



**CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY**

**OFFICIAL HANSARD REPORT
ELECTRONIC VERSION**

2012/13 SESSION

23 November 2012

Eleventh Sitting of the Second Meeting

(pages 507–526)

**Hon Mary J Lawrence, MBE, JP
Speaker**

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PRESENT WERE:

THE SPEAKER

Hon Mary J Lawrence, MBE, JP.
Speaker of the Legislative Assembly

MINISTERS OF THE CABINET

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| Hon W McKeever Bush, OBE, JP, MLA | <i>The Premier</i> , Minister of Finance, Tourism and Development |
| Hon Juliana Y O'Connor-Connolly, JP, MLA | <i>The Deputy Premier</i> , Minister of District Administration, Works, Lands and Agriculture |
| Hon Rolston M Anglin, JP, MLA | Minister of Education, Training and Employment |
| Hon Michael T Adam, MBE, JP, MLA | Minister of Community Affairs, Gender and Housing |
| Hon J Mark P Scotland, JP, MLA | Minister of Health, Environment, Youth, Sports and Culture |

OFFICIAL MEMBERS OF THE CABINET

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| Hon Franz Manderson, Cert. Hon., JP | <i>Deputy Governor</i> , Member responsible for Internal and External Affairs and the Civil Service |
| Hon Samuel Bulgin, QC, JP | Attorney General, Member responsible for Legal Affairs |

ELECTED MEMBERS

GOVERNMENT BACKBENCHERS

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| Capt A Eugene Ebanks, JP, MLA | Fourth Elected Member for West Bay |
| Mr Ellio A Solomon, MLA | Fourth Elected Member for George Town |
| Mr Dwayne S Seymour, MLA | Third Elected Member for Bodden Town |

OPPOSITION MEMBERS

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| Hon Alden M McLaughlin, MBE, JP, MLA | <i>Leader of the Opposition</i> , Third Elected Member for George Town |
| Hon D Kurt Tibbetts, OBE, JP, MLA | First Elected Member for George Town |
| Mr Anthony S Eden, OBE, JP, MLA | Second Elected Member for Bodden Town |
| Mr V Arden McLean, JP, MLA | Elected Member for East End |

INDEPENDENT MEMBER

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| Mr D Ezzard Miller, JP, MLA | Elected Member for North Side |
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APOLOGIES

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| Mr Moses I Kirkconnell, JP, MLA | First Elected Member for Cayman Brac and Little Cayman |
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ABSENT

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| Hon Cline A Glidden, Jr, MLA | <i>Deputy Speaker</i> , Third Elected Member for West Bay |
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OFFICIAL HANSARD REPORT
SECOND MEETING 2012/13 SESSION
FRIDAY
23 NOVEMBER 2012
2.02 PM
Eleventh Sitting

The Speaker: I am going to ask the Honourable Deputy Premier to read prayers this afternoon.

PRAYERS

The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly: 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.

Honourable Premier.

Motion to allow a Gift of a unique replica of the Cayman Islands Catboat to be presented to the Legislative Assembly

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

Madam Speaker, as it is customary to allow gifts made to this honourable House to be presented publicly, I accordingly move that the honourable Members of this Legislative Assembly grant permis-

sion for Mr. [William] Kem[uel] Jackson, [MBE] to make a presentation of a gift of historical significance to this honourable Legislative Assembly, namely, a unique replica of the Cayman Islands Catboat which carries the name *Cayman Heritage*.

The Speaker: The question is that this honourable Legislative Assembly grant permission for Mr. Kem Jackson to make present a gift of historical significance to this honourable Legislative Assembly, namely, a unique replica of the Cayman Islands catboat which carries the name *Cayman Heritage*.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Permission granted for presentation of special gift of historical significance.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I think the procedure would be that a gift would be made to you as honourable Speaker of this Legislative Assembly; that you would be in charge thereof.

The Speaker: Mr. Jackson.

[Presentation of gift]

The Speaker: Thank you very much, Mr. Jackson.

[applause]

The Speaker: I am going to call on the Leader of the Opposition to deliver thanks.

Vote of Thanks

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: Madam Speaker, it is indeed an honour and a privilege for me to record the gracious thanks of this honourable House to Mr. and Mrs. Jackson for the presentation of this lovely, lovely replica of a Cayman Catboat which is a critically important part of the Cayman heritage. And I should say that thanks to his efforts and those of others in the Catboat Club, it looks as though the catboat will be around for another generation.

There are those of us who are old enough to have grown up sailing in catboats. My father had one that was made in Cayman Brac in 1968. Although he never used it under sail in my time, it was always with the oars, or later on with an outboard engine, I do have the fond memories of fishing in that catboat and spending time with my father and my uncles as I was growing up.

But for those who are younger than I, and those of the next generation, it is important that they know and understand the important role that the catboat played in the survival of this country over the years. I read in one of the many books that have been written about the catboat in Cayman in recent times that it was considered the pickup truck of the time. It was used to carry everything from produce right down to the coffins from one place to another in Grand Cayman and, I am sure, in Cayman Brac as well.

Although it seems almost impossible now, in those times there were few roads, and I can remember well when a really good road finished somewhere just east of Bodden Town. So, for those who have just come, to those who have been born in a much easier time, it is important that they understand how important this humble vessel, called the Cayman Catboat, has been to the survival of our people. And it is truly a symbol of the enduring heritage of these Islands.

Again, Madam Speaker, on behalf of all Members of this honourable House, I record our gracious thanks to Mr. and Mrs. Kem Jackson for the presentation of this lovely replica of the Cayman Catboat.

The Speaker: Thank you.
Honourable Premier.

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

A vote of thanks has been given and we are certainly not going to traverse that ground, but just to say that over the years that I have been elected there have been some gifts given to this House, but this one holds tremendous significance to us. The name alone, *Cayman Heritage* . . . when we look at where we have come from, Madam Speaker, as has been somewhat outlined by the Leader of the Opposition, and where we are today . . . the difference is, in that time span, how difficult it is to retain things Caymanian. And there are several people who attempt to do that. But I think the catboat and the mode of transportation holds preeminence in these matters.

Certainly, the younger ones will never know what we had to go through growing up. This is only somewhat of a picture that says to us where we were and where we are today. And we give God thanks for all in between, where we have come from, where we are. And I certainly add my thanks to . . . and I should

say, Madam Speaker, I am proud to say that he is a constituent of mine, Mr. Kem Jackson, and his wife.

I must say to the House that I am already the beneficiary (a long time ago) of one of these. It sits in my office. I thank him and his good wife. And I thank you, Madam Speaker.

The Speaker: Does anyone else want to add anything to that? No?

The catboat has been made by Mr. Jackson, as he has indicated here already. It is an exact replica. It is made to scale. I think we should also acknowledge the fact that Mr. Jackson travels from school to school in this Island and organisation to organisation spreading the history of the catboat and demonstrating its use to students in the Cayman Islands.

Thank you very much, sir.

READING BY THE HONOURABLE SPEAKER OF MESSAGES AND ANNOUNCEMENTS

Apologies

The Speaker: I have no announcements. I have an apology from the First Elected Member for Cayman Brac and Little Cayman.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: I have no record of any statements by Honourable Members and Ministers of Cabinet.

GOVERNMENT BUSINESS

BILLS

Suspension of Standing Order 46 (1) and (2)

The Speaker: Honourable Premier.

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

I move the suspension of Standing Order 46(1) and (2) to enable the Bills on the Order Paper to be read a first time.

The Speaker: The question is that Standing Order 46(1) and (2) be suspended to enable the Bills on the Order Paper to be read a first time.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(1) and (2) suspended.

FIRST READINGS

Mutual Funds (Amendment) Bill, 2012

The Clerk: The Mutual Funds (Amendment) Bill, 2012.

The Speaker: The Bill is deemed to have been read a first time and is set down for second reading.

Banks and Trust Companies (Amendment) (No.2) Bill, 2012

The Clerk: The Banks and Trust Companies (Amendment) (No.2) Bill, 2012.

