

**OFFICIAL HANSARD REPORT**  
**WEDNESDAY**  
**24 NOVEMBER 2010**  
**10.50 AM**  
*Fifth Sitting*

**The Speaker:** I will ask the Honourable Deputy Premier to say Prayers.

**PRAYERS**

**The Deputy Premier, Hon. Juliana Y. O'Connor-Conolly:** Let us pray.

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

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

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

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

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

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

**Apologies**

**The Speaker:** I have one apology for absence. The Elected Member for North Side is away at a CPA (Commonwealth Parliamentary Association) training conference. I also have apologies for the late arrival of

the Deputy Governor, the Honourable First Official Member, and from the Third Elected Member for Bodden Town.

I also want to apologise to the public in the gallery for the late start of the House this morning. We had some urgent matters that needed to be taken care of.

**Visitors in the Gallery  
 Savannah Primary School**

**The Speaker:** I especially want to welcome the children from the Savannah Primary School who are here with their teachers. I understand there are two classes, one of 28 and one of 27, with 11 teachers and parents. It does my heart good to see so many children in the gallery and to know that schools and parents are interested in knowing what goes on in this House and in understanding how our Government works. Welcome! I hope you will get an opportunity before you leave to meet both the Premier and the Leader of the Opposition.

**STATEMENTS BY HONOURABLE  
 MINISTERS AND MEMBERS  
 OF THE CABINET**

**The Speaker:** I do not have any statements by Honourable Members and Ministers of the Cabinet.

*[inaudible interjection]*

**The Speaker:** Third Elected Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Good morning, Madam Speaker.

Madam Speaker, I note that there is no provision on today's Order Paper for questions and I wonder why that is the case.

**The Speaker:** Honourable Premier.

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

Madam Speaker, as is usual in this House when the Business Committee meets to set the agenda for the day, or for a few days, the House is given permission to set down any questions that are ready from the ministries. And I would think why they are not on the Order Paper is because the House has not received any questions. That means that the ministries are not ready with the questions.

When questions are given and brought to the ministries, they have to go down to the various departments. Civil servants have to do their research and a lot of work is done in order to provide the Minister with the correct answer for this honourable House. This procedure is not new.

I've been in this House since 1984, the longest serving Member. It was so then, it is so now, and I guess that is the way it might be conducted in the future. When I was not a Member of this House I sat in the gallery. That's how business has been conducted in this legislature ever since I know we sat here.

**The Speaker:** [Third Elected] Member for George Town.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I don't argue at all with the process. I know the process well and the Premier has described it accurately.

I just wish to register this concern, Madam Speaker: The last Meeting of this House finished with a significant number of questions left unanswered. We have, I think, in large part, now, finally received the answers in writing to most of those questions. I can't be sure that we have them all, I didn't check carefully. But this Meeting of the House began on the 3<sup>rd</sup> of this month. Questions had to be submitted by 20<sup>th</sup> October. Today is the 24<sup>th</sup> of November and only five of the 14 questions asked by the Opposition and the independent Member have yet been answered, and it is my understanding that the Government is hoping that we can complete this Meeting by the end of this week. And thus we are running the real risk that a significant number of important questions ranging from the Constitution to the Port project are going to go unanswered again at this Meeting.

Whoever is responsible and however it needs to be done, a sense of urgency and importance needs to be attached to parliamentary questions so that the function of the Opposition and those who are not in Government can be properly carried out. Because when we are not able to put the questions to the Ministers and receive the responses, then a large part of what work we are supposed to do does not get done and the country is at a disadvantage in that regard.

I just wish to register that concern, Madam Speaker.

**The Speaker:** Thank you, Third Elected Member for George Town.

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

**The Speaker:** Yes, Honourable Premier.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I am really, really appreciative of the fact that the Third [Elected] member for George Town now

sees a sense of importance in answering questions at a given point.

The House rules are: If a question has not been set down on the Order Paper and the House takes an adjournment, then it sets that question down for another point in time. If the House completes the business and the Minister has not been given a question by the department, the department has not finished its work on a question, then that question is answered in writing if it was not requested by the person asking the question for it to be set down for a later date. That is the rule. That is how this House has operated ever since I've known it.

Madam Speaker, I am still waiting on answers to questions from that last administration. I haven't gotten them yet! Don't expect to get them either.

*[inaudible interjection]*

**The Speaker:** Thank you, Honourable Premier.  
Now can we—

**The Premier, Hon. W. McKeever Bush:** One thing I should intimate to the House, Madam Speaker, is that we are expecting the House to sit again on 6<sup>th</sup> December. So, Members should make that request under the Standing Orders. The appropriate request is that if we are adjourning the House and questions have not been answered (it won't be the first time) then they should make the request that it goes on to the next Order Paper or the Minister will then answer it in writing. That is the proper procedure. It is a constitutional procedure. It is not one where it is the Government's desire not to answer questions.

Sometimes, Madam Speaker, these questions take a lot of research. Members will ask a question, and in a speech they will go on to say all sorts of things in the question. The Minister then has to get the department to go and research all that they have said.

In fact, the Third [Elected] Member for George Town asked one that I know the Minister of Housing had to do a tremendous amount of research on because he said that we were not voting certain funds, which, when you take the budget, the funds are voted. So, the Member had to go and do the research. This is what happens and the public does not know this. So, when the Member gets up, especially with school children [in the gallery], and says what he said—like it is so genuine—he knows the full story behind it because he sat on this side for four years.

**The Speaker:** Thank you.

I think we have aired this question enough. There are Standing Orders to control the further airing of it.

**Mr. V. Arden McLean:** Madam—

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

**Mr. V. Arden McLean:** Madam Speaker, good morning.

I appreciate your ruling, but the Premier is saying that constitutionally (he's right) if it is not answered, no request has been made, then, the Minister has the right to reply in writing. Well, I have had questions in from the previous meetings as well, which I tried to resubmit which your office rightly refused to have them in this meeting and I am yet to receive any reply in writing.

**The Speaker:** Well, Member for East End you are aware why my Office did not [resubmit] the questions, because you have three months in which to bring them back. You cannot bring them back before a period of three months after they have been asked the first time around.

**Mr. V. Arden McLean:** Yes, Madam Speaker, and I appreciate that, but what I was trying to do was to illicit answers from the Government because that was my only way of doing it. And they have been outstanding for quite some time and I haven't received them. So, I think if we are going to go by the Constitution we need to really go by the Constitution.

**The Speaker:** I agree sir. I thoroughly agree and I have some very strong views on the Constitution.

**Mr. V. Arden McLean:** Thank you. Me too!

**The Speaker:** May we proceed with business of the House please?

## GOVERNMENT BUSINESS

### BILLS

#### FIRST READINGS

##### Dormant Accounts (Amendment) Bill, 2010

**The Clerk:** The Dormant Accounts (Amendment) Bill, 2010.

**The Speaker:** The Dormant Accounts (Amendment) Bill, 2010, is deemed to have been read a first time and is set down for Second Reading.

##### Tax Concessions (Amendment) Bill, 2010

**The Clerk:** The Tax Concessions (Amendment) Bill, 2010.

**The Speaker:** The Tax Concessions (Amendment) Bill, 2010, is deemed to have been read a first time and is set down for Second Reading.

##### Evidence (Amendment) Bill, 2010

**The Clerk:** The Evidence (Amendment) Bill, 2010.

**The Speaker:** The Evidence (Amendment) Bill is deemed to have been read a first time and is set down for Second Reading.

## SECOND READING

##### Dormant Accounts (Amendment) Bill, 2010

**The Clerk:** The Dormant Accounts (Amendment) Bill, 2010.

**The Speaker:** Honourable Premier.

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

I beg to move the Second Reading of a Bill shortly entitled The Dormant Accounts (Amendment) Bill, 2010.

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

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

Madam Speaker, on the background to this Bill, there has been some criticism on the matter of this Bill. I took a shellacking I should say, being accused of rushing through legislation that would have severe negative consequences for the financial services industry. And, in fact, what was said by the Third [Elected] Member for George Town at that that point, was that I was doing so without proper consultation.

The fact is, Madam Speaker, that there was a lengthy consultation process prior to bringing the Dormant Accounts Bill at that time. The urgency of passing the Bill in July was necessary in response to feedback received from the banking industry and to ensure that there was the time needed for relevant financial institutions to be in compliance with the Law. These, as I will explain further, are the facts.

