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**Member for the Elizabeth Constituency**  
**Address to Parliament**  
**Forestry Bill, 2010**  
**April 28, 2010**

Mr. Speaker ...

Today I am honoured to rise on behalf of the good people of the Elizabeth Constituency. I would like to thank my constituents for having the confidence in me to speak on their behalf.

**Forestry Act**

Today less than one week from Earth Day we can appreciate legislation to protect and preserve elements of our environment. I want to thank the Member for Marathon for acknowledging my family and lineage of the Eleutheran Adventurers from more than 300 years ago and their generous donation of Brazalito wood to the distinguished Harvard University. Thank you.

There is a legitimate need to protect elements of our environment, such as forests, for future generations, and to allow for the protection of wild animals and birds that make these forests their habitats. Additionally, the protection of forests can have an economically beneficial role in protection of juvenile animals that later become adult, harvestable product. However, I would have thought there is suitable or sufficient Crown Land available to ensure this without interfering with the rights of private land owners. This begs the question, how was the selection process of land designated under this Bill carried out and by whom and why without public consultation.

The proper management and utilization of forest sites in the Commonwealth of the Bahamas is a necessity. Without proper management and enforcement mechanisms, the legislative oversight would be useless. Having effective and

trained forestry officers is a requirement.

The positive policy aspects of environmental protection, however, do not provide justification for poor legislative guidance and oversight. The policy behind this legislation is commendable, however, there are specific concerns that, in my opinion, should be addressed.

### **Grandfather Use of Current Land Occupiers / Owners**

Much of the land that is designated in the Schedules to the legislation is currently being used by Bahamians in their entrepreneurial endeavors, specifically in farming. For example, much of the land designated in North Eleuthera is being utilized by local farmers. This Bill does not recognize these people or deal with the issue.

It is unfair to enact this legislation and tell those who have been involved in farming for generations that they can no longer farm, that they have to stop planting and cannot harvest without going through the bureaucratic process of obtaining a license or lease to do so. The practical implications of this can be devastating to a farming operation, especially if it interrupts a harvest. I also want to make mention of a primarily Bahamian owned real estate development in Exuma that already has its infrastructure in, houses built and is selling lots. For some reason this development is designated as Conservation Forestry. The implications of this are grave to the Bahamian entrepreneurs.

The proper and responsible implementation of this Act would be to identify those who are farming and otherwise utilizing designate land for entrepreneurial gain, such as Bahamians in real estate development, and to grandfather those uses. This will permit the continued business efforts of these persons and prevent the interruption, and potential devastating effects that would otherwise be brought about.

### **Commonage Land**

This brings about further concerns on the implementation of the admiral policy objectives of the Forestry Act. Some of the designated land under this

Act is Commonage Land. In the Speech From The Throne we heard about proposed legislation to permit the certification of fee simple title to Commonage Land. In fact, I appeared before The Select Committee of the House of Assembly to look into the disposition of all publicly held lands on November 30, 2009 regarding this very same issue.

I pointed out to the Select Committee, just as is stated in the Speech From The Throne, that good and marketable title is essential to economic empowerment. I made note that Commonage has gone from a great asset to the Family Island communities, to an impediment to economic development in the Family Islands. In an era where we in the Bahamas are looking for opportunities for economic expansion, looking for ways to leverage our Family Islands, and provide economic opportunities to Bahamians in the Family Islands, those who farm commonage land are unable to participate.

So I commend new legislation that will regularize and provide fee simple title to Commonage Land, as I made note in my testimony to the Special Committee, it will provide economic empowerment to Bahamians and economic expansion in the family islands.

Given the noted benefits of regularizing commonage land, I question why the Forestry Act designates commonage land as being designated forestry land, but does not address how it is to interact with the reforms to commonage land, and the farmers who currently occupy and farm this land. This is a significant gap in the legislation that potentially can isolate many farmers in the family islands and be devastating to their very existence.

For example, in North Eleuthera some of the Conservation Forests are Commonage Land, and currently being farmed. It is unclear initially why this area is designated as Conservation Forests considering it is farmed land, but the greater concern is what will be the requirements for those legally farming and occupying the Commonage Land on the passage of The Forestry Bill. Are we risking disempowering the entrepreneurial farmers of the family islands by this Bill? Certainly this cannot be the intent of the Government but it certainly could be the result of this legislation.

When Commonage Reform is tabled in this honourable House of Assembly, will it require every single grant of commonage land in fee simple that might be Conservation Forest be approved by an Act of Parliament? This seems rather cumbersome and inefficient. It is also doubtful if this is enforceable. There now exists the means whereby private land can be compulsorily acquired by Government for public purposes.

I would suggest that instead of enacting legislation in an isolated and piecemeal fashion, that we consider the related pieces of legislation as a whole and debate, enact and implement them together. This could solve many of the procedural and bureaucratic challenges which current action will create. If Commonage Land is being affected by The Forestry Bill, we should implement the Commonage Land reforms at the same time to promote uniformity and efficiency in land reform, as well as minimizing the risk of disempowering Bahamians farmers and business persons.

### **Private Land**

As discussed by my colleague, the Member for Fox Hill, the Forestry Bill in many instances imposes requirements, limitations and restrictions on the use of private land. It would appear that a private owner of land designated as a conservation forest is severely restricted from transferring such land (paragraph 8).