The Speaker: The Bill is deemed to have been read a first time and is set down for second reading.

Suspension of Standing Order 46 (4)

The Speaker: Honourable Premier.

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

I move the suspension of Standing Order 46(4) to enable the Bills on the Order Paper to be read a second time.

The Speaker: The question is that Standing Order 46(4) be suspended to enable the Bills on the Order Paper to be read a second time.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 46(4) suspended.

SECOND READINGS

Mutual Funds (Amendment) Bill, 2012

The Clerk: The Mutual Funds (Amendment) Bill, 2012.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeever Bush: Madam Speaker, I beg to move the Second Reading of a Bill entitled the Mutual Funds (Amendment) Bill, 2012.

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

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

As part of the revenue measures included in the 2012/13 Budget, this amendment provides revised definitions of various terms in the Law, and provides for the registration of non-resident mutual fund administrators.

The revenue is expected to yield well over \$4 million in this fiscal year.

The detailed amendments that are now being proposed in the Mutual Funds (Amendment) Bill before us are as follows:

Clause 1 provides the short title.

Clause 2 amends the definition of “feeder fund,” “regulated feeder fund,” and “master fund” in order to clarify the types of fund structures that are registered and for which fees are due.

These revised definitions are intended to address several challenges that arose subsequent to the introduction of master fund registration earlier this year. The clause also defines the term “non-resident mutual fund administrator”.

Clause 3 inserts a new section 18A which provides that a non-resident mutual fund administrator is required to file an annual declaration with the CIMA (Cayman Islands Monetary Authority), and pay the prescribed fee. The prescribed fee will be specified in regulations and will be the same as a fee in relation to local mutual fund administrators.

Clause 4 repeals and replaces section 39 of the principal Law to widen the regulation making power of the Governor in Cabinet. This is to allow a certain degree of flexibility if it is determined that certain structures that should not, as a matter of policy, be caught, requiring exemption from registration.

I ask for the support of honourable Members, Madam Speaker.

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

Leader of the Opposition.

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: Madam Speaker, I was hoping that the Honourable Premier would have given some more explanation in relation to this Bill, which is coming now, I believe, to correct many of the problems and issues that have arisen as a result of the earlier Bill, which was hurriedly passed through this House last year, and which I believe has had disastrous consequences, particularly in relation to the definition of this so-called master fund.

If he would have indicated how much revenue this new measure did actually produce, following its introduction last year; and if he could also explain to this House the basis on which he has now reached

the conclusion that it is going to yield \$4 million in the current fiscal year, particularly since we are now nearing the end of November and the fiscal year actually started on 1 July.

I am not raising any objection on behalf of the Opposition to the Bill, but I do believe that both the House and the country would benefit from a more fulsome explanation by the Premier of the reasons for the introduction of this amending Bill, less than a year after he introduced the first version of this “master fund” definition.

The Speaker: Thank you, Leader of the Opposition.

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 exercise his right of reply.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I don't know what and why the Leader of the Opposition says last year's Bill was hurriedly passed. It came to this House like we are experiencing right now. We are experiencing that the legal people, whom we don't have a lot of, the legal drafts people, have to take time and there are calls on their time for many more pieces of legislation. I think we got that last year as quickly as we could get it after we announced it.

Certainly, Madam Speaker, I don't know what disastrous consequences the Member is talking about. The master funds have been increased. We have increased registration. So, I don't know what disastrous consequences, Madam Speaker. We said at that time that we were looking for about \$4 million. I think so far we have collected either half, or well over \$3 [million]. So, it is . . . whether we collected the \$4 million or not, the fact is we are collecting money that we never, ever collected before. And it has not caused the effect that the Member is referring to.

I should say, Madam Speaker, that this has been discussed, I think fairly widely with all operators or with the industry, in an industry that you will find one opinion from the lawyers saying one thing, and the accountants saying another. And you will find people in step, like Anton Duckworth, saying another thing.

So, Madam Speaker, we have to look at what our financial services counsel will say and this has been discussed with them. We never, never, Madam Speaker, I don't know of any time in recent times (and I say recent) even with that Member who was the former Member responsible for Financial Services, can't think of any time that we have had complete agreement to anything when it comes to Government trying to get revenue.

What I will say to him is that when we propose one fee, they said, *No, that can't do. We are going to find you the revenue.* Well, that's what they are doing.

The Speaker: The question is that a Bill shortly entitled the Mutual Funds (Amendment) 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 Mutual Funds (Amendment) Bill, 2012, given a second reading.

Banks and Trust Companies (Amendment) (No.2) Bill, 2012

The Clerk: The Banks and Trust Companies (Amendment) (No.2) Bill, 2012.

The Speaker: Honourable Premier.

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

I beg to move the Second Reading of a Bill entitled The Banks and Trust Companies (Amendment) (No.2) Bill, 2012.

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

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

As part of the revenue measures that we announced, this amendment introduces an annual fee in relation to the provision registered office services by the holders of a trust licence.

The detailed amendments now being proposed in the Banks and Trust Companies (Amendment) (No.2) Bill, 2012, are as follows:

Clause 1 provides for the short title to the Bill.

Clause 2 inserts section 15A into the Law. This new section requires a licensee holding a Trust licence to pay a prescribed fee for each company for which the licensee provides a registered office up to the 31st day of December in the preceding year. This requirement only applies where the service provided by the licensee does not apply to trust related business.

Madam Speaker, the prescribed fee will be specified in regulations and will be just around \$75 per applicable company.

The Speaker: Thank you Honourable 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]

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

The Premier, Hon. W. McKeever Bush: Madam Speaker, I just want to thank Members for their silent support.

The Speaker: The House will now go into Committee to discuss the Bills.

[pause]

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: Madam Speaker, I think you need to take the vote on the Bill.

The Speaker: Proceedings are resumed.

Thank you for pointing that out.

The question is that a Bill shortly entitled The Banks and Trust Companies (Amendment) (No.2) 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 Banks and Trust Companies (Amendment) (No.2) Bill, 2012, given a second reading.

The Speaker: The House will now go into Committee to consider the Bills.

House in Committee at 2.31 pm

COMMITTEE ON BILLS

[Hon. Mary J. Lawrence, Chairman]

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 such the like in these Bills?

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

Mutual Funds (Amendment) Bill, 2012

The Clerk: The Mutual Funds (Amendment) Bill, 2012.

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| Clause 1 | Short title |
| Clause 2 | Amendment of section 2 of the Mutual Funds Law (2012 Revision) - definitions |
| Clause 3 | Insertion of section 18A - non-resident mutual fund administrator-obligations |
| Clause 4 | Repeal and substitution of section 39 - regulations |

The Chairman: The question is that clauses 1 through 4 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 4 passed.

The Clerk: A Bill for a Law to amend the Mutual Funds Law (2012 Revision) to provide revised definitions of various terms in the law; to provide for the registration of non-resident mutual fund administrators; to widen the power to make regulations; and to provide 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.

Banks and Trust Companies (Amendment) (No.2) Bill, 2012

The Clerk: The Banks and Trust Companies (Amendment) (No.2) Bill, 2012.

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|----------|--|
| Clause 1 | Short title |
| Clause 2 | Insertion of section 15A in the Banks and Trust Companies Law (2009 Revision) - annual fees in relation to provision of registered office services |

The Chairman: The question is that clauses 1 and 2 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 and 2 passed.

The Clerk: A Bill for a Law to amend the Banks and Trust Companies Law (2009 Revision) to provide for annual fees for licensees providing registered offices; 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.

House resumed at 2.35 pm

The Speaker: Proceedings are resumed. Please be seated.

REPORTS ON BILLS

Mutual Funds (Amendment) Bill, 2012

The Clerk: The Mutual Funds (Amendment) Bill, 2012.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, The Mutual Funds (Amendment) Bill, 2012, was examined in Committee of the whole House [and passed] without amendment.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

Banks and Trust Companies (Amendment) (No.2) Bill, 2012

The Clerk: The Banks and Trust Companies (Amendment) (No.2) Bill, 2012.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I have to report that The Banks and Trust Companies (Amendment) (No.2) Bill, 2012, was examined in Committee of the whole House [and passed] without amendment.

