FRIDAY,
10TH OF MARCH, 1989
10:12 A.M.

MR. PRESIDENT: Prayers by the Third Elected Member for George Town.

PRAYERS

MR. TRUMAN M. BODDEN: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Proceedings of the House are resumed. I do apologise that we are a little late, but there was business of the House to be dealt with.

Government Business. Continuation of the debate on the Throne Speech and the second reading of the Appropriation Bill, The Honourable Elected Member for Tourism, continuing.

GOVERNMENT BUSINESS

CONTINUATION OF THE DEBATE ON THE THRONE SPEECH AND SECOND READING ON THE APPROPRIATION BILL, 1989

HON. W. NORMAN BODDEN: Thank you very much, Mr. President.

Yesterday afternoon when the House adjourned, I was speaking on Tourism. I would like to continue on that subject this morning. I had reached the stage in my presentation where I was saying that my latest information is that business generally looks good for most hotels and condominiums through April and it is probably difficult to forecast much beyond that, simply because we are dealing with the more impromptu type of market this year and the trend is to take shorter but more frequent spur of the moment vacations. In other words, people book and cancel at the last moment.

In regards to hotel rates and charges applied by restaurants and other tourist related businesses. I have to say in fairness to them that I believe in most cases this is also the reflection of the high cost of doing business in the Cayman Islands today. Where I do differ with them is that people are still willing to pay for a high quality service and those businesses and destinations which continue to succeed and which will survive in this highly competitive business of tourism will be those that provide a strong price value relationship. There is no magic formula; the price must match the product in order to help produce the results which we all expect.

For several years now, I have been pressing all premises that provide tourist accommodation to improve the quality of their services. This is the reason why in 1987 three hotels were warned by the Hotel Licensing Board to smarten up or close down. This is the reason why in 1988 one hotel was closed and one condominium was closed by the Hotel Licensing Board; this is the reason I brought amendments to this Honourable House last September to reinforce and strengthen our Tourism Law; this is the reason I have requested funds in the 1989 Budget to employ two Quality Assurance Officers so that more frequent Hotel and Condominium inspections can be conducted on an ongoing basis. I can give assurance that I am determined that our Tourism Law will continue to be rigidly enforced. It is not a rubber stamp operation. Our Law must be respected and I do not intend to allow a few rundown premises to jeopardise our product and in turn, affect our tourism industry adversely.

I believe it was the Third Elected Member for West Bay who said that we should see that costs which are not equal to the level of service should be reduced. As he very well knows, Government does not control prices for hotels, condominiums or restaurants or any other business for that matter,

and I do not believe that it should. But, what we do have in place is quality control and that will continue to be applied as I have just stated.

We will continue to strengthen our efforts to target more middle to upper income visitors by continuing to be selective in the type of magazines and newspapers we advertise in, so that we can reach the type of market we need. Clearly, going totally for the upscale market is not possible for us at this stage in our tourism development, simply because the composition of the different types of tourist accommodations we offer dictate a mixed market, and I believe that this is good. In any event, you will see that only targeting the upscale visitor does not work for everyone. Here, I would like to draw the attention of the House to an article on Bermuda. I will quote an excerpt from this article:

> "Something is rotten in the colony of Bermuda, but nobody is sure just what it is. Prosperity abounds, unemployment is nonexistent and the biggest visible problem is traffic congestion on the streets and roads, and yet there is haggling. Tourism is down, partly because of a deliberate Government policy to encourage upscale tourists rather than the mass. The local Club Med is a failure and is for sale. So is the Islands biggest hotel, the Bermudiana, now closed and the politics of the Island centre on the question of who is and who is not a Bermudian.".

Mr. President, I have read that just to point out that while I do not believe into going into mass tourism, I believe that attempting to target only an upscale market will not work for us, for the reason I have just stated. The various types of accommodation we offer, dictates a mixed market, and I believe that is what is more suitable to the Cayman Islands.

So the point made by the Third Elected Member for George Town on upscale visitors is well taken, but what can be done in this regard is already in process. It has been done for years, and in reality it is what is best for Cayman. This is the policy which I continue.

While I disagree with some of what the Third Elected Members for West Bay and George Town had to say on tourism, let me say here that I do agree with the Second Elected Member for the Lesser Islands who said in his presentation that we should look beyond the immediate downturn in January. When we examine this closely and look further on the local scene, at the areas where we can in fact exercise some control, I find that there are serious situations of much concern which must be addressed. I, as the Member responsible, will continue to do my part but some of these problems do require the help and cooperation of all tourism related businesses and indeed, the entire country. I have already mentioned one: product improvements through better quality accommodation and service, but there are others.

Secondly, I have had verbal and written reports regarding the display of bad attitudes by some of our people in the tourism business towards our tourists. Those that came to my attention were mainly about front desk staff in some hotels and the poor attitude of some taxi drivers. These too adversely affect tourism results. I will go a step further and I do not know how popular it will be. I do not know how well it will be received, but it has to be said and I will say it.

All the talk I hear about 'us' and 'they', and who is or who is not Caymanian, does not help the cause much. In my opinion it produces in the mind of our visitors an unrest. I believe it would do us all well to pause long enough to remember that tourists are foreigners too to this country but we happen to need them. They have to be greeted with a traditionally warm Caymanian welcome and treated to service with a smile, for this is what makes Cayman special. Stability, safety and service. This is what sets our Islands apart and it is a quality that has strengthened our good image and profile in the market place and one quality which we just cannot afford to lose. There is nothing that can ruin tourist trade more than the display of a bad attitude; we best beware of it.

Thirdly, we must realise that tourists read our local newspaper and listen to Radio Cayman too. Many times uncomplimentary remarks are passed about the quality of our visitors as to what they can afford to spend or not spend, spoken by politicians in the heat of debate and picked up and repeated by the press. This can certainly have an adverse effect on our repeat tourist trade too. More care should be exercised in this area by all of us.

We must recognise the close connection between tourism and the environment. In analysing our growth and development it begs the obvious question: Are we losing our appeal? Are we losing our native charm and natural atmosphere that attracted visitors to our shores in the first place? If we are, who is to blame? This Government? Past Governments? Apportioning blame will not help. This will not cure the problems and correct the situation, nor reinstate our popularity once it is lost or damaged; nor meet the vacationers' demand for the Cayman Islands as a desirable vacation destination.

As the Member responsible for Tourism I am not absorbing myself from any of this. I say it is time that we in the Cayman Islands step back and take a frank and fair look at ourselves and decide to do what we have to do. For it is not our own, but our children's future in tourism, that can be eventually be placed in jeopardy. I agree we must look beyond the immediate downturn and also focus on long-term causes and effects in order to keep 'the hen that lays the golden egg' healthy and alive. If this situation, this dip in tourism can bring us all together on the importance and urgency of this matter, then I believe it is worth it, and the lesson learned will be to our great advantage.

Before I conclude the subject of tourism, I would like to respond to the Third Elected Members for George Town, and the Member for West Bay. I will take both of their comments together, if I may, because some of their comments were similar.

The Member for West Bay said that enough was not done after Hurricane Gilbert. I think his exact words were, "Not enough effort was made to advise the rest of the world that we

were O.K." I strongly refute that statement and I claim that swift and immediate action was taken, that is, within our financial means. Here, I would like to take a few moments to explain in detail what was done and then it can be judged whether this is a fair claim or not.

Hurricane Gilbert struck the Cayman Islands on Tuesday, 13 September. On Wednesday night at 8:00 P.M. a press release was made to all the major media by our public relations firm. Our Department of Tourism and Coral Gables staff along with our P.R. firm, Cohen Associates, went into action. On Thursday, I called a press conference at the Sheraton Riverhouse in Miami, which was attended by three television stations, one newspaper, one radio station, Associated Press International and U.P.I. Wire Services. The purpose of that press conference was to tell them that we had weathered Hurricane Gilbert, that I was here on the Island and we were safe and sound and ready to welcome them back. This was followed up by other press releases on Friday to 1,000 U.S. media stations. On Saturday a video was made with myself and Mr. Bergstrom and was sent to CNN in Atlanta. The following week, on Tuesday, the video was released to CBS, ABC, NBC and CNN. Friday, a press release was sent to the Cayman media because we have quite a few overseas subscribers, as well. The following Saturday, there were follow-up video releases also sent out. On Sunday, there was a release to the CNN travel guide show. Telephone calls were made to major T.V. and newspaper outlets in Miami, Tampa, Dallas, Houston, San Antonio, Port Arthur, Atlanta, New York, Chicago and Los Angeles. In addition to that, our tourism team met and decided that we should do follow-up letters and advertisements in newspapers in the United States. A letter was drafted and went out under my signature to all travel agents. I will read that for the information of this House and the listening public. The letter says:

> "Dear Travel Professional:
>
> The Cayman Islands fortunately escaped serious damage from Hurricane Gilbert. The hotels and Condominium properties on 7 Mile Beach are open and ready to accept guests with full facilities. Reservations are now being accepted in the normal manner.
>
> Diving facilities in all three Islands are fully operational at all dive sites. Full programmes of day and night dives are being offered as usual. There has been no damage to the reef.
>
> Cayman Airways, Eastern Airlines and Northwest Airlines have resumed full schedule service to Grand Cayman. Cayman Airways has also resumed services to Cayman Brac and Little Cayman.
>
> Hotels on Cayman Brac and Little Cayman are also open and accepting guests. Restaurants, banks, shops and other commercial areas are operating normally and offering full services.
>
> Please call your appointed Cayman Islands wholesaler or our Cayman Islands reservation services at number so and so, which is an 800 number for any further information.
>
> I would like to thank you for your continued support for the Cayman Islands and assure you that we will extend a warm and hospitable welcome to your valued clients.".

That was September the 19th, and it was mailed out to 21,175 travel agents in California, Colorado, Florida, Georgia, Illinois, Louisiana, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Tennessee and Texas. In addition to that, we also did a consumer advertisement, which was placed in major newspapers at all U.S. gateways. It was a 1/2 page advertisement, if I remember correctly, and it was headed in bold print: A LETTER OF THANKS TO THE AMERICAN PEOPLE FROM THE PEOPLE OF THE CAYMAN ISLANDS. It reads:

> "On the week of September 12 Hurricane Gilbert struck the western Caribbean. By what appears to be an act of God, our Islands were spared the devastation suffered by our less fortunate brothers and sisters in the Caribbean. The Government of the Cayman Islands would like to thank all those who came to our aid during those threatening hours. We extend to our many friends a warm invitation to come back now, and visit our sunny beaches, clear waters and grateful people. All is well. We look forward to welcoming you in true Caymanian style.".