Firstly, I want to point out that there is widespread use and good success of dormant account regimes across many associated jurisdictions, including, but not limited to, the United Kingdom, Barbados, Australia, the United States, Canada, and Ireland. These are just some of the countries that use this type of legislation. Following from these examples, the intent of The Dormant Accounts Law, 2010, is to provide a mechanism whereby unclaimed funds held by financial institutions are transferred to Government. That is what is done in those territories (the United Kingdom, Barbados, Australia, United States, and indeed in Canada and Ireland).

In order to develop this legislation locally . . . I can tell you, Madam Speaker, that it has been talked about for years by various governments. I don't know,

maybe even here somebody started this one. A team comprised of staff from the Ministry of Finance, the Legislative Drafting Department and representatives from the Cayman Islands Monetary Authority (CIMA), specifically from CIMA's Policy division, its Legal division and its Banking division, was formed in January this year.

Based on established law in other jurisdictions a draft bill was created and the consultation period on the initial bill began in late April this year. Notification was sent to all major associations within the financial services industry. And I know that the so-called other government, which are the blogs and the radio stations—the other government in the country . . . well, the Opposition forms part of that forum.

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** No, well you were left out when you were the government. You didn't go then. You seem to pay a lot of attention to it now.

Madam Speaker, specifically, I note that it was said by the same Member who is making some comments to me, the Third [Elected] Member for George Town, it was him; so I guess that is why he is talking that there was no real consultation.

But specifically, a notice and a copy of the draft bill were sent to the following associations: The Alternative Investment Management Association (AIMA), Cayman Finance, Cayman Islands Bankers Association (CIBA), Cayman Islands Chamber of Commerce, the Cayman Islands Company Managers Association, the Cayman Islands Compliance Association (CICA), the Cayman Islands Directors Association (CIDA), the Cayman Islands Insurance Association (CIIA), the Cayman Islands Law Society (CILS), the Cayman Islands Society of Professional Accountants (CISPA), The CFA (Chartered Financial Analyst) Society of the Cayman Islands, Insurance Managers Association of Cayman (IMAC), the Society of Trust and Estate Practitioners (STEP), the Cayman Chapter.

Madam Speaker, I can assure you and this honourable House, and the public if they are listening, that the only significant responses received from the Government's first effort to engage the private sector was provided by the Cayman Islands Bankers Association on 13 May, and on 24 June.

And, as is expected in the consultation processes, the public sector (that is Government's team) engaged in dialogue with the Bankers Association and took into consideration many of their concerns. Therefore, based on the Cayman Islands Bankers Association's concerns, the initial Bill was modified to include notification and reporting dates suggested by that association. Every effort was made to accommodate their concerns within the context of Government's objective to gain access to abandoned property which could then be used on the public's behalf.

The changes to the reporting and notification dates specified in the Law as recommended by the Cayman Islands Bankers Association necessitated the urgency of passing this legislation in July of this year, which then occurred in this honourable House. Subsequent to the passage of the Law on 12 July, additional representation was received from the private sector on 6 August. The issues identified suggested that several unanticipated and significant challenges were created by the new Law.

There were several issues raised that were of concern: 1) justifiable arguments were presented to indicate that the scope of the Law was too broad and captured instruments being used as part of long-term commercial transactions;

2) using references to the Limitations Law in the Dormant Accounts Law was argued as problematic from a Trust perspective;

3) the dormancy period of six years was viewed as too short by international comparison. However, some of them have seven years.

The same team from the Ministry and CIMA again met with the private sector to discuss their concerns and requested assistance from the Financial Services Legislative Committee to draft suggested amendments. That Committee (the Financial Services Legislative Committee) as a public/private sector committee [is] comprised of many of our top lawyers and was ideally placed to coordinate further private sector input and prepare suggestions for an amendment.

The amendments suggested were reviewed and after further discussion with the committee a consensus was achieved. The consensus, Madam Speaker, resulted in the following proposed amendments:

1) A limitation of the scope of the law to include Class A insurers, banks, credit unions and building societies; trust companies established specifically to deal with dormant accounts from banks that were closed; any other type of financial institution which is declared relevant by the Governor-in-Cabinet.

2) An increase in the dormancy period from six years to seven years. This will bring the Cayman dormancy period in line with what is being used in other countries in the region.

I should say that in Europe some of those jurisdictions can go as long as up to between 12 and 15 years.

3) Removal of the reference to the Limitations Law and, instead, reference the Public Management and Finance Law (2010 Revision). This provides that monies transferred to Government will be held in trust for an additional six years.

4) Further clarity on the notification requirements that account providers will have to implement, were also made.

Madam Speaker, in order to give the industry more certainty during the period in which we were actively reviewing the Law, the Attorney General's

chambers and the Cayman Islands Monetary Authority gave their consent to a moratorium under the Dormant Accounts Law, 2010. This message was conveyed to the heads of the various financial services stakeholder groups and has served to give the industry the assurance that the Government was indeed listening and willing to reconsider.

These amendments clarify several issues, Madam Speaker, which would allow these institutions to be in compliance with the original intent of the Law; that is, the transfer of monies held in abandoned accounts to the Government.

Madam Speaker, I guess for the private sector and ourselves we have learned some lessons. I want the private sector to know that consultation processes are not viewed by me or my Ministry of Finance as a "tick the box" exercise. There will be times we disagree on a particular issue, and there may be times where there are genuine reasons why the Government will take a particular stance on an issue which may not be popular within the private sector.

In this instance, there was no reason to disagree with what the private sector was saying. We simply wished that we would have received this important feedback during the consultation period when we consulted all of those organisations. Our focus and intentions have always been to find a legitimate fear and transparent mechanism for transferring abandoned or unclaimed funds over to the Government for public benefits.

Furthermore, we formally established under my Ministry a Financial Services Legislative Committee which seeks to coordinate input from the private sector on proposed legislative changes. The amendment Bill before the House today is evidence of the benefits derived from the joint efforts of the public sector and the private sector stakeholders, such as that Financial Services Legislative Committee.

We will also hope to engage directly with the industry associations as we did the first time around. In fact, the senior management team within the financial services division of my Ministry has been engaging directly with the industry associations in an effort to demonstrate the responsiveness and attentiveness of the public sector to the needs of the private sector in the financial industry.

I would hope the next time new legislation is proposed for the financial services industry [that] we would receive more robust and clear responses prior to the debate of the Law in this honourable House.

In closing, Madam Speaker, I would like to reiterate that this legislation is not unique, nor by any means an anomaly. Sophisticated onshore and offshore financial centres in this world have similar legislation. The amendments before this honourable House focus on the concept of abandoned property and provide for a more limited scope thus minimising unintended consequences.

It is unfortunate that several unanticipated difficulties arose in the initial Law passed. But I assure

this honourable House that it was not as a result of lack of effort on the part of my Ministry to ensure that private sector concerns were adequately addressed. As I have said, the civil servants did go out and do their job. They went out and talked to the various associations. They sent them the Law and that is what we are required to do. If you don't come back, well then, you don't have an interest; that's what it says to Government. And those who had an interest, Government addressed them.

We have been open and transparent in this process with the industry and will continue to do so to ensure the success of our financial services industry. Therefore, Madam Speaker, I commend the Dormant Accounts (Amendment) Bill, 2010, to this honourable House.

Madam Speaker, before I sit, I too would like to welcome the school children in the gallery today. These proceedings are always important and it is good for the children to come here to see for themselves what obtains. Most of the time, we are not as quiet as we are this morning, but I'm sure they all will appreciate that. Certainly, parents and teachers will, and the children will learn to appreciate over a period of time. But we are always happy to have our school children come and visit with us.

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

Now I am going to deviate from our Order Paper for a bit and suspend the House for ten minutes so that the Members of the House can meet with the students and teachers who have made such an effort to be here this morning. Thank you all very much.

**Proceedings suspended at 11.20 pm**

**Proceedings resumed at 11.48 pm**

**The Speaker:** Proceedings are resumed.

Would the Serjeant-at-arms please ensure that there is a quorum in the House? Please be seated.

When we took the break the Premier had concluded his presentation on the Dormant Accounts (Amendment) Bill, 2010.

Does any other Member wish to speak?  
Third Elected Member for George Town.