The Speaker: The Bill has been duly reported and is set down for a Third Reading.

Suspension of Standing Order 47

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeeva Bush: I move for the suspension of Standing Order 47 to enable the Bills to be given a third reading.

The Speaker: The question is that Standing Order 47 be suspended to enable the Bills on the Order Paper to read a third time.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Standing Order 47 suspended.

THIRD READINGS

Mutual Funds (Amendment) Bill, 2012

The Clerk: The Mutual Funds (Amendment) Bill, 2012.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I move that the Bill entitled The Mutual Funds (Amendment) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that a Bill shortly entitled The Mutual Funds (Amendment) 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 Mutual Funds (Amendment) Bill, 2012, given a third reading and passed.

Banks and Trust Companies (Amendment) (No.2) Bill, 2012

The Clerk: The Banks and Trust Companies (Amendment) (No.2) Bill, 2012.

The Speaker: Honourable Premier.

The Premier, Hon. W. McKeeva Bush: Madam Speaker, I move that the Bill entitled The Banks and

Trust Companies (Amendment) (No.2) Bill, 2012, be given a third reading and passed.

The Speaker: The question is that a Bill shortly entitled The Banks and Trust Companies (Amendment) (No.2) 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 Banks and Trust Companies (Amendment) (No.2) Bill, 2012, given a third reading and passed.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

Private Member's Motion No. 6/2012-13— Amendment to the Governor (Vesting of Lands) Law (2005 Revision)

The Speaker: Elected Member for North Side.

Mr. D. Ezzard Miller, Elected Member for North Side: Madam Speaker, I beg to move Private Member's Motion No. 6/2012-13—Amendment to the Governor (Vesting of Lands) Law (2005 Revision), which reads as follows:

WHEREAS the Governor (Vesting of Lands) Law (1998 Revision) was amended on 9th March, 2005 to add a subsection (3) (a) and (b) to Section 10, which gives authority to the Governor in Cabinet to waive any of the requirements of Section 10 subsection (1) and (2);

AND WHEREAS this allows the Governor in Cabinet to sell, convey, grant or devise any lands without approval of the Legislative Assembly or public knowledge;

BE IT THEREFORE RESOLVED THAT the Legislative Assembly amend Section 10 of the Governor (Vesting of Lands) Law (2005 Revision) by deleting subsection (3).

The Speaker: Is there a seconder?
Elected Member for East End.

Mr. V. Arden McLean, Elected Member for East End: Madam Speaker, I beg to second Private Member's Motion No. 6/2012-13.

The Speaker: The question is: **BE IT THEREFORE RESOLVED THAT** the Legislative Assembly amend Section 10 of the Governor (Vesting of Lands) Law (2005 Revision) by deleting subsection (3).

The Motion is open for debate. Does the mover wish to speak thereon?

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

Madam Speaker, the [Governor \(Vesting of Lands\) Law \(2005 Revision\)](#) concerns the sale or other divestment of government assets, particularly Crown land, by the elected Government under the signature of the Governor.

Section 9 of the Law provides who may sell Crown land, and section 9 says: **"The Governor in Cabinet may sell, convey, grant or devise any of the lands, tenements or hereditaments respectively vested in the Governor under this Law and execute all such deeds and assurances as may be necessary fully and effectually so to do:**

"Provided that in cases where a sum of money is the consideration for the sale of any lands under this section, no conveyance shall be executed until such sum shall have been paid into the office of the Financial Secretary and his receipt endorsed upon the agreement of such conveyance and his certificate thereof lodged in the office of the Governor."

Section 10, which follows, details the various methodologies and requirements and processes that should be followed in this divestment of Crown property. And I quote section 10: **"10. (1) A disposition by the Governor under section 6, or by the Governor in Cabinet under section 9, is void unless, prior to the completion of such disposition-**

"(a) full details of the land of which it is proposed to dispose, and of the terms of the proposed disposition, have been advertised in a newspaper circulating in the Islands and in the Gazette;

"(b) a report, accompanied by the documents specified in subsection (2), and recommending the proposed disposition has been laid on the Table of the Legislative Assembly for twenty-one days by the Minister responsible for lands; and

"(c) a motion to reject the report has not been made within the period that the report is on the Table of the Legislative Assembly; or if such a motion has been validly made, it has been voted on and negated by the Legislative Assembly."

Section 10(2) reads: **"(2) The report laid on the Table of the Legislative Assembly under subsection (1) shall be accompanied by-**

"(a) a report by the proper officer in the ministry responsible for lands containing all the details and terms of the proposed disposition and the reasons for proposing it;

"(b) a copy of the report of the survey required by paragraph 12(1) of the Cayman Islands Royal Instructions, 1972;

"(c) a valuation by the Government's valuer of the land of which it is proposed to dispose;

“(d) valuations by two independent licensed valuers of the land of which it is proposed to dispose;

“(e) a copy of the resolution of Cabinet approving the terms of the proposed disposition; and

“(f) a copy of the advertisement of the proposed disposition published under subsection (l)(a).”

And then, Madam Speaker, we get to section 10(3) which this Motion seeks to delete, which says:

“(3) Where, pursuant to section 9, the Governor in Cabinet proposes to sell, convey, grant or devise any lands, tenements or hereditaments -

“(a) to a statutory authority or government company; or

“(b) to any legal entity, in the public interest and for the purpose of agriculture, education, health, housing or any other similar purpose, “the Governor in Cabinet may waive any of the requirements of subsections (1) and (2).”

Madam Speaker, that is the section that concerns me, and I believe that the provisions which were in the Law prior to this 2005 Amendment, which gave the Governor in Cabinet the ability to waive all of the requirements listed above in section 10(1) and (2), I believe is the proper way to dispose of Government lands and that is why I am recommending that the change made in 2005 with the addition of subsection (3) [in section 10] be reversed and that we delete section 10(3).

Madam Speaker, I seek the support of the Government and the House for doing so. Thank you.

The Speaker: Thank you Member for North Side.

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

Honourable Deputy Premier.

The Deputy Premier, Hon. Juliana Y. O’Connor-Connolly: Thank you, Madam Speaker.

The Government has given due consideration to the Motion currently before this honourable House. And being quite familiar with it, as I was the Minister of Government in 2005 and Wednesday, 9 March, we were the Government that moved the motion to put it in. We were persuaded then that it was necessary in the very specific circumstances where the Crown land was deemed necessary by the Governor in Cabinet to be used for the purpose of agriculture, education, health, housing, or any similar purpose for which would have been in the public interest.

It was necessary then. It has been used, for example, to convey Crown property for Sister Island Affordable Homes, the Housing Trust here, sometimes a sporting facility, always for charitable things. It is not a matter where you have a Governor in Cabinet that is not looking out for the best interests of the pub-

lic, or the public’s interests. But not only did we find it was necessary and important, but, indeed, the last Government, the PPM Administration, also obviously concurred that it was not moved and we agree with that position.

In this day and age, Madam Speaker, there are instances where the statutory authorities and government companies need their first cousin, or I guess even closer attachment, the mother being the Government, to transfer Crown property for situations that we felt was necessary that there were ample checks and balances within the Governor in Cabinet to have a discretion to do that. And it has been now in existence from 2005 and we have not found any overriding interest to show that it is not in the best interest of the public to so continue. So, the Government will not be supporting this Motion, unfortunately.

The Speaker: Thank you, Honourable Deputy Premier.

Does any other Member wish to speak?
[pause]

Honourable Leader of the Opposition.

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: Madam Speaker, just to speak briefly and say that the section that is referred to in the Motion by the Elected Member for North Side and which he says ought to be deleted, is the section that was placed in the legislation by the previous UDP administration. It is a section that I have always had great concerns about because it does permit the transfer of Crown property secretly without the knowledge of this House unless someone winds up [making] an FOI [request] it could well be the case that this remains a secret for an extended period of time.

