not new. It did not start in 2009. It was appointed, I guess it may have been in 2001 or 2000, to look at our Immigration Law and to try to get an Immigration Law and Policy that strikes a balance of some kind of protection since that is what seems to galvanise so many people; and at the same time to help those that have the need of immigration services.

Immigration, they say is the harlot of the ages. It is always problematic. But can this country get along without people on work permits? No. Not for a long time yet. What we do need is to make sure that we are putting measures in place—not through the Immigration Law, but other measures—The Legal Practitioners Bill which will soon come here. And other measures to give Caymanians upward mobility and progression in their places. I bet you when that comes and hit the floor you are going to hear another furore. But there are changes which have to be made and we are going to do it, not just through the Immigration Bill.

I want to thank all concerned for their hard work—the Legal team for their input. Thank you kindly.

**The Speaker:** Thank you, Mr. Premier.

The question is that a Bill shortly entitled the Immigration (Amendment) [(No. 5)] Bill, 2011, be given a second reading. All those in favour, please say Aye. Those against, No.

**Ayes.**

**The Premier, Hon. W. McKeeva Bush:** Can I have a division, Madam Speaker?

**The Speaker:** Madam Clerk.

**The Clerk:**

**Division No. 27–2011/12**

**Ayes: 10**

**Noes: 0**

Hon. W. McKeeva Bush  
Hon. Rolston M. Anglin  
Hon. Michael T. Adam  
Hon. J. Mark P. Scotland  
Hon. Cline A. Glidden, Jr.  
Mr. Ellio A. Solomon  
Hon. Alden M. McLaughlin, Jr.  
Mr. D. Kurt Tibbetts  
Mr. Moses I. Kirkconnell  
Mr. Anthony S. Eden

**Absent**

Hon. Juliana Y. O'Connor-Connolly  
Capt. A. Eugene Ebanks  
Mr. Dwayne S. Seymour  
Mr. V. Arden McLean  
Mr. D. Ezzard Miller

**The Speaker:** The result of the Division, 10 Ayes, 5 Absent.

**Agreed: The Immigration (Amendment) [(No. 5)] Bill, 2011, given a second reading.**

**Arbitration Bill, 2012**

**The Clerk:** The Arbitration Bill, 2012

**The Speaker:** Honourable Attorney General.

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

I beg to move the Second Reading of a Bill for a Law to modernise the conduct of arbitration proceedings in the Cayman Islands; to repeal the Arbitration Law (2001 Revision); and for incidental and connected purposes.

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

**Hon. Samuel W. Bulgin:** Yes, Madam Speaker, thank you.

As mentioned before, the Bill before this House is a Bill for a Law to modernise the conduct of arbitration proceedings in the Cayman Islands; to repeal the Arbitration Law (2001 Revision); and for incidental and connected purposes. The main objective of this Bill is to seek to establish a modern legal framework within which arbitration proceedings in the Islands may be conducted in accordance with the terms of a standard arbitration agreement.

Our current Arbitration Law (Law 2 of 1974) was enacted on 18 March 1974, when the whole business of arbitration was viewed through a completely different prism. It is only appropriate, therefore, given today's commercial and other realities, that we revisit this Law with a view to making it a more contemporary and in consonance with Cayman's reputation as a major international financial services centre, and in so doing, now putting the Cayman Islands in the position where it has a unitary arbitration framework. So, Madam Speaker, there will be no more distinction between domestic and international arbitration.

Madam Speaker, for background I would like to go through the various clauses of the Bill, if I may. And thereafter, I will certainly seek the support of honourable Members for the passage of this Bill.

Part II of the Bill contains clauses 4 to 8. These clauses deal with the formulation of an arbitration agreement. The various clauses refer to the arbitration agreement being in the form of an arbitration clause which is contained in the contract or in the form of a standalone or separate agreement.

It also speaks of enforcement of an arbitration agreement by or against the personal representative of a deceased party to an agreement. It also speaks to the terms of an arbitration agreement against the trustee in bankruptcy where a party to an arbitration agreement is bankrupt.

The Bill, if it becomes Law, would also permit the enforcement of an agreement to an insolvent body corporate and further provides for the enforcement of an arbitration agreement against a consumer by separate written agreement, the consumer certifies that he has agreed to be bound by an arbitration agreement.

Can I just point out here, Madam Speaker, that there will be a committee stage amendment in respect of clause 8? The amendment has been circulated to all honourable Members with your permission.

Part III of the Bill contains clauses 9 through 11 and deals with the application for a stay of legal proceedings. It speaks to circumstances under which the application can be made and the consequences of such an application.

It also speaks to a court granting a stay that can also make an appropriate order in relation to the rights of a party to a disputed property. In other words, the court can make an order to preserve the status quo of disputed property which is the subject of the arbitration proceedings.

Clauses 12 through 14 are contained in Part IV of the Bill. Clauses 12 and 13 deal with the manner in which an arbitration proceeding is to be commenced; for example, by one party giving the requisite notice of intention to submit arbitrations to the other party of the dispute.

Clause 14 stipulates that the Limitation Law (1996 Revision) shall apply to arbitration proceedings in the same manner in which it applies to proceedings before a court.

Part V consists of clauses 15 to 25 and deals with matters relating to the number, appointment and removal of arbitrators.

Clauses 15 and 16 permit the parties to an arbitration agreement to choose the number of arbitrators they wish to preside over arbitration proceedings, and to agree on the procedure for appointing the arbitral tribunal. It further provides for the intervention of the appointing authority.

Clause 17 stipulates that the authority of an arbitrator appointed in accordance with an arbitration agreement shall, unless a contrary intention appears in the agreement, be irrevocable except with leave of the court.

Clause 18 sets out the circumstances under which the appointment of an arbitrator may be challenged.

Clause 19 permits the parties to formulate a procedure to be followed when challenging the appointment of an arbitrator, and in circumstances where there is no agreement, it stipulates a procedure to be adopted.

Clause 20 provides for the circumstances under which an application may be made to the court to remove an arbitrator. That also reads very well with clause 21 which permits a party to an arbitration

agreement to appoint a person to act as arbitrator in place of any person so removed.

Clause 22 provides for the circumstances under which an arbitrator shall cease to hold office.