## **SECOND READING**

### **Dormant Accounts (Amendment) Bill, 2010**

*[Continuation of debate thereon]*

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

Madam Speaker, I wish to offer a short contribution to the debate on the Bill before the House, a Bill for a Law to amend the Dormant Accounts Law,

2010, to limit the scope of the Law and to provide for incidental and connected purposes.

Madam Speaker, this is a bit of an unusual situation for this House, and even for this Government. The Law which we are seeking to substantively amend is The Dormant Accounts Law, 2010, which was passed by this House in July of this year, and published with Extraordinary Gazette No. 43 on 16 July—a mere four months ago.

Now, Madam Speaker, I believe in anticipation of what he believed we would say on this side, the Premier gave some explanation and delivered an eloquent series of excuses about why it has come to this.

Madam Speaker, to give some perspective about the level of amendment, or perhaps the volume of amendment, if you look at the Bill it runs to some 17 full pages of amendments. If you look at the Law, which it is amending, it runs to a full 17 pages of text. So, the amending Bill is at least as long as the Law it seeks to amend. From my examination of both, it seems that what has essentially happened is that the Law has been rewritten.

And when I look at a number of other pieces of correspondence which I have, it has come to my attention . . . it is clear to me, at least, that despite the Premier's assertions, perhaps even protestations that there was adequate consultation on the first Bill which resulted in the Law that is now being amended, that, in fact and in reality, there was little discussion with the private sector about this in-advance of the passage of the Bill. The Premier said that they had it; he didn't say how long they had it. I can say as a Member of the Opposition that we had a day's notice and the result has been nothing short of disastrous.

Madam Speaker, there is a creature called the Financial Services Legislative Committee, to which the Premier referred in his presentation of the amending Bill. I have seen and have a copy of a report by a sub-committee of the Financial Services Legislative Committee. It is called the Sub-committee on the Dormant Accounts Law. And the Memorandum is dated 24 August 2010—more than a month after the law was actually passed.

Madam Speaker, I'm happy to, if you wish, lay a copy of this memorandum or report (however, you wish to term it) on the Table of this honourable House. But in advance of that I would wish to refer to certain excerpts from it which appear to me to make plain that there was little consideration of this matter by the private sector in advance of the passage of the Bill in July.

Before I go into that, Madam Speaker, I just want to make plain, as we did when we debated the Bill back in July, that the principle of the Dormant Accounts Law which allows Government in appropriate circumstances to have access to funds or other property that has sat undisturbed in accounts for long periods of time is something with which we agree, something we explored with the Financial Secretary and his

Office when we were in Government. So, we have no issue with what is being sought.

Our concern then, which we articulated, was what appeared to be the lack of proper consultation in relation to a matter that had the potential for grave impact on the financial services industry and, indeed, on the creditability of the jurisdiction by people who have accounts here. And the more money people have, the more nervous they tend to be about Government's actions—particularly any legislation which allows Government to invade or access their information or their assets.

So, Madam Speaker, while the Premier . . . and I've just looked at the debate in the *Hansard* back in July dismissed these concerns which we raised on this side then as being simply Opposition tactics. I believe that what has transpired since and what the Government is forced to do today is the clearest evidence that it is unwise to simply dismiss everything that is said from the Opposition bench as being politics, or being just the Opposition, as the Premier has the tendency to do.

Madam Speaker, we asked the question and we warned about the potential adverse impact this might have on the financial services sector.

Madam Speaker, those concerns are reflected in the Memorandum of 24 August 2010, to which I just referred, from the Financial Services Legislative Committee sub-committee on the Dormant Accounts Law, sent to the Ministry of Finance, which is headed up by the Premier himself and members of the legal division at the Cayman Islands Monetary Authority.

And, Madam Speaker, with your permission I would now wish to read certain excerpts of that Memorandum and to undertake laying a copy of it on the Table of the House when I am through.

**The Speaker:** Do you have a second copy sir?

**Mr. Alden M. McLaughlin, Jr.:** Not handy, Madam Speaker, I regret.

**The Speaker:** Are your excerpts going to be long? I need to know because I should be following you with what you are reading.

**Mr. Alden M. McLaughlin, Jr.:** I think it would be safer if I ask for a brief suspension to just copy this for you. Not inviting you to allow Members to disband, but just to ask the Serjeant to quickly make a copy.

**The Speaker:** If the Serjeant will take it and have it photocopied you [may] continue your presentation.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, I prefer to wait because otherwise my presentation is going to be very disjointed.

**The Speaker:** All right, you may take your seat and we will wait for a couple of minutes until he comes back.

[pause]

**The Speaker:** Thank you. Are you ready to proceed now, Member for George Town?

**Mr. Alden M. McLaughlin, Jr.:** Thank you, Madam Speaker.

Madam Speaker, the Memorandum commences: "Our Sub-committee was mandated by the Financial Services Legislative Committee under further mandate from the Minister of Finance to analyse the scope of the Dormant Accounts Law, 2010. This Memorandum provides observations relating to the Law which may assist in explaining some of the revisions to the Law that have been proposed by the sub-committee.

"The Sub-committee would be happy to discuss any aspects contained within this Memorandum or the revised draft of the Law further, if required. It should be noted that any observations in relation to the Law have been provided on the understanding of the primary purpose of the Law, the intended scope of the Law as confirmed by the Ministry of Finance in preliminary meetings in light of comparative analysis with other jurisdictions, and ultimately with the continued success of the financial services industry in mind."

Now, Madam Speaker, that is all very sensible, thoughtful stuff. The curious bit about all of this is that this is being written on 24 August 2010; more than a month after the Law has actually been passed. So it appears that the Financial Services Legislative Committee, in particular the sub-committee on the Dormant Accounts Law, is being mandated by the Ministry of Finance to look at the Law after it is passed—not in advance as one would normally expect, that the Financial Services Legislative Committee would have been asked to look at what was being proposed to have input into the drafting of the Bill which came to the House in July. This, Madam Speaker, seems to be an attempt by the Government to mitigate the damage which it had done to the industry after the fact.

Madam Speaker, to return to the Memorandum, the writer says: "As a general observation we are greatly concerned that the Law as currently drafted will have a serious and irreversible adverse impact on a number of key financial services industries. These industries include investment funds, asset finance, securitizations, insurance, domestic captives, reinsurance, private wealth management, as well as international and domestic banking business.

"The business generated by these financial services sectors has been the primary contributor to the viability and welfare of the Cayman Islands over the last four years."

Madam Speaker, then comes the really worrying bit: "It is our view that the Law as currently drafted is fundamentally flawed, unworkable, and would cause irreparable damage to certain investment funds and capital markets transactions as explained further below.

"If the Law were to remain in its current form and applied to financial services sectors that are completely unfamiliar with the management of dormant accounts which involves significant costs for implementing the required procedures impracticable timeframes in criminal penalties for non-compliance, it provides understandable grounds for legislative or regulatory arbitrage and a very real potential for current and future clients to elect to conduct their business in jurisdictions other than the Cayman Islands." [Unverified quotes]

Now, Madam Speaker, when you put this not just in the context of the debate which ensued on the Bill back in July, but in the broader context of the economic times in which the world exists now and the challenges which the Cayman Islands, in particular, have faced and are facing, and you put it in the context of the efforts, or at least the utterances by the Premier about the efforts he and his Government have been making to make the Cayman Islands more attractive to business generally, but the efforts in particular that have been made and are being made to make this a more attractive jurisdiction for financial services, it leaves you stunned. At least it leaves me stunned that the Government would proceed with such recklessness with a bill back in July which has this sort of potential.

This is a report being written by people who are apolitical whose principle concern and focus and reason for being is business. This is the Financial Services Legislative Committee, which is put together by the Government itself, making these observations. And if there is one thing I can commend the Premier and the Government for amidst this disaster, it is that they have had the honesty to own up to what has transpired and to bring to this House today a Bill which seeks to address this range of concerns.

**The Speaker:** I am not sure that has anything to do with honesty, sir. I think that when you used the word "honesty" you are implying they were being dishonest before, and I would appreciate if you do not use it.

**Mr. Alden M. McLaughlin, Jr.:** No, Madam Speaker, that was the furthest thing from my mind. I was actually commending them for being so forthright. May I use that word instead?

**The Speaker:** That's better.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, to return to the Memorandum: The Memorandum goes into considerable detail about the various provisions in the Law and some of the definitions which the sub-

committee considered to be particularly problematic and, in some cases, disastrous. It suggests what changes ought to be made.