It is one of the sections that ought to be deleted, I believe, and we ought to revert to the original position which was that the matter had to come down here, as we say, down to the House so that it became a public matter. I don’t like the optics of the disposal of Crown property in Cabinet, even if I am in Cabinet myself. I do understand that it does create another hurdle, another step in the process. But I do believe, particularly in this day and age that it is very important that if Government is disposing of Crown property, that it is done transparently and that the Government is called upon to explain quite carefully to the House and to the broader public the basis on which the transfer has actually occurred.

Madam Speaker, I give my support, and the support of my colleagues who are not here this afternoon, to the Motion moved by the Elected Member for North Side and seconded by the Elected Member for East End.

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

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 mover of the Motion to exercise his right of reply.

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

I heard what the Government said and from where I sit it is not a matter of trust or distrust; it is more a matter of the entitlement of the people whom we represent in this honourable House to know with clarity what is being done on their behalf, in particular when it comes to the liquidation of Government assets. I cannot see the need to be concerned . . . and there are a couple of words in this amendment done in 2005 that really trouble me. One has to ask why they were put in in the first place.

Madam Speaker, when you read it the first time, it looks as though it's being done simply to allow expediency in transferring property to Government's own entities, such as statutory authorities or government-owned companies. And there is nothing wrong with that. But, Madam Speaker, I would also recommend that there is value in going through the proper valuation processes, even if it is going to government authorities, because one of the big problems that we have now in the accounts for these authorities and companies is that their asset base, particularly when it comes to land values and buildings, et cetera, has never been calculated.

If we had to go through this process before it was transferred to those authorities there would be an exact understanding by Government, by the people, and by the people in the authority receiving the asset what the asset is valued at. When it says to transfer to any legal entity, it is troubling, because that is a whole can of worms. It covers all kinds of things.

Even though it says in the public interest, the public interest today is a very subjective thing. And if the public is not aware of it, how, then, can it possibly be done in the public's interest? It says "for the purposes of agriculture, education, housing" all good reasons to transfer it to government authorities on a proper asset value. But then it goes on to say, "or any other similar purpose." And that is worrying, Madam Speaker, because, again, the scope and the reasons that could be used by any Government to transfer government assets is very, very wide, and very broad. I believe that the people of the country deserve that section 10 (1) and (2) be followed on any assets that have to be done.

Madam Speaker, I am being reminded that the FFR may prevent it. But all the FFR requires is that the British Government give permission. It doesn't require that the public has to know. Right? Or that it has to be within the confines of this because there are no confines on this, Madam Speaker. It says, "to any legal entity," and it says, "or any other similar pur-

pose." And, Madam Speaker, agriculture, education, health and housing are about the widest terms that could possibly exist in legal jargon and English because there are myriads of agriculture. There are all kinds of things used for education.

Madam Speaker, I understand the Government is not going to pass it. Madam Speaker, I have done my duty on behalf of my people and I can promise the people of this country that if I ever get in a position where I can delete section [10](3), I give a commitment here today that section [10](3) will be removed from the Law once again.

Thank you, Madam Speaker.

The Speaker: Thank you Member for North Side.

The question is: BE IT THEREFORE RESOLVED THAT the Legislative Assembly amend Section 10 of the Governor (Vesting of Lands) Law (2005 Revision) by deleting subsection (3).

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

Ayes and Noes.

The Speaker: The Ayes—

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: May we have a division, Madam Speaker, please?

The Speaker: Madam Clerk.

The Clerk:

DIVISION No. 9

Ayes: 3

Hon. A. M. McLaughlin, Jr.
Mr. V. Arden McLean
Mr. D. Ezzard Miller

Noes: 8

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

Absent: 4

Hon. Cline A. Glidden, Jr.
Hon. D. Kurt Tibbetts
Mr. Anthony S. Eden
Mr. Moses I. Kirkconnell

***The Premier, Hon. W. McKeever Bush:** Madam Speaker, I am satisfied with the explanation given. I have to vote No.

The Speaker: The result of the division is: 3 Ayes; 8 Noes; 4 Absent. Private Member's Motion No. 6/2012-13 failed.

Negated on Division: Private Member's Motion No. 6/2012-13 failed.

**Private Member's Motion No. 7/2012-13—
Government Revenue based on Consumption
Fees**

[Deferred]

The Speaker: Elected Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. Private Member's Motion No. 7/2012-13—Government Revenue based on Consumption Fees, standing in my name, I beg leave of this House to postpone it to another sitting within this Meeting.

The Speaker: Do you have a seconder?

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

The Speaker: The question is that Private Member's Motion No. 7/2012-13—Government Revenue based on Consumption Fees, be postponed or deferred to another sitting within this Meeting.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Private Member's Motion No. 7/2012-13 deferred.

**Private Member's Motion No. 8/2012-13—Property
and Vehicle Insurance**

The Speaker: Third Elected Member for Bodden Town.

Mr. Dwayne S. Seymour, Third Elected Member for Bodden Town: Thank you, Madam Speaker.

Private Member's Motion No. 8/2012-13—Property and Vehicle Insurance, [reads]:

WHEREAS representation has been received from persons with property and/or vehicle which had insurance coverage and which have been damaged or destroyed and who are unable to have satisfactory resolve;

AND WHEREAS persons have not been able to have their claims settled in a satisfactory manner;

BE IT THEREFORE RESOLVED THAT Government considers amending or creating legislation to provide the necessary regulations and consumer protection in property and vehicle insurance.

The Speaker: Is there a seconder?
Fourth Elected Member for West Bay.

Capt. A. Eugene Ebanks, Fourth Elected Member for West Bay: I beg to second the Motion.

The Speaker: The question is: BE IT THEREFORE RESOLVED THAT Government considers amending or creating legislation to provide the necessary regulations and consumer protection in property and vehicle insurance.

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

Third Elected Member for Bodden Town.

Mr. Dwayne S. Seymour: Thank you, Madam Speaker.

I am sure many Members of this House have been contacted in terms of incidents in property and vehicle insurance. I will start by speaking about vehicle insurance and some of the troubles that our citizens are having after being insured. Madam Speaker, I have received a lot of representation from persons in the community who have had damage to their vehicles and when they go to the insurance companies, whether it be the car who was at fault or their own insurance, they are denied a suitable resolve.

For instance, I have had a lot of representation in terms of persons who were under the influence who ran into another vehicle with a third part insurance or no insurance at all. Even though your vehicle is fully comprehensive, fully insured, your insurer right now will not cover that accident, and you will have to bear the brunt on your own. Madam Speaker, I am not talking only about one person. Many persons have had this same thing happen to them and they go to their insurance companies and their claims are not settled in a satisfactory manner.

Madam Speaker, we also have property insurance. You remember after Hurricane Ivan where everybody was under-insured or over-insured. Right now the law does not have any protection for the consumer in terms of once the insurance company says that they can't pay out there is nowhere else to turn, leaving the consumer with an unsatisfactory result.

Madam Speaker, this Motion was brought, and one of the things I want the Government to consider is that right now what we have is a Health Insurance Commission. And if a person has a problem right now with their health insurance provider and a claim, there is a Commission they can go to. That Health Insurance Commission will review the claim and review the findings from their health insurance provider and come back with an answer for the consumer, the insured.

Right now there is nowhere to turn for property and vehicle insurance. Whatever the insurance company says is final. So, Madam Speaker, I am asking the Government to consider setting up a commission for property and vehicle insurance, or put all of the insurance under one commission to address this situation as this is a vexing situation within the com-

munity. A lot of people have been affected by property and vehicle insurance claims where they have no other place to go and do not get any satisfactory answers from their insurance companies.

Madam Speaker, I am sure that other Elected Members of the House have been approached by members of the community who have like problems, like concerns about no other avenue to go in terms of their vehicle and property insurance claims. I brought this Motion to try and address this situation. I am asking the Government to consider putting the commission in place to ensure that the citizens of this country have an avenue to go when their claims are not satisfactorily managed or the results they should have from the policies that they own are not followed by the very insurance company that they have them with.