Clause 23 provides for the appointment of a substitute arbitrator where an arbitrator ceases to hold office. In those circumstances . . . may I just also put the House on notice, Madam Speaker, that there will be a committee stage amendment also to clause 23?

Clause 24 provides that in arbitration proceedings with more than one arbitrator, a decision of the arbitral tribunal shall be made by all or a majority of its members, unless otherwise agreed by the parties. In the event that no majority decision can be agreed, the parties may agree on the process to be followed in order to arrive at a final binding decision.

Clauses 26 and 27, in Part VI of the Bill, deal with the jurisdiction of an arbitral tribunal in that any dispute that parties have agreed to submit to arbitration under an arbitration agreement may be determined by arbitration unless the arbitration agreement speaks to the contrary and unless such arbitration agreement is contrary to public policy.

This Part further permits an arbitral tribunal to rule on its own jurisdiction, including any objections to the existence or validity of the arbitration agreement.

Clause 28 is fairly short and sets out the general duties of the arbitral tribunal including the requirement that the arbitral tribunal act fairly and impartially.

Clause 29 permits the parties to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings. It states that if the parties fail to agree on the procedure to be followed—

**The Speaker:** Order please, I can't hear the Attorney General.

**Hon. Samuel W. Bulgin:** —by the arbitral tribunal, the tribunal may, conduct the arbitration in a manner it considers appropriate.

Clause 30 provides that the parties to an arbitration agreement are free to agree on the seat of arbitration and in circumstances where there is no agreement as to a seat of arbitration; the seat of arbitration shall be determined by the arbitral tribunal having regard to all the circumstances of the case.

Clause 31 provides that the parties to an arbitration [agreement] may agree on the language or languages to be used by the tribunal in its proceedings.

Clause 33 provides that subject to any contrary agreement by the parties, the arbitral tribunal shall determine if proceedings are to be conducted by oral hearing for the presentation of evidence, the production of documents and other written materials or a combination of all.

Clause 35 stipulates that an application may be made to the arbitral tribunal to extend the proceedings of an arbitration to current proceedings where pursuant to an arbitration agreement a dispute between the parties to that agreement is referred to arbitration and there is some other dispute between those same parties, whenever the dispute arose, being a dispute to which the same agreement applies.

Clause 37 permits the parties to an arbitration agreement to appoint one or more experts to report on specific issues to be determined by the tribunal and it requires a party to give the expert—

**The Speaker:** Order please! I cannot hear the Attorney General. There is too much private conversation going on.

**Hon. Samuel W. Bulgin:** —requires the party to give the expert any relevant information, document, goods or other property that may be required for inspection by the tribunal.

Madam Speaker, the Bill also speaks to the general powers of the tribunal including matters relating to security for costs, discovery of documents and interrogatories, giving of evidence by affidavit and the preservation and interim custody of any evidence for the purposes of the proceedings. And that can be found in clause 38 of the Bill.

Clause 39 permits the parties to agree on the powers that may be exercised by the arbitral tribunal in the case of a party's failure to take any necessary action for the proper and expeditious conduct of the proceedings.

Clause 40 permits any party to an arbitration agreement to take out a writ of subpoena compelling a witness to attend and give evidence or a writ of subpoena compelling a witness to produce specified documents.

Clause 44 speaks to the issue of an arbitral tribunal, subject to the agreement between the parties, at any time prior to the issue of an award and at the request of a party, grant interim measures including maintaining or restoring the original position of the other party, take action that would prevent prejudice to the arbitral process or preserve evidence that may be relevant and material to the resolution of the dispute that is the subject of the arbitration itself.

Clause 47 sets out the regime applicable to the grant of a preliminary order and in particular it provides that the arbitral tribunal shall give notice to all parties by indicating the content of any oral communication between any party and the arbitral tribunal in relation to-

- (a) the request for the interim measure;
- (b) the application for the preliminary order;
- (c) the specifics of the preliminary order, if any; and
- (d) all other relevant communications.

Clause 51 provides that a party requesting an interim measure or applying for a preliminary order shall be liable for any costs and damages caused by that interim measure or preliminary order which is made by the tribunal itself.

Clause 52 provides for the recognition and enforcement of an interim measure issued by the tribunal.

[Clause 53] sets out the circumstances under which the recognition or enforcement of an interim measure may be refused by the tribunal.

Madam Speaker, if I might jump to clause 59, which empowers an arbitral tribunal to make an award at any time during the arbitral proceedings.

Clause 60 deals with the court's power to extend the time within which an arbitral award may be granted.

Might I just add, Madam Speaker, that it is intended that there will be a committee stage amendment to clause 59?

Clause 62 provides that if, during arbitration proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and if requested by the parties, and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

Clause 68 clarifies that the court may, where a legal practitioner or expert witness has rendered [services] during the proceedings, order that property be charged for payment of the costs of that legal practitioner or expert witness.

May I just mention clause 67 for what it is worth? Clause 67 is significant in that it provides that the arbitral tribunal may refuse to deliver an award to the parties if the parties have not made full payment of the fees and expenses of the arbitrators.

Clause 69, it is proposed that there will be a committee stage amendment with the leave of this House. That clause permits a party to, within thirty days of the receipt of an award, request a tribunal to correct or interpret an award.

Clause 70 provides that an award made by the tribunal pursuant to an arbitration agreement shall be final and binding on the parties and on any person claiming through them.

Clause 71 is of some significance in that it permits the court, on the application of a party to the arbitration proceedings who has given notice to the other parties, to determine any preliminary question of law arising in the course of the proceedings.

Clause 74 deals with the power of the court to give relief where an arbitrator is not impartial or the dispute involves a question of fraud.

Clause 76 provides that a party to arbitration proceedings may appeal to the court on a question of law arising out of an award made in the proceedings.

Clause 79 provides that references to an application, appeal or other step in relation to legal proceedings being taken upon notice to the other parties to the arbitration proceedings, or to the arbitral tribunal, are references to such notice of the originating process as is required by Rules of Court.

Clause 84 provides for the imposition of restrictions on reporting of arbitral proceedings heard otherwise, than in open court. So, there can be an embargo on the actual arbitration proceedings itself, Madam Speaker.

Clause 85 permits the parties to agree on the manner of service of any notice or other document required or authorised to be given or served in pursuance of the arbitration proceedings.