Of note, the Forestry Act provides that no land, or interest in land, within a conservation forest may be sold, granted, devised or otherwise transferred other than by an Act of Parliament. Is it legal to so disenfranchise private land owners? Is not public acquisition required for this?

Let me present just a simple example of the consequences of this provisions. Let us assume, as I am sure is the case, that a Bahamian owns a residence, or even a commercial enterprise on what is to be designated as Conservation Forest. This person also has a loan and mortgage on this property. We chance lenders throughout the Bahamas no longer lending for homes or businesses on these properties because of these restrictions on transfer. The Lender will not be able to enforce its mortgage, either through foreclosure or right of sale, without an Act of Parliament. Certainly this dis-empowering aspect of this legislation is not intended.

Furthermore, the use of such private land is severely curtailed, and governed by a system of permits, licenses and leases. Certainly if this is to be the case, Government must compensate the land owners.

The Forestry Bill is also unclear as to the rights of private land owners who have forests on their land. Section 18 provides that “an owner of private forests shall not harvest any trees from the forest, for commercial purposes, unless he has submitted to the Directory of Forestry a plan for management of the forest land and such plan has been approved.” This clause seems to apply to any private land with forest on it, not land specifically designated as a Forest Reserve, a Protected Forest or Conservation Forests.

This vague requirement presents a number of obstacles and uncertainties for private land owners. How many trees will result in a forest requiring a management plan before you can commercially harvest the timber? Will this include farming and harvesting of produce on land. This uncertainty not only arises as a result of this clause, but also the definition of forest which “means any area consisting mainly of trees including forest cover, all other vegetation, wetlands, soil and ground beneath.

As discussed, the policy behind The Forestry Act, the conservation of forests and land of the Bahamas, is a good and admirable policy, in implementing the legislation, we have to be careful not to disenfranchise private citizens. The treatment of private landowners, with the vague and seemingly broad application, not only chances a disenfranchisement of property owners, but also has a real economic effect, measurably diminishing the value of privately held land in the family islands.

With the limitation in usage and value of the land, the ability to use the land as leverage for economic empowerment can be limited as well. Careful consideration must be undertaken as to the unintended negative effects on private enterprise and economic empowerment of Bahamians. Careful preparation and implementation of legislation can achieve the proper and admirable purposes of the Forestry Bill while not penalizing private citizens.

### **Larger Government – Staffing**

Another key consideration is what will be required to implement the oversight required of the Forestry Bill. Will current civil servants be transferred into his department, or will there be an entirely new department with new hires. I think it important to disclose to the Bahamian people the associated costs of the implementation and ongoing costs of the proposed forestry system required by this piece of legislation, and if it can be accomplished with limited additional expense.

Additionally, it appears that there is no special training or certifications to be a forestry official. Paragraph 19 provides that “The Minister may by Order designate any public officer ... as an authorized officer.” With the level of monitoring and enforcement required of the forestry officers, it would be prudent to require special training and certification, not merely the appointment of any public officer. The maintenance of the environment is a serious concern and should require the appropriate expertise and education.

### **Environmental Consciousness**

In addition to being the Member of Elizabeth, I am also a Vice Chairman of the Progressive Liberal Party. As part of my portfolio in such capacity, I have responsibility for environmental issues affecting the Bahamas. As a country that succeeds and thrives because of its environment, we have to be cautious, yet responsible in the policies and decisions that we make, as well as the enforcement of the environmental framework.

In a country where we obtain much of our capital infusion through foreign direct investment, and specifically with respect hospitality, resort and residential development, acknowledging the importance, and frankly the need for sustainable development is vital. An example of this is Schooner Bay in Abaco, however, we need to encourage responsible development throughout the Bahamas.

The introduction of environmental management as an essential aspect of sustainable development is required, however, this demands new public policies accompanied by new techniques and interdisciplinary know-how. As a Country, we face the challenge of creating new institutional frameworks and mechanisms for environmental management, ensuring that in the context of future development production and consumption are compatible with

environmental sustainability. We have to implement these mechanisms, however, in a responsible way considering all interested parties.

This is especially important as we look forward to significant development in the Bahamas, as an example, Baha Mar. Our natural resources are in jeopardy, an environmental needs plan is required, and an environmental management plan is needed. We have to ensure the preservation of our environment, encourage sustainable development and management, all in the context of the realities that face our country from day to day. In this I say, environmental sustainable development in our country is a necessity.

### **Conclusion**

As I sit Mr. Speaker for the record let me say that I am a firm supporter for the preservation of our natural environment and our natural resources but it must take place with due and proper consideration of all our National Issues and not in isolation. In this vein, I ask the following questions on The Forestry Bill:

1. Who is driving the passing of this legislation which in its present form creates many problems and considerable costs.
2. The Bill does not provide for acquisition of Private Lands but states an Act of Parliament is necessary for the transfer of title, and that of private land. Is this even legal?
3. Why is there a lack of public consultation and transparency?
4. Can Government afford to compensate private land owners for their land?
5. Can't this Bill wait until it is properly thought out?
6. Who had input in the drafting of this Bill and what if any is there expertise?
7. Is there not sufficient suitable Crown Land for which to create Forestry Reserves? Why complicate the issues of preservation of our resources with the effective taking of private land?
8. Who made the choice of lands and why?

Thank you Mr. Speaker.  
God bless the people of Elizabeth.

God bless the Bahamas.