I am not going to burden the House or those within the sound of my voice with all of that very technical detail. But there are a couple of other observations I would wish to call to the attention of the House.

**The Speaker:** We are debating the Dormant Accounts (Amendment) Bill?

**Mr. Alden M. McLaughlin, Jr.:** Yes, Madam Speaker, very much so. And, as you will see as I proceed, many of the provisions contained in the amending Bill are the result of the work of this committee and this report and, indeed, Madam Speaker, I might as well do it now.

I would also like to lay on the Table of the House (although I'm not going to refer to it) a draft Dormant Accounts Law which has been prepared by this sub-committee, and which was, in fact, attached to this Memorandum. And, Madam Speaker, that is why my reference to this Memorandum is so important and, indeed, so relevant to the debate on the Bill before the House.

**The Speaker:** We are debating the merits and demerits of the amending Bill before the House. We are not debating the proposed, wherever-this-came-from, Bill.

**Mr. Alden M. McLaughlin, Jr.:** You are correct, Madam Speaker, which is why I would not be referring to it. But for the sake of completeness so that you understand the line I am taking in relation to my debate, I wanted you to be aware of that.

**The Speaker:** All right.

**Mr. Alden M. McLaughlin, Jr.:** Madam Speaker, on the bottom of page 3 of the Memorandum there is a section, little (b) entitled "What are the perceivable effects on these accounts vehicles?" It's talking about the various accounts and vehicles which are impacted by the Dormant Accounts Law. It's a very short paragraph and I'm going to read the whole of it, Madam Speaker, with your permission, just for the sake of completeness.

"As it stands section 4 subsection (6), subsection (a) covers all standard forms of deposit, notwithstanding the class of licensee or the situs." (That is the physical location of the assets)

"Drawing on the common law principles of one of [inaudible] and conflicts of law principles ownerless assets are usually governed by the Law of the jurisdiction of their location. The actual location of a bank account for these purposes is conditional upon a number of factors, for example, governing law of the terms, whether the bank is a branch or a subsidiary, location of account holder, situs of the deposited assets, as

well as where the relationship is being managed from."

This is the important bit, Madam Speaker: "We can foresee a massive adverse reaction from Class B licensees, if the view is that funds held in dormant accounts in the Cayman subsidiary or branch would be susceptible to payment over to the Cayman Islands Government."

The reason I have read that is to, rather than simply expecting the House to accept the broader conclusions that are set out at the front of the Memorandum, to give some specific details of how this sub-committee came to its conclusion about the dangerousness of the legislation as it currently stands. And so, Madam Speaker, it is because of all of that that the Government has been driven to this point where today we have before us the Bill which essentially replaces the Dormant Accounts Law that was passed in July.

Madam Speaker, this highlights again the concerns which we have expressed in this House, as we say in Cayman, over and over, about rushing through legislation without the required notice being given. Three weeks' notice on bills such as this is short; but it is what the Standing Orders require. When there is not sufficient time for public consultation, let alone sufficient time for the Opposition to absorb what is being provided for, seek input from the people to whom we speak on whatever the matter is, you run the real risk of disasters such as this occurring.

We do not know and we cannot be certain; no one can be certain what the fallout of this has been. But of this I believe we can be certain: there is nothing, there has been nothing, and there will be nothing positive in terms of Cayman's reputation and credibility gained as a result of the hurried passage of the Bill in July.

And so, Madam Speaker, we are here today—some four months later—seeking to mitigate what has been in every respect, a disaster. Completely unnecessary, completely avoidable, if only the Premier and his Government would comply with the requirements about notice, would seek consultation in advance of bringing bills to this House rather than having the technical people look at the Bill after it is passed.

Speed is no substitute for accuracy, and where the consequences can be as grave as they are in this instance, where the viability, reputation and credibility of the key industry of these Islands is at stake, it is inexcusable for the Government to approach matters such as this with this attitude of: *Well, we'll do it now and fix it later if it needs fixing.*

And so, Madam Speaker, we on this side had a chance this time around to have a careful look at the Bill before the House. As I said, Madam Speaker, it is essentially a rewrite of the legislation, picking up on many of the concerns and suggestions and recommendations contained in the Report of the Financial

Services Legislative Committee, the sub-committee on the Dormant Accounts Law.

So, we are, this time around, in a position to support the amendments and to hope, as we always hope, that despite the disastrous first round that the experience has been salutary and that the Government has learned its lesson. And henceforth we will have greater consultation and greater compliance with the requirements regarding notice when bills are being brought to the House by the Government for passage.

I thank you, Madam Speaker.

**The Speaker:** Thank you, Third Elected Member for George Town.

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 make his reply.

**The Premier, Hon. W. McKeeva Bush:** Just a minute, Madam Speaker, for me to confer with the two officers.

[pause]

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

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeeva Bush:** Thank you very much for that indulgence, Madam Speaker.

Madam Speaker, as I anticipated, the Opposition has had an eloquent time in their submission on this Bill.

He said, Madam Speaker, that I gave excuses. In spite of me getting up here and saying what actually obtained, not what is being surmised by the Opposition, but the facts as told to me by the Financial Secretary and the Chief Officer of what obtained in this whole matter, which I laid out in my introduction on this Bill.

Madam Speaker, I don't have to go any further than that. The facts are clear. He said we would not listen to people who are apolitical. I'm wondering whether that is true or not. He said that Government proceeded with recklessness instead of doing that. Well that is the Opposition to say, but what are the facts?

Madam Speaker, the job of a government, if something is found wrong, is to be corrected no matter whether it was a day afterwards, and that is what we are doing. So, what would he have preferred? He would have preferred for me to have done nothing and take the beating that I took from him on the radio without facts.

And again, this morning he has not produced any facts, you know, Madam Speaker, because the biggest thing for me to have been concerned about

what the Third [Elected] Member for George Town was saying, is this so-called damage to the industry. And where are the concrete facts that the industry has been damaged? Not by this Bill! Anybody can say anything if they have [\$10 million] or \$15 million dollars held up in an account for 30 years and they don't want the Government to get at it. They will say anything and they will not co-operate, and they will not come back when Government asks them to come back in due course.

But instead of the Member for George Town saying that, no, no, no, that is not good, what is good for him is to do exactly what he did: to get up and try to make the world believe that the Government was trying to destroy the financial industry.

Madam Speaker, that is the tenor of his submission. Where are the concrete facts? I will give concrete facts tomorrow when I deliver the Strategic Policy Statement (SPS) on the condition of the industry. That Member should be the last Member, though, to talk about any damage to the industry. When he was even informed by the United Kingdom that he should be doing something or we were going on the Black List, he didn't listen to them.

When that same Member was the Minister responsible for the financial industry he did not have a financial services council, he didn't have a secretariat. Well, if he had them he did not listen to them. And certainly he didn't listen to the associations that I read here and tabled the document that told him the industry was failing—not because of the Dormant Accounts Bill, but because of an immigration policy and the refusal of government to do something about the businesses leaving this country and going elsewhere.

That's where the industry failed, not on the Dormant Accounts Bill.

Oh, that is good enough for him and the papers and everybody else to say, *We told you so*. Well, some of them said so afterwards. But what did we do? We put out for information, as I said we did, to all those associations. And now, in spite of me doing that you know, hear him (this is what he said just now): "Instead of the Government having the technocrats look at the Bill after it passed."

Madam Speaker, what is the Member attempting to do? What is he attempting to do, but to mislead this House and the country, even in the face of me just before saying exactly what had happened, that we had gone to one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen associations in this country. And, Madam Speaker, this is not the UDP or PPM; these are well known time proven associations with much expertise on them. And those that came back were the banks and they are the ones that have the most trouble.

But we were not born yesterday. I wasn't born yesterday. I am 55 years of age and I see through many little small holes that some of those educated ones who went to university can't see through. And

that is what is wrong with the Opposition, because I can see through them.

Now we did all of that, Madam Speaker. What happened? They didn't come back because they wanted to hold up this Bill forever and aye! You know how long money has been in those dormant accounts in this country? You think it is two days? You think it is six years? Ha, ha, ha, ha, ha. Why you think the other countries have it for so long? The Opposition [Members] are not getting up and expounding on that. *Nah! That's not convenient. That nah good! Let um beat up on the Government; that's what you got to do.*

The one thing that I am concerned about [is that] the Member read from a government internal memo, Madam Speaker, that I, as the Minister of Finance, have never seen. Maybe I was not supposed to see it because the work is done by the department, not by me. But I trust Dax Basdeo. I'll say that in this honourable House. I trust that young man because he is a capable young man. He's a professional. He has just been appointed. But that only serves to tell this country—if they are listening—some of what I have to put up with; what I'm going through as a Government.