Madam Speaker, I have attempted to highlight what I considered to be main provisions of this Arbitration Bill. There is a Schedule as well which contains a model arbitration clause that may be used by parties in the formulation of an arbitration clause to facilitate the conduct of arbitral proceedings.

So, Madam Speaker, I would seek to commend this Bill to this honourable House for its passage. If passed, the Bill would make the Cayman Islands a centre of excellence for arbitration proceedings. When combined with all of the other commercial attractions, or attributes (if you will) of the Cayman Islands, many people agree that we are moving in lockstep; certainly, if not ahead, in some instances, of other major commercial centres, including Singapore, when it comes to dispute resolution framework.

This modernised law which is patterned on the United Nations Commission on International Trade Law (UNCITRAL for short) will cover areas of different stages of the arbitral process such as arbitration agreement, the composition and jurisdiction of the tribunal for arbitration purposes, and the extent to which a court can intervene.

It will also address issues such as the recognition and enforcement of awards made through arbitration. Significantly, Madam Speaker, the Bill, if passed, will now bring the Cayman Islands regime in line with international best practice and make it more acceptable and user friendly to stakeholders.

It seeks to embrace modern rules of engagement in commercial transactions, rules that are fair and, indeed, harmonised. It deals with disputes relating to claims ensuing out of contracts, breach or termination of such a contract and claims of the invalidity among other things. These are all matters that can be dealt with under the new arbitration framework if this House should see it fit to pass the Bill.

Madam Speaker, of course the Government recognises that the legislation without more is not enough; there will be the need for other support mechanisms in place to make the Cayman Islands competitive and to make it a place ideally suited as a seat to conduct arbitral proceedings.

Madam Speaker, this new law will ensure, among other things, that a single regime of arbitration is established using as its centerpiece the UNCITRAL model, as I mentioned earlier on, for all types of arbitration. The Bill, when passed, will further ensure that our arbitration regime is responsive to the issues surrounding the resolution of domestic and transnational commercial disputes by enabling our business community and arbitration practitioners to operate in a framework which is consistent with acceptable contemporary international arbitration practices and, of course, developments in that area.

Finally, Madam Speaker, please allow me in closing to thank all Cabinet colleagues, the Chair of the Law Reform Commission, Mr. Ian Paget-Brown, the Director, Ms. Neblett, Mr. Griffith, and all the other commissioners including some former members, as well as all those who took time to provide input during the consultation stages. Those persons included are members of the judiciary and the law associations: Mr. Hew Dundas, a Chartered Arbitrator based in London, as well as [members of] CISPA [Cayman Islands Society of Professional Accountants]. Other much appreciated assistance included that of Ms. Corinne Montineri at the UNCITRAL Secretariat; Mr. David Binder, an arbitrator based in Austria; and other interested parties who have helpfully provided input into this modern piece of legislation. It is truly a team effort which will now allow us to move forward into the modern era of arbitration proceedings.

I do thank you, Madam Speaker.

**The Speaker:** Thank you, Honourable Attorney General.

Does any other Member wish to speak?  
[pause] Does any other Member wish to speak?  
[pause] Does any other Member wish to speak?  
[pause]

If not, I call on the Honourable Attorney General to conclude his debate.

**Hon. Samuel W. Bulgin:** Thank you, Madam Speaker.

I wish to thank all honourable Members for their support of the Bill. Thank you.

**The Speaker:** The question is that the Arbitration Bill, 2012, be given a second reading.

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

**Ayes.**

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

**Agreed: The Arbitration Bill, 2012, given a second reading.**

**The Speaker:** The House will now go into Committee to consider the Bills. I have asked the Deputy Speaker to take this part of the proceedings.

[long pause]

**The Speaker:** I will do the committee stage, thank you.

**House in Committee at 4.10 pm**

## **COMMITTEE ON BILLS**

**The Chairman:** Please be seated.

The House is now in Committee. With the leave of the House, may I assume that, as usual, we should authorise the Honourable Attorney General to correct minor errors and suchlike in these Bills?

Would the Clerk please state the Bill and read the Clauses.

### **Customs Tariff Bill, 2011**

**The Clerk:** The Customs Tariff Bill, 2011.

Clause 1	Short title and commencement
Clause 2	Interpretation
Clause 3	Duties of Customs charged
Clause 4	Warehouse and transit shed charges
Clause 5	Miscellaneous other charges

**The Chairman:** The question is that clauses 1 through 5 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 1 through 5 passed.**

**The Clerk:** Clause 6 Waiver of duties: Cayman Brac, Little Cayman.

**The Chairman:** Honourable Premier.

### **Amendment to clause 6**

**The Premier, Hon. W. McKeever Bush:** Thank you, Madam Chairman.

In accordance with the provisions of Standing Order 52(1) and (2), I move the following amendment to the Customs Tariff (Amendment) Bill 2011, that the Bill be amended in clause 6(b) as follows: by deleting the words "the respective code numbers in Schedule 1" and substituting the words "the respective code numbers in Chapter 87 set out in Schedule 1"; and in Chapter 87 set out in Schedule 1, by inserting in the

appropriate numerical sequence, the following items and the particulars relating thereto.

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, the question is that the amendment to clause 6(b) do stand part of the clause.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment to clause 6(b) passed.**

**The Chairman:** The question now is that the clause, as amended, stands part of the Bill.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 6 as amended passed.**

**The Clerk:** Clause 7 Amendment of Schedules.

**The Chairman:** The question is that clause 7 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 7 passed.**

**The Clerk:** Clause 8 Rectification of Schedule 1.

**The Chairman:** Honourable Premier.

#### **Amendment to clause 8**

**The Premier, Hon. W. McKeever Bush:** Thank you, Madam Chairman.

In accordance with the provisions of Standing Order 52(1) and (2), I move the following amendment to the Customs Tariff (Amendment) Bill 2011, that the Bill be amended in clause 8 as follows: By deleting the words "Financial Secretary" and substituting the words "Minister of Finance."