I signed that letter to consumers, which was placed in 14 newspapers, a 1/2 page advertisement. It was placed in the Sunday newspaper for *The Miami Herald, The Fort Lauderdale Sun, The Palm Beach Post, The Tampa Tribune, St. Petersburg Times, Houston Chronicle, The Houston Post, Dallas Morning News, Dallas Times Herald, Fort Worth Star Telegram, Atlanta Constitution, Los Angeles Times, New York Times* and *The Chicago Tribune.*

In addition to that, we had radio advertisements in agreement with the Cayman Islands Hotel and Condominium Association and the tour operators and Cayman Airways. We invited 20 of the top wholesalers which produce business for the Cayman Islands to come down for a weekend in the Cayman Islands and see for themselves free of charge, free transportation by Cayman Airways and free accommodation and meals by the Hotel Association. We also increased the number of travel agents invited down.

The total cost of the mailouts and advertising I have outlined was $202,000. I realise that this was not a lot of money, but I think it is unfair to say that enough was not done. If we could have afforded to spend a million dollars, then I agree, more could have been done; but we did what we

could within our financial resources, because I also know, had I come to Finance Committee and tried to get $500,000, or $1,000,000 as a supplementary... I feel that if we make our submissions to Finance Committee and to the House in a Budget form, we must live within that Budget unless we really have a very, very serious situation on our hands. But, had I been the type to come and ask for a $1,000,000 and spent money all over the place, and there was a downturn in January, I still would have been asked why did you spend all of that money because it did not produce the results. I did the best I could at the time, and I did what I thought was right.

The Third Elected Members for George Town and West Bay, apart from suggesting that more should be done to attract the upscale market, claim that we missed the boat in regard to the United Kingdom and European markets. Both Members said that tourism should be managed rather than simply being self-perpetuating. With due respect to those Members, I consider this an insult, and I take strong exception to this. This is not the first time that our country has witnessed a downturn or a dip in tourism. Probably, and to my regret, it will not be the last.

This was the case of 1983 and it was the case again in 1985, however, the rebound and healthy re-growth in tourism since 1985, which followed in the years 1986, 1987 and 1988 would not support those Members claims or inference that tourism is not being managed. Nor either in those years we missed the boat in the United Kingdom and Europe.

Let us check out the statistics. In 1986 the total air arrivals increased by 14 per cent over 1985, the year we had a downturn. In 1987, the increase was 25.6 per cent over the previous year, and in 1988 we had a 4.6 per cent increase. Combined with increased cruise ship visitors our country (for the year 1988) received a total of 534,294 visitors, or 32 per cent more than in the year 1985. We have crossed the half million mark and for a small country of 100 square miles with 24,000 people, anybody who believes that this happened by accident, I say there is something wrong with them. Even though the Third Elected Member for West Bay apparently questions the value of the cruise ship passengers to our economy, it is too much to be ignored, believe me.

Now, let us look at the performance of visitor air arrivals from the United Kingdom and Europe. In 1985, we received a total of only 4,855. In 1986, we received 6,034. In 1987, we received 9,070 and in 1988 we received 13,122 or a 270 per cent increase over 1985.

When I came to this Portfolio in 1984, I found a Public Relations office established in London which was operated by the Cayman Islands news bureau. After examining the situation, it was obvious to me that this office was costing too much. I could not see the purpose it was serving, so in 1985 a decision was taken to close this office after which we opened our own Department of Tourism and Cayman Airways office in London with our own staff. We increased our sales and promotion activities and, as can be seen, these efforts produced good results. The point I was attempting to make to the Third Elected Member for George Town at Question Time was that I have put in the Budget for this year a small increase in funds for this region, so that we can increase those sales activities with the expectation that we will do even better.

Anyone who believes that this highly competitive and complex business of tourism marketing just happens of its own accord, or is self generating is, to put it simply, plainly and mildly, talking nonsense. They do not know what they are talking about; at least not in tourism terms.

I can afford to tell this House or anyone else that tourism is managed well by a highly professional and experienced tourism team, whose plans are based on thorough research and knowledge of this business. Otherwise, Cayman's tourism could never have reached the height it has in such a short time. We never would have experienced the growth we have, especially in the past 4 years.

It must be understood and accepted that developing trends are not easily curbed nor confined to any one area, nor can be cured over night. This sort of situation requires time and money and there are many circumstances beyond our control. There are limitations, financial and otherwise, which must be taken into account.

It must also be accepted that as the numbers grow, the ability to produce large percentage increases each month or each year will become more difficult and there will be levelling off periods which we must pass through. Do not forget, it was not long ago when people and the press were asking where are we going to put all these visitors? Are we not moving to fast? Are we concentrating on quality or just quantity? These are question from which the echo in my ear has not yet died down. Now they are looking at me and asking where have all the people gone? Sometimes, I do find it a bit ironic.

I can assure this House and the people of our country that tourism will continue to be properly managed. The present situation is being constantly monitored. Our marketing plan for 1989 is being reviewed and revised in order to respond to changing market conditions, because as with any plan there are always certain assumptions which have to be made. I am not telling you that things will not go wrong, as they sometimes will. It will not be for the lack of checking and trying to keep this important industry of ours, on which we all depend on a steady course.

In Cayman Airways we are looking at rescheduling and of possibly making some gateway changes. Competition is strong out there. Our people in tourism are informed and equipped to fight the ongoing battle of defending Cayman's share of Caribbean tourism and this we intend to do.

When I speak on tourism, I do not only refer to Grand Cayman's tourism, I mean tourism in the three Cayman Islands. Grand Cayman, Cayman Brac and Little Cayman. I have noted the request by the honourable First Elected Member for the Lesser Islands for us to continue to assist with tourism development in the Lesser Islands. The point he made about efforts to attract new markets to Cayman Brac and Little Cayman, some of this will of course require considerable development funds in order to attract those types of markets, but I feel that in times to come something more can be done about this.

In order to assist, Cayman Airways continues to offer common-rated air fares to Cayman Brac and Little Cayman. In other words, international travel to Cayman Brac

and Little Cayman cost the same as to Grand Cayman. Our Department of Tourism includes the Lesser Islands packages in all our sales promotions and are distributed through our regional sales offices. The Portfolio sees to it that the Lesser Islands are included in our collateral material, our brochures, posters, promotion films and slide presentations. This will continue.

I have made notes on the needs and areas of attention relating to my Portfolio, which have been mentioned by both Members from our Lesser Islands. Like others of my colleagues in Executive Council have already expressed, I too pledge my support and continuing interest in the needs and affairs of our Lesser Islands. I started working closely with the newly elected Members, just after the Election last year and this will continue to be the case over the next four years. I am Caymanian too. I know that we have three Cayman Islands and my interests are equal.

I realise that I have devoted quite a bit of time on tourism, but this is a weighty subject and its importance and effects cannot and will not be treated lightly. In spite of all that has been said and claimed, we still have some good things going for us, but measures essential to this industry require close cooperation from all the people who know its value and benefit from its results.

Down-line, we have the new Radisson Hotel and new properties always give tourism a boost; salesmen always like to have something new to sell. We also have the development at Tortuga. We have extensions to existing hotels. We have a whole new set of luxury condominiums coming onstream and hotels like the Hyatt, the Holiday Inn, Treasure Islands and others will continue to attract quality tourists, if we do our part.

I would just like to touch on a few general items before signing off on tourism. There is a pressing need for more local tourist attractions and preservation of historical sites to be provided. Here, I am counting on the Members of this House for their support and assistance to something about this. I am also counting on the National Trust for assistance in this important area. We cannot accomplish much without money. We must recognise this.

I have provided funds in this year's Budget so that we can make a modest donation to the Trust, to help them with their necessary and important work. I am working closely with the Honourable Member for Education so that tourism is made a part of our schools curriculum and taught as a subject in our schools. Already set up for this year is a teachers' workshop, arranged through Caribbean Tourism organisation and the Department of Education. The Cayman Islands Hotel and Condominium Association along with the Portfolio will continue to offer Hotel Training Courses this year.

The Community College continues to provide training at the Hotel Training School. Our newly appointed Tourism Advisory Council is off to a good start and will work towards creating more tourism awareness in our country through the press and other presentations. I am expecting big things from them. Meetings with our tourism team between Government and the private sector continue on an ongoing basis, to ensure that many of our problems and challenges are tackled in a realistic and effective manner. The Cayman Islands must remain an attractive vacation destination and we all need to be involved if we are going to continue to succeed and this does involve improvements and upgrading of the tourist facilities provided by our Government as well as the private sector.

Tourism and Cayman Airways go together. I shudder to think what tourism would be like today, without our national airline. You can believe me, we would be more than concerned about January or a dip. Cayman Airways has always given us the needed control over our tourism development and assured quality service to the travelling public. This is why Cayman Airways was established. This is what Cayman Airways is all about. By now, it seems that the high cost of operating and maintaining our own airline has been realised. As I said in presenting the Company's accounts some weeks ago, a price tag comes with this venture which must be accepted and met. The Cayman Islands Government accepted the full financial burden of the airline in 1978 and Government's continued financial support in the form of a realistic subsidy for the foreseeable future is undoubtable necessary.

I have always seen Cayman Airways as an essential service and two recent incidents, Hurricane Gilbert last year and now the Eastern Airlines strike emphasises more than ever the importance and necessity to have our own flag carrier. This was also pointed out by the First Elected Member for the Lesser Islands and I think it should be noticed and reemphasised.

In the case of Hurricane Gilbert, had we not been in the position to mobilise aircraft and crew on short notice and evacuate hundreds of tourists out of this country and if people were forced to remain here, you can depend that the bad press these Islands would have gotten would probably have dealt our tourism a blow from which it would have taken years and millions of dollars to recover - if it ever, in fact, recovered.

I am grateful to Members of this House who voiced similar sentiments and I do appreciate the support for the airlines that has been mentioned by various speakers before me. Cayman Airways Board of Directors, staff and crew continue to do a good job and are working hard to help make the financially troubled and struggling airline survive. Without their professionalism, support and cooperation and of course the loyalty of the travelling public, Cayman Airways would not be around for long.

Many complaints have been made drawing attention to what can be considered inadequacies or areas that need to be improved. I will endeavour to deal with them. Several Members spoke about the aircraft study being conducted and I will explain the thinking behind this.

First of all, I have to mention that I was a bit surprised at the Member for East End; when he spoke he had such up-to-date information on the study, that not even I, as the Member responsible for the subject, nor the Board of Directors, had a chance to examine. No doubt (and this is nothing new, I am aware of this) the staff continues to take information out of the Company. On that I have this to say: they are fortunate that this is not a similar kind of Government that they had to deal with some time ago or

these bulletin bearers, these news carriers, would be fired. I know who they are, because when I was a Backbencher they used to come to me when they could not have their way with the Government. They can still come to me, I will listen to them. If it is plausible and reasonable, they will get what they want, and if it is not they will not get what they are seeking. I think that this game should be discontinued. Nevertheless, I still believe that decisions should be made in Cayman Airways based on good business practices, not politics.

