

OFFICIAL HANSARD REPORT
THURSDAY
17 NOVEMBER 2011
10:42 AM
Second Sitting

The Speaker: I am going to call on the Second Elected Member for Bodden Town, to read prayers.

PRAYERS

Mr. Anthony S. Eden, Second Elected Member for Bodden Town: Let us pray.

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

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

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

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

The Speaker: Proceedings are resumed. Please be seated.

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

The Speaker: I have no messages or announcements this morning. I would remind Members that the Deputy Governor is absent again today because of official duties.

**PRESENTATION OF PAPERS
AND OF REPORTS**

Report of the Standing Business Committee of the State Opening and Budget Meeting of the 2011/12 Session of the Legislative Assembly

The Speaker: Honourable Premier.

The Premier, Hon. McKeeva Bush: Thank you, Madam Speaker. I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee for the State Opening and Budget Meeting of the 2011/12 Session of the Legislative Assembly.

The Speaker: So ordered.

Does the Honourable Premier wish to speak?

The Premier, Hon. W. McKeeva Bush: No.

Report of the Standing Business Committee of the Second Meeting of the 2011/12 Session of the Legislative Assembly

The Speaker: Honourable Premier.

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

Madam Speaker, I beg to lay on the Table of the House the Report of the Standing Business Committee of the Second Meeting of the 2011/12 Session of the Legislative Assembly.

The Speaker: So ordered.

Financial Reporting Authority (Cayfin) Annual Report 2010/11

The Speaker: Honourable Attorney General.

Hon. Samuel W. Bulgin, Second Official Member: Thank you, Madam Speaker.

Madam Speaker, I beg leave of this Honourable House to lay on the Table the Financial Reporting Authority Annual Report for the period 2010/11.

The Speaker: So ordered.

Does the Honourable Member wish to speak on this?

Hon. Samuel W. Bulgin: Madam Speaker, just briefly to say that the law requires that the report be done by the Financial Reporting Unit each year and that it be tabled on the Table of this House. We have consistently, Madam Speaker, met that obligation.

In terms of the contents of the report itself, I will simply direct Members to page 11, which speaks to the number of suspicious activity reports for the year, or for the relevant period, rather, which are 353. That compares to 358 the previous year.

Madam Speaker, according to the report there was a noticeable increase in the total number of cases that resulted in involuntary disclosure for this period. That is up from 68 in the previous year to 94 for the current period. According to the report, the most significant increase came from disclosures made to the RCIPS, which increased by 110 per cent, or in terms of numbers, Madam Speaker, to 42 cases. Annual disclosure to the Overseas Financial Reporting Authority's FIUs [Financial Intelligence Units] also increased by some 38 per cent.

Madam Speaker, at page 19 the report also points out that a large number of reports filed with the FRA [Financial Reporting Authority] are due to suspicious activity, which may mean that an account is showing activity that is out of line with the customer's declared level of expected income or expectations for the type of account when used for legitimate businesses. Madam Speaker, there is something unusual and/or suspicious about a particular transaction or set of transactions which prompted a disclosure. It shows a breakdown of how they are dealt with. It shows that there are disclosures that went to some 36 different countries. This is up from 28 the year before. This increase highlights the international nature of that anti-money laundering combating of financing activity.

Madam Speaker, there is an issue of . . . well, if we have 358 suspicious activity reports it is a question of how this comports to effectiveness and whether there should be (as has been asked in some international quarters) more money laundering prosecutions if we have 358 suspicious activity reports being made to the FRA. The question is: How does that translate into effectiveness? Because according to the argument, Madam Speaker, to demonstrate effectiveness on the part of the Cayman Islands, there should be an increase in the number of criminal prosecutions arising out of these reports.

The fact is, and the counterargument that we have consistently made, and which is borne out by statistics, is that in a vast amount of cases, what happens is that you have maybe a bank account or a company or something located in the Cayman Islands. In instances where there are criminal activities, what happens is that the accused person or the person who was accused of the criminal activities, the witnesses, and all of the other supporting issues are invariably located abroad in some other country. So, what we have done over the years consistently is that we part-

ner with those countries by providing mutual legal assistance cooperation. We provide them with the documentation available to us, because it is far more convenient to mount prosecutions in those countries. The witnesses are there; the defendant is there; the activities complained of took place there. So, it is always far more convenient to have prosecutions in those countries.

The upshot of that is that, invariably, when they do have the prosecutions and they are successful and there are assets to be shared, those assets are shared with the Cayman Islands. This country has received large sums of money from such an undertaking [over] the years.

Madam Speaker, the other thing I would like to mention is that when you read the report you will see a number of activities, outreach programmes and other things mentioned there. The FRA plays an extremely vital role in the Government's ongoing fight against money laundering and combating financing terrorism. Indeed, Madam Speaker, recently the Cabinet gave approval for a small unit to be established within the AG's Chambers to continue the ongoing monitoring and coordination of anti-money laundering matters and to continue to guide the technical transformation of the revised 40 + 9 FATF [Financial Action Task Force] Recommendations into law and, where necessary, administrative guidance.

So, the work of this small unit, Madam Speaker, will also include a proactive AML/CFT [Anti-Money Laundering and Combating the Financing of Terrorism] National Threat Assessment in order to ensure that, from time to time, the Cayman Islands is fully aware of trends, emerging trends being used by criminals, and to be able to remain vigilant in taking robust, proactive measures to discourage any attempt by undesirables to use this jurisdiction for money-laundering activities.

What is outlined there and what is catalogued here serves to demonstrate the Cayman Islands' continuing commitment to monitoring and maintaining an effective domestic anti-money laundering framework and also the maintenance of a robust international cooperation regime and continuing constructive engagement with all partners.

Madam Speaker, you would have heard the Honourable Premier speak yesterday about the recognition—I want to call it accolades—being given to the Cayman Islands for our framework as it relates to international cooperation. This is all part and parcel of all of that continuing effort by the Cayman Islands to remain a premier jurisdiction for the transaction of financial business.

Finally, Madam Speaker, in order to fully recognise what we have been doing we have been engaging with HMG [Her Majesty's Government], the United Kingdom Government, to get recognition as the third country that has the equivalent AML/CFT standards. And HMG has kindly agreed to work with

the Cayman Islands, and indeed on behalf of the other OTs [Overseas Territories], to make the necessary representation to the relevant EU [European Union] committee to provide the proper recognition that countries such as the Cayman Islands do have equivalent Anti-Money Laundering and Combating Financing of Terrorism regime in place and for that to become a part of the record and recognition by EU member countries.

So, Madam Speaker, I certainly commend the entire report to honourable Members and, of course, the wider public. It is extremely useful and is very self-explanatory. Thank you.

The Speaker: Thank you, sir.

Annual Report for the Ministry of Community Affairs, Gender and Housing 2009/10

The Speaker: Honourable Minister of Community Affairs, Gender and Housing.

Hon. Michael T. Adam, Minister of Community Affairs, Gender and Housing: Thank you, Madam Speaker.

Madam Speaker, I beg to lay on the Table of this Honourable House the Annual Report for the Ministry of Community Affairs and Housing, 2009/2010.

The Speaker: So ordered.

Does the Honourable Minister wish to speak thereon?

Hon. Michael T. Adam: No, Madam Speaker.

The Speaker: Thank you.

STATEMENTS BY HONOURABLE MEMBERS AND MINISTERS OF THE CABINET

The Speaker: I have no notice of Statements by Honourable Members and Ministers of the Cabinet.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

**Private Member's Motion No. 10–2011/12
Amendment to the Rehabilitation of Offenders Law
(1998 Revision)**

The Speaker: The Elected Member for North Side.

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

Madam Speaker, I beg to move Private Member's Motion No. 10-2011/12, Amendment to the Rehabilitation of Offenders Law (1998 Revision):

WHEREAS the intention when the Rehabilitation of Offenders Law was passed in 1985 was to provide rehabilitation to those persons who had rehabilitated themselves;

AND WHEREAS this Law prohibited rehabilitation from certain offences and for those who had served sentences handed down by our Courts for longer than thirty months;

AND WHEREAS there are persons who served sentences longer than thirty months, and although they have fully rehabilitated and remain crime free for periods as long as twenty-five years they cannot be rehabilitated under the thirty month prohibition;

AND WHEREAS these persons are severely restricted in employment and travel opportunities because they cannot get a clean Police Record;

BE IT THEREFORE RESOLVED THAT this Legislative Assembly amend the Rehabilitation of Offenders Law (1998 Revision) in the following way:

1. In section 5 (1) (b) by deleting the words "thirty months" after the word "exceeding" and substituting the words "sixty months".
2. In the Schedule by adding under "Sentence"—"A sentence of imprisonment for a term exceeding thirty months but not exceeding sixty months" and under "Rehabilitation period" the words "fifteen years."

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

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

Madam Speaker, I wish to second the Motion on the Rehabilitation Law.

The Speaker: The Motion is open for debate; does the mover wish to speak thereto?

Member for North Side.

Mr. D. Ezzard Miller: Yes, Madam Speaker. The Motion is largely self-explanatory in what it is trying to do.

I have received representation from several members of my constituency who in their young adult life got involved with—a lot of it is related to—drug consumption or other drug crimes and received sentences greater than 30 months. Now, 25–30 years later these people, having paid their debt to society by serving their prison sentence, have come out of prison, have rehabilitated themselves, have held good jobs; some have even raised very successful children and family members, but they cannot get a clean police record even 30 years after the end of their sen-

tence because under the Rehabilitation of Offenders Law, any sentence that is longer than 30 months, no rehabilitation is allowed under the law.

Currently, Madam Speaker, there are three categories in the Schedule. The Motion seeks to extend the prohibition for rehabilitation from 30 months to 60 months, and also to introduce another category for rehabilitation in the Schedule to the Law which will allow a person who has served from 31 to 60 months rehabilitation after being crime-free for 15 years. Madam Speaker, I hope that the Government will support the Motion.

The Speaker: Does any other Member wish to speak? 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 am calling on the mover of the Motion—

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

The Speaker: Honourable Attorney General.

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

Madam Speaker, I listened to the argument put forward by the Honourable Member on this issue. There is no denying, Madam Speaker, that there are some concerns in the community about the effect of this law and how it is impacting on the lives of some people who were, of course, understandably, affected. I do not think there is any denying that some of these people are people who have gone on to lead a good life, an exemplary life, after their early transgressions.

Madam Speaker, the Government quite understands the concerns articulated by the Honourable Member. However, what I can say is that the issue is in fact a work in progress as far as the Government is concerned. The Portfolio of Internal and External Affairs established a working group some time ago. I can confirm that the work of that group is very well advanced in addressing this issue, and it is anticipated that a report will be coming to Cabinet shortly on the matter.

So, the best we can do as a Government at this stage is to point out that this issue is alive. The matter is being looked at already by the Government. In the circumstances, there is no need for the Government to accept this Motion, as the matter is being dealt with otherwise. Thank you.

The Speaker: 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 from George Town.

Mr. Ellio A. Solomon, Fourth Elected Member for George Town: Madam Speaker, thank you very much. I wish to make a short contribution to Private Member's Motion No. 10–2011/12.

Madam Speaker, again, after hearing words from the [Second] Official Member in terms of the Government's position on the Motion, I believe, nevertheless, that in my position as a Backbench Member, and someone who is also doing his best to try to serve the community that we live in, as a Representative, not just of the district of George Town, but throughout, I would like to say that I have voiced on numerous occasions publicly, on the talk shows and otherwise, the concerns that I have insofar as the Rehabilitation of Offenders Law.