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, the question is that the amendment to clause 8 stand part of the clause.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment to clause 8 passed.**

**The Chairman:** The question now is that the clause as amended stand part of the Bill.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 8 as amended passed.**

**The Clerk:**

Clause 9 Repeal of Customs Tariff Law (2011 Revision)

Clause 10 Savings

**The Chairman:** The question is that clauses 9 and 10 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 9 and 10 passed.**

**The Clerk:** Schedule 1.

**The Chairman:** Honourable Premier.

**The Premier, Hon. W. McKeever Bush:** I move the following amendment to the Customs Tariff (Amendment) Bill, 2011, in Chapter 87 set out in Schedule 1: by inserting in the appropriate numerical sequence, the following items and the particulars relating thereto:

Head- ing	Code	Description	Rate Of Duty
87.01	8701.20.60	Used road tractors for semi-trailers (valued \$12,000 CIF and under)	29.50%
87.02	8702.10.60	Used vehicles valued \$12,000 CIF and under (diesel or semi-diesel)	29.50%
87.03	8703.10.60	Used vehicles valued \$12,000 CIF and under	29.50%
87.03	8703.20.50	Hybrid Vehicles (Mogas and Electric)	15%
87.03	8703.20.60	Used vehicles valued \$12,000 CIF and under	29.50%
87.03	8703.30.50	Hybrid Vehicles (diesel or semi-diesel and Electric)	15%
87.03	8703.30.60	Used vehicles valued \$12,000 CIF and under	29.50%
87.03	8703.90.50	Electric Powered Vehicles	10%

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, I will put the question that the amendment stands part of the clause.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the Schedule, as amended, stands part of the Bill. Does any Member wish to speak?

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Schedule 1, as amended, passed.**

**The Clerk:** Schedules 2, 3, 4, 5 and 6.

**The Chairman:** The question is that Schedules 2 through 6 do stand part of the Bill.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Schedules 2 through 6 passed.**

**The Clerk:** A Bill for a law to repeal and replace the Customs Tariff Law (2011 Revision); to enable the use of the Harmonized Commodity Description and Coding System in the classification of exports and imports; and to make provision for incidental and connected matters.

**The Chairman:** The question is that the Title stands part of the Bill.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Title passed.**

**Immigration (Amendment) (No. 5) Bill, 2011**

**The Clerk:** The Immigration (Amendment) (No. 5) Bill, 2011.

**The Clerk:**

Clause 1 Short title

Clause 2 Amendment of section 2 of the Immigration Law (2011 Revision) – definitions

**The Chairman:** The question is that clauses 1 and 2 stand part of the Bill.

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

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 1 and 2 passed.**

**The Clerk:** Clause 3 Amendment of section 11 – Immigration Appeals Tribunal.

**The Chairman:** Honourable Premier.

#### **Amendment to clause 3**

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Chair.

In accordance with the provisions of Standing Order 52(1) and (2), I the Honourable Minister of Finance, Tourism and Development, give notice to move the following amendments to the Immigration (Amendment) (No. 5) Bill, 2011.

That the Bill be amended as follows: In clause 3 by deleting the word “and” at the end of paragraph (b); and by deleting paragraph (c) and substituting the following paragraphs:

“(c) in subsection (3)-

(i) by deleting the word “two” and substituting the words “up to six”; and

(ii) by deleting the word “four” and substituting the word “two”; and

(d) in subsection 4 by deleting the words “who shall record and keep” and substituting the words “who shall cause to be recorded and shall keep.”

**The Premier, Hon. W. McKeeva Bush:** Madam Chairman, just to say that the Immigration Appeals Tribunals will now sit in six divisions simultaneously as opposed to the current two divisions. The quorum of a division of the Immigration Appeals Tribunal in three including the Chair or Deputy Chair and this makes provision that a record of each tribunal meeting shall be kept, but not necessarily by the secretary.

**The Chairman:** The amendment has been duly moved. Does any other wish to speak thereto?

If not, I will put it to the vote. The question is that the amendment do stand part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed**

**The Chairman:** The question now is that the clause as amended stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 3, as amended, passed.**

**The Clerk:**

- Clause 4 Amendment of section 12 - Meetings of Immigration Appeals Tribunal
- Clause 5 Amendment of section 22 – acquisition of right to be Caymanian by grant of the Board
- Clause 6 Insertion of section 34A – Certificate of Permanent Residence for Persons of Independent Means
- Clause 7 Amendment of section 35 – spouse and dependants of the holder of a Residency Certificate for Persons of Independent Means
- Clause 8 Amendment of section 36 – dependants of the holder of a Residency certificate for Persons of Independent Means
- Clause 9 Insertion of section 36A – revocation of Certificate of Permanent Residence for Persons of Independent Means or Certificate of Permanent Residence for Dependants of Persons of Independent Means

**The Chairman:** The question is that clauses 4 through 9 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 4 through 9 passed.**

**The Clerk:**

Clause 10 Amendment of section 37A – Certificate of Direct Investment

Clause 11 Amendment of section 37C – Certificate for Specialist Caregivers

Clause 12 Insertion of section 37D – Residency Certificate (Substantial Business Presence)

Clause 13 Amendment of section 41 – who may be gainfully occupied

Clause 14 Amendment of section 48 – grant or refusal of work permit

Clause 15 Amendment of section 54 – business visitors' permit

**The Chairman:** The question is that clauses 10 through 15 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 10 through 15 passed.**

**The Clerk:** Clause 16 Insertion of section 54A – Visitor's Work Visa.

**The Chairman:** Honourable Premier.

#### **Amendment to clause 16**

**The Premier, Hon. W. McKeever Bush:** Madam Chair, I move the following amendment to the Immigration (Amendment) (No. 5) Bill, 2011. That the Bill be amended in clause 16 relating to section 54A(1) by deleting the words "A person, other than a person who is eligible" and substituting the words "A person, except a professional employee, other than a person who is ineligible";

That amendment is because a professional employee, such as lawyers and accountants, are not eligible to be granted visitor's work permit visas as there are already arrangements in place to issue work permits to professional employees.