Definitely, we need some kind of avenue for these persons to go and be able to complain or have their situation addressed in terms of vehicle and property insurance. I won't say much more on this, but I commend it to Members of the House and for the Government to consider this Motion. Thank you.

The Speaker: Thank you, Third Elected Member for Bodden Town. Does any other Member wish to speak? [pause]

Honourable Premier.

The Premier, Hon. W. McKeever Bush: Madam Speaker, no doubt about this matter of property insurance is a vexing one as people experienced, in particular after Hurricane Ivan, tremendous problems and a severe increase in their premiums. Today you can pay more for your premium than you do for your mortgage. So it is a matter that I think several legislatures or governments have looked at in trying to come to grips with.

I have no problem in considering what the Member has asked. So we give that undertaking. I just want to say to him that I am appreciative of his work, his understanding of the problem, and will take it on board and have the relevant authorities in Government look through it. Thank you, very much.

The Speaker: Thank you, Honourable 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]

Minister for Health.

Hon. J. Mark P. Scotland, Minister of Health, Environment, Youth, Sports and Culture: Thank you, Madam Speaker, very briefly.

I also rise to offer my support to this Motion. The Honourable Premier spoke on behalf of the Government but I just wanted to rise as well to particularly commend the mover of this Motion, my colleague the Third Elected Member for Bodden Town, as well as

the seconder, and the second seconder, the Third and Fourth Elected Members for West Bay.

Here again, the Third Elected Member for Bodden Town is showing his understanding of issues that face our community, which constituents and others have brought to him and to all Members of this House. He has put forward a sensible motion for consideration. The Government can look into this matter and try to find a solution, particularly one that will provide greater consumer protection than currently exists for persons who experience these problems.

Madam Speaker, the mover spoke about Hurricane Ivan. We all remember the experiences there. You were either over or under insured. But there were very few people who got what they expected from their contract of property insurance after that very horrible experience. We have the problem of vehicles that the Member spoke about. I have had constituents come to me who have had accidents not their fault where the other person's insurance is not covering and their insurance will not cover it either and they are left with a damaged car, sometimes a car that is written off and they still have a bank loan to pay. But there's no recourse at all in terms of getting their insurance pay out for their damaged vehicle.

Madam Speaker, I know of a constituent who recently had severe damage in a house fire. I believe she is still in dispute with the insurer. She called us in and I made a few calls myself to the insurer through CIMA [Cayman Islands Monetary Authority] itself because it's the only regulator for that industry now. We started some dialogue there, but up until that point this was two, or at least a week after the house fire and the insured person had not gotten any money at all to try to get a temporary place to live or any clothing that was needed at that point. So this is something like a week after the fire. Again, no recourse, because the only person she could call at that point was the property insurer.

So, Madam Speaker, like the mover said, there is no entity now. We obviously have the Health Insurance Commission so it would be something like that example that we would be looking to establish, or maybe even to look at one insurance commission altogether instead of having a Health Insurance Commission and a Property Insurance Commission. And, Madam Speaker, we can't forget about life insurance. That should be included as well. So, all forms of insurance—property, life, motor, and so on—and whether or not we end up with one insurance commission that regulates all those industries, that is certainly something to look at.

The key here, Madam Speaker, is enhancing consumer protection so that when people have a contract of insurance that is mandated by law, and mandated by having a mortgage where you are required to have insurance coverage, but you need to have some protection so that when you have a contract you know that you are getting what you paid for. So, in the case

of you actually needing to be paid out, you know you're covered and you have recourse if you have some complaint about it.

So, Madam Speaker, again, I commend the mover and seconders of this Motion. It is so good to know that they are working so hard for the constituents that we all represent, hearing about the problems, but not just hearing them and not doing anything about it. They made sensible motions for this honourable House to consider.

So with those brief words, Madam Speaker, again, we offer support for this Motion.

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]

Fourth Elected Member for George Town.

Mr. Ellio A. Solomon, Fourth Elected Member for George Town: Madam Speaker, I would like to lend my support to Private Member's Motion No. 8/2012-13.

Madam Speaker, I would first of all like to speak on the issue of vehicle insurance. I can stress from my personal perspective that I have been driving perhaps since 17 years of age and I haven't gotten into a crash, Madam Speaker, thank God, and therefore you pay very little amount in terms of the insurance. But, Madam Speaker, the reality is that the Motion brought by the Third Elected Member for Bodden Town is a very, very relevant one. There are persons, as we had a discussion a few days ago, where we talked about the Health Insurance Commission, and I talked about the fact that there is no perfect piece of legislation, and at the end of the day we can perhaps recognise that insurance companies as it relates to health insurance companies, ideally find themselves in a position where if they had their way they would only insure healthy persons.

I think we also have to recognise that if the car insurance persons had their way they would only insure persons that would never crash their car and if they did, would never make a claim. But the reality of the situation is that persons don't purchase insurance just to go out and crash their car. I don't think the majority of persons do that. But they purchase that insurance in the event something unfortunate occurs where someone hits them or they hit someone else. Or some other damage occurs to their car, an act of God or otherwise.

When they end up in that situation, I believe it is only fair, after having kept their part of the bargain in terms of paying the premiums, the payments being asked by the insurance companies, that they can go down to the insurance company and without hassle, without red tape, without undue amounts of bureau-

cracy they can the monies, get the insurance they have paid for.

Madam Speaker, on too many occasions you will continue to hear all sorts of stories—so many stories in permutation you don't have enough time in this honourable House to discuss—where the insurance companies are charging to insure a car for \$39,000. They take the money and supposedly insure the car for \$39,000. But when the person comes to make a claim they say the car is not worth any more than \$17,000 and they always knew that. Why are you insuring the car and charging the premium for \$39,000 if the car is only [worth] \$17,000 and you are never, ever going to give more than \$17,000?

I believe that when it comes to the things, for example, such as vehicle insurance, it has to be a situation where the contracts are very clear, it is in good laymen's terms that anyone can understand that persons can be clear in terms of what their contractual obligations are, what the insurance contractual obligations are, and when and if something unfortunate occurs that the person, without any undue hassle, can be able to get access to the funds they need. If you have to rent a car, if they need the money to buy a new car they can get it. And the reality of the situation is that many of those persons out there who are driving those vehicles are not necessarily blessed with the time and other things to even step up and defend themselves.

I believe that just as we talked about plugging all the holes as it relates to health insurance, in that same persistent pursuit for perfection, Madam Speaker, we need to make sure to plug these holes so that the person, whether using that vehicle for commercial purposes or private purposes, that if and when something occurs they can go there and get the money that they paid a good premium for. People work hard for their money, Madam Speaker. And to work hard for your money and get on the roads in this country and get yourself in an unfortunate situation, hopefully there is no life lost or no damage done to an individual, but to know that your car has been damaged or someone else's or both and to get the hassle that a lot of our citizens are having to endure from these insurance companies is completely, totally unacceptable.

My colleague mentioned the situation of drunk driving. Madam Speaker, I have had at least two persons come to me, an on more than one basis, I would say, the individual has repeated it, where someone . . . you are paying your insurance and there is someone on the road driving. They are drunk. They run into you and hit you. Their insurance isn't paying because he or she was drunk. And then your insurance isn't paying either. Madam Speaker, I don't think that's fair. The individual has paid for insurance that says if their car has been hit they need their money to be able to get another car.

So, Madam Speaker, I would like to hear the logic from the insurance companies on this. The per-

son pays their premium to be able to get X amount and in particular cases where the person has full comprehensive insurance and again to stress when it is not even their fault, it is someone else's and nobody's insurance pays? No, Madam Speaker. Clearly, this has gone on in this country for too long. And somebody, some Government, has to do something about it. So I am quite proud to say that the Member here from Bodden Town bringing it and that this Government will do something about it.