I think it was the Third Elected Member for West Bay who said that we had paid $24,000,000 for the two 727s and that other new aircraft today would be too expensive. He might be right about the latter, but he is certainly wrong about paying $24,000,000 for the 727s, because I am sure this Member knows that these aircraft are leased until 1996, and at that time Cayman Airways can form another company and exercise an option to purchase them at fair market value.

You can check it, Mr. Third Elected Member. I would like to explain the reason for requesting a study at this stage. If nothing is done...

POINT OF ELUCIDATION

MR. TRUMAN M. BODDEN: On a point of elucidation. I could be very brief on that, if you will give way.

MR. W. NORMAN BODDEN: Yes, Mr. President, he can go ahead. I would like to be elucidated on that.

MR. TRUMAN M. BODDEN: As I understand, it is a Capital Lease by which Cayman Airways is appointed the sole purchasing agent, and if it sells prior to the expiry of the Capital Lease - and I stress Capital Lease - then Cayman Airways will be entitled to receive back from that sale (depending on the market price) perhaps a substantial amount of money from it. It is not a bare lease, as such, but as I understand it a Capital Lease. When they are sold, provided they are not sold too early, then Cayman Airways will get back quite a bit of money, and $4 million in the fund that is accumulating interest will go to reduce or wipe out the balance of the debt.

HON. W. NORMAN W. BODDEN: Some of what the Member said is correct, but it is a very complex lease, Sir. I think the Member was involved. It was about 5,000 pages long. I am not a lawyer or an accountant, but when I had it checked some years ago in order to make a statement to this House, that was what the accountants and lawyers at the time told me. I do not think that at any stage there is any money being returned to Cayman Airways. My recollection is that at some stage, I think within a year or two, there is a balloon payment that has to be met by Cayman Airways, which will substantially increase the lease that it is presently paying. Under the lease, Cayman Airways itself cannot purchase the aircraft at the end of the lease. I think they have to form a company to do so. This is a copy of a statement regarding the lease which I made to this House some years ago to clear up the same argument that came up about $24,000,000 being paid for the 727s and I will just read the last page. Page 3 says:

> "Note must also be taken that the overall financial implications of Cayman Airways in the lease agreements are that the Company must make to Inter-First Bank, Dallas, during the 14 year lease period the following. Aircraft lease and interest payments of U.S.$36.2 Million plus a balloon payment at the end of the lease period of U.S. $5.8 Million for a total of U.S.$42 Million.
>
> This amount will overall be accounted for as $24 million for aircraft, capitalised lease and $18 million interest payments. The aircraft are being depreciated to a residual value of U.S. $5.8 million over a period of 14 years, which coincides with the equivalent amount held in escrow by Inter-First Bank, which the amount represents the proceeds from the sale of the two BAC 1-11s aircraft plus a accrued interest by 1996.
>
> At the end of the sublease period Cayman Airways has the option to - (A) return the aircraft to Inter-First Bank, Dallas and receive the escrow funds of U.S. $5.8 Million held by the bank; or - (B) purchase the banks rights in the aircraft for $5.8 million and cause the aircraft to be sold to an independent third party.".

I think that puts it in the language that probably we both agree on, but I still feel that the point has to be made that at no time did this Government pay $24 million for the two 727 aircraft Cayman Airways is operating.

I was explaining the reason for the study. If nothing is done, if no action is taken and 1996 rolls around, the aircraft might not be worth much, or it might not be marketable at that time because aviation is constantly changing. Cayman Airways needs to be able to provide additional lift to meet the demand that will eventually be placed on it by new and expanded hotels coming on the market.

The studies cost the Company practically nothing, but I believe that the Company must be in a position to know what options are available to it. It must plan forward and move ahead at some stage or become stagnant. The studies that we are referring to could, in fact, prove many things. The fact that Cayman Airways might need and might want to make a change to more fuel efficient and cost effective aircraft is one thing, but the fact that it might not be able to meet the financing requirements is certainly not beyond my imagination. We need to know - the Company needs to know, and this can only be done through proper study and research. This is what I instructed should be done at this stage.

Just let me assure all Honourable Members of this House that I am a responsible and experienced businessman with a background in airline management - 26 years of it - not a degree, so I am not boasting. The school of experience cannot be duplicated. In addition to that, in addition to my input I have a stable and strong Board of Directors. I can assure this House that no decision will be taken recklessly, thoughtlessly or carelessly. Furthermore, any proposal that I bring to Finance Committee or to this House in connection with aircraft for Cayman Airways will be properly documented and justified through necessary feasibility studies.

Mention was also made by some Members about the Caymanianisation of Cayman Airways, flight attendants and staff in general. Cayman Airways is no different from Government or any other company doing business in the Cayman Islands today. It finds itself in a similar position where it just cannot fill all positions through local recruitment. We can only ensure that Caymanians are given priority as they rightly should, and Caymanians are preferred by the Company, but Caymanians cannot be forced to work for the Airline, if they choose to go elsewhere.

Suggestions have been made that there are problems other than salaries and I intend to investigate this further, because I should know about this too. Caymanians who are not employed with Cayman Airways have chosen not to, or either they have been found unsuitable. If reference is being made to crew members, there are probably those who have not been able to meet the Company's standards. I am sure that no Member expects that safety will be compromised in any way and this will certainly not be done under any circumstances.

The inter-island service improvements and calls for changing the Short aircraft have been made by the two Honourable Members for the Lesser Islands, and the Member for East End spoke about not waiting for an accident to occur. There is no question that the Short Aircraft has a high maintenance rate and I am not trying to defend that, because the provision of air service is a serious matter. It is taken as such by this Member and the Company, Cayman Airways.

Naturally, when an aircraft is delayed or a flight cancelled, it is extremely inconvenient. The focus at that time is always placed on the cancelled or delayed flights, never on the larger number of flights that are operated safely and on time. Cayman Airways Limited is proud of its safety record and regardless of what else can be said about the Company, Cayman Airways properly maintains its aircraft at a very high cost. The fact that there are delays due to maintenance is evidence that no chances are being taken. Chances that no company can afford.

The provision of air services to the Lesser Islands has never been a simple matter. To date 10 different types of aircraft have been used on this service, none of them, as commuter aircraft, have really proven to be totally satisfactory.

It is also known that any one plane operation has its inherent share of disadvantages because when the plane is grounded, due to maintenance, you are out of business. The operation of this service has been and continues to be a serious concern of past and present administrations and particularly this Member. Serious efforts have been made and are continuing to be made on the part of Government and Cayman Airways to improve and provide quality service. The people of Cayman Brac and Little Cayman, and the travelling public in general, should have and rightly deserve this.

I have discussed with both Members for the Lesser Islands our plans in detail, and once again I give them an undertaking that the plan which would produce improvements is being actively pursued. They will be kept fully informed every step of the way of what progress is being made from time to time. I am as anxious as they are to find a solution, not expecting, of course that there still will not be complaints. Anyway, we have a job to do and we are going to keep at it until some progress is made to resolve the situation in the best manner possible.

I do not, however, accept that poor air service has hampered tourism development in the Lesser Islands. Especially in the case of Cayman Brac which offers the major portion of tourism accommodation in the Lesser Islands. Because the hotel occupancy in Cayman Brac, in some cases exceed Grand Cayman and in the case of Tiara Beach, I understand their occupancy rate is in the 90's. However, I do agree with the point which I think both Members of the Lesser Islands made that Little Cayman has suffered most because of poor air service. That needs to be remedied.

I do not believe either, that it is realistic, practical, nor possible to operate a daily 727 Jet flight with 157 seats to Cayman Brac. At this time I see no reason why four round trip jet flights per week could not be operated, year round, because I have noted the Members comment on the change of schedules at different times of the year. I think we could hold that at a steady level and of course, those four flights could be increased to a daily service when warranted by traffic demands and when Cayman Airways has the equipment capability to do so.

In reviewing this whole situation of local air services, it appears to me that in truth Cayman Brac has reached a stage in its development when no commuter type aircraft, regardless of what it is, is suitable to provide the service that Cayman Brac needs, while Little Cayman would be best served with a smaller aircraft with more frequencies.

It must be noted here that when you have four round trip jet flights to Cayman Brac and we discontinue operation with the Shorts or a smaller aircraft, the travelling public will not have the number of frequencies and the number of connections that are now provided.

I think it must also be noted that care must be taken before this decision is finally reached by the Company because once the local service in regards to equipment and maintenance of that particular equipment is disbanded, it will then be difficult and extremely impossible for Cayman Airways to come back six months or a year later and reinstate and regroup equipments, spares and mechanics to keep that operation going.

So these are the things that are under consideration by my Portfolio and the Airline. As I have said at Question Time, included is the installation of lights and the extension of the runway to allow night operations to be reinstated at Gerrard-Smith Airport. These, coupled with the brand new terminal, should provide an improved service at a comfortable, convenient and modern level and will, I am sure be welcomed by all concerned. Before I move from Cayman Airways.... I can finish this bit on Cayman Airways in just two minutes. The Third Elected Member for West Bay spoke about examining the relationship between the Department of Tourism and Cayman Airways to make certain that funds are spent wisely. The relationship between Cayman Airways and Department of Tourism is a close working relationship, beneficial to both Cayman Airways and the Department. In some instances we share offices and staff. I believe the money is wisely spent.

I am not saying that if you have an expert (and then you would have to get an expert to tell you what the expert said) to go through the whole arrangement with a fine tooth comb, maybe you could come up with some savings here and there, but I believe that those savings would be far less than the cost of having any proper studies done. As the Member, I look at this from time to time.

Many times I have to settle disputes between the two departments. One claiming that the other one is committing the other one unknown to them, or spending funds that they did not agree on. Generally speaking it is a good relationship and I would make the point that under no circumstances could our Department of Tourism afford that type of staff that we have in our overseas offices if it were not for the travel benefits that those staff get from Cayman Airways. I believe the arrangement, though not perfect, is a good one.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 11:15 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:52 A.M.

MR. PRESIDENT: Proceedings are resumed. The Honourable Member for Tourism, continuing.

HON. W. NORMAN BODDEN: Mr. President, I would now like to turn to other subjects in my Portfolio and general comments on some other areas.

Civil Aviation: I do appreciate and totally agree with the kind remarks by other Members regarding our Civil Aviation Department and our Director of Civil Aviation, Mr. Sheldon Hislop. We have a competent, experienced and qualified Director of Civil Aviation that our country can be proud of. I also appreciate the service and help of members of the Civil Aviation Authority which are drawn from Government Departments and the private sector. I am grateful too for the help of the Air Transport Licensing Authority which controls the licensing of air services to and within the Cayman Islands.

Civil Aviation will continue to ensure the efficient and safe conduct of air services to and within the Cayman Islands, as well as to ensure the convenience of the travelling public who use our airport facilities. Civil Aviation hold a good reputation by any countries standards and we refuse to have that image tarnished. Aviation is exacting, there is no room for error so high standards must be maintained. But, of course, high standards cost money too.