**The Chairman:** The amendment has been duly moved. Does any other wish to speak thereto?

If not, I will put it to the vote. The question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed**

**The Chairman:** Does any Member wish to speak? If not, I will put the question that the clause as amended stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 16, as amended, passed.**

**The Clerk:**

Clause 17	Insertion of section 56A – administrative fines and levies
Clause 18	Amendment of section 59 – inward passenger and crew manifests
Clause 19	Amendment of section 61 – outward passenger and crew manifests
Clause 20	Amendment of section 66 – general prohibition from landing in the Islands without specific permission of immigration officer
Clause 21	Amendment of section 83 – student visas

**The Chairman:** The question is that clauses 17 through 21 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 17 through 21 passed.**

**The Clerk:** Clause 22 Repeal of Law 12 of 2010 – repeal.

**The Chairman:** Honourable Premier.

#### **Amendment to clause 22**

**The Premier, Hon. W. McKeever Bush: Madam Chair,** I move the following amendment to the Immigration (Amendment) (No. 5) Bill, 2011. That the Bill be amended in clause 22 and in the marginal note delete “2010” and substitute “2011.”

**The Chairman:** The amendment has been duly moved. Does any other wish to speak thereto?

If not, I will put it to the vote. The question is that the amendment stands part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed**

**The Chairman:** Does any Member wish to speak? If not, I will put the question that the clause, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 22, as amended, passed.**

**The Clerk:** A Bill for a Law to amend the Immigration Law (2011 Revision) to alter the composition of the Immigration Appeals Tribunal; to vary the eligibility requirements for a certificate of direct investment; to correct issues relating to specialist caregivers and business visitors; to create a new category of permanent residence for persons of independent means and a new residence category for persons who establish a substantial business presence in an approved category of business in the islands; to create new procedures for obtaining immigration clearance of recreational sports fishermen; and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Title passed.**

#### **Arbitration Bill, 2012**

**The Clerk:** The Arbitration Bill, 2012

Clause 1	Short title and commencement
Clause 2	Interpretation
Clause 3	Application of this Law and general principles

**The Chairman:** The question is that clauses 1 through 3 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 1 through 3 passed.**

**The Clerk:** Clause 4 Arbitration agreement and model arbitration clause.

*[long pause and inaudible discussion off microphone]*

**The Chairman:** The House will now resume.

#### House resumed at 4.41 pm

**The Speaker:** The House will resume. I need a motion to continue its business.

#### Suspension of Standing Order 10(2)

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, since we were in Committee we should—

**The Speaker:** Please be seated.

**The Premier, Hon. W. McKeever Bush:** —move a motion to—

*[Inaudible interjections]*

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, we propose to conduct business after 4.30, therefore I move the motion for the House to continue its business after 4.30.

**The Speaker:** The question is that the House do continue its business after 4.30. All those in favour please say Aye. Those against, No.

**Ayes.**

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

The House will now go into Committee to conclude its business there.

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

#### House in Committee at 4.42 pm

**The Chairman:** Proceedings in Committee are resumed. Please be seated.

We will now continue the consideration of the Arbitration Bill in Committee.

### COMMITTEE ON BILL

#### Arbitration Bill, 2012

*[Continuation thereof]*

**The Chairman:** Please be seated. The House is now in Committee.

With the leave of the House, may I assume that, as usual, we should authorise the Attorney General to correct minor errors and suchlike in the Bill.

Please continue.

**The Clerk:** Clause 4 Arbitration agreement and model arbitration clause.

**The Chairman:** Honourable Attorney General.

#### Amendment to clause 4

**Hon. Samuel W. Bulgin:** Thank you, Madam Chairman.

In accordance with Standing Order 52(1) and (2), I seek to move the following Committee stage amendment to the Arbitration Bill, 2012, as follows: In clause 4, by inserting after subclause (7) the following subclause: “(8) Where parties agree otherwise than in writing by reference to terms which are in writing, they may make an agreement in writing.”; and by renumbering subclauses (8) and (9) as (9) and (10) respectively.

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, I will put the question that the amendment to clause 4 stands part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the clause, as amended, stands part of the Bill. If no Member wishes to speak, I will put the question that the clause, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 4, as amended, passed.**

**The Clerk:**

Clause 5 Arbitration agreement enforceable after death of a party to the agreement

Clause 6 Arbitration agreement enforceable in bankruptcy

Clause 7 Arbitration agreement enforceable in insolvency

**The Chairman:** The question is that clauses 5 through 7 do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 5 through 7 passed.**

**The Clerk:** Clause 8 Consumer arbitration agreement.

**The Chairman:** Honourable Attorney General.

**Amendment to clause 8**

**Hon. Samuel W. Bulgin:** Thank you, Madam Chairman.

In accordance with the provisions of Standing Order 52(1) and (2), I seek to move the following amendment to the Arbitration Bill, 2012: In clause 8 by deleting subclause (1) and substituting the following subclause: "(1) Where a contract contains an arbitration agreement and a person enters into that contract as a consumer, the arbitration agreement is enforceable against the consumer only if after a dispute has arisen, the consumer by a separate written agreement certifies that he has read and understood the arbitration agreement and agrees to be bound by its terms."

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, I will put the question that the amendment to clause 8 do stand part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the clause, as amended, stand part of the Bill. If no Member wishes to speak, I will put the question that the clause, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 8, as amended, passed.**

**The Clerk:**

Clause 9 Stay of legal proceedings  
 Clause 10 Court's powers on stay of proceedings  
 Clause 11 Reference of interpleader issue to arbitration  
 Clause 12 Commencement of arbitration proceedings  
 Clause 13 Powers of court to extend time for beginning of arbitration proceedings

Clause 14 Application of Limitation Law (1996 Revision)

**The Chairman:** The question is that clauses 9 through 14 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 9 through 14 passed.**

**The Clerk:**

Clause 15 Number of arbitrators  
 Clause 16 Appointment of arbitrators  
 Clause 17 Authority of arbitrator to be irrevocable  
 Clause 18 Grounds for challenge  
 Clause 19 Challenge procedure  
 Clause 20 Removal of arbitrator  
 Clause 21 Power of court where arbitrator is removed or authority of arbitrator is revoked  
 Clause 22 Arbitrator ceasing to hold office

**The Chairman:** The question is that clauses 15 through 22 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 16 through 22 passed.**

**The Clerk:** Clause 23 Appointment of substitute arbitrator.

**The Chairman:** Honourable Attorney General.

**Amendment to clause 23**

**Hon. Samuel W. Bulgin:** Thank you, Madam Chairman.

In accordance with the provisions of Standing Order 52(1) and (2), I seek to move the following amendment to the Arbitration Bill, 2012, in clause 23, by deleting subclauses (2) to (5) and substituting the following subclauses:

"(2) Where the parties do not agree pursuant to subsection (1)–

- (a) section 16 applies in relation to the filling of the vacancy as in relation to an original appointment;
- (b) subject to subsection (3), the arbitral tribunal, when reconstituted, shall deter-

- mine whether and, if so, to what extent the previous proceedings should stand; and
- (c) the ceasing to hold office by the arbitrator shall not affect any appointment by him alone or jointly, of another arbitrator and in particular any appointment of a presiding arbitrator.