The only thing wrong with this new Constitution [is that] it did not give me administrative authority. That is one of the things wrong with it!

I hear him saying [that] I should have suggested it. I did, but the people couldn't hear me because I never had a government-paid radio, no government-paid television, nor the government-paid papers, *NetNews* and others, that were paid hundreds of thousands of dollars to carry the Government's word out! I was a lone voice speaking in the wilderness.

Now we have a Constitution that everybody is complaining about and got more to complain about before long. *You hear what I tell ya? You didn't get McKeeva's vote.*

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** He will say anything; he's got a tongue.

Madam Speaker, I am satisfied that the department, the Government acted on the advice that went out, not for two or three days; this thing started in April to every one of them. For the Member to get up here and say there was little discussion . . . the truth is there wasn't a lot of discussion with them because they did not come back, but with those who came back there was discussion and the Government took what they said.

I am satisfied that in spite of the licks the Member was dealing out, he has not dealt any facts. What I would have been concerned about is if he would have come here to say that the Dormant Accounts Bill was passed and the Dormant Accounts Bill caused a flight from this country of business. That didn't happen. It would not happen either, not on this, because as soon as it was passed that is when they

all came running and Government sat down and listened. But they didn't come back.

We followed what was agreed and the Bill went into Law. Now that they have come back we are making the amendments that are being asked [for]. So, when the relevant members of the industry came back to the Government we were then alerted to their concerns. We went straight to work.

The Member hasn't shown . . . Madam Speaker, he has eloquently beat up on the Government but that is about all. When he says that it is unwise now—and this is his advice: *"It is unwise to dismiss everything the Opposition says."* Well, Madam Speaker, that surely depends on what they are saying, when they are saying it, and what they have done themselves.

The one point that I would also answer, Madam Speaker, is this fact about him saying that we would not listen to the legislative committee. Hear the Member: The Government didn't listen to the legislative committee, we didn't listen to the technocrats and instead of giving it to them after the Bill was passed. Why doesn't he tell the country the truth? We couldn't give it to the legislative committee at that time because there was none. They were not appointed then. There was none! We did not have a legislative . . . That was in July I think that we passed the Bill. They got appointed afterwards. But certainly, it went everywhere else, Madam Speaker.

The Financial Services Legislative Committee was not involved after the Law was passed even. Concerns came from Maples and on the Ministry's request it was referred to them. We couldn't go to them before. They were not there. They were not formed. And if the Member was being honest with this House this is what he would say: The point is that concerns from the private sector only came after the Law was passed.

It's not that the Government went out there and passed the Bill *willy-nilly*, and I stress that because that is what he stressed in his whole submission. That's all he was trying to say; that we won't listen. We didn't do anything; we just went and passed the Bill, rushed ahead. McKeeva, in fact, wrote the Bill. Oh, he would like the world to believe that. Blame the Minister!

Well I am the Minister; but I have technocrats that I do listen to and I listen to the consultative process. There is nobody . . . [not] his Government, not even the one before that, and before that, that has done more consulting than we have. There has been none that has put in the many bodies than we have. We even got their people on it slowing us down.

Another point he made in his blow-up—because that's the big thing, Madam Speaker—about the number of pages. And I think that when it comes to actual sections the length was necessary to, I believe, ensure clarity and wording. The major change, as I understand, is the scope of what accounts are

captured, and this had to be clearly described in the amendment. But even that he complained about.

Madam Speaker, the truth is the Member, outside of making a decent attack on the Government for an Opposition, didn't bring any concrete . . .

*Yeah, that's all you can grin about. Thank you.*

*[Members' laughter]*

**The Premier, Hon. W. McKeever Bush:** That's all that matters to the, Madam Speaker. As long as they score a point it does not matter about the country, because the truth is if he had this country's interest at heart he wouldn't have given that kind of debate. That's the key in it.

Madam Speaker, as far as I am concerned, in spite of the internal memos between Government (which I couldn't read), I didn't have it and haven't seen it. It's all gone and I'm satisfied that we are doing the right thing. It wasn't so much the public service or private sector complaining. They made their points known to us and Government responded as we should. But it is the fact that the Opposition constantly is blowing everything up for their political purposes. They care not about the bad effects, as long as what they are saying scores Opposition points.

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

The question is that a Bill shortly entitled The Dormant Accounts (Amendment) Bill, 2010, be given a second reading. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**Agreed: The Dormant Accounts (Amendment) Bill, 2010, given a second reading.**

**The Speaker:** I think this is a good time to do the lunch suspension before we begin the next piece of legislation. I will suspend the House until two o'clock.

**Proceedings suspended at 12.40 pm**

**Proceedings resumed at 2.10 pm**

## **SECOND READING**

**The Speaker:** Please be seated.

### **Tax Concessions (Amendment) Bill, 2010**

**The Clerk:** The Tax Concessions (Amendment) Bill, 2010.

**The Speaker:** Honourable Premier.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I beg to move the Second Reading of a Bill entitled The Tax Concessions (Amendment) Bill, 2010.

**The Speaker:** The Bill has been duly moved [and is open for debate.] Does the mover wish to speak thereto?

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I rise to present the Bill on behalf of the Government, a Bill for a Law to Amend the Tax Concessions Law (2007 Revision) [*sic*] to make provision for tax exemption undertakings to be applicable to companies whose operations the Governor-in-Cabinet deems to be in the national interest.

In this current financial climate, Madam Speaker, the country must attract foreign direct investment to the jurisdiction in order to increase employment and economic growth. The jurisdiction has to be open and willing to accommodate investors that will inject much-needed capital investment.

This capital investment injected into the jurisdiction should create new industries that will complement the current pillars of the economy and outline a sustainable development of the country. And one such impetus for attracting investment to the country is the granting of tax exemption status to companies that operate on Island. This will increase the viability of emerging industries. To this end the Government requires a mechanism to extend tax exemption undertakings to companies that conduct business within our jurisdiction.

The [principal] Law is therefore sought to be amended in section 6 by (a) in subsection (1) by inserting after the words "any exempted company" the words "or any other company whose operations the Governor deems to be in the national interest"; and by inserting after the words, "such exempted company" the words "or other company"; (b) in subsection (2)(a) by inserting after the words "the exempted company" the words "or other company referred to in subsection (1)"; and (c) in subsection (3) – (i) in paragraph (a) by inserting after the words "the exempted company" the words "or other company referred to in subsection (1)"; and in paragraph (b)(ii) by inserting after the words "the exempted company" the words "or other company referred to in subsection (1)".

The principal Law, Madam Speaker, is also sought to be amended in section 7 by inserting after the words "an exempted company" the words "a company whose operations the Governor deems to be in the national interest, an".

Madam Speaker, it is, I think, an easy Bill for all of us (or I'm hoping it will be), and I therefore ask the support of all Members.

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

Member for East End.

**Mr. V. Arden McLean:** Thank you, Madam Speaker. Madam Speaker, I rise to make a short contribution to the Bill that is currently before us.

Madam Speaker, I don't know if I can assure the Premier that it is going to be anything easy about it, or that we will support it because of the possible problems that we see this Bill causing in the future. But before I get into that I think it is necessary for the Government to answer a few questions under responsibilities of the Governor versus the responsibilities of Cabinet, as they interpret it.

And, Madam Speaker, my good friend, the Third Elected Member for George Town will be able to expound on it when he gets up—and I'm sure he will.

Madam Speaker, the reason I'm saying this is because this amendment gives the Governor the responsibility to decide what is in the interest of the Island. And I didn't know the Governor had responsibility for taxation and national interest. That is exclusive responsibility—one of his reserved responsibilities—because under the new Constitution there is a fundamental difference in what the Governor could do and couldn't do as the President of Cabinet and what his responsibilities are compared to what they were. As I read it, the Government has the wherewithal to get interpretation, and I hope they do, and I am wrong.

Under the old Constitution, Madam Speaker, section 7(1) says, "**The Governor shall, subject to the following provisions of this section, consult with the Executive Council in the formulation of policy and in the exercise of all powers conferred upon him by this Constitution or by any other law for the time being in force in the Islands, except in the exercise of [(a)] any power conferred on him by this Constitution. . .**", et cetera, et cetera.