I believe, as the Official Member has stated, clearly the Government recognises that there are serious issues and there are issues that have to be addressed in terms of the Rehabilitation Law, and that that exercise is ongoing. But I believe it is important that that exercise not necessarily just take place behind closed doors, even though that information is coming to the Government and we are doing our best with it. And I take the opportunity to ventilate a little bit on the issue as well, because I believe that the general public and those who have made their representations to me would like me to do so.

Madam Speaker, I have also had persons, or young Caymanians, who will come and say that they have been convicted of an offence. Many of them, as has been echoed and stated, perhaps it is for a simple drug offence—marijuana smoking, I believe the Member mentioned. And you find in many of those circumstances individuals who now are very much denied, arguably, an opportunity to reintegrate themselves back into society. It is a concern to me, and as I have said before, I have echoed that on numerous occasions. I have also echoed and made sure that I stated that I made those views known to the Government, to the committee specifically working on the Rehabilitation Law, and I believe that the Official Member alluded to that, if nothing else.

I made those representations known because it is a situation, Madam Speaker, which has to be resolved. I believe that in too many situations, too many circumstances, you find that some of our Caymanians are being denied the opportunity for that reintegration, and that is something that we are doing something about.

Perhaps just on the point, Madam Speaker, of some of the specifics, I note that the Motion does talk about, in terms of the first whereas clause, it says: "**WHEREAS the intention when the Rehabilitation of Offenders Law was passed in 1985 was to provide rehabilitation to those persons who had rehabilitated themselves**", Madam Speaker, I believe on the point of clarity, if nothing else, it is important that we specify that the law itself is not about . . .

[Inaudible interjection]

Mr. Ellio A. Solomon: And just for clarification, I think it is important that it is not that particular law insofar as the rehabilitation, but that law saying that it comes in, it trips into effect . . . the moment someone in this country receives a sentence to go to prison it becomes relevant.

In terms of that Rehabilitation Law, it is one to say, that in terms of the time spent, hopefully what the Rehabilitation Law is going to accommodate is the person's opportunity to be able to reintegrate back into society. I believe that that point of clarity is important, because rehabilitation is not something that is taking place in black and white on this particular piece of paper or, arguably, in any piece of law that we have here in this honourable House. But definitely, that Rehabilitation of Offenders Law is there to basically say, as rigid as it is in terms of the timeframe, that this person, clearly, with respect to that time—give them an opportunity to reintegrate themselves.

I believe that the spirit and intention of that particular Motion is still captured because that is a concern: Are Caymanians being given a chance, after they have committed an offence (if they have committed an offence), to be able to reintegrate themselves into society?

Because, Madam Speaker, we talk about recidivism. We talk about the fact that there is that swinging door. If we do not do something in order to ensure that persons can reintegrate themselves into society, then you are going to have an issue. We see too many circumstances where that happens.

That said, Madam Speaker, I do have a serious concern in terms of something with this Motion. I believe it is perhaps the blanket position that has been taken by the Member in terms of one of the amendments. For example, in the resolve clause, it says, **“BE IT THEREFORE RESOLVED THAT this Legislative Assembly amend the Rehabilitation of Offenders Law (1998 Revision) in the following way . . .”** That first section is insofar as **“in section 5(1)(b) by deleting the words ‘thirty months’ after the word ‘exceeding’ and substituting the words ‘sixty months.’”**

So, Madam Speaker, in the Rehabilitation of Offenders Law, it is basically saying that under section 5 which is being made reference to, if that sentence, for example, is either one of imprisonment for life or if it is one that is in 30 months or more, or I believe the other provision there is insofar as a position in terms of sentence as pardoned by the Governor; that if it is in those categories, then you cannot have a spent conviction. It is a situation where normally a person may be sentenced—let us just throw an arbitrary time out—a week, two weeks in prison. Because it is under that period, depending on what the offence is, the individual may, for example, after five, seven, or ten

years (as an example, alone), it means that after that period of time, the individual's record is wiped clean.

This means that even if that person is asked by an employer if he or she has committed a criminal offence, after that conviction has been spent, the individual technically has the legal right, as I understand it, to basically say, *No convictions*. Because the Rehabilitation of Offenders Law is seeking to give the individual who has committed that crime, an opportunity to reintegrate into society after that period of time because it is that period of time that lawmakers at the time considered would have been an opportunity and a window necessary for rehabilitation.

So, what the Member is calling for now is to extend that time from 30 to 60 months. The first point that has to be made there as well is that we have to understand that the 60 months being called for here is 60 calendar months. That is five years. I know that insofar as the prison sentences, there are some variances. I do not know the exact numbers, Madam Speaker, but I think it is somewhere in the region, perhaps arguably, that says nine months is a year in prison. It is a bit technical. But nevertheless, insofar as this particular Motion, it is calling for 60 months, or five calendar years. So technically, what the Member is saying is that if it is five years that the person has been sentenced or less—five years or less—then it is a case that they can have that as a spent conviction, and he specifies a period of time.

Madam Speaker, I have some concerns with that because that is a blanket request. And I believe, as perhaps well-intended, because that is what I want to attribute . . . It would take the Member or anybody else to prove me wrong. But as well intended as that would be, I believe that that blanket request is not a good one. Because the Government clearly has an obligation to be very careful in its consideration as to, are there any particular offences that may have been or may possibly be committed to which you do not want to just send a blanket message that says, *You are free to go; you are good; you can put “never been convicted.”*

For example, we have heard outcries from the public in this country on numerous occasions that clearly certain offences, in many instances sexual offences against children, young children, against women, against the elderly, that those offences are arguably unforgivable. You would not want a situation where somebody gets that loophole simply because the only consideration that was being made is a blanket period of time.

No, Madam Speaker, that rigidity in terms of this particular Motion in that particular area there, I have an issue with. Because there has to be consideration, yes, in terms of time, but also prudent enough, considerate enough to consider the circumstances that may exist and say, certain things, Madam Speaker . . . I can tell you I have an issue with that. Because no one can tell me that we are supposed to

have someone who can take a 10-, 11-, 12-year-old, rape them in the back of a car, or as we have even seen, 4- or 5-year-olds, and say that they can just simply walk out, and *I am free to go. I am rehabilitated*, and no one can mention the crime that they have committed against society, when there is a 6- or 7-year-old who is scarred for the rest of their life? And their family? The entire society, Madam Speaker, carries that burden.

Madam Speaker, this, is why I continue to say that we cannot just talk about these Motions and throw them out willy-nilly, as some of them like to say. I have made these recommendations. I have put forward stuff to the Government because, Madam Speaker, yes, we need to have an opportunity where every person out there who has made that legitimate effort to reintegrate themselves into society, arguably, Madam Speaker, generally speaking, can have a chance to reintegrate themselves. Too many of our young Caymanians are being pushed aside and not given that chance.

But, that said, that is the same reason, the same token, Madam Speaker, why as legislators we cannot come with just blanket motions that are, in my opinion, in terms of that particular section there, ill-considered! Because if the Government were to say, *Yes, we acquiesce that request*, I believe that the majority of people in this country would be outraged, Madam Speaker, to say the least, when they know that some 5-year-old can be raped and at the end of the day, a couple of years later, the person is saying, *Clean record, free to go*.

There are people, Madam Speaker, who believe that even those persons, it should be posted and people should know who they are that we have an obligation to protect society against them. So, for that reason, Madam Speaker, it is irresponsible to take a blanket position like that.

There has to be a balancing in terms of those needs. That is why I would like to say, as I have stated to the numerous persons that have come to me and have made the requests, yes, there are offences that many of us can say, *Listen, we had an 18-year-old that on a Friday night went out and did something wrong, smoked marijuana with a friend . . .* Not that it should be condoned—it is wrong. He did wrong! But give him a chance to reintegrate himself into society. Why castigate him? Why keep him outside? To do what? To be a criminal and stay a criminal? Give him a chance.

That spirit and intention, Madam Speaker, of the Motion, and the same statements that I have made clear, abundantly clear on the talk shows, are to be addressed. But all I am saying is that it has to come with the balance and the consideration, the prudence required of good, responsible legislators to ensure that we just cannot come with all of these blanket statements saying one-size-fits-all. It has to be a case

where we are going to be saying, clearly, there are circumstances that are unique.

You see, Madam Speaker, I am going to just tie something in. Whether it comes to the Government coming down here and saying we need to suspend Standing Orders, we hear them blast out on the talk shows, *This is wrong! This is evil!* Whether it is about discretionary sentences, Madam Speaker, there is a time and place for all of that because the Government . . . Let us talk about the suspension for a second, to prove a point.

[Inaudible interjections]

Mr. Ellio A. Solomon: I hear them crying, “relevance,” Madam Speaker. I hear them crying, “relevance.” But, you know how you know black is black? By knowing all the other colours, Madam Speaker; that is how you know it. Sometimes you have to mention that five plus four is nine so you can talk about nine.

So the relevance, Madam Speaker, is that when you talk about . . . and out there, *blackgaaading* the Government, for example, about the suspension of Standing Orders, it is a case that you have to look at the circumstances that exist.

The Premier, Hon. W. McKeever Bush: Right!

Mr. Ellio A. Solomon: Do not cry about emergency provisions in the Constitution and try to give a blanket position that says it must be 21 days. Just this morning I had that conversation with someone. You tell me that this Government is going to find itself in a position where it is going to not necessarily do it? It is discretion, Madam Speaker. And that same discretionary position (without belabouring that point) is the same consideration to the unique circumstances that exist that has to be put into the equation when it comes to Rehabilitation of Offenders Law.

So, with that, I say that I have made it clear, publicly, and when the Member stands up or anyone stands up, or tomorrow in the public arena, I do not want for anything different to be said. I have had—Ellio Anthony Solomon has had representations made to me. And I continued to see it before I was here—because many of them up inside here have been here longer than me. I saw it before I arrived here and now. I have made it publicly clear that I am going to see that something is done about it.

I want to tell you one thing else I have said. It is wrong when we talk about reintegration into society when, even if the conviction is spent, anyone out there can just simply get up and say, *Oh, you see him? Yeah, that one! He went to prison, went to prison for X amount of time. That is what he went for. What is the charge?* Unless the person who had been convicted of the criminal offence has the finances by which to take the individual to court for defamation, nothing is

to be done about it. You know what that means? It technically means anyone can get up today, arguably, go create a website and put everyone that has arguably been in prison since 1973 until today and publish it. And unless there is somebody out there to challenge it, with the financial resources . . . because it is one thing to say you can go to court, but it is another thing to have the financial resources to do so.

So, those concerns, Madam Speaker, I have clearly stated, have to be addressed. I have conveyed them to all the Members of the Government, and something is being done about it. But that said, there are still some issues, serious issues insofar as this Motion, of which one I have made fundamentally clear. Because I know that society at large, women and our children and our elderly . . . Just the other day we heard about two elderly persons being beat up! So clearly, I believe that there is an overwhelming majority of people in this country where certain offences against our elderly, our women, and our children, as an example, is not one that they are going to want to be able to say, willy-nilly, *You are free to go. You are rehabilitated*, and just lump them into one big blanket statement of, once it's five years or less . . . No, Madam Speaker, there has to be careful consideration.

With that, I thank you very much. I thank the honourable House here for giving me an opportunity to make my contribution to this important Motion that has been brought here today. Thank you.

The Speaker: Thank you, Fourth Elected Member from George Town.

Does any other Member wish to speak?
Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker. I rise to give a short contribution to this Motion that I have seconded on behalf of the Member for North Side.

Madam Speaker, we have all had representation from our constituents concerning rehabilitation. I am glad to hear that the Government is reviewing it. I should note that this Motion has been down for quite some time, and due to circumstances beyond our control, it could not reach the Floor of this honourable House. So, I am glad that the Government took the bold move to do something whilst this Motion was pending.

[Inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, the Motion is quite straightforward in asking to amend section 5 by removing the "thirty months" and increasing it to "sixty months", but also increasing the rehabilitation period from 10 to 15 years. Madam Speaker, I believe it is necessary to do it because we have heard many

times where people commit offences and they have, over the many years, rehabilitated themselves, really.

Certainly it is not with help from the prison service to get them back into society after they come out of there, having served their time without any or much (should I say) assistance from that quarter; they have done it all on their own. I believe it is necessary to assist those people, particularly when Cayman is still small enough for us to know who have rehabilitated themselves.

Now, Madam Speaker, the Fourth Elected Member for George Town went on to say that in the cases of rape we should not have this blanket position taken. Madam Speaker, I totally agree with him! There are certain offences committed that there should be no rehabilitation from. Zip. Zero. If you commit rape, if you commit murder, there is no rehabilitation therefrom. And the Attorney General may want to get up and clarify this. However, it just so happens that we also have a Business Paper with the Penal Code, and I have it available. I would draw the public's attention—but more so the Elected Member for George Town's attention—to section 128 of the [Penal Code](#), which says that, "**A person who commits rape is liable to imprisonment for life.**"

Madam Speaker, this amendment has nothing to do with that—absolutely nothing. This is category "B" offences we are talking about.

[inaudible interjection]

Mr. V. Arden McLean: [Section] 129: "**[Whoever] attempts to commit rape is liable to imprisonment for fourteen years.**"

A person who commits an offence—the other section (sorry) is indecent assault on females. "**It is an offence for a person to make an indecent assault on a woman.**" That is section 132(1).

[Section] 132(2) [says], "**A girl under the age of sixteen cannot in law give any consent which would prevent an act being an assault for the purposes of this section.**" [Section 132(5) says,] "**[Whoever] commits an offence under this section is liable on conviction on indictment to imprisonment for ten years.**"

If we are talking about rape, we need to go into the Penal Code. That is where that needs to be changed, because the sentences are much more than five years. So I do not know where that is coming from.

I know that the Fourth Elected Member for George Town may want to sensitise this issue. That is fine. But let us not mix it up and confuse it with the intent and purpose of this Motion. Let us not do that. That is wrong. You are sending the wrong message to the public.

These are category "B" offences for rehabilitation. It has nothing to do with category "A" offences, which covers rape, murder and all those horrendous

crimes. Those sentences—and rightly so—are life imprisonment! How will you get rehabilitated from life imprisonment? You cannot.

Madam Speaker, my colleague, the Second Elected Member for Bodden Town, is very right-wing; we know that. He is not too excited about that Bill of Rights thing. You know, his comment on it is that they will push for it, the EU and the likes, and what-have-you. But, certainly in this instance, Madam Speaker, I had to bring it to the attention of this honourable House and the public at large.

I hope the Attorney General gets up and clarifies it if I do not have it right. But certainly, as far as I am concerned, we are not talking about category “A” offences here. Summary convictions are what we are talking about. Those are the ones holding people and preventing them from taking care of themselves.

I should put it in that way because I recently saw a gentleman, whose face was not shown on the TV. They were doing a special on the same thing. This gentleman said that he had been out of trouble; I think it was 15 years or thereabouts. He could not even get a job.

Madam Speaker, on the other side, there was talk recently about allowing expats, foreigners who had committed offences here to come back. Come back? That will be the day! And we cannot help our own? But anybody who comes here and commits an offence and we deport them . . . leave them there! Let their home country have their problems with them! I got enough problems here! Charity begins at home, Mr. Attorney General—Madam Speaker (sorry).

[Inaudible interjection]

Mr. V. Arden McLean: Madam Speaker, you know, my good friend the Minister of Education, loves to be the thorn in my side trying to twist me up. He knows I am not talking about sentencing not being conducted and carried out in this country. They must serve their time here. That is where they committed the offence. They must pay back to society. But we must deport them and do not make them come back. I hope it clarifies it for my good friend.

Hon. Rolston M. Anglin, Minister of Education, Training and Employment: Thank you.

Mr. V. Arden McLean: He loves to do that to me, you know, Madam Speaker. One of these days he and I are going to tackle (arm-wrestle) and see who wins.

[Inaudible interjections]

Mr. V. Arden McLean: Madam Speaker, I am going to say that I am glad to hear, again, that Government is looking into it. I appreciate the reasons why Government is not going to accept it. However, it must be done in a timely manner. We need to get to this. I

trust, since the Attorney General responded on behalf of Government, that he is being very judicious and supportive and request that this thing be addressed in a timely manner that we can have something to look at shortly.

But again, Madam Speaker, I do not think what the Fourth Elected Member for George Town was discussing is the same thing, is the intent of this Motion. I thank you very much, Madam Speaker.

The Speaker: Thank you, Member from East End. Does any other Member wish to speak? Honourable Premier.

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

Madam Speaker, this matter of the rehabilitation of the offenders has had a long history in these Islands, with people who have spent sentences and that sentence exists or causes them some problem.

I do not forget, Madam Speaker, that in my very first time running for politics, or running for a seat in this House back in the 1980s, that matter got discussed over and over and over because at that time people were being charged for consumption, and it did not come off because there was no Rehabilitation of Offenders Law. So, back in the early 1980s, 1985–1986, probably more like 1987, we passed that Bill.

Mr. D. Kurt Tibbetts, First Elected Member for George Town: In 1985.

The Premier, Hon. W. McKeeva Bush: Well, it could have been around 1985. It could have been a motion before there was a Bill. It could have been a motion before that. But I know that it got tremendous debate.

So, Madam Speaker, I am glad that going back, all back then, social conscience was evident among Members of the Government and members in the community who called for such legislation.

Madam Speaker, we have no problem with the need to release those who have paid their dues, and their time is spent and that sentence is still on their record. We have no problem with that. Firstly, I should say why this matter is under discussion, because there is that problem and it has been [under] discussion for some time; six months ago.

And I want to say that to the Member for East End—who proclaimed that Government only started to deal with this because they had put it in a motion—that is his dream world! But nevertheless, he still gets up and says it no matter whether it is true, Madam Speaker. That is what really bothers me about what people say on radios and say in this House, without proof. But if they can get away with it, then they have made a case against Government. And that is what they are looking to do.

But that is not so. No motion was in this House. Discussion [has been taking place] all over the

country because as the Member for George Town ably pointed out, this has been bothering people for some time. So, Mr. Manderson, the Deputy, or the Chief Officer (I guess) in the Portfolio of Internal & External Affairs, did set up a committee six months ago. That committee has completed its work, and it will be making its report to Cabinet and recommendations to Cabinet within the next couple of weeks. So, Madam Speaker, I want to point out that Government will and can take advice when that is pertinent and necessary. But when Government is doing something, then give Government its due and say that it is being done.

Madam Speaker, the one thing—maybe it was a slip (I hope it was)—the Member for North Side said that someone was up for consumption and had gotten 30 months. But I hope that is not so.

[Inaudible interjection]

The Premier, Hon. W. McKeeva Bush: *[Replying to inaudible interjection]* Well, we can check the record, but I thought that is what was said; that someone had reported to him or someone he knew, a constituent, had gotten a charge for 30 months. I think that is what he said, but the records are there.

But I can say that that should not be so, because those persons on charges for consumption should now be given, according to the rules, fines. Even when they keep returning on the same charge, they get a fine.

[Inaudible interjections]

The Premier, Hon. W. McKeeva Bush: So, Madam Speaker, at this point in time on the law books, there should be possibly a charge for possession with the intent to supply that could net you more than that. But certainly, it will not be anybody. If that is not what he said, then when you put it all together, people could be either be misled into taking that it was someone who had a charge of 30 months for consumption, when you take what the Member was saying . . . But nevertheless, it was . . .

[Inaudible interjection]

The Premier, Hon. W. McKeeva Bush: What the Member for East End was talking about was, I think, a matter of the Penal Code, our maximum. He was talking about maximum sentences. But the decision of sentencing, Madam Speaker, is dependent on decisions of the court, and therefore could be sentenced for 10 days and not 10 years.

Therefore, I would think that the Fourth Member for George Town was quite accurate in what he was saying. Nevertheless, Madam Speaker, the Member for George Town made some very good points about the types of cases that do exist. You

cannot take that away from the Member, that he made good points. I think that is what the Member for East End was trying to do. But again, the Member for East End, in referring to the Penal Code, mentioned the Penal Code sections for rape, et cetera, which carries a sentence for 10 years. These are maximum sentences.

Madam Speaker, it is sad that we do have these problems in our community. They are not new, Madam Speaker. They have been here for years and years, and they will continue to be because people will do as they please, no matter what laws we put in place. All we have to make sure of [is] that we are trying to do the right thing to bring people back into the mainstream with this Rehabilitation of Offenders Law. That is what we can do, and that is what we are doing to improve matters for people who are sentenced under that and who get sentenced in court and somehow that sentence never seems to come off their record for those minor offences as such, or offences which the courts do deal with, as I have said.

Madam Speaker, the Government will not accept the Motion because, as I said, this has been a work in progress. The Chief Officer, Mr. Manderson, formed the committee. The committee has completed its work. The committee is making a recommendation to Cabinet, and that is what the country needs.

The Speaker: Thank you, Mr. Premier.

Does any other Member wish to speak? Does any other Member wish to speak?

Leader of the Opposition.

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

Madam Speaker, the mover of the Motion, the Elected Member for North Side, I think very ably introduced the Motion. And my colleague, the Elected Member for East End, spoke in support of it. I do not think there is a great deal more I need to say but to add my support to the Motion and its intent, and to express my disappointment at the attitude which has been adopted by the Government to the Motion, and in particular what was said in opposition to the Motion by the Fourth Elected Member for George Town.

It has been a long time since I have heard a more misleading speech made in this House, Madam Speaker; a speech aimed at trying to frighten the populace about the impact, or the potential impact, of the changes which have been proposed by the mover and seconder of this Motion. It is quite clear, Madam Speaker, from an examination of the Criminal Procedure Code, from the Penal Code, and the Rehabilitation of Offenders Law that persons who would be convicted for rape would not fall into the category of persons who would be permitted to be rehabilitated.

I would not say it is impossible, but it is beyond belief that a court would sentence someone who

was convicted of rape for a period of 30 months. Therefore, it is *beyond the pale*, I believe, Madam Speaker, to believe that somehow by adopting the provision or the proposal of the Motion that we would be letting loose, foisting on society these terrible individuals so that they would be free and at large to commit more rapes. That is exactly the impression, Madam Speaker, that what was said gives.

I was sitting in the committee room assisting a constituent with her passport forms. That is what she said to me—"That is what Mr. Ezzard is trying to do." That is exactly, Madam Speaker, what the Fourth Elected Member for George Town intended by making the scaremongering speech which he did.

Madam Speaker, rape is one of the Category "A" offences.

[Inaudible interjections and laughter]

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: Madam Speaker, the Criminal Procedure Code divides up the types of offences which the Penal Code creates into three categories: category "A", the most serious; category "B" and category "C", which are the least serious and which are tried only in the Summary Court. Category "B" offences are generally considered offences which may be tried either way—that is, by election either in the Grand Court or in the Summary Court.

Madam Speaker, it is clearly not the intent—and it would not be the consequence of this change—to allow offenders, persons who are convicted of category "A" offences, to be rehabilitated under the provisions of the Rehabilitation of Offenders Law and therefore get their record clear. Madam Speaker, it is wrong; it is misleading and disingenuous to suggest that the effect of the Motion, which is brought, would be that.