Our Fire Department: I can say likewise for our Fire Department, as I have just said for the Civil Aviation Department. It is a well organised and efficiently operated Department, a service that is recognised and appreciated by both sides of this House, and I believe by all of our people in these Islands. On behalf of our Chief Fire Officer, Mr. Kirkland Nixon, I acknowledge the good that has been said publicly and thank those Members who spoke so favourably on this subject.

I am pleased that with the help of my colleagues in Government, both Official and Elected Members, and with the efforts of my Portfolio that the new Fire Station for George Town has finally become a reality. It was long overdue and very badly needed. It was opened by Her Royal Highness, Princess Alexandra last year and we are proud of this fine new structure and its modern facilities which are bound to raise the morale of the Fire Crew and increase their productivity. I believe that this Department will continue to provide a valuable service to our country which can sometimes be taken for granted, that is until you need it. Not to be forgotten, of course, is the value of this new building during Hurricane Gilbert. I think it served us well and is a good investment.

Now turning to Labour: We are a developing country with an over-employment problem that makes us the envy of most countries around the world today. Naturally, this brings with it disadvantages and situations which can almost be as threatening as those problems generated by unemployment. Although I have to admit if given a choice, I would choose the former.

I, too, share the concern of Caymanians being outnumbered. It is not a comfortable or acceptable position to find yourself, a minority in your own country. This has created unrest and upheaval, particularly in small countries like ourselves. This I believe was the primary concern when our Constitution was amended a few years ago and I support this. I believe that in our development process in building our country, as the number of imported labour increases (as it must if our economy is to continue even at an agreed slower pace) I believe that the political control must remain in the hands of Caymanians.

Our human resources are the single most important element in developing these Islands and since we are, and will continue to be dependent on outside sources for still some time to come, then I firmly believe that the policy of a balanced population mix, must continue to be applied in force and followed. No Member in this House believes in Caymanianisation more than I do, but the fact remains, and must be

recognised that Government, that Cayman Airways and the majority of businesses and households in this country are directly dependent on outside labour in one form or another simply because our local labour force is smaller than our labour needs. But, we have let this happen. Now we cannot turn back the clock.

In my view, we must continue to control and continue to be selective. Caymanianisation must be our ultimate goal but in our zeal and zest to Caymanianise, we cannot now escape nor ignore the facts. The fact that a small country such as ours produces professionals at a slow pace, that we do not have the local labour force needed to operate the country that we have built and are building. Quite clearly, Caymanians must be given priority for job opportunities in this land of ours and even more importantly, Caymanians must be a major part and participants in business opportunities available in the Cayman Islands if harmony and stability are to continue to be the trademark of these Islands.

Nor can it be ignored that from the time that the decision was taken many, many years ago, to embark on an economic development course for this country and quite wisely tourism and finance were selected. At that same time, the decision was taken of having to import a large portion of the labour force necessary to service these two vital industries. This must be recognised and accepted.

Today we have become a service oriented society. A country whose economic strength is totally dependent on the quality of service we provide, which must be of an acceptable high international standard. Any policy that adversely affects our good performance in the field of service sales, you can depend that the future economic well being of this country will be placed in serious doubt. This is one area in which I believe both sides of this House agree on - that we must control and better plan our development.

We must be selective of not only who we admit into this country and who we allow to remain here, but, more importantly, the rate which is applied to this process. Having said that, I do find it ironic sometimes as well, because the majority of Caymanians complain bitterly on the one hand about these controls of Immigration and the Caymanian Protection Board and yet, we all fear being outnumbered.

Development and labour are directly related. I agree with the Member who said that the Central Planning Authority and Caymanian Protection Board activities should be more closely and better coordinated because decisions taken by one, definitely affect the other. We cannot approve buildings. We cannot encourage foreign investment in this country, and once they have invested money and the buildings have been built, turn around on the other hand and say; "We are sorry, we do not have the local labour force and you cannot bring in the people you need to operate your business." I think we must be realistic and fair about this.

The Labour Law was passed and put into effect to protect both employee and employers. I realise that it is not perfect, but it generally works well. Our director of Trade and Labour and his small staff provide, in my opinion, a good service at little cost to this country. However, I have received representations from the Director and various persons and companies in the community as to changes they would like to see made now that the Law has been put into practice. These are receiving my attention. I propose to bring certain amendments to this Honourable House in the course of this year.

I have taken note of the complaint made by the Second Elected Member for the Lesser Islands about a specific labour situation over there. I am willing to pursue this further, through our Director of Labour who has made an initial investigation into this matter, with a view to finding a solution. However, I must say that in many labour problems we cannot encourage and preach the free enterprise system on one hand, and yet deny the freedom of choice and other rights and privileges which this system affords; both workers and employers. In other words, we cannot force either side into any form of working relationship. If an employer is not meeting his obligations to his staff and is in breach of the Labour Law, then the Law must be enforced without fear or favour and if this is not happening, then I need to know and do something about it.

In concluding on Labour I would just like to state for the record, that my information is that the ratio of Caymanian to non-Caymanian workers in the Cayman Islands now stands at 60 per cent Caymanian and 40 per cent non-Caymanian. I mention this, but of course agree that this is a very high ratio and effective steps to reduce or keep this level to a minimum must continue. I believe that companies must make a serious effort to train Caymanians to eventually replace work permit holders and more than lip service needs to be paid to this. In connection with Labour, my real concern is that our labour market must be able to continue to absorb the 350 young people who graduate from our schools each summer. Our growth must be geared to support this transition from the school room to the work force. At this meeting, several important Committees have been appointed.

I would like to speak briefly before I take my seat on the Select Committee to amend the Caymanian Protection Law. We need to bear in mind that when ever we touch the Caymanian Protection Law, we are touching the lives of all who live in these Islands, Caymanian and non-Caymanian alike. This Law has a direct bearing on our lives on a day to day basis and will determine the kind of country, not only present but future generations will have to contend with, to face the country they will have to live and work in. This places a serious and solemn responsibility on all Elected Members on Immigration and the Caymanian Protection Board for future generations of this land will either rise up and call us blessed or curse us for having mishandled the affairs of the country placed in our trust. I see this as a lengthy and soul searching exercise which we must approach with care, caution and conscience. I have several areas of concern. There are long standing problems to be solved and of course the Law cannot be all things, to all people. It must be laid down. I have certain points which I intend to pursue when this Committee is called.

One concern that I have, and one which I believe must be studied and a solution found, is the situation which one former Member of the Legislative Assembly, Miss Annie Huldah Bodden, termed no nation babies. We are talking about Caymanians and born Caymanians, true Caymanians and those who are born Caymanians are claiming to be the real true Caymanians, but yet we have cases in our country today of children born here, who are not recognised as Caymanians. Sometimes it might be

children born out of wedlock and that, I believe, might be part of the problem. Sometimes that child born in our country is of a Caymanian father and yet the child is not accepted as a Caymanian. To repeat Miss Annie's words: "I think that we are creating a generation of, no nation babies". I think that is something that requires urgent attention by the Committee.

Secondly, we have families here where the father, the mother and maybe three out of five children have gained Caymanian status but, because of a technicality in the Law, one or two children in that family are unable to obtain status and are therefore left outside to drift to and fro. These are hardships created by the Caymanian Protection Law which the Committee will have to address as I do not believe it was ever the intention of any legislators to divide and separate immediate families.

The grant of Caymanian Status is another matter to which urgent attention must be given. But before I will agree to tampering with the present arrangement, I will have to be satisfied that adequate and reasonable provisions are made in any revision for security of tenure for those non-Caymanians who have made and are making a valuable contribution to the development of our country - persons whom we have chosen to share our country with, persons whose conduct and behaviour are exemplary in our community.

Having said that (and I hate to end on a sour note) I have absolutely no sympathy or support for those who come to our country who are granted Status. I am referring to grants, not those who have Status as of right. They are granted Status through one means or another, they become established and once established and well connected, they attempt to play politics. They attempt to run General Elections and to influence the outcome of those elections. I am not a man to sound off without reason, but I witnessed and experienced this unwelcome and dangerous development during our last General Election and a stop needs to be brought to this type of behaviour. I believe that it is also the responsibility of the Committee to come up with a means of dealing with persons of that nature. This is an area that must be scrutinised to see what can be done to curb, what I term, a dark and dangerous development in these Cayman Islands. The coexistence and harmony that we treasure most in these Islands must continue because these qualities are crucial to the continuing success that we all enjoy; it must have mutual and sincere respect in order for that harmony to survive.

In conclusion, I sincerely believe that our country today is in a good position. In fact, the best that it has ever been. To continue to reap the benefits as well as to cope with the unavoidable problems of a small developing but progressive country. Problems, yes we have. Clouds on the horizon are there as well, but the capable and experienced Members of this House, both Elected and Official, with the support of an honest hard working civil service and a vigilante private sector, these combined with God's help and guidance, can and will keep these Islands on a steady and sure course for the foreseeable future.

Thank you, Mr. President.

MR. PRESIDENT: The Honourable Member for Education.

HON. BENSON O. EBANKS: Mr. President, permit me to join other Members of this Honourable House in congratulating you, as his Excellency the Governor on his most informative and lucid speech, delivered from the Throne on Friday 17 February, 1989. This speech of course was prepared by you with input from Portfolios for which the Honourable Members on the Government Bench are delegated responsibility.

Similarly, I wish to join the other Members in congratulating the First Official Member of Council, the Honourable Financial Secretary on his lucid and detailed address which was similarly prepared, delivered also on 17 February, 1989, which we are now debating conjointly.

In spite of the lucid and sometimes detailed contents of the Throne Speech and the Budget Address, it falls to Members with Portfolio responsibilities to further flush out and elucidate the contents of the Throne Speech and Budget Address as it relates to the respective Portfolios.

This I will now do, in respect to my Portfolio of Education, Recreation and Culture with its tag ons of general oversight of the environment and the Turtle Farm. Of course, I am bound by collective responsibility, and since the Throne Speech and Budget Address are both above reproach, so forward looking, I am proud to associate myself with and defend the entire Speech and Budget.

The 1989 Budget is a good one. It can be seen, in some respects as somewhat inflationary, but this is what happens when Government is forced to play catch-up. There are very few items, if any, in the Budget which are not vitally necessary and realistically costed. To deal with the Budget generally, as many versions and interpretations have been given to it, in particular to the Surplus and Reserve figure of $17.2 million.

I know it is difficult for some people to accept, in light of the false information which they spread during the recent campaign. Especially after Government has Budgeted to spend $14.9 million on Capital Expenditures from revenue and reserves this year. That is after meeting Government's statutory obligations amounting to CI$6.1 million for repayments on loans and to meet pensions, etcetera.