There are also circumstances where you will hear of teenagers talking about trying to get on the road and do work. Again, Madam Speaker, this is another thing that occurs. I don't know about anyone else, but I believe the majority of us were teenagers at some point. So I would like to say that I was driving my car from around 17 years of age, never got in an accident and never had to claim. And the majority of those 17, 18, 19, and again, whether they want to get into 20 or 21, they are working citizens in this country, Madam Speaker, and they want to go to work. You have single moms, for example, right now with one, two or three children. They need to get insurance so they can drive a car so they can go to work, keep their employment and come home and feed their children, but just because your age group or otherwise persons are being killed with prices for insurance.

In addition to that, after they kill you with prices, if something goes wrong every whistle, every bell, every little piece of paper, tape and cord is brought out to justify why the child or somebody can't get their money. It is completely wrong, Madam Speaker. And those people need representation where a government can put something in place that says you cannot treat our citizens like this. They have paid their money. You have taken the risk with the hopes of making a profit, and you are doing that, but now in this particular instance it is time to pay up!

My colleague talked about the issue of home insurance. Madam Speaker, we don't need to go too far for that—2004. This country was plagued . . . Madam Speaker, understand. From time, as the saying goes, *Wampie kill sillop* [SOUNDS LIKE], Madam Speaker, we have been paying insurance in this country. The sun hadn't risen yet and we were paying home insurance and no major incident had occurred. And here comes Hurricane Ivan, approximately 200 mile per hour winds, damages people's homes, Madam Speaker. I don't know what the percentage is, but I know it was extremely high. All of a sudden everyone in this country, arguably, was plagued to understand that they were over insured, under insured, or still looking to find some way to be insured. It was a very, very sad situation and persons never heard about it before.

So, Madam Speaker, I don't even get too much into the banks. There needs to be contracts that are very crystal clear, not ones that you have to go and find a friend who is a lawyer or hire a lawyer to

read one. And then, because it is so legal, he has to get a second opinion on it in order for you to sign the contract. It has to be good, crystal clear, layman-ised term contracts that human beings can read, understand, make their payments, and in the event something goes wrong a person can get their money. And the same thing goes for the banks, but we are not dealing with them too much today so we're not touching that. But fair contracts, Madam Speaker. And contracts that lay persons can read, understand the terms that they are entering into, and after they have paid their bill consistently like good citizens of this country, if and when that unfortunate event occurs, give the people their money.

If someone needs to be put up in rental accommodation, as just mentioned, because his house has been burned, give it to them. What is the person supposed to be doing a week or two weeks homeless in the streets, no place to stay, after knowing that they have been paying home insurance for years? Persons, hopefully, again, without injury to family, needs their vehicle to get to work, to do what? To put food on the table for his or her family, single moms, single dads, or any parent or any individual in this country, only to be killed with bureaucracy and persons who are not living up to their part of the bargain.

So without a doubt, Madam Speaker, I commend the mover of the Motion and the seconder. And respectfully, that is the Third Elected Member for Bodden Town and the Fourth Elected Member for West Bay. This issue is not a simple one. It is one that has to be dealt with. And whether it is something like the Health Insurance Commission or some other structure, I think some consideration has to be given to it and a remedy has to be found to be able to deal with this issue comprehensively, quickly, and effectively to give remedy to the people of this country that we represent. They put us here to represent them and we need to do it, and we need to do it now.

Too long! Not 5 years, not just 10 years, Madam Speaker; too long in this country it has been allowed to continue. With that, I thank you very much for the opportunity to make this contribution.

The Speaker: Thank you the Fourth 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?

[pause]

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

Mr. Dwayne S. Seymour: Thank you, Madam Speaker.

I was getting a little fuzzy up here.

Madam Speaker, I want to thank you, and I want to thank all the Members who stood up and supported this Motion. I want to thank the Premier for giv-

ing his contribution and support. I also thank the Minister of Health for his support. He now governs or is the Minister for the Health Insurance Commission. So he full well understands and appreciates what I am trying to bring forward and also gave me a lot of information as I researched some of this information for this Motion. And I thank him very much.

I also want to thank initially the Third Elected Member for West Bay and also the Fourth Elected Member for West Bay for seconding this Motion. I also want to thank the Fourth Elected Member for George Town who gave such a wonderful contribution.

Madam Speaker, as we have heard, this is a vexing problem and one that needs to be addressed. Not only have teenagers, persons in their twenties, forties, fifties, come to me and make representation about the problems they were facing, whether it be property or vehicle, and it made me realise that we have to do something about this problem and we should have really done something about it after 2004's Hurricane Ivan.

You heard the Fourth Elected Member for George Town talk about the contracted agreements. We need to ensure that companies live up to and abide by the contracts that they sign, especially the ones by law. Definitely, we have some teenagers or persons in their early twenties who just bought a car and now are out of a car and they can't get to work, but they still have to work because they still need to pay that loan. They can't get another car because they can't afford two loans. So this is a vexing situation and definitely with the type of economy we have now a person can't afford to lose his job because he is not punctual or dependable with [no] vehicle to get to work.

I can remember after Hurricane Ivan, Madam Speaker, the troubles that I had and many of my friends and family had in trying to even reach . . . they dodged us, they hung up the phone on us, they closed their doors on us. We had to keep going back day after day waiting long, long hours only to be told that our 2003 car wasn't worth what we thought it was worth, and there was no recourse. So you had to accept at the time what they were offering you.

So, Madam Speaker, whilst the Insurance Law, 2010, is modern in terms of prudential standards, it does not adequately address the need for greater protection for consumers in a domestic insurance market place. This is unusual and has led to some great debate with the private sector. The problem lies with the way the financial laws were developed in the Cayman Islands in the 1970s. Originally, the generator of the laws was in the international sector where the prime directive was to develop laws to both attract licensees and effect prudential requirements around those licences. However, consumer protection standards were not incorporated into legislation. While there are some attempts in the law to provide for consumer protection standards, they are

vague and difficult to enforce. Hence, the moral suasion [SOUNDS LIKE] becomes the primary tool for dealing with complaints.

Madam Speaker, some have suggested that there are various ways of dealing with these matters especially in terms of policyholder protection. Our laws do not specifically give priority protection to policyholders in the event that insurance company enters involuntary liquidation. In other words, general creditors have equal rights to policyholders, which is unfair, Madam Speaker. General creditors should be subordinated. This needs to be addressed, Madam Speaker.

And when we talk about the right to arbitration, generally, if a policyholder is in dispute with an insurance company, the insurer can deny a claim often for puerile reasons and use their financial strength to force a policyholder into court. Obviously, for most people the cost associated with pursuing a court case can be obstructive. Hence, there is a need for alternative, affordable dispute resolution mechanisms. The Insurance Law does not provide for arbitration, but only under limited circumstances.

Madam Speaker, everyone has a right to fight. And if a policyholder is a subject to a complaint the policy is usually denied, subject to a resolution which may take many years at great expense. Meanwhile, the insurer benefits from not paying out a claim. It strikes me that this is unfair and that perhaps a partial claim should be made to a policyholder, or a full claim into trust, and that the settlement should be pursued with both parties having equal consideration. There is no consumer watchdog that can hear complaints and through law settle disputes. As such, the Authority becomes a last resort, but, again, we have limited powers. An ombudsman would resolve such matters and negate the need for arbitration or the courts.

The market conduct rule is weak and should identify clear infractions and identify severe penalties for claim denials. Such examples include forcing a policyholder to provide information simply to confuse and obstruct a genuine claim payment. Madam Speaker, we can provide many of these examples if needed. As I wrap up, I would like to ask the Government to consider, as the Premier has already eloquently said that they are mindful to consider, this Motion. I commend this to the whole House and ask for the support of the whole House.

Thank you.

The Speaker: The question is: BE IT THEREFORE RESOLVED THAT Government considers amending or creating legislation to provide the necessary regulations and consumer protection in property and vehicle insurance.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Private Member's Motion No. 8/2012-13 passed.