Madam Speaker, we, who have been in this House for any length of time, have been approached by persons who we know made mistakes early in life and have paid the consequences. But how can it be right, Madam Speaker, when they have been completely crime-free contributing members of the society for, in one case I know almost 30 years now and the conviction still remains on the man's record? It affects his ability to get a job. It certainly affects his ability to get a US visa and so forth. That cannot be right, Madam Speaker.

That, Madam Speaker, was understood by the framers of the Rehabilitation of Offenders Law when the law was first passed in 1985. What the mover of the Motion and the seconder are proposing is that we introduce another line, another provision that will allow persons who have served a term of imprisonment exceeding 30 months to also have the benefit of having been formally and officially rehabilitated after they have been completely offence-free for a period of 15 years. The law already deals with those who have

been convicted for a period not exceeding 30 months. The rehabilitation period there is ten years for those not exceeding a term of six months, seven years; and those with a fine or other sentence subject to rehabilitation under the law, five years; and then, Madam Speaker, those who have an order sending the offender to rehabilitation school under the Youth Justice Law, a period of three years.

So what is being proposed is not unprecedented. It is not a novel concept. It is simply creating another provision, which would allow persons who have served a longer period than 30 months, but less than 60 months, to have the benefit of this Law.

Madam Speaker, if we continue down the road of excluding persons who have properly rehabilitated themselves from being able to participate in what the society, what the community provides by way of benefits and opportunities, we are setting up ourselves even more for greater social problems than we already have. When persons cannot get jobs because they have a police record, despite all their best efforts over many, many years, what else are they going to do? Every man and woman needs to provide for themselves. Every man and woman needs to be able to provide for their family and to have a sense of purpose and self-worth and esteem.

That is what this Motion is all about. This Motion is not about letting loose upon the society those persons who are not rehabilitated, persons who are guilty of really devious, serious crimes and who are still obviously engaged in deviant behaviour. That is not what this is about. And to paint that sort of picture—which is what the Fourth Elected Member for George Town has done—I think, Madam Speaker, is just wrong and very misleading.

Madam Speaker, I was not quite as disappointed, but disappointed nonetheless, with the contribution of the Premier to this important matter.

The Premier, Hon. W. McKeever Bush: I wouldn't expect any better!

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: I would have hoped, Madam Speaker, that he would have commended the Elected Member for North Side—

The Premier, Hon. W. McKeever Bush: No, because we are already doing it.

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: —and our colleague, the Elected Member for East End—

The Premier, Hon. W. McKeever Bush: For what?

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: —for moving this Motion—

The Speaker: Please do not interrupt.

The Premier, Hon. W. McKeever Bush: For what? [inaudible]—misleading like that?

The Speaker: Please do not interrupt. The Leader of the Opposition is speaking, and I would prefer if he is allowed to continue his debate without interruption.

[Inaudible interjection]

The Speaker: We all owe that to each other in this House; in fact, it is a part of the Standing Orders. Leader of the Opposition, please continue.

The Premier, Hon. W. McKeever Bush: Please continue.

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: Madam Speaker, at least it demonstrates that some still have a conscience so that when the pricks affect them, they need to express their feelings about these things.

Madam Speaker, this is an important Motion. I hope what the Premier has said is in fact the case, that work actually is going on about this, as he said. He says that the . . . I am not sure what his position is now that the Deputy Governor, Supernumerary or whatever the position is—

Hon. D. Kurt Tibbetts: Designate.

Hon. Alden M. McLaughlin, Jr., Leader of the Opposition: Designate (that is the word)—that the Deputy Governor Designate is looking at the matter. If he is, I know he is very able. I know he has considerable expertise in this area. But I do hope that this is not one of those matters sent off to a committee to effectively bury it, which is what often happens with these matters. If this Motion has no other effect, if it causes the Government to press on with that matter, then I think it would have been useful.

Madam Speaker, the Government has had months—many months—to consider this Motion because it came at the last Meeting of the House and was withdrawn, and it has been brought back. So, I would have hoped that today they would have been able to say, *This is useful. Whatever else it is that we are doing about the Rehabilitation of Offenders Law, we can make this amendment and we can improve the lives and opportunities of the small number of people who are being impacted by the current legislation.* And that the House could have, in one of those rare instances, been unified on such an important Motion.

Indications from the Premier, Madam Speaker, notwithstanding what the Fourth Elected Member for George Town has said, are that the Government seems to be inclined to improve the lot of the people who would be affected by what the Motion

seeks. So, Madam Speaker, I do not know why they feel that they need to vote the Motion down, except that they perhaps want to be able to say that they brought the amendments to the Law themselves. But if that is the case, Madam Speaker, I hope that they get on with it. The Government must now, Madam Speaker, be feeling some sense of urgency because their term of office is quickly drawing to a close. They have less than 18 months left to do all of these things which they are hoping to do, promising to do, and have thus far not done.

So, Madam Speaker, I do hope that with the impact of this—notwithstanding the vote which we now know inevitably will be a “no” vote by the Government—that they do get on and deal with this important matter and not let it languish on somebody’s desk until the term is over.

Thank you, Madam Speaker.

The Speaker: Thank you, Leader of the Opposition. Does any other Member wish to speak?

The Premier, Hon. W. McKeever Bush: Yeah, sit and stop talking foolishness.

The Speaker: Minister of Education.

The Premier, Hon. W. McKeever Bush: There should be a rule against talking foolishness and then you would not be able to talk—

Hon. Rolston M. Anglin: Thank you, Madam Speaker.

[Inaudible interjections]

The Speaker: Please do not talk across the Floor!

The Premier, Hon. W. McKeever Bush: All you would be able to do is—

Hon. Rolston M. Anglin: Thank you, Madam Speaker.

Madam Speaker, [Private Member’s] Motion 10–2011/12.

[Ongoing inaudible interjections]

The Speaker: I am only going to say this once. Please do not interrupt each other when you are speaking. Please do not talk across the Floor. This is not a place for conversation. It is a place for debate. Thank you.

Minister of Education.

Hon. Rolston M. Anglin: Thank you, Madam Speaker.

Madam Speaker, the Motion before the House is one that does draw that natural debate that tugs at

people's heartstrings. I could never believe there would be anyone who is elected in this House who has not encountered some constituents who have complained about the Rehabilitation of Offenders Law.

The fact of the matter is, there having been a law that has been around for quite a number of years, it is obvious that the framers were addressing a real issue. Because, absent this legislation, people's police records (as we like to commonly refer to them) would in a lot of instances literally be a noose around their neck as it related to things like employment and the capacity and the ability to travel. So, the debate this morning, I believe, is one that is healthy, because it is good for us to revisit this at this particular juncture so that the public is quite aware that, as a Legislative Assembly, we recognise that we do need to do something as it relates to the Rehabilitation of Offenders Law.

Madam Speaker, during my first term in this honourable House, between myself and Captain Eugene Ebanks (who was the then the Third Elected Member from West Bay), there were a number of crime-related motions and parliamentary questions that we brought before this honourable House. In fact, the provisions that the Members were speaking to as it related to rape, statutory rape, it is called defilement, and defilement of all sorts, we brought a motion back in 2001 that caused Government—

[Inaudible interjection]

Hon. Rolston M. Anglin: That is right. That lifted the maximum sentence, the life, and it removed all sorts of nonsensical sentences (if that makes sense) that were there. They were available to the courts as maximums, that really in our minds at the time shocked our conscience as a Legislative Assembly, and very swiftly thereafter the then Attorney General brought a Bill to the House that created this new framework of sentences available.

¹On the 9th of July 2001, the then Third Elected Member for West Bay asked the Honourable First Official Member the following Parliamentary Question [No. 76]: **What is the [current] criteria for having past criminal offences removed from one's records?**

And what ensued in their supplementaries, by the Member from East End, the same Member from East End that we have today, the seconder of this particular Motion, revolved around a lot of the issues that are where the rubber really meets the road as it relates to this Rehabilitation of Offenders Law. So I am going to be very interested in seeing the report by the Chief Officer in the Portfolio of Internal & External Affairs.

In looking at the [Hansard](#), I [see that] I asked a number of supplementaries on this subject, because what was happening and continues to happen, as I understand it, is that . . . Let us park to one side modernisation, and we all agree there needs to be modernisation. But even what is in existence has not been properly administered—and given rehabilitation, legal rehabilitation—to many of our constituents.

So, at the end of the day, from way back then we had people who had served, or the amount of time in the Schedule to the Law had lapsed, yet their police record was still showing certain convictions. When we drill down into this . . . I clearly remember, not only did we tackle this matter by way of Parliamentary Question, but we also tackled the then Police Commissioner in Finance Committee on this same matter.

One of the things revealed to us was the fact that when it relates to police records for travel purposes or to obtain visas for travel purposes, the Cayman Islands does not necessarily have the capacity to change other countries' laws or public policies. So, one of the 'Whereas' [clauses] in this Motion, the fourth, **"AND WHEREAS these persons are severely restricted in employment and travel opportunities because they cannot get a clean Police Record,"** as it relates to employment within the Cayman Islands we have absolute discretion and capacity to deal with that. Where we lose capacity is in relation to travel opportunities, because this speaks to visas and/or waivers to enter other countries.

What was told to us at the time . . . and certainly I have made a number of notes that I will be using as my guide when I see the report from the committee. One of the issues that was brought to us at the time was that the US authorities were not willing to honour our Rehabilitation of Offenders Law, and said that they had to have the original police record of a person and make their own judgment about whether that person was fit and proper to be granted a US visa or waiver to enter the United States of America. That is the main place, as it relates to our travel, that a lot of Caymanians aspire to go.

Ultimately, we need to be very clear about the outcomes of this. Government will need to get an update about what has happened, because I do not want to leave anyone with the impression that simply changing our Rehabilitation of Offenders Law necessarily automatically means they will get access to a US visa.

Madam Speaker, when I look carefully at the Motion, it proposes to do two things. It proposes to change section 5(1)(b), which reads, **"5. (1) Sentences excluded from rehabilitation under this Law are . . . (b) a sentence of imprisonment for a term exceeding thirty months . . ."** It would now read, "Sentences excluded from rehabilitation under this Law are . . . (b) a sentence of imprisonment for a term exceeding sixty months . . ." So, what it would be doing is taking from two-and-a-half years up to five

¹ 2001 *Official Hansard Report*, Parliamentary Question No. 76, page 783.

years, the provision that causes there to *not* be rehabilitation. Then, the second thing that it does is, it proposes a new insertion in the Schedule. That new insertion would be that “a sentence of imprisonment for a term exceeding thirty months, but not exceeding sixty”—so going back to the new proposed insertion and creating a new period of rehabilitation for those persons, of 15 years.

So, as you follow through the Law, the mechanics of what is being proposed are quite simple to follow. We are removing the 30 months as the period of absolute that there will not be rehabilitation to five years, to 60 months. Then we are saying, however, to capture what the Law had in relation to those people, that there will be a possible rehabilitation now in 15 years for those persons over the 30 months, but less than the 60.

What all of us as Members, though, ought to pay very close attention to is the Schedule that is on page 15 of this Law that says, “**a sentence of imprisonment for a term not exceeding six months**”, the rehabilitation period is seven years—seven years. Yes, that is what the Law says now. Madam Speaker, let me make it clear. I am reading from the current Law. The current Law also says, “**A sentence of imprisonment for a term exceeding six months but not exceeding thirty months**”, the rehabilitation period is 10 years.

When we think about the types of offences that could attract a sentence of six months or more, we, as legislators, need to think whether or not we honestly and truly think that it takes seven years for a person to be rehabilitated, whether or not a person in our community ought to be with a police record, especially when it comes to the prospects of employment, having that on their record for seven years and how this could be contributing to persons winding back up in Northward Prison and in that vicious cycle.