“(3) The reconstitution of the arbitral tribunal shall not affect any right of a party to challenge the previous proceedings on any ground that had arisen before the arbitrator ceased to hold office.”

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, I will put the question that the amendments to clause 23 stands part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the clause as amended stand part of the Bill. If no Member wishes to speak, I will put the question that the clause, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 23, as amended, passed.**

**The Clerk:**

- Clause 24 Decision by panel of arbitrators  
 Clause 25 Liability of arbitrator, appointing authority, experts, witnesses and legal representatives  
 Clause 26 Arbitration of disputes  
 Clause 27 Separability of arbitration clause and competence of arbitral tribunal to rule on its own jurisdiction

**The Chairman:** The question is that clauses 24 through 27 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 24 through 27 passed.**

**The Clerk:**

- Clause 28 General duties of arbitral tribunal  
 Clause 29 Determination of rules  
 Clause 30 Seat of arbitration  
 Clause 31 Language  
 Clause 32 Statements of claim and defence  
 Clause 33 Hearing and written proceedings  
 Clause 34 Representation  
 Clause 35 Extension of ambit of arbitration proceedings  
 Clause 36 Consolidation of proceedings  
 Clause 37 Powers to appoint experts  
 Clause 38 General powers exercisable by arbitral tribunal  
 Clause 39 Powers of arbitral tribunal in case of party's default  
 Clause 40 Witnesses may be summoned by subpoena  
 Clause 41 Refusal or failure to attend before arbitrator etc.  
 Clause 42 Perjury  
 Clause 43 Court's powers exercisable in support of arbitration proceedings

**The Chairman:** The question is that clauses 28 through 43 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 28 through 43 passed.**

**The Clerk:**

- Clause 44 Power of arbitral tribunal to order interim measures  
 Clause 45 Conditions for granting interim measures  
 Clause 46 Applications for preliminary orders and conditions for granting preliminary orders  
 Clause 47 Specific regime for preliminary orders  
 Clause 48 Modification, suspension, termination  
 Clause 49 Provision of security  
 Clause 50 Disclosure  
 Clause 51 Costs and damages  
 Clause 52 Recognition and enforcement  
 Clause 53 Grounds for refusing recognition or enforcement  
 Clause 54 Court-ordered interim measures

**The Chairman:** The question is that clauses 44 through 54 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 44 through 54 passed.**

**The Clerk:**

Clause 55 Law applicable to substance of dispute  
 Clause 56 Awards made on different issues  
 Clause 57 Remedies  
 Clause 58 Interest

**The Chairman:** The question is that clauses 55 through 58 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 55 through 58 passed.**

**The Clerk:** Clause 59 Time for making award.

**The Chairman:** Honourable Attorney General.

#### **Amendment to clause 59**

**Hon. Samuel W. Bulgin:** Thank you, Madam Chairman.

In accordance with the provisions of Standing Order 52(1) and (2), I seek to move the following amendment to clause 59: by deleting subclauses (3) and (4).

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, I will put the question that the amendment to clause 59 stands part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the clause, as amended, stand part of the Bill. If no Member wishes to speak, I will put the question that the clause, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 59, as amended, passed.**

**The Clerk:**

Clause 60 Extension of time for making award  
 Clause 61 Interim awards  
 Clause 62 Award on agreed terms  
 Clause 63 Form and content of award  
 Clause 64 Costs of arbitration  
 Clause 65 Fees of arbitral tribunal  
 Clause 66 Costs of aborted arbitration  
 Clause 67 Power to withhold award in case of non-payment  
 Clause 68 Court may charge property for payment of legal practitioner's costs in arbitration

**The Chairman:** The question is that clauses 60 through 68 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 60 through 68 passed.**

**The Clerk:** Clause 69 Correction or interpretation of award and additional award

**The Chairman:** Honourable Attorney General.

#### **Amendment to clause 69**

**Hon. Samuel W. Bulgin:** Thank you, Madam Chairman.

In accordance with the provisions of Standing Order 52(1) and (2), I beg to move the following amendment to the Arbitration Bill 2012, in clause 69: by deleting subclause (6) and substituting the following subclause:

“(6) The arbitral tribunal may, if necessary, extend by thirty days, the period of time within which it shall—  
 (a) make a correction to an award;  
 (b) interpret an award; or  
 (c) make an additional award.”

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, I will put the question that the amendment to clause 69 stands part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the clause, as amended, stand part of the Bill.

If no Member wishes to speak, I will put the question that the clause, as amended, stands part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 69, as amended, passed.**

**The Clerk:**

Clause 70	Effect of award
Clause 71	Determination of preliminary point of law
Clause 72	Award may be enforced like judgment or order of court
Clause 73	No jurisdiction to review, confirm, vary, set aside or remit award
Clause 74	Power of court to give relief where arbitrator is not impartial or the dispute involves a question of fraud, etc.
Clause 75	Court may set aside award

**The Chairman:** The question is that clauses 70 through 75 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 70 through 75 passed.**

**The Clerk:** Clause 76 Appeal against award

**The Chairman:** Honourable Attorney General.

#### **Amendment to clause 76**

**Hon. Samuel W. Bulgin:** Thank you, Madam Chairman.

In accordance with the provisions of Standing Order 52(1) and (2), I beg to move the following amendment to the Arbitration Bill 2012, in clause 76: by deleting subclause (3) and renumbering subclauses (4) to (12) as (3) to (11) respectively; by deleting in subclause (9) reference to subclause (8)(c), and substituting "(7)(c)"; and by deleting in subclause (12) reference to subclause (11) and substituting "(10)".