Perhaps I can best explain the true position by turning to page 3 of the Budget. If we examine the estimated position for the end of 1989, we will see that it is proposed to spend on repayment of loans $2.8 million, on repayment of interest of loans $2.3 million and on other statutory obligations such as the civil servant pensions, $1.1 million for a total of $6.2 million.

If we apply only that portion of statutory obligations applicable to loans, it will be seen that amounts to only $5.1 million and that percentage of total recurrent revenue falls to 5.51 per cent. The total statutory commitment stands at 7.3 per cent of ordinary revenue. But only 5.51 per cent of that applies to loans. The remaining 1.79 per cent represents pensions and other Government commitments, not loans. So, the Government's commitment on loans is not by any stretch of the imagination alarming. It should be further

pointed out that the total borrowings of Government at the end of 1989, is estimated at CI $29.6 million, of which 1.7 are self financing loans for authorities such as the Civil Aviation Authority, the Port Authority and so on. The direct borrowing of Government is therefore estimated to be only $27.9 million.

Against this, we have a reserve estimated at $17.2 million and surplus of $.2 million for a total reserve and surplus of $17.4 million. So if Government was called on to repay all of its borrowings within this year, we would have a short fall of only $10.5 million. Let me hasten to point out that our total estimated borrowings mentioned above, that of that figure mentioned above $4.5 million is to be borrowed this year. So we could only be called upon to repay $6 million, for which we do not have the cash.

Let me further hasten to point out, our total borrowings to the end of 1988, commencement of repayment on $1.7 million of loans does not start until 1992, $6 million does not start until 1991 and $.3 million does not start until 1990. That is a total of $8 million of loans which the repayment is not even due to commence until 1990, 1991 and 1992. So there is nothing to be alarmed about with Government finances.

We could put this another way which is even more easily understood by the Third Elected Member for George Town and the Third Elected Member for West Bay. If we take the position at the end of 1989, Government and its self financing agents, such as the airport and the dock is estimated to have loans totaling $32.4 million, inclusive of 1989 borrowings.

We will have $17.4 million in reserves and surplus. We plan to spend $14.9 million on capital projects from local revenue and we have budgeted to repay $2.8 million on loans for a total combined reserve and surplus capital project and loan repayment of $35.1 million. Or a surplus over total loans and commitments of $2.7 million.

In addition, it is a fact that as of 31 December, 1988, $20.7 million is owed to Government on loans made to various bodies including the Civil Service Association, several Church schools, the Port Authority, the Civil Aviation Authority and the like. These are all solid loans. $20.7 million worth of it. So, I do not know what these prophets of doom are talking about.

It should also be remembered, as pointed out in the Budget Address, that $1.6 million of the loans shown this year was actually dispersed by Government last year. So, when the reimbursement is received from Caribbean Development Bank this year, that will go into the revenue side of Government and thus, improve the position even more.

Let us examine this wonderful performance we heard about the economy in 1984. I have the actual figures. Not the estimated figures. I have the performance of the Budget that year. Local revenue was estimated at $55.3 million. Actual amount collected was $52.8 million. A short fall of $2.5 million. Capital expenditure was estimated at $16.3 million and they actually spent $17.2 million. An increase of $1.1 million.

The budgeted $16.3 million was supposed to have been financed, $11.7 million from local revenue and $4.6 from loans. Let us examine what actually happened. They were only able to raise or contribute $9.6 million from local revenue or a short fall of $2.1 million against what they budgeted. Whereas, they budgeted $4.6 million from loans, that increased to $7.6 million plus $3 million.

I want to know if that was anything to be proud of. What it demonstrates is that we had a declining economy. A shortfall of budgeted revenue of $2.5 million, but in spite of that the Government of the day spent $17.2 million instead of the $16.3 million which they had budgeted.

But you know what is interesting? All of that electioneering expenditure did not save them their seats. This is an interesting exercise. I could continue but, in the interest of the time of the House, I would just like to point out that the total public debt of Government at that time was $15.3 million, $11.7 million direct and $3.6 by self financing agencies. That amounted to 29 per cent of the local revenue.

I hope that those speakers will dispel any fear that the Third Elected Member for George Town and the last Elected Member for West Bay might have sown in the minds of the public. I do not boast any degree in accountancy, but if they can take the figures I have just given and prove that our surplus and reserves is represented by borrowed money, I want them to go and get it certified by firm of Chartered Accountants.

The capital spending this year is all necessary expenditure. I have heard throughout this debate most people who criticised the Budget, asking for more. It is a fact that the only problem we had with the Budget this year was trying to keep it from being too inflationary, but we have certain obligations to this country and to our constituents to keep standards of living and services up. I am going to get on to that a little later when I am dealing with the per capita income.

In the case of my Portfolio, as pointed out in the Budget Address, the total capital expenditure on education this year is some $4.1 million, with an additional $.3 million for maintenance of schools under recurrent expenditure.

Some important projects included in this capital expenditure are (and this list is not conclusive, but merely indicative of the expenditure): an eight room science laboratory block at the Cayman Islands High School; additional classrooms at Savannah and/or West Bay Primary Schools; purchase of lands, the design and technical work on the George Town Infant block; construction of an assembly hall at George Town Primary School; conversion of the old Science block at the Cayman Islands High School into a multi-purpose remedial centre; re-roofing at the West Bay Primary School; and, of course, the first phase of the Community College, including a technical studies building which embraces business studies and a library, hotel and Administration building.

Of course, this is funded by our loan by the European Development Fund, repayable over 40 years with five years moratorium at one per cent interest. A gift in any man's language. I want you to know that this is included in the $4.5 million of loans we are talking about borrowing. So

that is a gift. It also includes a Library Resource Centre at the Cayman Islands Middle School.

In the case of Cayman Brac, projects to be undertaken there include playing field expansion at the Creek Primary School, $20,000. Teacher's Centre additions, $30,000. Upgrading of the Cayman Brac High School of its Science Labs, $45,000 and expansion to its Industrial Arts block, $70,000.

The $733,843 under Capital Expenditure for sports includes hard courts at Northward Prison, lease of a swimming pool at Cayman Brac and a further revote of $36,000 to Cayman Brac which includes bleachers. The West Bay Sports Complex for $230,000. Hard Courts at Breakers, Savannah and Bodden Town Civic Centre. Goal posts for Savannah and Bodden Town Primary Schools for the Peewee league matches, and the sports complex in George Town development of $230,000 with a further figure for the study of the construction of a national auditorium on that site.

I would like to also call attention to the fact that under new services, provision is made for one teacher in charge, to be responsible for the development of a unit for the visually impaired consisting of three children. An occupational therapist to be responsible for the physical and occupational therapy programme, specifically for handicapped children. A deputy principal for the Cayman Islands Middle School to liaise with the principal on matters of curriculum development, responsibility for school time tabling and organisation of in-service training of staff. Another teacher, which is a careers guidance counsellor, and I would like to emphasis that this Government places great importance on the area of education in careers, as is evidenced by this new post. I will have more to say on this later, in my speech.

In the area of recreation under new services, two new posts of swimming instructor have been budgeted to cope with the growing demands and popularity of this programme. Also two new posts for sports instructors. These persons will be given overseas training to return and assist with the administration of sports, generally, including football and tennis in the Islands.

In the area of culture a new post has been created for a Collection's Manager at the Museum. The renovation of the old Courts building as a temporary museum will be commencing shortly, with money borrowed by the Museum Board, guaranteed of course by Government. A grant of $172,000 is provided under recurrent expenditure for the operations of the Museum. In his address, one Member commented that it was a pity the building is made of wood and being a fire hazard and so on. I agree, but I should point out that the building itself is a museum and a treasure to this country. That building holds more history than any other, in the Cayman Islands. It was the first Commissioners office. It was the first Post Office, first library, jail and of course, the first Court House. It was also more recently, the first Office of the Lands and Survey Department under the new Registered Land Law. The artifacts of the Museum are presently stored in a concrete warehouse and once the building has been renovated, those artifacts will be stored in a fire retardant vault within the Museum. Hopefully, Members will be able to comment next year on what a wonderful job has been done in restoring this building to its original state and agree that, it is in fact, a valuable piece of our history which has been restored.

Once the new museum has been built, it is the intention to hand this restored building to the National Trust for posterity. Therefore, it is incumbent upon the present Museum Board to restore this building in all its majesty to its former state. Then, of course, it will be the job of the National Trust to keep it so, once it has been handed to them. That is after the museum moves out. Provision is made in the Budget, in the sum of $66,000, as a contribution to the National Trust, to assist with this administrative overhead and office expenses.

The grant to private Schools this year has been increased from $70,000 in 1988 to $100,000. Here I wish to point out that a new formula will be implemented this year for the distribution of this grant. Under the formula which I inherited from the 1976 to 1984 Government, three schools last year received 78.5 per cent of that grant. Four schools together received 93.4 per cent of the grant, while one school received as little as 2.9 per cent of the grant. One school received in monetary terms only $1,788 and another $2,190. This year, each school will receive an equal, basic grant and the remainder of the grant distributed on the merit formula. Hopefully, this will enable those schools which obviously need the money most to get something significant to enable them to become more competitive for the merit awards in future years.

I understand that during my absence I was admonished to spend more time at the schools. You do not discover these things running around the schools getting ones picture taken. This is discovered by having a hands on approach to Portfolio management and not leaving it to Committees. Perhaps, this is as good a time as any to tell those Members in that corner that they can drool as much as they wish, but I am going to hold and run this Portfolio for as long as I wish. When I do relinquish it, it will be handed to the very deserving First Elected Member for Bodden Town...

MR. PRESIDENT: I feel I should point out that this is a matter dealt with in the Constitution.

HON. BENSON O. EBANKS: I am aware of that, Sir, but I have not heard any complaints from you. What I am saying, Mr. President, is that when I am ready to give it up, we will hand it to the worthy and deserving First Elected Member for Bodden Town, so that the biblical prophesy may be fulfilled, that is, the 'stone which the builders rejected' will then become the 'corner stone'.

MR. PRESIDENT: Perhaps we could break for lunch before we move on to architecture?

HON. BENSON O. EBANKS: Thank you, Sir.

MR. PRESIDENT: Proceedings suspended till 2:15 P.M.

AT 12:45 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:15 P.M.

MR. PRESIDENT: Proceedings are resumed. The Honourable Member for Education, continuing.

HON. BENSON O. EBANKS: Mr. President, when we took the break I was dealing with a quotation from the Bible and I would just like to say that Members should not get carried away. I do not intend to deal with the Bible anymore in this contribution. As Members who have gone before me said, "if people want to attend Sunday School, they will have to go on Sunday." This is not a Church Service. This is a place where the public business is conducted and we must expect the cut and thrust of political debate.