I believe, Madam Speaker, there has come a time where we do need to look at, firstly, the types of offences for which we might say, if this is a particular offence, there will never be rehabilitation, because the current Law does not say that. It is all tied to your sentencing. In my mind, one of the things we need to look at is the nature of the crime. We ought to also pay particular attention to and refresh our memories with the categories of offences that sometimes wind up causing the person to perhaps get six months, and ask ourselves very, very clearly, *Are those offences for which we believe a person should have a police record for seven years and compromise their prospects of employment?* If we say yes to those and we keep the structure of what is now a very old law, but a good start, but a very old, antiquated law—almost three decades old—we need to think carefully about whether or not people can really be reintegrated.

Reintegration into society and being able to do something as simple as obtain employment is an absolute gateway to rehabilitation, in my opinion. This

Law and the work of the committee is very important to many of our citizens—many of our citizens—hundreds of our young men.

So, Madam Speaker, I have read the Motion but I am not convinced that passing the Motion at this point in time, as it is currently presented, deals with the issue of rehabilitation in the way in which it needs to be dealt with. It needs to be dealt with in a holistic manner. It needs to be tied to the new Cayman and what we believe is adequate for reintegration of our citizens. Or, are we going to continue with a Law that says *six months in prison*? Let us think about what can get you six months in prison; that for seven years you cannot obtain a clean police record.

Madam Speaker, now, I want to stress that when Mr. Manderson was asked to take up this responsibility to move this forward, the Government was clear that we wanted a modernised Rehabilitation of Offenders Law, one that really reflects what is happening in our criminal justice system and in the lives of Caymanians. The community has to understand that this is not about going soft on crime. What this is about is about being serious about rehabilitation, being serious about reintegration. We can talk as much as we want. We can preach and push as much as we want as legislators; there are simply employers out there that once a person has a criminal conviction on their police record, they are not going to go give the person a chance.

If people are not going to be given a chance, how are they going to survive? Is a law that back in 1985, absent anything else (as I said earlier) was a good start—something had to be done—truly serving this community in 2011? The Government did not believe so, hence the reason we asked Mr. Manderson to start this very, very important work. We saw an absolute problem, and that is why we asked it. That is why we asked six months ago for this work to be started. As I understand it, the work is almost completed and a report is being made to Cabinet.

What I can say is that we will ensure that this process is brought to completion as swiftly as possible. Because, we do not believe that 26 years later we should still be operating under this current framework. This current framework does not assist, in my opinion, with rehabilitation of anyone in our modern times. Almost three decades is a long time. It only goes to show what happens when, as legislative assemblies, laws get left on the books and they do not get that frequent review that is absolutely needed.

Now, Madam Speaker, I must say that we did have quite a bit of politics brought into the whole debate this morning. And this is the House of politics, so I am not going to express any surprise at that. But, Madam Speaker, I must say that I was a bit surprised when I heard the Honourable Leader of the Opposition say that the Fourth Elected Member for George Town was insinuating by what he was saying that we were going to be letting loose upon society, rapists.

[Inaudible interjection]

The Speaker: Order!

Hon. Rolston M. Anglin: Because, Madam Speaker, ultimately, whether a person is released from prison or not, is not the issue.

The Fourth Elected Member for George Town, in his debate, never spoke once about the release from prison. What he was talking about was a specific category of offence, and whether or not the Legislative Assembly ought to consider in its entire look at this Law whether certain categories of offences, irrespective of the sentence handed down by the courts, of putting categories from which rehabilitation would not be offered. There is a lot of merit in that argument, *a lot of merit in that argument*. I believe that there are people in the community who would agree. Murder, rape, incest, are crimes that potentially ought to feature in a Schedule to this Law, or as a part of any new update of this Law going forward, that would not be subject to rehabilitation simply because of the nature of the crime. We have to be absolute about that. We have to be clear about that.

Now, the reference was then made that the Fourth Elected Member for George Town was way out in left field because the probability of a person committing rape and being sentenced to a specific period of time would be very small. But I can say, Madam Speaker, that we have had a couple of cases recently that caused much debate in our community that were hovering around and below this 60 months that is being proposed in this Private Member's Motion. I clearly remember when a child was involved in a case a few months ago that the sentence was less than 60 months. So, we have to be very, very careful when we are going to make these wild allegations about what is the probability.

I support completely what the Fourth Elected Member for George Town was talking about, that we need to start looking at categories of offences in addition to looking at discrete sentence periods. Because when you start looking at sentences that then leaves the entire system in the hands of what the judges pass down as sentences. I think recent history should tell us as a Legislative Assembly that we cannot rely on the length of sentences coming from the courts as the barometer that we are going to use for rehabilitation. So I can say that the Government completely agrees with my colleague, the Fourth Elected Member for George Town. In the modernisation of this Law, that is one of the things that we are going to be looking very closely at as it relates to the work of the committee.

So, Madam Speaker, I will wrap up by saying the Government is actively working on this issue. The Government clearly recognises this is a significant and serious issue in the lives of many of our citizens.

We saw a problem. Give the Government an opportunity to come back to the Legislative Assembly with a proposed solution and let us debate it then. Do not come and say that we are rejecting the Motion because we want to bring back the Bill. Madam Speaker, whether we pass or accept this Motion, it is still only the Government that is going to bring back the Bill. It is still only the Government that can bring back the Bill. So, if that was our motivation, we could just pass everything or reject everything and it would not matter. We are still the ones that have to bring the Bill back to the House to give effect so that law can be changed. We are committed to that, and we commit to the House that this will happen.

What I can say is that there is a definite indifference by some Members of the House to anything that some of my colleagues get up and say. So if my colleagues get up and make the most sense in the world, they are simply going to come behind them and play politics and say something to the contrary. So we see the game that is unfolding.

Madam Speaker, I ask all Members to read the Schedule, read section 5 carefully and reread the Schedule, and let us ask ourselves: *Is this truly reflective of rehabilitation?* But more importantly: *Is this legislation truly reflective of what can create reintegration?*

Last, but by no means least, Madam Speaker, the one thing that we as Government need to report back to the House on, as well as bringing back proposed legislation in the form of a Bill, is that we also need to get an update on where the US authorities stand as it relates to the issuance of a US visa. That is something that is very, very important, and we need to be very clear to the country about what that position is as it stands now. I certainly do not know at this point in time, but as Government we are committed to ensuring we find that out and communicate that because that is a very, very important piece to this puzzle. I do not want people to get false hope, and we do not want to set ourselves, our people, and our citizens up for false hope as it relates to acquiring US visas.

The last thing that I will add is that a former Police Commissioner (I do not remember which one), in Finance Committee, made it very, very clear that one of the challenges, given the fact that one of the most frequent (well, the two most frequent) reasons people typically want a police record is for employment purposes or visa purposes (visa or waiver purposes) was that, given the previous stance of the US authorities, by nature they would have to run a dual system. That does, as you can imagine, Madam Speaker, add another element of complexity for the police who have to administer any police record system.

If the US authorities still have that as a stipulation that they have to see the original record, that means that we will have to have that dual record system for both, for a person, one that would have the

absolute record and then one that would be used locally for employment and other purposes that would then comply with however the Rehabilitation of Offenders Law is framed.

But the Government is committed to modernising this Law. It is out of date, and it is not serving our community and our people in the way in which our people need to be served. Thank you, Madam Speaker.

The Speaker: Thank you, Minister for Education.

Does any other Member wish to speak? Does any other Member wish to speak? Does any other Member wish to speak?

First Elected Member for George Town.

Mr. D. Kurt Tibbetts: Thank you, Madam Speaker.

Madam Speaker, much has been aired regarding this Motion brought by the Member for North Side and seconded by the Elected Member for East End.

Now, Madam Speaker, what I would like to do for a very short time is to speak to the intent of the Motion. I noticed the Honourable Attorney General, when he was responding on behalf of the Government, outlined that work was being done. I was not in the Chamber, but I thought it would have been appropriate for him to mention that this specific situation was discussed on several occasions in the past. In fact, I am sure he will remember he and I having fairly long discussions on the matter, and me asking on behalf of the Government for him to move forward to bring recommendations to Cabinet for the amendments which I believe everybody considers necessary.

So, I think we got out of the way any dispute about what we are all thinking here. I think everybody agrees that what exists, which is in section 5, Madam Speaker, is a situation that is in this day and age unacceptable. What it boils down to, Madam Speaker, in section 5 is that a person who has been sentenced to more than 30 months in prison will have a police record until he or she passes away, or until the good Lord comes, whichever one happens first. That is the situation that obtains with the Law at present.

That is what we find unacceptable in certain circumstances—meaning there are individuals who may well have had convictions which were beyond 30 months. But, as has been said before by others who have spoken on this Motion, there are those who we know well, who we rub shoulders with, members of our own communities who are, in many instances (well, I will not say many instances, but in some instances) more than 25 years hence of a conviction and of any prison term which may have been served, and they are still with the albatross, or the sword of Damocles around their necks, because it restricts their travel. It affects, as the Motion implies and what others have said, their ability to even get a job. Madam

Speaker, while that has been discussed, I am not so sure that some people will really appreciate for someone not even being able to get a waiver.

The other thing that may not have been mentioned, and I am sure (because I know I have been in untenable circumstances with it) the Premier himself has found himself in those circumstances where people are sick and need to travel and this causes, I mean, genuinely, a situation where they cannot get to certain jurisdictions because they cannot get a police record which is one that I would call a “white” police record, meaning a clean one without any convictions recorded. So, Madam Speaker, there is every reason in the world for this situation to be changed.

Now, if we look at the specifics of the Motion, I personally do not have a problem with the Motion. But if there is a committee which has reviewed and is going to be making recommendations to Cabinet, I hope that my thoughts are thoughts which would find fertile ground in their minds with their review. Because you see, Madam Speaker, I am one of those—and I am not so very sure whether that is in the majority or the minority—but I am one of those who believes that this situation when it comes to a person being rehabilitated or a person, in layman’s terms, being able to get a clean police record, I believe that there should be a tiered system regarding the length of time after a conviction before someone can get a clean police record.

Madam Speaker, if anyone holds the view that a person who may have had a conviction of 10 years, for instance, and 25 years later, that person is a contributing member of a society and has proven himself or herself to be such for nigh on 20 years and does not deserve an opportunity to have a clean police record, then I think that is wrong. I do not believe that it should be a “never” situation in instances like that. Now, when it comes to life sentences and all of those other ones mentioned in the Law, certainly that is the end of the story because, the truth of the matter is . . . And I do not know; that may well change one of these days. I do not know if and when that will. But I can accept that. I can also accept certain types of crimes, and I am sure that that committee will have considered various situations.

Madam Speaker, I believe that there is merit in giving serious consideration to, even if it is an extended period before a person can get a clean police record, in certain instances for people to be able to get one after a given period of time, even if that conviction is over five years (is what I am saying). That is a personal thought of mine, because, Madam Speaker, while I will not call names, I can think of at least half a dozen persons whom we all know live and work here in these Cayman Islands who have their families and have grown children who are now adults and have had these types of sentences in their younger days, but have proven beyond a shadow of a doubt that they are rehabilitated. Madam Speaker, I do not believe that it is fair to say that those individu-

als can never get a clean police record. That is my view. I would hope that in the considerations going forward, that instances like that are taken into consideration.

Madam Speaker, I cannot say to them, to the Government, to the Attorney General, or the committee itself, exactly what to do. But I would really hope that those matters, such as what I just mentioned, would be taken into consideration. Madam Speaker, we cannot in a society be a totally unforgiving society. Madam Speaker, if that were the correct attitude, then many of us would never see the gates of Heaven, if the good Lord were like that. I do not think that He wishes for us to be like that.