**The Chairman:** The amendment has been duly moved. Does any Member wish to speak thereto?

If not, I will put the question that the amendment to clause 76 stands part of the clause. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Amendment passed.**

**The Chairman:** The question now is that the clause, as amended, stand part of the Bill.

If no Member wishes to speak, I will put the question that the clause, as amended, stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clause 76, as amended, passed.**

**The Clerk:**

Clause 77	Supplementary provisions to appeal under sections 75 and 76
Clause 78	Effect of order of court in relation to award
Clause 79	Notice and other requirements in connection with legal proceedings
Clause 80	Powers of court and Clerk of the Court
Clause 81	Arbitral proceedings shall be private and confidential
Clause 82	Rules of court
Clause 83	Court proceedings to be heard in open court
Clause 84	Restrictions on reporting of proceedings heard otherwise than in open court

**The Chairman:** The question is that clauses 77 through 84 stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 77 through 84 passed.**

**The Clerk:**

Clause 85	Service of notices
Clause 86	Reckoning periods of time
Clause 87	Law to bind Crown
Clause 88	Regulations and rules
Clause 89	Repeal and transitional provisions
Schedule	

**The Chairman:** The question is that clauses 85 through 89 and the Schedule stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Clauses 85 through 89 and the Schedule passed.**

**The Clerk:** A Bill for a Law to modernise the conduct of arbitration proceedings in the Cayman Islands; to repeal the Arbitration Law (2001 Revision); and for incidental and connected purposes.

**The Chairman:** The question is that the Title do stand part of the Bill. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Title passed.**

**The Chairman:** The question now is that the Bills be reported to the House. All those in favour please say Aye. Those against, No.

**Ayes.**

**The Chairman:** The Ayes have it.

**Agreed: Bills to be reported to the House.**

**House resumed at 5.10 pm**

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

## **REPORT ON BILLS**

### **Customs Tariff Bill, 2011**

**The Clerk:** The Customs Tariff Bill, 2011.

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

I have to report that The Customs Tariff Bill, 2011, was examined in Committee of the whole House and amended.

**The Speaker:** The Bill has been duly reported and is set down for third reading.

### **Immigration (Amendment) (No. 5) Bill, 2011**

**The Clerk:** The Immigration (Amendment) (No. 5) Bill, 2011.

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

I have to report that The Immigration (Amendment) (No. 5) Bill, 2011, was examined in Committee of the whole House and amended.

**The Speaker:** The Bill has been duly reported and is set down for third reading.

### **Arbitration Bill, 2012**

**The Speaker:** Honourable Attorney General.

**Hon. Samuel W. Bulgin:** Thank you, Madam Speaker.

I beg to report that a Bill entitled The Arbitration Bill, 2012, was examined by a Committee of the whole House and passed with amendments.

**The Speaker:** The Bill has been duly reported and is set down for third reading.

## **THIRD READINGS**

### **Customs Tariff Bill, 2011**

**The Clerk:** The Customs Tariff Bill, 2011, Third Reading.

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

I move that The Customs Tariff Bill, 2011, be given a third reading and passed

**The Speaker:** The question is that a Bill shortly entitled the Customs Tariff Bill, 2011, be given a third reading and passed.

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

**Ayes.**

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

**Agreed: The Customs Tariff Bill, 2011, given a third reading and passed.**

### **Immigration (Amendment) (No. 5) Bill, 2011**

**The Clerk:** The Immigration (Amendment) (No. 5) Bill, 2011, Third Reading.

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

I move that The Immigration (Amendment) (No. 5) Bill, 2011, be given a third reading and passed

**The Speaker:** The question is that a Bill shortly entitled The Immigration (Amendment) (No. 5) Bill, 2011, be given a third reading and passed.

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

**Ayes.**

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

**Agreed: The Immigration (Amendment) (No. 5) Bill, 2011, given a third reading and passed.**

### Arbitration Bill, 2012

**The Clerk:** The Arbitration Bill, 2012, Third Reading.

**The Speaker:** Honourable Attorney General.

**Hon. Samuel W. Bulgin:** Thank you, Madam Speaker.

I beg to move that The Arbitration Bill, 2012, be given a third reading and passed.

**The Speaker:** The question is that a Bill shortly entitled The Arbitration Bill, 2012, be given a third reading and passed.

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

**Ayes.**

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

**Agreed: The Arbitration Bill, 2012, given a third reading and passed.**

## MOTIONS

### Government Motion No. 7/2011-12—Issuance of a Government Guarantee – Cayman Islands National Insurance Company

**The Speaker:** Honourable Premier, you have to move [the Motion] forward if you're not going to debate it today.

*[long pause]*

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, I beg to move Government Motion No. 7/2011-12—Issuance of a Government Guarantee –

Cayman Islands National Insurance Company, which reads as follows:

**WHEREAS on 8<sup>th</sup> March 2012, the Governor in Cabinet authorized that the Legislative Assembly's approval be sought for the issuance of a Government Guarantee to the Cayman Islands National Insurance Company to settle the remaining outstanding debt of CI\$3,100,467 in equal installments of CI\$1,033,489 over the next three financial years 2012/13, 2013/14 and 2014/15;**

**AND WHEREAS section 8 of the Public Management and Finance Law (2010 Revision) provides that, as a general rule, no guarantee may be given by or on behalf of the Government unless it has been authorised by a resolution of the Legislative Assembly;**

**BE IT NOW THEREFORE RESOLVED that, in accordance with section 8 of the Public Management and Finance Law (2010 Revision), the Legislative Assembly hereby authorises the Minister for Finance, Tourism and Development to do the following:**

**Issue a Government Guarantee to the Cayman Islands National Insurance Company to settle the remaining outstanding debt of CI\$3,100,467 in equal installments of CI\$1,033,489 over the next three financial years 2012/13, 2013/14 and 2014/15.**

**The Speaker:** The Motion has been duly moved; does the mover wish to speak thereto?

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker.

As Members will be aware, the budget for the Ministry of Health includes an executive expenditure entitled NGS 55, which is, the funds used to pay for the overseas healthcare for indigent seafarers and veterans.

In the 2008/09 financial year, the expenditure on NGS 55 was \$12.9 million which exceeded the approved appropriation by \$3.28 million. This variance was due to rising healthcare costs and increased number of persons accessing overseas care and the nature of the healthcare that was required.