To continue with what is provided with the Budget. We have provided $80,000 for sports grants and another $100,000 for the National Cultural Foundation, to assist with its overhead and operating expenses. It might be well for me here to say, that any organisation which receives grants from Government and collects money from the public will be expected to give proper accounting of their stewardship. I should also mention that CI$500,000 has been provided this year for scholarships and bursaries.

One Member mentioned in his bit that he had been told by one or two persons that they had been unable to get scholarship assistance form Government. If this is so, it could only have been because those persons did not meet the minimum criteria laid down by the Education Council for the receipt of scholarships.

The Council has a simple philosophy. We do not finance jaunts abroad for people who do not meet the minimum requirements. I could be equated to the computer jargon, rubbish in, rubbish out. In other words, we, as an Assembly and the country must accept as has the education Council, and as I have said earlier in this meeting, not all of our students are university material.

The Third Elected Member for West Bay said (in a rather derogatory fashion) that recently he had advertised for help for some office or other where he works, and that he received many applications from functionally illiterate school leavers; yet, in the same breath, he admitted that the Cayman Islands High School turns out some very bright students. That was a very important statement, even if he did not understand what he was saying. I do not know why only the functionally illiterate responded to his ad, but he was mirroring the composition of our society. The same as any other society, those functionally illiterates exist in all societies. We, in the Cayman Islands compare well with other countries. We are no worse off than any other society, but it is a sad fact of life that those types of persons exist.

To show that our society is well off, that our educational system is well and flourishing, I would like to take the time of this House to compare the 1988 school leavers of the Cayman Islands High School with a comparable comprehensive school in the United Kingdom. I would like to point out this is probably the first time that we have been able to do this. It is because of the emphasis which we have been placing on careers guidance and counselling.

In the case of the Cayman Islands High School the upper sixth leavers, a total of 25 students, 11 or 44 per cent of them have gone into local employment, one has gone on to a private cramming school in the United Kingdom to retake "A" levels and 12 or 48 per cent of them have gone on to higher education. It is interesting to note that of those 11 who have found local jobs, nearly all anticipate entering higher education in due course.

Of the 34 children who were in the lower sixth form, one went to local employment, three went on to higher education in the United States, and 30 went on to the upper sixth. Of the more interesting statistics is: of the 319 school leavers 163 (or 51 per cent) went to local employment, and 121 (or 38 per cent) went on to higher education. Only 4.5 per cent (or 14 children) are unemployed or at home, 11 are unaccounted for (representing only 3.5 per cent), another three per cent (representing 10 children), seven have gone to live abroad, two have become mothers and one is in prison.

Now I would like to come back to the local scene, but I want to compare this with the United Kingdom Schools and where.... I have several pages of statistics here, Mr. President, and I do not want to make any mistakes - I want to compare apples to apples. Where, in our case, 51 per cent found jobs locally, and from that school 15 per cent found jobs, where 38 per cent went on to higher education in Cayman, 20 per cent in the United Kingdom went on to higher education. Where we have 4.5 per cent unemployed, 10 per cent are unemployed in the United Kingdom. The largest percentage they have 55 per cent are on a Government two year training scheme. Meaning a youth training scheme. Not in poly-technics or anything of the sort, as I understand it, this is like a warehouse where you put children, giving them training, hoping they will get a job after that two years. So in our society, we are in much better shape.

Now the interesting statistic is that of the 47 children who went on to the Community College courses, 24 are doing business studies, one is doing the Hotel Diploma Course, nine are doing the Hotel Certificate Course, three auto mechanics, eight in electrical, one in carpentry and professional cookery has one.

Those statistics tell me something and that is, there is somewhere along the line our youngsters are getting bad advice. This is why I said we are going to begin to put so much emphasis on careers counselling and guidance, to the extent that we are adding a second councillor to the system this year.

I say this because at the moment because I am trying to do a

little bit of renovation to my house and I am unable to find carpenters and workers to do the work. The carpenter who is in charge, has been around begging people to come to help and it is not that the money is not good.

Look at the auto mechanic situation. Only three students and we have an excellent teacher. Obviously something is wrong with the mentality of society towards work, manual labour. It is up to us, as leaders to try to show these people that there is dignity in being a good auto mechanic or professional cook.

There was a time when Caymanians took pride in going to sea and rising to the rank of chief cook or steward on ships. Something basic has happened in our society as to why people are not prepared to do these jobs. Cayman has produced some of the worlds best engineers, and yet you can not get your automobile repaired by a Caymanian today, unless you are extremely lucky.

I consider there are a multitude of professional opportunities out there. This is why I am not going to relent until we have gotten the Community College properly established, and we have been able to improve our system of counselling to where youngsters will recognise the opportunities in these professions for what they are.

I believe firmly that there is a full relationship between the failure or reluctance of the younger people to go into these professions and the increase in drug abuse. I believe that youngsters often unsuited for banking or accountancy or whatever, are tempted into there by either peer pressure or parental pressure or whatever. When they find out that is not what they really want to do, then they take the easy way out, the escape of substance abuse.

While I am on this subject, I would like to deal with the Royal Cayman Islands Police Force Report and the question of substance abuse. Since 1972 we have had on our statute books the weapon to be used to fight the increase in substance abuse, that is, the urine testing provision. (If I digress a bit here I hope you will bear with me, because I believe having just come out of an Election, that the country should know, what would have been their position had they fallen for some of the rubbish that was preached by some candidates in that campaign.) Members have been anxious to point out the increase in total crimes since 1985, some have even gotten back to 1983. If one looks at chapter 68, part IV, one will see that drug abuse cases in 1988 were responsible for a lot of the crime and that out of 707 of those cases, 707 were detected, and 100 per cent cleared up. Only one thing is responsible for that, and that is the urine test.

When the Police pick somebody up and ask for a urine test and it proves negative, no charge is brought against them. What this practice has served to do since it has been put to use is to highlight the large scale substance abuse that exists in our society. It has also had a salutary effect because in Chapter 71 it is noted, with some relief, that for the first time in recent years there has been a reduction in drug cases.

Now I would like to refer to a letter which I received from the U.S. Department of Justice, Drug Enforcement Administration, from the Administrator, Mr. John C. Lang, dated the 15th of February, 1989. The letter reads:

> "I am writing in response to your request following our meeting last week, for additional information regarding drug testing in the Military. As you can see from the enclosed fact sheet, drug abuse in the Military has decreased substantially since drug testing was initiated in the early 1980s. I hope you will find this information interesting, as well as informative.
>
> Thank you for you interest and concern in the effects of drug screening in the Military.".

What the attached fact sheet shows is that compulsory drug testing coupled with expulsion for those who fail, has enabled the Military to achieve a 67 per cent reduction in the use of drugs across the board by Military personnel. In 1980, 27 per cent of all service men and women admitted that they had used illegal drugs. A figure that declined to nine per cent by 1985. In 1982, 48 per cent of the sailors in the navy, aged 18 to 24 were using illicit drugs. Within two years of instituting drug testing, the drug abuse rate was reduced to less than 10 per cent. Today it is less than five per cent. In 1983, drug testing was cited as a major deterrent to drug use by 83 per cent of the sailors in the navy. About 26 per cent said, they would resume usage if the testing program were dropped.

The Airforce conducted 184,000 tests in 1985 with 4.9 per cent showing evidence of drug use. In 1986, the airforce nearly doubled the testing to 342,000 with 1.5 per cent showing use of illicit drugs.

The Marine Corp. which had the worst drug problem in 1980, found that only 2.6 per cent of those tested in 1986 had used drugs. Between 1985 and 1988 the overall figure for use of any drug in the military dropped from nine per cent to 4.8 per cent. That bears out the fact that this drop in drug usage shown in the police report gives us cause for hope. It shows because of the drug testing regime which we have instituted, people are giving up the use of drugs.

It is going to be more difficult for us to do it here, because of our tourist oriented society but, nevertheless, we have to work on it. I am not going to dwell on this subject because the Member for Health covered it very well. I hope that I will be able to present to this House some evidence, which I also was given verbally in Washington on my recent visit, to show, that this rehabilitation centre which Members are pushing for will be a waste of money and a deterrent to our effective fight against drug abuse. I will not go any further. I can back that up by the statement as soon as it becomes public knowledge in the United States.

I would like to touch on a few general matters that were raised

during the debate. One Member said, that in order to attract more Caymanians into the teaching profession, we had to pay Caymanian teachers mileage allowance the same as is paid to expatriate teachers. No mileage allowance is paid as of right, to any teacher, be he expatriate or Caymanian. The only people who draw mileage allowance in the education field are those who are employed as peripatetic or travelling teachers. No one who is in a classroom gets mileage.

Mention was made of the employment of wardens on buses, and said as far as he (the Third Elected Member for West Bay) was concerned that was totally unacceptable. The behaviour of the children on the buses cannot be attributed to any fault of teachers in the schools. That occurs before they get to the school. It might be that parents encourage politicians, like himself, who do not know what they are talking about, to blame it on the teachers instead of giving their children a good lashing to make them behave on the bus. As another Member said, in my opinion, that is a sign of the times of deterioration in behaviour and a deterioration in parental control. So if there were problems on the buses, we had to put someone there to keep order. We could not have children pelting tourists, out of school busses. If that is unacceptable, I accept total blame for having agreed to put them there. It is only extending the time under which children are properly disciplined during the couple of hours of the day that they are. They must learn to put the blame where the blame lies.

Somebody also said that we would not get anywhere until we had all Caymanian teachers in the schools. Other Members have proven that it is Government policy to Caymanianise all of the service as quickly as possible. I can attest to the fact, that in years gone by, Cayman produced some excellent teachers. Many of them of blessed memory, many are still in the class room and many are living in hopefully happy retirement. But, our Caymanian teachers of today, are not all that they should be either. I have only had one instance where a teacher has refused to teach certain children because they were not high fliers, and that teacher was a Caymanian. A teacher is a teacher. A person has to be born to the profession and dedicated. I want to know how those of us here who got a high school education, or a university education would have gotten it, if it had not been for non-Caymanian teachers. Who taught our first Caymanian teachers, if they were not expatriates? So let us not get off on the wrong foot.

The same Member, the Third Elected Member for West Bay, said that since discipline is such a problem in the school, we should screen carefully who we allow into the educational system and kick out those who do not conform. That has been my philosophy from 1972. It was during that time that we got Mr. Neville Levy out of the school system, and what did this Member do? He used him as his campaign manager in the recent Election. So he must practice what he preaches.

I know this too, that Member was trying get in on the coat tail of the First Elected Member for West Bay and myself in supporting the tourist landing jetty in West Bay, but, I did not see that on his Manifesto. I recall reading an article in the newspaper where he had told the Taxi Association that he was supporting the building of a landing dock in Spotts, so that taxis could make more from it. I want the West Bay people to note that.