I wish not to be misunderstood that I think that we should be soft on convicted criminals; not for a minute. I am not saying that there are not some types of convictions which should never be rehabilitated; I agree with that also. I am simply saying that there are other considerations. Because, Madam Speaker, for me, I do not think it inappropriate for certain types of convictions to have to wait until 20 or 25 years before an individual can get a clean police record. But at least there is hope at that point in time. And they will understand that this is a consequence of their own actions.

So, Madam Speaker, I just wanted to bring those thoughts to bear. I trust that some action will be taken soon regarding the matter. Because it was not in my hands, I have had to be telling people for several years that the matter is being looked at and something will be done very shortly about it. Shortly has become "long-ly", if I may use that word. So, I do trust that something will actually happen.

Madam Speaker, I want to commend the mover and the seconder of this Motion, because I am one of those who, if I choose at points in time to get technical with Motions in this Legislative Assembly, that is my prerogative. But what I never lose sight of is the intent of a Motion. And if it evokes debate, if it brings something to the fore, if it even had adjustments to it when the end result comes at hand, I still believe that the Motion was worth it because it served to bring the right debate and the right thought process to get the right results.

Thank you, Madam Speaker.

The Speaker: Thank you, First 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]

[Inaudible interjections]

The Speaker: Order, please. I am speaking. Thank you.

I will call on the mover of the Motion to conclude this debate.

Mr. D. Ezzard Miller: Madam Speaker, could I indulge you in taking the luncheon break? The debate has been so varied that I would like a little time to prepare my response.

The Speaker: That is quite in order.

I will suspend until 2.15. Thank you.

Proceedings suspended at 12.45 pm

Proceedings resumed at 2.50 pm

The Speaker: Thank you all very much.

Proceedings are resumed.

When we took the break for lunch the Member for North Side was ready to wind up his debate on the Motion before the House, [Private Member's Motion [No. 10—2011/12] proposing an amendment to the Rehabilitation of Offenders Law (1998 Revision).

Member for North Side.

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

Madam Speaker, I listened to the debate on this Motion and, in particular, I listened carefully to what the Attorney General had to say in his response to the Motion. I was a little bit concerned on the lack of specific commitment. But, having listened to the other Government Members who spoke, I could clearly understand his carefulness and his reluctance to say specifically that this amendment would go in the Law.

Madam Speaker, I guess I enjoy a unique position, as does the Member from East End. And not to anticipate the debate on the next motion, but I was elected to represent the people of North Side and with that election comes a certain responsibility to address the issues and the problems that they identify to me that they need solved. I do not have the luxury of simply saying it is the other representative from the district that you need to talk to. So, Madam Speaker, I do my best to try and deal with the representation that they bring to me.

Madam Speaker, what I am trying to do in this Motion is propose a specific solution for a specific problem with the Law. I made no attempts to recommend other changes to the Law, nor have I asked for any large scale revision of the Law.

Madam Speaker, in 1985 I was privileged to be in this House when the Law was passed. And I understand fully the pressures that were brought from certain sectors in the community to not allow the kind of rehabilitation that we were placing in the Law. And, Madam Speaker, I was prepared to take the necessary leap of faith offered by the Attorney General and continue to pray and hope that this specific amendment would be included in the new legislation.

But after I listened to the other people who spoke on the Motion, I am not so sure, Madam Speaker, that (and that may be partly my fault) they understood—either inadvertently or deliberately—what I was trying to do. Because, Madam Speaker, the problem this Motion brings to the forefront is that persons in this community who have been sentenced for more than 30 months—it could be 31 months . . . the current legislation prohibits rehabilitation from that sentence. And there are people that I represent who have served more than 30 months and have been crime free—they have not even so much as gotten a speeding ticket—for the last 30 years, but they still cannot get a clean police record.

And the only way to address that is the way the Motion has suggested—that we provide another tier from which rehabilitation is possible by allowing sentences longer than 30 months to be rehabilitated. Or, to put it another way, [for] people to get a clean police record after a period of time. That is what the Motion tries to do.

Madam Speaker, you will recall that very, very, very rarely do I, in responding to anything that the Government bench brings or that the Opposition brings, find it necessary to refer to people as being irresponsible and other such adjectives. Madam Speaker, I believe my track record in totality (the first eight years and the last two years), has demonstrated that I take the opportunity which I have been given to come here to represent the people of North Side very seriously and I act very responsibly in trying to deal with their concerns.

Now, Madam Speaker, there is very little in the contribution by the Fourth Elected Member for George Town which is related or can be addressed in the Rehabilitation of Offenders Bill. Most of his concerns, he will have ample opportunity . . . in fact he can do so today when the Government brings the Bill that has been circulated to amend the Penal Code and to amend the Criminal Procedure Code. If he thinks that there are certain offences for which there should be minimum sentencing, or which he thinks there should be mandatory sentences, then he needs to propose the amendments to the Penal Code and Criminal Procedure Code legislation because those things cannot be addressed in the Rehabilitation of Offenders Bill.

The Rehabilitation of Offenders Bill has to be specific in what sentences one can be rehabilitated from and what period of time is required to afford the person the rehabilitation. Now, if they want to extend clause 5 that is up to them, Madam Speaker. I am dealing with a specific problem identified by my constituents, and I have proposed a specific solution for that problem.

Madam Speaker, in his contribution the Premier talked about what the Law says today on offences particularly related to drugs. And what he says is true. But there was a time, Madam Speaker, in this

country when any kind of drug charge carried mandatory sentences with it and there were no choices given to the judges. And while the community has accepted and the legislators have adjusted the periods of sentences for things like consumption over the years and made them lesser sentences—and now even fines only—that does not undo what was done when there were mandatory sentences.

Madam Speaker, the Government has to stop saying that because it has been around for a long time, or somebody else should have done it years ago, then we have no responsibility to get it done now. Madam Speaker, we have a responsibility in this honourable House to act on behalf of the people now! And making excuses that it has not been done before is not good enough. And this thing can be corrected quickly. Everybody admits that it needs to be done, but they are all worried about who will get the credit for it.

I do not need any credit. Bring the Bill this evening and put five titles on it that it was being brought by the Government. All I want is the solution that I need for my constituents to be implemented. That is my charge from my people. That is my responsibility. And I cannot blame anybody else because North Side has only got one representative. And they know, Madam Speaker, and the Premier oftentimes—correctly—talks about how much he did for social legislation in the country. But anybody that wants to check the *Hansards* will find that most of what he achieved between 1984 and 1992, Ezzard Miller's footprints are somewhere about too!

[Inaudible interjection]

Mr. D. Ezzard Miller: All two; fingers and foot!

[Laughter]

Mr. D. Ezzard Miller: But, Madam Speaker, the people in this country who are in this situation need relief. I could produce a letter that I wrote in 2009. I could talk about the meetings that I had in 2010 with the Deputy Governor, et cetera. But that does not help today! We need to do something about it now—not a year from now or two years from now.

I hear a committee is meeting. I trust and I believe that they will be diligent in trying to do what they are supposed to do and I hope, Madam Speaker, that the Bill to amend this legislation will see the light of day for the next meeting. Because, Madam Speaker, it is really not a big piece of legislation, you know. It really does not take too long to read it and understand it. I mean the problem we have is that some people do not take the time to read it and pretend that they understood it. But if you do not read it you cannot understand it because it is only 15 pages and that includes a Schedule; and it is only 9 clauses, and some of it

does not need amending, or I hope that they are not going to amend some of it.

So, Madam Speaker, I am somewhat disappointed that no member of the press is in the gallery in the press section to have heard the debate on this important Motion and, therefore, to report it accurately in the press. Because, Madam Speaker, I know that they have had their spin doctors working on it and what I am trying to do and what I am not trying to do. But, Madam Speaker, as I said in moving the Motion, the problem I have is that I have had representation from my constituency. They are my responsibility. I have had representation from other persons in other constituencies that have a similar problem. And I think, Madam Speaker, it is time to do something about it.

I hope that the Civil Service [officials] who are doing the technical work do not interpret a no vote by the Government this afternoon to mean that there is no priority on this minor piece of legislation which is so important to some people, and that they will continue to be diligent in their work and that soon the Parliament will be presented with the Bill to make the necessary corrections.

Madam Speaker, I end by asking the Government to reconsider their position and vote for the Motion and send a clear message to the civil servants that we put a high priority on this and that it is important to those constituents who need this relief.

Visas are part of the problem, but a bigger problem is people looking employment, because we in the Government, through the Immigration Law, require the people who want to get work permits to submit police records. As part of the punishment to Caymanians the employers are also requiring police records for employment. And many of these people so affected, Madam Speaker, are today very upstanding citizens in this community and they need to be able to move and get better jobs.

Madam Speaker, I can tell you that there are people in my community who have found a simple solution to the US Visa problem and a bad Cayman police record. All they do, Madam Speaker, is go to the Government Passport Office, apply for a UK Passport, go to the police with their UK Passport and get a clean police record, and go and get their 10 year visa because the Government does not match up birth dates and names before they give the police record. They simply take a photocopy of the Passport, the number, and when that does not find a police record, the people get a clean police record and they go and get their visa. But the problem is employment for people at this level.

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

Thank you.

The Speaker: The question is: BE IT THEREFORE RESOLVED that this Legislative Assembly amend the

Rehabilitation of Offenders Law (1998 Revision) in the following way:

1. In section 5 (1) (b) by deleting the words "thirty months" after the word "exceeding" and substituting the words "sixty months."
2. In the Schedule by adding under "Sentence"—"A sentence of imprisonment for a term exceeding thirty months but not exceeding sixty months" and under "Rehabilitation period" the words "fifteen years."

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

Ayes and Noes.

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

The Speaker: Yes.
Madam Clerk.

The Clerk:

Division No. 20—2011/12

Ayes: 6

Hon. A. M. McLaughlin, Jr.
Mr. D. Kurt Tibbetts
Mr. Moses I. Kirkconnell
Mr. Anthony S. Eden
Mr. V. Arden McLean
Mr. D. Ezzard Miller

Noes: 7

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. Elvio A. Solomon

ABSENT

Hon. Cline A. Glidden, Jr.
Mr. Dwayne S. Seymour

The Speaker: There are 6 Ayes, 7 Noes, two persons absent.

The Noes have it. Private Member's Motion No. 10-2011/12 has failed.

Negated by majority on division: Private Member's Motion No. 10-2011/12 failed.

**Private Member's Motion No. 11-2011/12—
Amendment to the Elections Law (2009 Revision)**

The Speaker: Member for North Side.

Mr. D. Ezzard Miller: Thank you, Madam Speaker.
Whereas section 60 of the Cayman Islands Constitution Order 2009 provides for the increase of Elected Representatives to the Cayman Islands Legislature from the current fifteen to eighteen;
And whereas section 92 of the Cayman Islands Constitution Order 2009 establishes that any person who is registered as an elector in an electoral district shall, while so registered, be entitled to vote at any election in that district for an elected member of the Legislative Assembly;

And whereas section 93(c) of the Cayman Islands Constitution Order 2009 establishes the Authority for the Legislature to enact a law to provide for the division of the Cayman Islands into Electoral Districts for the purpose of elections;

And whereas section 5 of the Elections Law (2009 Revision) provides for six Electoral Districts and for the number of elected members for each district;

And whereas section 44 of the Elections Law (2009 Revision) allows electors to vote for as many candidates as there are seats;

BE IT THEREFORE RESOLVED that the Legislative Assembly consider amending the Elections Law (2009 Revision) by deleting in section 5(1) the words “the following” before the word “electoral” and substituting the word “eighteen.”