**The Speaker:** Is this related to the Bill before the House?

**Mr. V. Arden McLean:** Madam Speaker, the Bill—

**The Speaker:** Because this can be brought in a motion.

**Mr. V. Arden McLean:** No.

**The Speaker:** A Private Member's Motion, for debate.

**Mr. V. Arden McLean:** Madam Speaker, I specifically said that this—

**The Speaker:** I'm trying to follow you; that's why I'm trying to find out.

**Mr. V. Arden McLean:** —new amendment says, and if I may read: "The principal law is amended in section 6- (a) in subsection (1) by inserting after the words "any exempted company" the words "or any other company whose operations the Governor deems to be

in the national interest." So, that is what I am debating right now, Ma'am.

**The Speaker:** That's what I want to be clear on.

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

So, Madam Speaker, I read the responsibilities of the Governor in the old Constitution.

**The Speaker:** Mm-hmm.

**Mr. V. Arden McLean:** Now, when we come to the new Constitution . . . and I think we should pay close attention to the old Constitution which says, "Consult with Executive Council in the formulation of policy." The new Constitution says [in] section 44(3), "**The Cabinet shall have responsibility for the formulation of policy, including directing the implementation of such policy, insofar as it relates to every aspect of government except those matters for which the Governor has special responsibility under section 55, and the Cabinet shall be collectively responsible to the Legislative Assembly for such policies and their implementation.**"

Madam Speaker, this has been going on for quite some time since the new Constitution has come into place, and I wonder why [and] if there is not need to look at it because evidently it is Cabinet that has responsibility for the formulation of policy; it's not the Governor as we knew it to be.

Now, if the Attorney General says that the interpretation of 'Governor' means 'Cabinet', then, maybe that's a different matter. But also, Madam Speaker, the Attorney General will also be guided by the provision in the new Constitution, which says in section 7(2) (a separate issue which is just a side note), "**The Standing Orders of the former Legislative Assembly as in force immediately before the appointed day shall—**"

**The Premier, Hon. W. McKeeva Bush:** Madam Speaker, on a point of order.

**Mr. V. Arden McLean:** "**—except as may be otherwise provided under section 71 of the Constitution, have effect on and after that day as if they had been made under that section—**"

**The Speaker:** Honourable . . .

Member for East End, where are you reading? I'm trying to follow you and . . . section . . .

**The Premier, Hon. W. McKeeva Bush:** 7(2)?

*[inaudible interjection]*

**The Premier, Hon. W. McKeeva Bush:** No, he said Constitution.

*[inaudible interjection]*

**The Speaker:** You are reading from the Standing Orders? Is that where you are reading?

**Mr. V. Arden McLean:** The Constitutional Orders.

**The Speaker:** Okay.

**The Premier, Hon. W. McKeever Bush:** Page 6, Madam Speaker. I think that's where he has gone to. Is it? Page 6 of the Constitution?

**The Speaker:** It's not section 7 because section 7 deals with the trial in the human right section.

**The Premier, Hon. W. McKeever Bush:** Is it page 6?

Madam Speaker, can you inquire from the Member for East End whether he is reading from page 6 of the Constitution, which deals with (starting from page 5) "the Legislative Assembly . . ."

**The Speaker:** I guess he is trying to find out where he is at. I will—

**The Premier, Hon. W. McKeever Bush:** I'm trying to find out too.

**The Speaker:** Yes.

**Mr. V. Arden McLean:** Madam Speaker, that's where I was. But I was looking for the other section. That was page 6 about the Standing Orders which says, ". . . but they shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution."

I was only using that as an example.

*[inaudible interjection]*

**Mr. V. Arden McLean:** And—

*[inaudible interjection]*

**Mr. V. Arden McLean:** —then, on existing laws, Madam Speaker, it says [in section] 5[(2)] under "Existing Laws": "**(2) The Legislature may by law make such amendments to any existing law as appear to it to be necessary or expedient for bringing that law into conformity with the Constitution or otherwise for giving effect to the Constitution; and any existing law shall have effect accordingly from such day, not being earlier than the appointed day, as may be specified in the law made by the Legislature.**"

So, Madam Speaker, subsection (3) says: "**In this section "existing laws" means laws and instruments (other than Acts of Parliament of the United Kingdom and instruments made under them) having effect as part of the law of the Cay-**

**man Islands immediately before the appointed day."**

Section [5](1) says, "**Subject to this section, the existing laws shall have effect on and after the appointed day as if they had been made in pursuance of the Constitution and shall be read and construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with the Constitution.**"

So, if the Interpretation Law is interpreting "the Governor" as "Cabinet," then there are two different responsibilities in the new Constitution. And in my humble submission, Madam Speaker, these laws should then say "Cabinet," they should not say "the Governor" because the Governor's responsibilities are there. He no longer consults with Cabinet. He is [not] required to do anything except carry out his responsibilities.

Cabinet runs the country, and Cabinet is responsible for the implementation of policy. So, why are we naming "the Governor" as the person responsible for implementing this policy and giving the right for exemption of companies? That's my question.

Madam Speaker, I see the Attorney General saying that he has it all in hand, so I will wait for him to explain to us what is meant by leaving it now as "the Governor" as opposed to "Cabinet."

*[inaudible interjection]*

**Mr. V. Arden McLean:** Madam Speaker, I am going to leave a little time for the AG so he can get a . . .

Madam Speaker, here are some of the concerns that we have as the Opposition: Exempted companies are companies that are given exemption under the Companies Law to not operate in this country because their primary operations are overseas, but they are registered in the Cayman Islands. Now for some reason we are lumping all companies into that category by adding "any other company" as the same category as the exempt company.

Now, Madam Speaker, the first question that needs to be asked is: Which companies will this benefit?

The Premier has said in his presentation (which is what I suspected) that it will be used to attract. They have to use some methods to attract companies to this country. Well, Madam Speaker, as I understand the exempt[ed] companies, they are given an exemption from any taxes that this country may impose on certain aspects of a company's operation, but it is for a given period of time.

So, because those companies are not operating in this country, if, for instance, somewhere down the road we implement taxation, and they have corporate tax for instance, they will be exempt from that and somewhere, somehow 20 years has been tagged on to that. When I was in Cabinet I know it was said that it was [for] 20 years that they would be exempt.

So, three years from now, one month from now, ten years from now these companies are exempted still and we apply corporate tax, from there on in 20 years thereafter, they will be exempt from that tax.

**The Speaker:** Member for East End, isn't this a rather wide supposition? Nobody is talking about corporate tax being tagged on at this point. It's not in the legislation.

*[inaudible interjections]*

**Mr. V. Arden McLean:** Madam Speaker.

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

**Mr. V. Arden McLean:** The purpose of an exempt company . . . I thought I was saying it right, but maybe I'm not.

Madam Speaker, the purpose of an exempt company is that it is exempted from any taxes in this country in the event that those taxes are applied at any time. So, in essence, our revenue comes from those companies who operate here. The Government—you asked me to show how this ties into this—is changing the Tax Concession Law which applies to exempt companies. And they are tying in other companies. Whether it is for the Cabinet to have the authority to give tax exemption to companies that are operating here, whether it is for expediency or political favours, that is what the result of this amendment will mean—that Cabinet will be able, if a company coming into this country, decide whether it is in the interest of the country to give them tax exemption. So that is what I'm talking about. That is how corporate taxes are going to come in.

Madam Speaker, much has been said in the last 18 months, or thereabouts, about property tax, corporate tax, salary tax, and that is what exempt companies are allowed, because they do not operate here. Their operation is overseas. And, Madam Speaker, the Companies Law specifically states that.

Now, section 165 of the Companies Law says, and I read: "**A proposed exempted company applying for registration as an exempted company shall submit to the Registrar a declaration signed by a subscriber to the effect that the operation of the proposed exempted company will be conducted mainly outside the Islands.**" But we are extending that now, Madam Speaker, wherein there will no longer be a requirement to prove that you are mainly operating outside of the Cayman Islands. Anyone the Government deems in the interest of the country they will have the authority in Cabinet to exempt them.