I guess, so that I do not miss out on this very important subject, I should deal with the question of the high standard of living, because the Third Elected Member for West Bay said that we had the highest standard of living in the Caribbean, third only to Bermuda and the United States and we were fast becoming known as the Monte Carlo of the West Indies. I did not know we had any casinos here. As far as I know, that is what the economy of Monte Carlo is based on, primarily. They have races and tourism, but they go there for the casinos. We do not want those tourists here.

Now to deal with the $18,500 per capita income, which we are supposed to enjoy. That is the best and most accurate figure, this statitician could come up with based on the figures given to him? Unfortunately in this society, we have a segment of the community who believe their personal earnings are sacrosanct and cannot be released under any circumstance. Most of those, and I am talking about the banking, accounting and the legal fraternity which is made up almost entirely of non-Caymanians. I have nothing against them. I am talking about those in the higher paid jobs.

If I want to go and borrow money from a bank, they insist I produce audited accounts. Gone are the days when I could go in and say, look, I started the year with $100,000 overdraft, $80,000 in stock and here it is, the 31 December, my overdraft is down to $50,000 and I have $100,000 in stock, so I must be coming ahead. I cannot do that anymore. They insist that I give them audited accounts. My argument is that Government is the biggest business or the biggest Corporation in the Cayman Islands and we have reached a stage where Government needs proper national figures. I would not like to use the phrase that a man from another country used, that the time has come to bend or break; but the time has come when these people must realise that their failure to give Government proper figures is thwarting the development of this country.

While we have been able to paint a rosy picture with this Budget, our development needs a break. I could name a few, and I am sure that I can reach over $100 million that we need in long term development. We need a hospital, I reckon you are looking at $20 million. We have a National Ground Transportation Plan, that was valued in 1987 dollars, at $52 million. If we are to do it over the 10 year period, you can expect that to be at least $65 million by the time it is finished. We need additional school buildings, more phases onto the Community College, a new Government House, more water production equipment, and we need to get a grip on our garbage disposal. I believe a way to tackle the garbage disposal and our water production is to combine the two. Use an incinerator to get rid of the garbage, and the resultant waste heat recovered to make water. That is another $20 million.

I could go on, but the point that I am making is that our needs are great and every time we build something, recurrent costs are added for its upkeep. Now, I am sure that if the salaries of the top people in the banking, legal, accounting and insurance professions, even in the tourist industry,

the hotel managers, if those salaries were deducted from those per capita income figures, the icing taken off of the cake, and then the cake cut up among Caymanians, that figure would drop dramatically.

The effect of that would be our place in the standard of living chart would fall within those countries that can get development aid at concessionary rates. It is for this reason that I am saying that those persons in that bracket must accept that there has to be someway of giving those figures to Government without disclosing their individual income, most of those people do not have Caymanian Status and even if they do, they do not intend to retire here.

MR. PRESIDENT: I think you are getting a long way away from the debate.

HON BENSON O. EBANKS: I am on the question of...

MR. PRESIDENT: Please do not dispute with the Chair, I believe you are going beyond the bounds of the debate.

HON. BENSON O. EBANKS: How can I get back on it, Mr. President? I am dealing with the National Income...

MR. PRESIDENT: Quite right, but you are getting way outside the immediate argument with the national income.

HON. BENSON O. EBANKS: I believe that I have said what I needed to say, so I can deal with it from here on in. I think I have recorded what I wanted to say. My argument is that if the icing is taken from the cake, and the cake cut up among the Caymanians our per capita income would fall. I think that we have to get a realistic per capita income if we are going to compete for development money. I am not looking for grants. I am making the argument that we have to get down to the level at which we really are and that we should really not glory in an inflated per capita income figure. This all has to do with the quality of life and it has to do with our economy in general.

I believe if we do not tackle the congestion on our roads, for example, or if we are unable to continue to offer competitive educational facilities to children of parents who work in the finance and tourism industry, those persons who now operate the businesses here will go to countries that can offer a better quality of life.

Let us take for example, Bermuda. One-third our size and has eight international golf courses. We have one little bogey nine hole one. My argument is if we are going to retain our competitive position, to be able to continue to present good budgets, we have to play catchup with these other countries that offer the same service. I hope I have made my point. I hope I have not offended anyone, but I am here to do the business of this country. I have never shrank from it and I am going to do it today.

One Member went on at length about the rush of this Government to pass the Mutual Legal Assistance Treaty in 1986, when certain people were calling for more time to study it, and that the United States did not seem in a hurry to ratify it. I believe that the Honourable Second Official Member dealt with this somewhat, and he quoted from an abridged version of a press conference given by the U.S. Attorney General, Mr. Thornberg.

I also have a couple of documents here. One is a legal report. "Global Research to Nab Drug Smugglers, Stock Swindlers and Tax Cheats. U.S. enforcers are going overseas but cooperation, not confrontation has become the buzz word." In this article, it makes it abundantly clear that the U.S. authorities, that is, the Administration and the Justice Department, are anxious to have our treaty in place, but it has been scuttled temporarily by one Senator for some unknown reason and I would like to record that his objection was not to the Cayman Islands Mutual Legal Assistance Treaty, but the ones from Mexico and the Bahamas that were going through at the same time. In fact, it is my belief that if our Treaty was not so well negotiated, it would stand a chance of getting through on its own. But, because it is so near the mark of what even Mr. Jesse Helms wants, that they are leaving it in the package so that it might help carry some of the others that are not so favourable.

I would just like to say, the Member is quite right, that the negotiation for this fell strongly on the shoulders of Elected Members and in this abridged version of the press conference, I believe that section where Cayman was referred to in such glowing terms probably had to be left out, since it was abridged.

The point I want to make is that even though the United States has not ratified that Treaty, Cayman is enjoying the benefits of it. We have not had anybody stopped in Miami or subpoenaed since we signed that Treaty, and the proof of the pudding is in the eating. I wonder why the Members think so many companies have been registered since then, so many international banks have moved in; that is not by chance, it is because the Cayman Islands Government of today is perceived as an honest, upright and well thought of Government.

About the Protection Law: From notes I made on the contribution by the Honourable Third Official Member, (I seem to have misplaced those, among my many bits of paper), I believe he made a quotation something like, 'censorship of the press indicates distrust of society in its self'. I would like to turn that around and say that when we are applying that to local standards, the quotation could best be read; 'that he who questions the press in Cayman is confident of society'. Of, how should I say it? Novice Cub reporters (I think that is an acceptable term) are a dangerous instrument. The press in Cayman only looks for those items that can sell their paper. These self appointed preachers to the politicians and the public are not

Caymanians. Therefore, I do not regard their chastisement as just. I intended to be a little more frank about this, but my time is limited. Let me say this: We have within the press corp., wolves running around in wolves clothing and we have wolves running around in sheep's clothing and they can write an editorial on that if they wish and they might get more correspondence then they would hope for. It is time that somebody told the press in this country to be responsible.

I want to deal with this "name withheld by request" letter that appeared in the *Caymanian Compass* the day before yesterday, in which I believe they called me a 'rabble rouser' or something like that. Anyway, I believe that this person has made his position and character known by two things: the request to withhold their name, and the last two and one half lines of the letter: "We are all needed here to make this country a truly great one." I do not argue with anybody who might say that they have a contribution to make to the development of this society, but I doubt that all of them that claim to be needed are, in fact, needed. I think they came here and found a good thing. This person seems to have missed the thrust of my argument: That with all the good will in the world, there are a limited number of people we can absorb into our society, and when you hear a society creaking at it seams, as this one is doing now, if we do not take steps to oil those hinges, then society is going to blow up in our face.

Now that person probably can go back to his country of origin. I do not have anywhere to go. Even Swan Island has been given back to Honduras. We cannot go to Miskito Cayos, and Cayman Brac is about to declare their independence!

I accept that people from the outside will always be required to help to build and keep this country going because a little society like ours can hardly produce enough. But we, as the people's representatives, have to say when enough is enough. We have to decide how much development we are going to have. In making that decision, we cannot ignore generations that come behind us. We live in a country with finite land mass, finite resources, and if we allow people from the outside to come and gobble up all that we have and run back when things get bad, where are succeeding generations going to go?

I am trying to protect the good society we have for this good person who does not even have the nerve to sign his/her name. That, in itself, is indicative of the way society is feeling today. If he/she feels comfortable here, he/she would have signed his/her name! So I am trying to get a better standard of life for him/her.

You know, I went to the Special Olympic's the other day. Two things made me feel good. A gentleman recognised me, came up and threw his arms around me and said, Mr. Benson. The other was an expatriate school child called me Uncle Benson. That comes about through an association with children. This brings me to another point to this chapter in this argument, and that is when we say we want to preserve society for those who are now here, we include in that, or certainly I do, the offspring of those persons who come here who play, go to school and grow up with our children.

If you go back to the *Hansard* of 1971 you will find that I said the salvation for this country lies in the hands of our youth who grow up together, go to school together, compete in sports together, because they would be inseparable. Time has proven me correct. My oldest daughter, I cannot call her a child now she is 27 years old, has expatriate friends whom she went to school with here, and you had better not tell her those children who grew up with her are not Caymanians. Therein lies our salvation. But, we have to stop the carnival so that those children who are now going through our school system, be they Caymanian or expatriate, can come and take up the slack. We cannot allow these money hungry carpet-baggers, every Tom, Dick and Harry who wants to come in for a fast buck and run, to destroy our economy by overheating it.

We have to make a plan, and I am glad that my friend on the left, the Member for Tourism gave an indication of some steps which we hope to take to meet this challenge. We cannot do it by the work permit route. As a Government, we have to set a policy and we are making that policy known, we will publish it. I am not worried about the economy slowing down to where there is no work. We have too much momentum for that. We have sufficient numbers of resident here to support viable operations today. We have reached a stage where we have to put a watchman at the gate and make sure that those who come in are needed, not just wanted.

Somebody referred to the lady Member for George Town this morning. She had a very apt saying to describing what we are talking about. She said that Cayman had reached a stage of the Women's Guild, and their motto was, 'each one bring one'. That is where we are at. Unfortunately, it is those people who cannot bring their friends that are grumbling the most.

I am going to sit down, Mr. President. I want the Financial Secretary to wind up this evening. I know you have the CPA Dinner tonight, you cannot extend it an hour. So, Mr. President, I am going to sit down for this time, but I am going to make a promise like I made to the ladies at the party the night I told you about, when they cornered me about allowing only 12 people in here. I told them they had better not annoy me, because we had intended it to be one or two; it had been mistyped as 12 so we left it. If I am annoyed over my contribution in here I will get back on some forum when I can spend sufficient time to deal with the people who misrepresent what I have said.

I just want to say that our economy is in good shape. The country is in good hands. The Cayman Islands people and those who reside amongst us need have no fear. We are going to protect this country for all of us, but they must accept that they cannot bring their mamma, grandma, grandpa and their great-grandfather and all of them along with them. We just cannot absorb all of them.

Thank you, Mr. President.