- (i) by deleting in section 5(1) “(a) to (f)”;
- (ii) by deleting section 5(2) in its entirety and substituting a new sub-section (2) to read “an electoral district shall be represented in the Assembly by an elected member”;
- (iii) by deleting the First Schedule to the Elections Law (2009 Revision) and substituting it with the eighteen electoral districts.

The Speaker: Does the Motion have a seconder?
Member for East End.

Mr. V. Arden McLean: Thank you, Madam Speaker.
Madam Speaker, I beg to second Private Member’s Motion No. 11/2011-12 Amendment to the Elections Law (2009 Revision).

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

Mr. D. Ezzard Miller: Thank you, Madam Speaker.
Madam Speaker, one of the fundamental principles of democracy is “one man, one vote.” And, Madam Speaker, I believe that it is time for the Cayman Islands to grow up as a democracy and honour that important principle of democracy by amending the Elections Law to provide for “one man, one vote.”

Madam Speaker, in my view it is an inequality for persons, simply because they live in George Town, to have four opportunities to vote, and four opportunities to influence the Government who makes up the Government. And because a citizen of this country lives in North Side or East End, they are only allowed one choice, one vote.

The Constitution in section 92, Madam Speaker, I believe clearly sets out the intention when it says that “[1] Any person who is registered as an elector in an electoral district shall, while so registered, be entitled to vote at any election in that district for an elected member of the Legisla-

tive Assembly . . .” Madam Speaker, I cannot find any dictionary that defines the word “an” to be plural. And I would think that with all the care taken and the long periods of negotiations that went on with this Constitution, if there was an intent for the multiple choice and the variation in electoral rights that exists in Cayman . . . and I can find no other country in modern day that has so convoluted an electoral system as we have in the Cayman Islands, where some people because of where they live can cast four votes. Some people are limited to three votes, some limited to two votes, and some are limited to one vote.

If there was any intention not to correct that—that section of the Constitution would have read, *to vote at any election in that district for elected members of the Legislative Assembly*—not an elected member.

Madam Speaker, we as legislators have a responsibility to ensure that the laws of the land comply with the requirements of the Constitution that the people, by majority vote, have decided in this country that that is the Constitution they want and that came into effect on 6 November 2009. It has to be wrong, Madam Speaker, to conduct the 2013 elections under the multiple choice system of elections that we have. And the Constitution clearly states that “. . . an elector shall only vote for an elected member of the Assembly.” Not for three members, not for two members, not for four members, for an elected member of the Assembly.

Madam Speaker, this can be done. And not to anticipate the debate on the Boundaries Commission that may come, but the document has been tabled and we know that part of the Constitution Commission includes dividing the country into 18 electoral districts. So the hard work is already done. We legislators now need to amend the Elections Law to provide for 18 electoral districts as will be the case for 18 elected members in the election for 2013.

Madam Speaker, I feel so strongly that a voter in George Town or West Bay should not have four times the vote that I have in North Side, that if this Motion fails here today I am well advanced in consulting senior counsel about having the Grand Court interpret section 92, so that even if we do not go to the 18 electoral districts and we have the 6 that we have—each person will only be allowed in 2013 to vote once. And if it is four in West Bay, four in George Town, the four people first past the post will win the seats.

But I do not see how we can allow people to have four votes, three votes, two votes, and one vote when the Constitution clearly states that we will have “one vote” and we shall only be allowed to vote for “an elected member.” And the title of that clause in the Constitution is “Right to Vote [at elections]” because, Madam Speaker, we have a Bill of Rights that is coming in next year. And I would hazard a guess that four

votes, three votes, two votes—[that] kind of electoral inequality—is going to run afoul of [that] Bill of Rights.

So let us not take the chance, let us do the right thing; let us amend the Elections Law now to provide for “one man, one vote” and for each electoral district to return “an elected member” to this Legislative Assembly.

Madam Speaker, again, I think it is just common sense. I think it is just the right thing to do. The cardinal principle of democracy is “one man, one vote.” And, Madam Speaker, I would encourage the Government to support this Motion and let us do the right thing for the people of the Cayman Islands.

Thank you, Madam Speaker.

The Speaker: Thank you, Member from North Side.

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

If not, I am going to call on the mover of the Motion to wind up his debate.

Mr. D. Ezzard Miller: Madam Speaker, surely it is a sad day in this House when a Motion . . . and maybe nobody else but me thinks it is important.

Mr. V. Arden McLean: Me too!

[inaudible interjections]

Mr. D. Ezzard Miller: But, Madam Speaker, here all Members of this House have had an opportunity—

[Inaudible interjections]

The Speaker: The Member from North Side is winding up his debate. You all had an opportunity to speak and you did not. Please be quiet now.

Member for North Side.

[Inaudible interjections]

The Speaker: I told both of you that.

[Inaudible interjection]

The Speaker: Please be quiet.

Member for North Side, please continue.

[Inaudible interjection]

The Speaker: No, but good manners should prevail.

Mr. D. Ezzard Miller: Madam Speaker, it is going to be an interesting exercise to explain to the people of this country why somebody from George Town is going to have six votes in the next election while those people in West Bay are going to be—for the first time

in the electoral history of this country—not equal to the people in George Town for their voting rights.

[Inaudible interjection]

Mr. D. Ezzard Miller: Now, Madam Speaker, I sit here and listen to other people and I do not interrupt them. Any Member of this House can bring any Motion that they want to, to do anything they want to do. I am only responsible to one person in this Parliament, and that is D. Ezzard Miller.

Madam Speaker, I guess I will meet the Government in the courthouse and we will see if they are willing to speak there.

Thank you, Madam Speaker.

The Speaker: The question is:

BE IT THEREFORE RESOLVED that the Legislative Assembly consider amending the Elections Law (2009 Revision) by deleting in section 5(1) the words “the following” before the word “electoral” and substituting the word “eighteen.”

- (i) by deleting in section 5(1) “(a) to (f)”;
- (ii) by deleting section 5(2) in its entirety and substituting a new sub-section (2) to read “an electoral district shall be represented in the Assembly by an elected member.”
- (iii) by deleting the First Schedule to the Elections Law (2009 Revision) and substituting it with the eighteen electoral districts.

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

Ayes and Noes.

The Speaker:

The Noes have it.

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

The Speaker: Yes, Member for North Side.

The Clerk:

Division No. 21—2011/12

Ayes: 5

Hon. A. M. McLaughlin, Jr.
Mr. Moses I. Kirkconnell
Mr. Anthony S. Eden
Mr. V. Arden McLean
Mr. D. Ezzard Miller

Noes: 7

Hon. W. McKeever Bush
Hon. J. Y. O’Connor-Conolly
Hon. Rolston M. Anglin
Hon. Michael T. Adam
Hon. J. Mark P. Scotland
Capt. A. Eugene Ebanks
Mr. Ellio A. Solomon

ABSENT

Hon. Cline A. Glidden, Jr.
Mr. Dwayne S. Seymour
Mr. D. Kurt Tibbetts

[Inaudible interjections]

The Speaker: Order please.

There are 5 Ayes, 7 Noes, and 3 persons absent. The Noes have it. Private Member's Motion No. 11/2011-12 has failed.

Negatived by majority on division: Private Member's Motion No. 11-2011/12 failed.

BILLS

SECOND READING

Traffic (Amendment) Bill 2011

[Deferred]

The Clerk: Government Business, Bills, second reading, Traffic Law 2011.

The Speaker: Honourable Minister.

The Deputy Premier, Hon. Juliana Y. O'Connor-Connolly: Thank you for your indulgence, Madam Speaker.

Madam Speaker, I beg to have the Traffic [(Amendment)] Bill, [2011], deferred until tomorrow morning, ma'am.

The Speaker: That then concludes the business on the Order Paper for the day.

Honourable Premier, are you going to make your statement?

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

On the matter of the Bill we had agreed that we would take the Bill tomorrow instead of today. I said that to the First Elected Member for George Town (and I notice that he is not in his seat, and I do not know if he is here). But I had promised that we would not take the Bill until tomorrow or, that we would be adjourning early, and in any event we would not be sitting late this evening.

STATEMENT BY HONOURABLE MEMBERS/MINISTERS OF THE CABINET

2012 White Paper on the United Kingdom and Overseas Territories relationship

The Premier, Hon. W. McKeever Bush: Madam Speaker, thank you for the opportunity to make this statement. Over the past couple of weeks there has been public criticism by the Opposition and others, of the recent public consultation exercise in respect of the proposed 2012 White Paper on the relationship between the United Kingdom and the Overseas Terri-

tries, particularly the amount of time allowed for the consultation period, and the scheduling of the consultation.

The criticisms made by certain Members of the House, and at least one media outlet, were aimed at my Government and at my role in particular. I therefore want to take this opportunity to ensure that honourable Members of this House, and the general public, have a clear understanding of how the consultation process for the 2012 White Paper on the United Kingdom and Overseas Territories' relationship came about.

The short answer is that it was not until 14 of September 2011 that the Secretary of State made an announcement about the consultation process to the UK Parliament. Then the Minister for the Overseas Territories, Mr. Henry Bellingham, MP, sent a letter to me on 16 September 2011 outlining their policy goals.

It was not until 27 September 2011, in a speech made in Bermuda, that a public consultation process was invited from the Overseas Territories by Minister Bellingham. The consultation process has followed a timetable set by the Foreign and Commonwealth Office. In fact, they propose to bring forward the date for agreement on the new White Paper from June 2012 to spring 2012, and we are endeavouring to push it back.

Because I am required to present our initial findings at the Overseas Territories Consultative Council (OTCC) next week (which I leave this weekend for, Madam Speaker), the local review committee recommended a deadline of 4 November 2011 so that it would have time to prepare its report.

The questions that were put to the public in our consultation exercise originated from a website created by the Foreign and Commonwealth Office. The only change made was that we substituted the words "Overseas Territories" with "the Cayman Islands."

Madam Speaker, on the first of November the Member for North Side took to the airwaves, as he usually does on Tuesday mornings, and proceeded to confuse and mislead the people of this country. He did the same again at a public meeting in North Side. The Member for North Side said on the *Cayman Cross Talk* show on the 1st November, that, I had known about this White Paper consultation a year ago, and that now we were rushing to complete it by the deadline. He said this was unacceptable and unreasonable.

The [iNews of November 3 2011](#) reported that the Member for North Side at a public meeting on November 2 said, and I quote: "**I am disappointed with the secrecy that has surrounded this effort, and that fault lies with only one person: the premier. He has known since November 10**" (that is, November 2010). "**Why has he not conducted this publicly?**"

I lay a copy of that news article on the Table of the House.

The Speaker: So ordered.

The Premier, Hon. W. McKeever Bush: Madam Speaker, the Member's claim of secrecy is untrue, to say the least. No wonder he has skipped out of the House again.

The Speaker: With due respect, Honourable Premier, the Members that are leaving are leaving to go to Dr. March's funeral.

The Premier, Hon. W. McKeever Bush: All that was known from the Overseas Territories Consultative Council meeting of November 2010, was, that there was to be a review of the UK Overseas Territories' relationship by the Foreign and Commonwealth Office (FCO). There was nothing more at the time. I gave notice of the review when I came back from the OTCC in November/December 2010. And that is what Members ought to remember—that I had indicated that there was going to be a review; but that I could not give any more information at that time.

Mr. Colin Wilson also jumped on the misinformation bandwagon with an editorial in the [November 8th edition of the *iNews*](#) in which he accused me of not telling the country about the public consultation until the eleventh hour, and I quote him: "**Honourable McKeever Bush knew about the required public consultation in March and did not announce it until October.**"

He goes on to say, and I quote: "**Now there is a mad rush to conduct the meetings and as Opposition Leader, Alden McLaughlin, has said, 'People do not have the opportunity to understand the issues that matter, never mind go on to make a constructive contribution. People are being deprived of a proper opportunity to make representations.'**"

Madam Speaker I want to table a copy of that editorial—as wrong as it was and loathe as I am to even have this in the House—but it is good for history's sake.