Madam Speaker, it did not help that the appropriation amount of \$9.7 million was actually lower than what had been initially proposed due to the ongoing financial constraints. In addition to the shortfall in NGS 55 in 2008/09, the Ministry of Health also saw their expenditure on CIN 1, the output in which the Ministry purchases local healthcare insurance from CINICO for seafarers and veterans exceed the approved appropriation by \$760,000 for a total expenditure of \$4.7 million for the local health insurance for seafarers and veterans in 2008/09 financial year.

As Members will be aware, the supplementary budget for 2008/09 has not yet been considered by

this honourable House. Therefore, CINICO has not yet been reimbursed for this outstanding amount of \$4.1 million which it is owed for these two expenditure items.

Madam Speaker, I would like to advise Members that while we have not paid CINICO, CINICO has, in fact, paid the healthcare providers for these services and are therefore out-of-pocket for these expenditures. These amounts have been owed to CINICO for almost three years and this situation is now affecting CINICO's ability to pay their own outstanding bills for overseas providers.

I don't think I need to outline in detail, Madam Speaker, the negative impact this may have on all of us if the Cayman Islands' National Insurance Company is labeled by the overseas providers as bad payers. It could mean that as a country we may find ourselves unable to get our patients admitted to these overseas healthcare institutions, which will have serious implications for all of us.

The CINICO overseas network not only serves the indigent seafarers and veterans, but also the civil servants, pensioners, and some private sector clients. Madam Speaker, we simply cannot afford to take the risk of our people being denied access to the much needed critical care due to CINICO's inability to meet their obligations to these overseas institutions.

CINICO has accepted a proposal by Government to repay this outstanding debt in equal installments over a four year period. The first payment in the form of an equity injection to the Ministry of Health, Environment, Youth, Sports and Culture, was recently approved in Finance Committee. This guarantee will cover the remaining payments for the next three financial years.

Accordingly, I commend Government Motion No. 7 of 2011/12 to all honourable Members of the House and ask that they support the Motion.

Thank you, Madam Speaker.

**The Speaker:** Thank you, Mr. Premier. Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause]

Member for East End.

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

I must say that whilst we understand the reasons for this, we still have not gotten an understanding of what the guarantee is for. Is it to borrow? Or that Government will pay them the money over these installments. And if it is so outstanding why is Government not paying it in one installment to CINICO? It will still be out-of-pocket . . . the first payment on this guarantee will not be made until 2012/13, which is, at the very least, July 1 of this year and then the successive years for two years.

It is a little confusing, so can the Premier explain that to us when he responds?

**The Speaker:** Thank you, Member for East End. Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause] Does any other Member wish to speak? [pause]

If not, I will call on the Honourable Premier to wind up the debate.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I heard what the Member for East End said, but his memory seems to be a little bit short.

One, this was outlined in Finance Committee a few days ago, and just to say to him again that this is a requirement from the auditors to pay back that money that was spent.

He said he hadn't heard what it is for, but we explained what it is for. And his next question was why we do not pay all at one time. Well, Madam Speaker, if he hadn't spent so much on building roads that we now have to pay for, we would have cash to pay. And it is simple; we don't have the cash to pay.

**Mr. V. Arden McLean:** That you are driving on!

**The Premier, Hon. W. McKeever Bush:** Well, we might drive on them, but we haven't paid for them yet. And that's the stupid-ness of the policy.

*[Inaudible interjection]*

**The Premier, Hon. W. McKeever Bush:** And so, Madam Speaker, the Member should understand that when we don't have the cash to pay it all at one time, we make arrangements to pay in order to give and continue to serve our seamen, our veterans, and others in need, and our civil servants. So, the Member can beat up his gums all he wants; but he has to have some little bit of understanding about him.

**The Speaker:** The question is: Be it now therefore resolved that, in accordance with section 8 of the Public Management and Finance Law (2010 Revision), the Legislative Assembly hereby authorises the Minister for Finance, Tourism and Development to do the following:

Issue a Government Guarantee to the Cayman Islands National Insurance Company to settle the remaining outstanding debt of CI\$3,100,467 in equal installments of CI\$1,033,489 over the next three financial years 2012/13, 2013/14 and 2014/15.

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

**Ayes.**

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

**Agreed: Government Motion No. 7/2011-12 passed.**

**Ayes.**

**The Speaker:** May I have a motion now for the adjournment please? That completes the Order Paper for today.

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

**At 5.30 pm the House stood adjourned until 10.00 am, Wednesday, 11 April 2012.**

## **ADJOURNMENT**

**The Premier, Hon. W. McKeeva Bush:** Thank you, Madam Speaker. I thank you and the staff and Members for their indulgence for working after the hour of 4.30. May I take this opportunity, Madam Speaker, to wish all of us, all Members and their families, a very blessed Easter Season.

Madam Speaker, it is a very important time of the year in the Christian calendar and I trust that we will all take the time to relax and enjoy it and become a little bit more stress free.

Having said that, I move the adjournment of this honourable House until next Wednesday, God willing, 10.00 am.

**Hon. Alden M. McLaughlin, Jr., Leader of the Opposition:** Madam Speaker, before we break, could we get an indication of what business there is, because as far as we were aware, except for the Private Members' Motions, all the business had been dealt with.

**The Premier, Hon. W. McKeeva Bush:** No, Madam Speaker. We intend to have a Business Committee [meeting] and, therefore, the business will be set out at the Business Committee, as the Member knows usually happens.

*[Inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** Well, there are matters that should have been circulated. There are the appropriation bills. The work has been done in Finance Committee and we now have to present that Bill. And there are a number of other reports and the Private Member's Motion; statements to be made, and accordingly we will have a Business Committee [meeting] on Wednesday at 9.00, on Tuesday morning. The House will meet at 10.00 on Wednesday, God willing.

**The Speaker:** Let me get this straight. The Business Committee is at 9.00 on Tuesday morning?

**The Premier, Hon. W. McKeeva Bush:** Yes Ma'am.

**The Speaker:** The question is that this honourable House do adjourn until 10.00 am on Wednesday, 11 April 2012. All those in favour please say Aye. Those against, No.