Private Member's Motion No. 9/2012-13—Expunge Court Convictions from Records

The Speaker: Third Elected Member for Bodden Town.

Mr. Dwayne S. Seymour: Madam Speaker, thank you, once again.

I move that Private Member's Motion No. 9/2012-13—Expunge Court Convictions from Records:

WHEREAS representation have been made by persons unable to travel to further their education, and by persons seeking employment;

AND WHEREAS we are seeking to provide persons with a second chance who fall in this category;

BE IT THEREFORE RESOLVED THAT Government considers creating or amending legislation to provide for persons to apply for minor convictions to be expunged from their record prior to the end of the period currently in Law, after fulfilling certain requirements, including fulfilling all requirements of the sentence of the Court.

The Speaker: The question is: BE IT THEREFORE RESOLVED THAT Government considers creating or amending legislation to provide for persons to apply for minor convictions to be expunged from their record prior to the end of the period currently in Law, after fulfilling certain requirements, including fulfilling all requirements of the sentence of the Court.

Is there a seconder for this Motion?

Capt. A. Eugene Ebanks: Madam Speaker, I beg to second the Motion.

The Speaker: The Motion is now open for debate. Does the Member wish to speak thereto?

Mr. Dwayne S. Seymour: Yes, Madam Speaker.

The Speaker: Third Elected Member for Bodden Town.

Mr. Dwayne S. Seymour: Thank you, Madam Speaker.

I rise to speak on this Private Member's Motion No. 9—Expunge Court Convictions from Records. I want to thank the seconder of the Motion. I also want to thank the honourable Third Elected Member for West Bay for his contribution and support.

Madam Speaker, this has been a very vexing situation, but a very sensitive issue that has plagued most of our young people, first offenders, who have paid the price more than quadrupled for minor or lesser offences. I have known of many cases and the concerns, effects and magnitude of this matter long before I was even elected. Now that I am elected, I would not be doing justice to the people who elected me, especially in the wonderful first capital of Bodden Town. I am pursuing to have some possible resolve to this matter that is affecting our people.

In the US, there are many different levels of crimes. We all heard about the term "misdemeanor charges" which I don't think is used a lot in Cayman, but is mostly an American term (I stand to be corrected). But we have misdemeanor and you have felony convictions, with felony convictions carrying the most serious penalties which can include large fines, prison time, or worse. It depends on the severity and seriousness of the crime.

"A Bill signed into [law] last month allows for offenders to expunge a select set of felonies and misdemeanors, after meeting all court requirements. The law applies only to offenders with a single conviction.

"The economy has already proven a powerful incentive for people to have their records expunged. As people lost jobs over the past few years, they found that criminal records often prevented them from finding work, particularly as more people vied for a smaller pool of positions."

"These things are life-altering. It is just devastating to apply to a job" once you have a criminal conviction listed on your police record, Madam Speaker.

Until the laws in the US were passed to expunge minor convictions or misdemeanors, a conviction was permanent almost on your record.

Madam Speaker, everyone makes a mistake and a criminal conviction doesn't have to stop you from joining the army, if you are honest about your past history. And that is in the British Army, Madam Speaker. They offer an important second chance, and they give those persons a second chance to learn trades and skills that will last a lifetime. It's a great way to make a fresh start. That's the way the British Army is marketing it. Some convictions are forgotten or spent after a rehabilitation period. The length of this period depends on the offence. All you have to do is be honest about the unspent convictions. If you hide the conviction before joining the British Army, you could actually be prosecuted.

So, we see that even in the British Army there is an opportunity for persons who made a mistake in their early years. And, Madam Speaker, we have many persons who come to my office, many young persons in their teenage years. Some are in their twenties. And when they tell me what their conviction was, I marvel at the reason why it had to be placed on

their records to destroy our young generation. What are these people going to do if they can't get a job, Madam Speaker? And we see some of it happening right now today in this community. These people cannot get a job, and it has to be addressed.

They come, they put in application after application, and they cry to me in my office. They call me at their homes and they cry to me, *I can't understand why I just did this, I just had one little fracas outside the nightclub, or, I just smoked this little thing, and it wasn't even a fingernail bit. And now, gone a couple of years and I can't get a job.*

Madam Speaker, there is only one country known in the EU [European Union] that has no legislation, and that's Ireland, that provides expungement of criminal offences. Even in the EU "[\[securing employment or training\]](#), and the ability to rebuild a life after committing an offence, is crucial to breaking the cycle of offending. Enacting effective spent convictions legislation could remove many existing barriers to the successful reintegration of former offenders or prisoners."

Even in the EU they are campaigning hard to make sure that robust and extensive spent conviction legislation is enacted at its earliest opportunity.

In 2009, congressman Charles Rangel sponsored and introduced the [Second Chance for Ex-Offenders Act 2009](#) which would permit expungement of records of certain nonviolent criminal offenses. **Second Chance for Ex-Offenders Act of 2009 amends the federal criminal code to allow an individual to file a petition for expungement of a record of conviction for a nonviolent criminal offense if such individual has: (1) never been convicted of a violent offense and has never been convicted of a nonviolent offense other than the one for which expungement is sought; (2) fulfilled all requirements of the sentence of the court in which conviction was obtained; (3) remained free from dependency on or abuse of alcohol or a controlled substance for a minimum of one year and has been rehabilitated, to the court's satisfaction, if so required by the terms of supervised release; (4) obtained a high school diploma or completed a high school equivalency program; and (5) completed at least one year of community service."**

It is not just a situation where we are saying, *You made a mistake. No problem. We will expunge this. Go make another mistake.* We are not saying that, Madam Speaker. What we are saying is that if a person can abide by the court's ruling, whether it is working in the community or anything else set out by the court over a period of time for them to be able to . . . Madam Speaker, I understand some of these offences are left on your police record for some seven years. It depends; some five years, some seven years.

All we are saying is that not necessarily do we want a person to wait five or seven years to be able to

get employed again. Are they going to become a burden on social services? We're saying, if a person can do this within six months, within one year, depending on the person and depending on what the court agrees to do, so that they can have their criminal conviction expunged.

It was made public, Madam Speaker, in the newspapers, on the news and all over the place. We had a young man who had only about six months left in college in the US. He came down on a break, got on the wrong side of the law, did something untoward, and went to court. He got this police record for a minor conviction. He couldn't get a US visa, couldn't get a waiver. He went to court trying to get it overturned. The judge upheld the ruling and the young man is here in Cayman now and cannot get a job because he has a criminal offence on his police record.

Madam Speaker, I can remember also (if I might mention) that there was a young man who was working in one of the authorities of government. I will go as far as to say he was working with the police department. This happened some two years ago, two and a half years ago to be exact. He had an offence when he was in his young teens, I understand. Madam Speaker, this young man is now in his 40's. He had worked with the Fire Service, had a perfect record, saw another opportunity and transferred to the Police Force. Then when he transferred to the Police Force he was a great officer, a professional officer, everybody loved him, just like how everybody loves Raymond.

But, Madam Speaker, this young man then went on the Marine section and provided beautiful service to the Cayman Islands. He was a good example. He also had businesses on the side. He was working hard trying to achieve that Caymanian dream. All of a sudden, one day he got a letter saying, *We found something some 20 – 25 years ago on your record and we don't think that you should be working in the police force.* Madam Speaker, I want to know if that same thing is carried out on these foreign officers that are in here.

Nobody has to worry about where I am in terms of loving everybody. All of my family wasn't from here, on one side. Let me correct that before they question why I am in the House.

[laughter]

Mr. Dwayne S. Seymour: Don't worry. I have a 96 year old grandmother whose mother was from here and whose mother's mother was from here. Just for the record.

Madam Speaker, that was a light moment, but this thing is very serious. Anyone that we can help to rehabilitate . . . I mean, the country should be looking towards always trying to rehabilitate. Even the persons in prison who have had more serious crimes done we should be trying to rehabilitate and ensure

that they are able to engineer when they come outside and be socially responsible when they come out of prison.