The Speaker: So ordered.

The Premier, Hon. W. McKeever Bush: Madam Speaker, if people are being deprived of the opportunity to make representations, it is not of my doing. Let me make it perfectly clear, Madam Speaker, the public consultation process on the United Kingdom's relationship with the Overseas Territories is not an undertaking by me or the Cayman Islands Government. This review and consultation is at the behest of the Foreign and Commonwealth Office. The Cayman Islands Government through the Cabinet Office facilitated that survey of local views, but it is the Foreign

and Commonwealth Office that initiated the review of the White Paper, and the consultation has been placed within the time frame set by them.

It is the Foreign and Commonwealth Office that decided when to announce the public consultation, it is the Foreign and Commonwealth Office that drew up the questions to be asked, it is the Foreign and Commonwealth Office that is driving the entire consultation process. I could not announce or begin the consultation process without the Terms of Reference, which the Foreign and Commonwealth Office has determined.

To support this point I would draw your attention to a news release sent by the Governor's Office and dated Tuesday, 28 September. This was not even sent out by GIS. This came directly from the Governor's Office. The headline is: "[FCO Minister Launches White Paper Dialogue.](#)"

The introduction reads, and I quote: "**Henry Bellingham, Minister of State at the Foreign and Commonwealth Office, has formally launched a consultation process in respect of the 2012 White Paper on the UK's relationship with the Overseas Territories. His full speech which was delivered on Monday during his visit to Bermuda, can be found on the Governor's Office website.**"

Madam Speaker, I lay a copy of that news release on the Table of this honourable House.

The Speaker: So ordered.

The Premier, Hon. W. McKeever Bush: Madam Speaker, as for me knowing about the public consultation in March, I did receive a letter from Minister Bellingham dated 9 March 2011 regarding the United Kingdom and Overseas Territories relationship review. This letter does not make any mention of a public consultation. The letter detailed the three strands of the Overseas Territory Strategy and it says the Foreign Secretary plans to present the thinking outlined in the letter to the National Security Council this spring.

He said, "**I envisage that we will discuss with each Territory the detailed substance of the relationship with the UK. We will create opportunities for exchange of views and discussion as we work towards a new White Paper later in 2011 which sets out in detail our path to a sustainable and successful future.**" The point is, at that stage they were still engaged in their internal process, and their positions were not put forward until months later, as I said before. And I would think, Madam Speaker, that that is why in November when the Minister, Mr. Bellingham, announced it, that he could not give a timeframe because he had to wait until all their work was done.

On 7 September I made a statement in this Honourable House advising Members that I would seek Cabinet's approval to establish a committee to review the process for our Country. I emphasised that

it is a two-part process, and that the first input into the defining terms that are proposed to guide the evolution of the new strategy had to be commenced immediately. In that statement I said that the second part is geared towards more detailed review and input into the new UK Overseas Territories agreement.

I went on to say that the initial timetable set out in November 2010 by the FCO Minister was that the new framework was to be agreed by June 2012, but that now they were starting the process, the UK had now suggested a radical shortening of this timetable, which would call for agreement to be reached by the spring (at least April, then) of 2012, with all matters being reported by November this year, in time for the OTCC. I told honourable Members that I am seriously concerned that this would prejudice the prospects of Territories, including ourselves, to put forward our best position, and accordingly intended to robustly challenge this new timetable, which I continue to do and will further pursue at the OTCC next week when I attend that meeting.

So, Madam Speaker, I did express my concern about the time we were given to present our views from September 7th. How, in view of these facts, could anyone come now and say that it is my fault that the time for consultation is so short? Except, that the Leader of the Opposition and the Member for North Side have done nothing but twist the truth in all that they do!

On 14 September 2011, the Secretary of State for Foreign and Commonwealth Affairs, the Rt. Honourable William Hague, in a written ministerial statement advised the United Kingdom Parliament that the National Security Council had agreed the main principles of a new Overseas Territories strategy.

His statement of 10 March had broached the intent of the United Kingdom Government in much broader terms. He informed Parliament on 14 September that, quote: **“We are now engaging in discussions with the territories and our many stakeholders to identify the priorities for action in each relationship.”** In his closing paragraph Mr. Hague says the Government will publish a White Paper on the Overseas Territories “next year.” Madam Speaker, I table a copy of that statement.

And I would say, Madam Speaker, again, it is just proof positive why the Foreign Office in November did not give a timetable and could not set it because they were waiting on these various strategies to go through the National Security Council. I would think that is obvious by what I have just said.

The Speaker: So ordered.

The Premier, Hon. W. McKeever Bush: That statement was on the 14th of September, and then on the 16th of September a letter was sent to me from Minister Bellingham. In this letter for the first time we have

reference to a consultation process that includes the general public.

In the letter, Minister Bellingham said, and I quote: **“In order to focus discussion we have prepared a set of questions (attached) for you to consider. I would be grateful for your responses by 18 November, the end of the week” (that is tomorrow) “before the Overseas Territories Consultative Council (OTCC).**

“I want this consultation to include as many people in the Territories as possible. I encourage you to discuss with the Governor how best to do this.”

Madam Speaker, I table the relevant pages of that letter.

The Speaker: So ordered.

The Premier, Hon. W. McKeever Bush: Madam Speaker, if the Minister for the Overseas Territories is telling me on September 16th that he wants responses from a consultation process that includes as many people of the Cayman Islands as possible by November 18th, how is that my fault?

I have no argument with the point that the consultation process was too brief. But, for the Opposition Leader to say it is my fault—and that is what he is telling the country—he is misleading the country, not telling the truth, which it seems he has no problem doing. It was not until the 27th of September that Minister Bellingham publicly announced the consultation process in a speech while visiting Bermuda as referred to earlier in the news release that I tabled.

In that speech he again said that he wanted the consultation process to include as many people as possible. He said that it was fitting to announce it at the college as the younger generation is the future. I tabled a copy that referenced that, but I have another copy that I would table, Madam Speaker, of that speech.

The Speaker: So ordered.

The Premier, Hon. W. McKeever Bush: Madam Speaker, I trust that the foregoing demonstrates that, neither was I in a position to determine the timing of this consultation process, nor was I in a position to advise the public about it any sooner than it was done. The whole process was controlled by the Foreign and Commonwealth Office, not me, nor my Government.

Madam Speaker, one has to really question the motives, question the intent, and indeed, question the sincerity of a Member who misleads the public so openly. At best it is negligent, at its worst it is malicious, and without any foundation for doing so appears calculated to undermine people's confidence in the very institution of Government in the Cayman Islands. Are they so blinded by ambition, Madam Speaker?

As for Colin Wilson's editorial, Madam Speaker, Mr. Wilson should know that good journalists research their story to get the facts, and they have an obligation to get both sides of the story—something he obviously needs to practice. I consider myself a pretty good student of history. And I believe that there is good reason why news reports should be as accurate as possible. That editorial is likely to end up in an archive somewhere, and sometime in the future someone will read an editorial that distorts what actually happened. Too much of that is happening in this country.

In his editorial Mr. Wilson referred to the UDP Government as “. . . **the most secretive of any administration I have known in the thirty years I have lived here.**” Well, Madam Speaker, I have lived here for 56 years; and I have been around politics since I was 7. But I have been more involved since I was 17, that is longer than 30 years. And I know much more about the modus operandi of governments over the years than Colin Wilson will ever know. This Government is the most secretive administration in 30 years? That is a gross misrepresentation, to say the least.

Madam Speaker since this Government came to office in May of 2009, this Government has answered numerous Parliamentary Questions from June 2009 until September 2011—probably as many as the last Government in their full term. There have been well over 1,300 Freedom of Information requests made since June of 2009. And of that, some 50 per cent were either granted in full or granted in part. Since February 2010 alone, there have been 84 press releases from my office and many more from the Government through GIS. And I have held several press conferences and made several public statements. The other Ministers have held all sorts of press conferences and they have appeared on a nearly weekly talk show.

How can Mr. Wilson call this Government the most secretive administration when his ace reporter, Tad Stoner, often talks to me personally and is able to quote me directly? I have a call waiting now from him. We may not always give Mr. Wilson the information he wants by his deadline but we do make information available to the public. But I suspect it is because the information is not what they want to hear. That why there is so much misinformation, because they are adamant that they are going to twist stories in this country.

All I ask is if someone is going to criticise the Government, then at least get the facts straight. Neither the Member from North Side, who is constantly doing that, nor the Leader of the Opposition, nor that editorial had their facts right and laid blame deliberately and maliciously.

Madam Speaker, despite the short timeframe, I am proud to say here that the committee that was established to drive the consultation process made a sterling effort to reach out to as many stakeholders as

possible and their efforts will be reflected in their report, which I will table in this Honourable House. I will also venture to state that the various strategies that they employed to communicate with the Caymanian populace are unrivalled within the Overseas Territories.

I wish to publicly thank Mr. Lemuel Hurlston, the Cabinet Office, and that committee for their service. I believe that Mr. Bellingham, who has been most cooperative with us, Madam Speaker, the best I have seen in many years, will appreciate this.

In closing, I should point out that people who have access to the Internet can still make their views known to the Foreign and Commonwealth Office through the Foreign and Commonwealth Office website until 31st December 2011. And just as an aside, Madam Speaker, one letter even suggested that we should not have been able to do this because the Governor had a website out. Well, Madam Speaker, what about those people that cannot get a computer or do not have a computer? The process of people going to sit down and talk to someone was necessary. So I encourage them to go on the website—those who can. I invite them to carefully consider my account of this White Paper consultation process, and to look forward to my progress report after the OTCC at the end of this month.

Our relationship with the UK is of great importance to us as a Government, as it remains of great importance to all of Cayman, to the people whom we serve. We do not take that service lightly. We strive robustly on a daily basis to advance the best interests of the Cayman Islands, and will certainly do so in this White Paper review. We will push for a true partnership, for mutually beneficial objectives, and to begin with, both a definition of principles and a timeframe for an agreement which will effectively realise those ends. We do our utmost for the betterment of the Caymanian people and these Islands as a whole, and we have no fear of accountability for the service we render to our beloved Cayman Islands.

Madam Speaker, I thank you for your indulgence.

The Speaker: Thank you, Honourable Premier.

Out of an abundance of caution I am going to call on the lady Minister bringing the Traffic Bill, to bring a motion moving that piece of legislation forward to tomorrow.

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

Madam Speaker, I move that the Traffic (Amendment) Bill, 2011, be hereby deferred to the Order Paper tomorrow morning.

The Speaker: Thank you.

The question is that the Traffic (Amendment) Bill, 2011, be deferred until tomorrow morning.

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

Ayes.

The Speaker: The Ayes have it.

The Traffic Amendment Bill is accordingly deferred until tomorrow morning.

Agreed: Traffic (Amendment) Bill 2011 deferred.

The Speaker: I think that concludes the business for the day.

Honourable Premier, will you make a motion for Adjournment please?

ADJORNMENT

The Premier, Hon. W. McKeeva Bush: Madam Speaker, on the matter of the Third Readings of the Bills, I would expect that we have agreed that that will also go on tomorrow's Order Paper.

Madam Speaker, I move the Adjournment of this honourable House until 10.00 am tomorrow.

The Speaker: The question is that this honourable House do adjourn until 10.00 am tomorrow morning.

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

Ayes.

The Speaker: The Ayes have it.

This honourable House is accordingly adjourned until 10.00 am tomorrow.

At 4.02 pm the House was adjourned until 10.00 am, Friday, 18 November 2011.