Now, therein lies the problem, Madam Speaker. We have talked about these taxes; the probability, the possibility of them coming in place. There are many people in this country, for or against it, for reve-

nue measures and the likes. And we can talk as much as we want. But if a company wants to come here to operate and have its primary operation here, then they must do it the way [everyone]else does it—the little hairdresser, the little salon, or the big Maples and Calder, from those two extremes. They will be caught up in the taxes, if that happens. They will be caught up in the taxes and they will have to pay the taxes to run this country.

But here we are. The Government is trying now to have the authority to exempt other companies coming in here if they deem it in the interest of this country.

Now, Madam Speaker, in the application of any taxes anywhere—and I've heard the UDP Government and its Backbenchers get up and expound on this in the public, in here, television, the media, whatever, about how we have to be fair in the application of all taxes, whether they are on work permits or they are on produce, or they are on equipment being brought in, luxury items, whatever, alcohol, whatever.

Now, what this is going to say is that in the event this country eventually goes to taxes, it is bad enough to have the exempted companies given 20 years before they have to pay, and they will still be registered here, but that's okay, they are not operating here. That is bad enough. [But] it is ten times worse when you have a company here that may very well be dominating the landscape and they are exempt from it and the small businesses will then have to pay an unfair share to run this country of taxes.

That's what it means, Madam Speaker. If we exempt a company now, Madam Speaker, I don't have a problem if the Government had come here and said that they were going to amend the Law to allow an application therefor, through the Legislative Assembly with an affirmative vote in the Legislative Assembly. Now, I could understand that. But when a Cabinet has the right to stay behind closed doors and make such decisions, you could get . . .

Madam Speaker, for instance let's say we get a major company coming in here. Understand now, Madam Speaker, right now there are no taxes. But in the event that it is, maybe 10, 15, 20 years down the road, if a big company comes here, let's say one of the software companies, or maybe one to develop a port in East End—

*[inaudible interjections]*

**The Speaker:** Ah—

**Mr. V. Arden McLean:** —let's use for the sake of argument, Microsoft . . .

And . . . *[Addressing the Hon. Premier] You got up on a point of order, let's deal with it.*

**The Premier, Hon. W. McKeeva Bush:** I want to question, Madam Speaker, the relevancy of where the Member is headed, because the Member is out in

*Never-never Land* on this matter, and I would like to know what he is debating. And it's no wonder that the Third Member for George Town is sitting down because he is making the other one look like he is in *Never-never Land*.

**Mr. V. Arden McLean:** Madam Speaker, the Premier would love to think that we are in *Never-never Land* because . . . [CERTAIN WORDS WERE ORDERED BY THE HONOURABLE SPEAKER TO BE EXPUNGED FROM THE RECORD]

**The Speaker:** Ah.

**The Premier, Hon. W. McKeever Bush:** No, no, no, no. Madam Speaker—

**Mr. V. Arden McLean:** That's what he wants to do! That's what you want to do!

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, the Member must withdraw that remark!

**The Speaker:** Ah—

**Mr. V. Arden McLean:** Oh yeah? It won't be today!

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

**The Speaker:** Ah—

**The Premier, Hon. W. McKeever Bush:** I call to question my right under the Standing Orders for the Member saying . . . [CERTAIN WORDS WERE ORDERED BY THE HONOURABLE SPEAKER TO BE EXPUNGED FROM THE RECORD] I want it withdrawn unequivocally!

**The Speaker:** Thank you, Mr. Premier.  
Member for East End, you know better than that. "No Member shall impute improper motives to another Member." You are well aware of what the Standing Orders say. And you will withdraw it.

**Mr. V. Arden McLean:** Madam Speaker, I heard your ruling . . . [CERTAIN WORDS WERE ORDERED BY THE HONOURABLE SPEAKER TO BE EXPUNGED FROM THE RECORD]

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, on a point of order, I point to the Standing Orders.

**The Speaker:** I have ruled on the matter. You will withdraw the statement.

**Mr. V. Arden McLean:** Madam Speaker, I've used that statement advisedly, and I ain't withdrawing it. You have your right to do what you have to do. [CER-

TAIN WORDS WERE ORDERED BY THE HONOURABLE SPEAKER TO BE EXPUNGED FROM THE RECORD]

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

**Mr. V. Arden McLean:** [A CERTAIN WORD WAS ORDERED BY THE HONOURABLE SPEAKER TO BE EXPUNGED FROM THE RECORD]

**The Speaker:** I am suspending this House and I will see the Member.

**Mr. V. Arden McLean:** [CERTAIN WORDS WERE ORDERED BY THE HONOURABLE SPEAKER TO BE EXPUNGED FROM THE RECORD]

**The Speaker:** I will suspend this House and I will see the Member in my Office immediately.

**Proceedings suspended at 2.40 pm**

**Proceedings resumed at 3.11 pm**

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

#### **Enforcement of Order** [Standing Order 41(2)]

**The Speaker:** We were in the middle of a debate in which the Member for East End was making his presentation on the Tax Concessions (Amendment) Bill.

The Member made statements which I considered out of order in this Legislative Assembly. The Standing Orders of the House state very clearly in 35(4), "No Member shall impute improper motives to another Member." The statements were grossly out of order.

I am going to call on that Member to withdraw himself from the Chamber for the rest of the afternoon since he has refused to withdraw the statement.

Member for East End, please leave the Chamber.

**Mr. V. Arden McLean:** Madam Speaker, I will withdraw myself from these Chambers. But I would . . . whilst I will not—

**The Speaker:** Please do not make it any worse, sir.

**Mr. V. Arden McLean:** —go against your ruling, I would point out to you that the procedures under the Standing Orders should be followed to have me removed.

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

**The Speaker:** I would ask, Mr. Member for East End, that we not go any further with this than we have already gone. I would ask for your sake and the sake of this House, we do not go any further with it. Just please withdraw yourself for the remainder of this Sitting this afternoon. Thank you very much.

*[The Elected Member for East End withdrew himself from the Chamber for the remainder of the Sitting followed by the Opposition Members that were present.]*

*[pause]*

*[inaudible interjections]*

**The Speaker:** I know exactly what the Standing Orders say.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, as the person being offended, I would ask that the remarks be struck from the records.

**The Speaker:** I had already stated that.

*[pause]*

**[CERTAIN WORDS WERE ORDERED BY THE HONOURABLE SPEAKER TO BE EXPUNGED FROM THE RECORD]**

*[laughter and inaudible interjections]*

**The Speaker:** Do we have a quorum in the House?

*[inaudible interjection]*

**The Speaker:** We will continue the business of the House.

Does any other Member wish to speak on this piece of legislation? *[pause]* Does any other Member wish to speak? *[pause]* Does any other Member wish to speak? *[pause]*

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

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

Madam Speaker, I listened to the debate from the Member for East End, and I tried in my mind to gather where the Member was heading when he started talking about the Governor's power versus the responsibilities, and the responsibilities and powers of the elected Members.

This Bill amends The Tax Concessions Law (1999 Revision). The operative part here is that the "Governor" means the "Governor-in-Council" which means the "Governor-in-Cabinet", which means that the Cabinet is involved in this matter.

From what I listened to, the Member tried to question the Governor's ability or the Governor's right, or the Governor's constitutional competency by his dabbling into the Constitution [about] the responsibilities for the Governor and the Cabinet. I don't know yet what he was trying to say, but, certainly, he completely misread the Constitution and certainly sought to misguide the House on the Bill.

The Member and his colleagues are, as usual, trying their best to make the public believe that the House is embarking upon something new and nefarious. The ability to give tax concessions has been going on in this country for much more than 30 years I believe. Why now should they try to endanger this country in this manner by giving the wrong information?

The truth is that the Opposition is doing nothing but playing to the gallery. This afternoon's episode is blatant proof positive that that's what they are doing. They know that everything they say will be carried on the [Internet], or carried in the headlines of the papers. As you can see, all that has happened here this afternoon there was no call for it to happen.

The newspapers' [personnel] are gone, the *NetNews* gone. The reporters are gone; just to cover this. It is nothing but an Opposition tactic in this country where we have so many problems to deal with. To try to upstage the Government and carry on in this kind of manner, Madam Speaker, is not helping this country.

We are in a precarious position in this country. And I keep saying to one and all that there is no need for this kind of upheaval in this country. There is no need for what I see going on by the Opposition—which did not start today; it started the day after the General Elections, Madam Speaker. This is what concerns me. Opposition has a right to complain, but immediately after the Elections all of this started and there is more and more of it every day.