Madam Speaker, we are talking about offences that you don't even go to prison for, that are on your police record. Some may spend a week in prison. So, Madam Speaker, there are many examples all around the world that prove that this is not anything new. It is something that is being done all over the world, in England, Australia, the great United States, and, I am sure, regionally something is also being done. Madam Speaker, I am sure you have met some of these people who have learned after their conviction and just want to be an integral part of society, just want to also achieve that Cayman dream.

Madam Speaker, we have situations where the children can't understand why their daddy or mommy can't go on this wonderful trip overseas because they can't get a US visa. But they made one mistake some 10 or 15 years ago and they are still being frowned upon. It's hard to know that their family has gone to Disney and they can't join them.

Madam Speaker, I think if there is a way that we can find an amendment to ensure that these persons can have these convictions expunged after fulfilling the requirements of the court, I think we need to do so as fast as we can. The social services are overwhelmed at this time in terms of these very same persons. I am sure the Minister of Social Services can attest that a lot of the people who come there looking for help are persons that can't get the job because they have a police record. Madam Speaker, we must do all we can to try to help these first time offenders.

Everybody in this world deserves to have financial independence. I think we owe that to these persons in that category. Anything that we can do to decrease the overbearing cost to government and the civil service is what we should be working towards. A lot of these people, a lot of these young people want to go to college and university overseas. They really want to turn their lives around. Madam Speaker, I may as well go on record saying that it is a very high percentage of . . . and I will go as far as to say (and I will probably be the only one to go so far) that a very high percentage in the United States . . . if you do your research, you will find that 90-something per cent, or 9 out of 10 teenagers smoke something. Why would we think that down here we would be much different, that people wouldn't be trying the same thing? Some people get caught in these things, Madam Speaker.

Madam Speaker, I will wrap up by saying that we need to find a way. No, this is not an opportunity for people to make a mistake and then they get away scot-free. This is not that kind of motion. It has to be an avenue for them to get out of this situation that they have brought upon themselves. They must receive a second chance, Madam Speaker, and I am humbly asking the Government to consider Private Member's Motion No. 9/2012-13, to expunge court

convictions from records for the good of this country and for the ease of some good young Caymanians in this country and parents who have to bear the burden of looking at them until they can find a job. And then you have the parents calling you saying this is all it was, and then you have the person coming and meeting with you and you can see the tears in their eyes. Some of them say they haven't eaten that day. It just breaks your heart, Madam Speaker. Some of these things I don't think . . . you know when I say you pay the fine of \$100. Pay the fine of \$100, and you suffer almost all your life with this thing on your record.

I remember we had a situation where there were five young men in a car and they found something illegal in the car. All of them got charged. I guess one person probably knew who it was for, but I guess no one said. This person had this for seven or eight years and still on his record, being concerned, or whatever it was. And he couldn't get a job, couldn't travel, tried to get a job with me; couldn't get any. So, I went on a search for this young man. I said this is not right, so I called up some of my lawyer friends and asked what the situation was. *I said, Here is a case, I have the police record in front of me, so it is not just anything that he is telling me, I have the proof here. That should have been spent a long time ago.*

I called up the officer who they said was in charge of ensuring that that was removed from a person's record, and it took the longest, months for me and the young man to get it removed. We had to do all sorts of things. He had to write a letter, he had to do this, and that. And, Madam Speaker, this young man suffered. Gladly a lot of us are there in the community who are elected and non-elected that are there to lend our support to these young persons until they are able to clear their names and feel like a good Caymanian citizen again, strong and financially independent and socially responsible.

Madam Speaker, I am asking the Government to accept this Motion and consider it. Madam Speaker, I thank you, and God bless the wonderful people of the Cayman Islands.

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

Does any other Member wish to speak?
[pause]

Honourable Deputy Governor.

The Deputy Governor, Hon. Franz Manderson: Thank you, Madam Speaker.

The Motion that was just raised is something that we are all well aware of in the Portfolio of Internal and External Affairs and the wider civil service. I think we have all had representation from persons who have been adversely affected by the Rehabilitation of Offenders Law, which is the law that governs criminal convictions and when they become spent.

The Law was first enacted in 1985 and has really not been reviewed since that time. However, a number of other laws have been passed which has resulted in more severe sentences being passed and tougher sentencing guidelines developed by the courts. It is, therefore, appropriate to ensure that the current rehabilitation periods reflect modern day sentences and provide offenders with a realistic opportunity to integrate back into the community following a conviction instead of becoming a recidivist.

The Cabinet over a year and a half ago asked the Portfolio of Internal and External Affairs to review this Law and come up with recommendations as to how the Law could be modernised and reflect current day practices. I am pleased to say that the review has been carried out and within a few short weeks a report will actually come to Cabinet dealing with this now vexed area.

I think we all agree that it is of primary importance to encourage people to access rehabilitation services and to give them a hope for the future. In addition to all the factors and issues identified by the Member for Bodden Town, it should also be noted that the profile of average offenders is changing as the age of first serious offence and consequently the age of first incarceration among young males is steadily decreasing. This is compounded by the lack of employment opportunities which faces offenders who are trying to reintegrate successfully into the community. However, we also know that we have to strike the balance for opportunities for rehabilitation to ensure that we continue to have standards that protect our security and public safety.

So the Rehabilitation of Offenders Law has been looked at. A number of recommendations will be coming forward to Cabinet. They deal specifically with the area of expunged records and we believe that the Motion is timely. I want to assure the Member that he can expect a swift response from the Government. Thank you.

The Speaker: Thank you, Honourable Deputy Governor.

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 mover of the Motion to exercise his right of reply.

Mr. Dwayne S. Seymour: Madam Speaker, thank you.

I want to thank most of the House for their silent support. I want to thank the Deputy Governor for his contribution. I am really excited and glad to hear that this work has been going on to ensure that persons get a second chance. I am glad to hear that they acknowledge the problem and have done something to renew the Rehabilitation of Offenders Act of 1985.

They just need to ensure that all of the laws . . . the laws are only as good as they who enforce them. We have a Bail Law now which is another situation that is not being enforced properly.

[Inaudible interjection]

Mr. Dwayne S. Seymour: Oh yes. But Human Rights will probably deal with that.

So, Madam Speaker, I won't say much in my wrap up with those kind words from the Deputy Governor who I have worked with for many years and I know his conviction. I definitely feel confident with the words he has spoken here this afternoon and his rapid stance in trying to ensure that something is done.

I do hope that some of the suggestions brought out today by myself are considered. If there is anything I can do to assist in terms of reviewing drafts or anything, I am willing to assist and spend some time in helping with this situation.

So, Madam Speaker, I thank the Deputy Governor again, and would wrap up by saying that today is a very good day for many of these persons who have this situation. I think they remain hopeful that this situation will be addressed very soon, as soon as possible. I thank the Government for the support of this Motion.

Thank you.

The Speaker: The question is: BE IT THEREFORE RESOLVED THAT Government considers creating or amending legislation to provide for persons to apply for minor convictions to be expunged from their record prior to the end of the period currently in Law, after fulfilling certain requirements, including fulfilling all requirements of the sentence of the Court.

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

Ayes.

The Speaker: The Ayes have it.

Agreed: Private Member's Motion No. 9/2012-13 passed.

The Speaker: Honourable Premier.

ADJOURNMENT

The Premier, Hon. W. McKeeva Bush: Madam Speaker, we propose to adjourn at this time, and I move the adjournment of this honourable House until Monday at 10.00 am.

Just a minute, Madam Speaker.

[pause]

The Premier, Hon. W. McKeever Bush: Madam Speaker, I am reminded that we do have a governmental commitment that we need to deal with and so we would have to, rather than coming back at 10.00, we will come back at 1.00 pm on Monday.

So I ask that the House be adjourned until 1.00 pm on Monday next.

The Speaker: The question is that this honourable House do adjourn until 1.00 pm on Monday next.

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

Ayes.

The Speaker: The Ayes have it.

At 4.21 pm the House stood adjourned until 1.00 pm, Monday, 26 November 2012.