You go off internationally and people are questioning what they say in the House. The people are questioning what the Constitutional Commission says about the legislature. And so, Madam Speaker, you have a right when you get up and speak about what your powers are in relation to what the Constitution is in this Legislative Assembly. It is absolutely ridiculous! And I call on the Opposition to stop it! We are not helping the country in this fashion! We are not!

I [was] at pains [trying to find] out, while the Member was [talking], what he was trying to say.

I want to make the point that there is a tremendous degree of objectivity in the process of issuing tax exemption certificates, and has been since its inception, Madam Speaker, from the old Executive Council days. It is the Governor himself who spends hours upon hours, usually every two weeks, signing these certificates. It is not me, as Premier, or Members of Cabinet. Not even the Attorney General.

Madam Speaker, do Members in this honourable House believe that if something was untoward

with the process that the Governor would sign the certificates? The answer clearly is: No! I have been in this House from 1984 and I came here and found this process in existence. There is nothing new here, Madam Speaker. As far as I am concerned—and this is some of what he was saying, that the Government is going in private to exempt the big companies, but if income tax is instituted the small companies would be taxed.

Madam Speaker, this is so wrong. How can five big men on that side of the House stand up and do this sort of thing to the country when the amending Bill is doing completely, completely the opposite? How can anyone in their right mind, seeing this proposed legislation, come to that conclusion?

Madam Speaker, I haven't been to Harvard, Oxford, or even to any of the small United States universities. I didn't even get chance to finish High School because of the systems in the country. However, I have enough good commonsense to know what is being done here and this walkout that is staged today.

The Leader of the Opposition himself said when he stepped down that they would be embarking on a campaign like never before. Is this the start of it? Perhaps so. But it is wrong for this country! It is not good for this country, Madam Speaker. And it really, really hurts me because nobody can say that I did that in my time of Opposition with them. I gave them every chance, Madam Speaker, to operate. I wish that I had gone out there and stirred the people, and then I would not be in [the] mess, probably, that I am in today with the expenses in this country.

Madam Speaker, the public would be forgiven if it made the mistake of thinking, after hearing the Member for East End, that the affect of this amending Bill would benefit large conglomerates or large corporations whilst small businesses have to possibly pay tax in the future.

Let me make a few but important points: 1) The Bill, if passed into law, would allow large and small business entities to apply for the exemption certificate. 2) The tax exemption certificate must be applied for. The Cabinet is not obliged to grant the certificates. The Cabinet is bound legally by this Bill to consider the public's best interest. Cabinet cannot grant the certificate recklessly. And, as I said, it is nothing new. It has been done time and time again.

The Member for East End is incorrect when he says that the period or life of the Tax Exemption Certificate starts if, as an example, direct taxation is introduced in the future, from the date of introduction of any such taxation. That is wrong! It is incorrect! The life of the certificate starts from the date it is issued by the Government, which is different from what the Member for East End said.

Madam Speaker, they might have the preponderance today . . . and I would grant them this, that today, because of the economic situation in the country, the Government has been taking a shellack-

ing because I can't get the local economy kicked off. And tomorrow I'll show the signs of how our international business is improving. But I can't get the local economy kicked off the way that we should to hire people for several reasons. And I've given the reasons over and over in this House and elsewhere about what obtains; why we can't get things done.

There is so much bureaucracy built up by this last Constitution and the so-called PMFL (Public Management and Finance Law) that we now can't even get an RFP, a request for . . . proposal, sorry. Yes, a proposal. (For over a year?) Then, what is happening to people? They are starving to death. They lose their car. They can't pay their children's school fees, when we could easily have kicked off this economy. I have to put up with this kind of bureaucracy. Right?

These people over there cannot, Madam Speaker, say that we have in any shape or form given any indication or support to the idea of introducing income tax or property tax, or any kind of direct taxation. On the other hand, Madam Speaker, I have fought it tooth and nail. And I have been discouraged [by] the last Government, the Labour Party in the United Kingdom because I would not 'cow-tow' with them. You would see them and their remnants still trying to investigate me. They will still pounce on me to give me a bad name while they can because they have the remnants of the Labour Party around. Oh, I was not born yesterday, Madam Speaker, because I stand up to them and will not 'cow-tow' to them!

Last year when I told the country that we had a problem with the UK about income tax the Opposition said I was telling a lie. They told the country that I was not telling the truth and I was just playing politics. Well, just recently in the House of Commons the new Minister was asked why they are not carrying through the programme of the Labour Party in taxing the Cayman Islands, or pushing the Cayman Islands into tax. Oh, am I lying? Am I telling untruth? No, Madam Speaker!

I might not have a lawyer's degree, but I can read law. I understand it. I understand the administrative law quite well. And I might not be a university educated person, no, but I have good commonsense and I know business. And they are completely wrong. All that is happening here is that we have an Opposition who is determined to destroy the Government and not give them a chance to move forward. That's all that is happening.

I'll tell you what—if I had had people in my Government, my backbenchers or my frontbenchers that had gotten up and done what the Member for East End did this afternoon, I wouldn't have walked out with him—I would have made him go by himself!

Madam Speaker—

**The Speaker:** Honourable Premier, conclude your debate please. Let's get this over with.

**The Premier, Hon. W. McKeever Bush:** Madam Speaker, I should not allow myself to be dragged to comment on rubbish, but the truth is that it was said and unless it is going to be struck from the record it will be bearing part of the record of what he said.

It is not, as they have said, Madam Speaker. I repeat that. The legislation is going completely opposite from what he said.

**The Speaker:** I am not curtailing your expounding of the legislation; I am curtailing the extraordinary comments.

**The Premier, Hon. W. McKeever Bush:** Yes, I understand, Madam Speaker. I've been here long enough too. I appreciate your indulgence in any event.

Madam Speaker, I think I have answered. I certainly explained the Bill in the introduction, and I certainly have explained as best as I can what I believe the Member was trying to impute, and, certainly, the things he said that absolutely makes no sense and where he is *absolutely* incorrect!

Thank you kindly, Madam Speaker.

**The Speaker:** The question is that the Bill entitled The Tax Concessions (Amendment) Bill, 2010, be given a second reading. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

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

**The Speaker:** Yes, Mr. Premier.  
Madam Clerk.

**The Clerk:**

#### Division No. 22/10-11

**Ayes: 9**

Hon. W. McKeever Bush  
Hon. Rolston M. Anglin  
Hon. Juliana Y. O'Connor-Connolly  
Hon. Michael T. Adam  
Hon. J. Mark P. Scotland  
Hon. Cline A. Glidden, Jr.  
Capt. A. Eugene Ebanks  
Mr. Ellio A. Solomon  
Mr. Dwayne S. Seymour

**Noes: 0**

**An Hon. Member:** Suspended [referring to the Elected Member for East, Mr. Arden McLean when his name was called].

**The Speaker:** I think we need to get that clear; I did not suspend the Member. I asked him to withdraw himself from the House.

Suspension of a Member is taking in another section of the Standing Orders. I did not suspend him. I asked him to withdraw himself, which he did. Had he not done so, I would have been forced to take a suspension.

The result of the division is 9 Ayes, 0 Noes.

**Agreed by the Majority on division: The Tax Concessions (Amendment) Bill, 2010 given a second reading.**

## ADJOURNMENT

**The Speaker:** I call on the Premier for a motion for the adjournment at this time. We will continue the business tomorrow.

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

Madam Speaker, I propose the adjournment of this honourable House until 10 am tomorrow when the Government will deliver the Strategic Policy Statement (SPS).

Further, Madam Speaker, I should say that for further business to be conducted, the plan is that we would complete what we have on the business as much as possible between now and tomorrow, and we hope to resume on the December 6.

Madam Speaker, there is a Bill which has been presented within time and that is the District Council Bill. I am not going to take that Bill now. It is by virtue of it being sent to this honourable House and I think gazetted. It is in the public's domain. But I want to give some more time for anyone who might wish to comment on that Bill until 6 December, God willing.

**The Speaker:** For the benefit of those listening, the adjournment is being taken early because the Senior Citizen's Home in West Bay is being opened and Members need to be present there.

The question is that this honourable House do now adjourn until 10 am tomorrow. All those in favour, please say Aye. Those against, No.

**Ayes.**

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

**At 3.35 pm the House adjourned until 10.00 am Monday, 6 December 2010.**