MR. PRESIDENT: As I am sure we are all keen to have the Financial Secretary windup in good time this evening, perhaps we could keep the tea break to 10 minutes?

Proceedings suspended for 10 minutes.

AT 3:20 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:38 P.M.

MR. PRESIDENT: Proceedings are resumed.
The Honourable First Official Member replying to the Debate.

HON. THOMAS C. JEFFERSON: Mr. President, before I begin I should perhaps thank the Honourable Member for Education, who, I think cut his contribution a bit short in order that we may finish up this part of the business today.

Although the proceeding was, as I would call it, fiery at the beginning, perhaps I should begin the winding-up of the Debate on the Throne Speech and Budget Address with these general observations. And I may begin to sound a little religious.

Amen, for the resolve to work together, to maintain stability, adhere to sound financial policy, and to get on with the challenge of governing these Islands and making them safe for our children to grow up, and for citizens to be safe from crime and to enjoy a good standard of living.

Mr. President, in the beginning let me, on behalf of His Excellency the Governor and myself, thank Members for their congratulatory and kind words on the Throne Speech and Budget Address. Throughout the Debate there appeared to be a common thread running through each Member's contribution, and I believe these are training of Caymanians, the Civil Service, population composition, drugs and crime, roads, and farmers needing more assistance.

In thinking of how I might wind-up this debate, I found a short poem about self-training which I believe enhances my earlier general observations as well as that it is perhaps complementary to what I will say in a few minutes. It is titled - "Promise Yourself":

"To be so strong that nothing can disturb your peace of mind
To talk health, happiness and prosperity to every person you meet
To make all your friends feel that there is something in them
To look at the sunny side of everything and make your optimism come true
To think only of the best
To work only for the best
And to expect only the best
To be just as enthusiastic about the success of others as you are about your own
To forget the mistakes of the past and press on to the greater achievements of the future
To wear a cheerful countenance at all times
And give every living creature you meet a smile
To give so much time to the improvement of yourself that you have no time to criticise others
To be too large for worry
Too noble for anger
Too strong for fear and
Too happy to permit the presence of trouble.".

Mr. President, many articles have been published in economic journals on investment in human capital, or educational investment in developing countries. That is, simply improving the skills of our citizens. We know that economic history has defined economic backwardness as having several particular forms such as low labour efficiency, factor immobility, limited specialisations in occupation and in trade, a deficient supply of entrepreneurship, customary values and traditions, and traditional social institutions, that minimise the incentives for economic change.

This slow growth and knowledge is an especially severe restraint to progress. An improvement in the quality of the human factor is then as essential as investment in physical capital, such as roads and other capital expenditures which are outlined in the 1989 Budget. An advance in knowledge and the diffusion of new ideas and objectives are necessary to remove this economic backwardness, and instill the human abilities and motivations that are favourable to economic achievement. Although investment, in material capital, may indirectly achieve some lessening of the economic backwardness of the human resources, the direct and more decisive means is through investment in human beings.

You may be thinking, how does all of this relates to the Cayman Islands? But, let me proceed a little longer. May I also say, let us examine our knowledge of the people of this world. Which are the successful countries of this universe? Is it West Germany? Is it Japan? Is it the United States of America? Is it the United Kingdom? If the answer is, yes, that these are some of the successful countries of the world (not to say that that is all of them), the next question is what do they have in common? And my answer to that question is, that they have assigned high priority to investment in human beings. They have obviously learned that important lesson that highly skilled human beings are the key to future development.

Mr. President, I humbly suggest that Cayman cannot allow any more time to pass, before we make a substantial injection of capital expenditure to put the necessary additional facilities in place. In this instance, the Community College, which hopefully will provide training for plumbers, electricians, carpenters and automobile mechanics, while also providing a facility to train people in the hospitality and business industries.

But, additional facilities and programmes alone, perhaps will not make the impact needed in upgrading the skills of our people. I believe we need to determine the number of professional and skilled people in the labour force who are on Gainful Occupation Licences, and in the Civil Service who are contracted or who are on temporary terms.

Mr. President, my humble mind suggests that when we are armed with this information, we can then make an intelligent decision on the number of scholarships per year that we will offer in each profession for skilled fields. By offer, I mean by the Civil Service Training vote, the Education Council vote, and the members of the private sector. And let me go on to say that by the private sector I mean all sectors of it - Tourism, Banking Insurance, Accounting, Construction and Agriculture to name a few. My humble submission is that we need a national effort to reach the level of improvement in human skills that this country now requires. We need a united effort by all, to alleviate any ill feelings of the local person not being given sufficient encouragement and support to reach the top. And, if we can spend millions of dollars each year in constructing buildings, or building additional roads, my question is, why not in training, in vocational, technical and higher education? I believe that with skilled staff we need to be bold, throw off the shackles, and tell them what their promotional possibilities are, and what we require in order for us to make favourable recommendations for their promotion so that the ground rules, to use an expression, are clear.

Some Members mentioned why we had to bring in an Accountant General? The answer is simple. The ground rules as explained earlier were laid down two years ago. They were not met, and I could not recommend anyone in the Service. I threw in that comment, Mr. President, to let you and honourable Members know, as we say in Cayman, 'where I am coming from'. Yes, I am pro Caymanian without a doubt, but we must improve our skills if we want to rise to the top. And by skills, I do not mean technical skills alone, but the maturity which is so important a skill if we wish to manage others or become leaders.

There is the need to develop loyalty for the organisation and people with whom we work. Rising to the top requires technical skills and maturity, and we do not, on the way up, step on other people while in our efforts to reach that glorious objective of the top. My submission is that when you reach that glorious level at the top, you will find that the people on whom you then depend, and from whom you hope to receive their support, simply do not trust you and perhaps will have no loyalty for you either.

Mr. President, investment in human capital, to make it absolutely clear, is not just educating children to pass the GCE examinations. In my view it is a comprehensive programme to train all who are in need, and require it. And, let me briefly go a little deeper into what was said about Caymanisation in the Civil Service.

We should always bear in mind that the process of Caymanisation is taking place, while, at the same time, service to the public must be at a level of performance that this country expects. Although I would confess that I am one of those pushing for this approach, I simply believe that it would be unwise to rush the process and place any Caymanian as Head of Department, knowing that he or she is not yet ready. And, Mr. President, if you find that a Caymanian in my Portfolio who is deemed by you to be ready for promotion to the head of a department, and I do not do so, you will have to trust my judgment - as I, perhaps, know the individual's ability well. Before I leave this subject, let me say that it would be folly for me to tell our people that the composition of the population is something we should not be watching and monitoring. However, while we carry out the monitoring exercise, it is going to be, in my mind, more productive to exercise our energies and influence to ensure that more effective training in the plural sense of the word is carried out, beginning now. I have never been, and I hope I will never be, an alarmist, but I think we need action now. Let us stop talking about it and just let our actions speak positively for us.

Just recently I was given the responsibility for National Development Planning, and I believe that this subject is one of onerous responsibility. I must say that whatever little energy, and perhaps little influence, that I do have, I will utilise it in putting together a plan, using as wide a public participation as possible which will, hopefully, take the Cayman Islands sensibly to face the future development perimeters.

Mr. President, I am going to ask you to bear with me because I am now going to try to respond to some comments by Members and to answer and give additional information. So I will be skipping from one subject to another.

With regard to the Agricultural and Industrial Development Board (AIDB) and farmers, I can only say at this stage that I will, in consultation with the Board, have a close look at assistance for farmers and the interest rate charged.

Some other Members made some comments about the Shipping Registration and I thought perhaps that some additional information from me on that subject, may be helpful. The registration of ships, as you know, is still being carried out within Mr. Woodward Terry's office. We have established a separate department to deal with the surveying of ships and to administer the International Maritime Conventions in that respect. The fees for registration at present, I believe, are very competitive. I also believe that we should leave them as they are for a time as it will provide a more attractive package to ship managers and owners.

I visualise this addition as a broadening of the base of the offshore financial centre, and an industry which has a significant beneficial contribution to our economy and the people of our Islands for the future.

Turning a little bit to the Budget, and perhaps also to that figure of inflation of 6.2 per cent which keeps floating around the room, perhaps I should also say that given the Cayman Islands imports the majority of its good from the United States of America, it is a fact of life that whatever the inflation rate is in the United States, it will obviously influence the inflation rate in the Cayman Islands. We say that in the Cayman Islands the inflation rate at December 1988 was 6.2 per cent, and I say now that the inflation rate in the

United States for December 1988 was 4.4 percent. I do not think I need to elaborate any more and waste time.

Let us go on to the Budget. I will do a quick analysis of what the 1989 Budget is made up of and how it compares with the revised 1988 figures. The revised 1988 figure for recurrent and statutory expenditure was $72.6 million. The approved 1989 figure is $81.5 million or an increase of roughly $8.9 million.

Now let us look at the Capital Expenditure: The revised 1988 figure was $13.6, and the approved 1989 figure is $19.4, a difference of $5.8 million. In addition to that there are new services requested to the tune of $2 million. Now, let us go back to this magic inflation figure of 6.2 per cent. Hypothetically speaking, let us say that we decide not to spend more money than the 1988 budget provides, but that we want the same purchasing power of the dollar. And if we multiply the 1988 figure in the Budget, which is $86.2 million, by the 1988 inflation factor, we will have a Budget of $91.6 million. So, the Budget for 1989 is $103 million. One million of that deals with the increments which civil servants earn. I do not believe that this Budget for 1989 is inflationary, as I have heard in this House. And if we look carefully at the capital section of the Budget, if Members were to suggest that certain substantial projects should not be carried out, I wonder which one it would be? Would it be the Community College? Would it be the Master Ground Transportation Plan? I will not bother to go on with that, Mr. President. I think the answer is coming loud and clear.

I must also say that in this Budget there is a salary increase for civil servants, wage increases, an a increase for MLA's on pensions, and an increase for civil servant pensioners. I think some Member wondered whether it was in or not.

Let us look quickly at public debt. If we do a quick analysis of the whole public debt, and I am talking about December 1988, we have $967,000 that will be paid off between the years 1982 and 2003, with the interest rate at zero.

Moving on. There is $9 million to be repaid between the years 1990 and 2007 with a variable, or mixed interest rate between four per cent and nine per cent. There is a further $7.6 million from local sources (the $9 million with Caribbean Development Bank) with an interest rate that varies. On one loan, $40,000, six and a half per cent to seven per cent. On another, $1.7 million, two per cent over the cost. On approximately $2 million, one per cent over the current deposit rate. That makes up, Mr. President, the $7.6 million I mentioned earlier.

Turning to Public Debt (which is a direct obligation of central Government), at the end of 1988 (these are not audited certified figures so no one should take them as such) the central Government public debt obligation stood at $17.6 million.

Turning over to self-financing guaranteed loans: There is $155,000 for the airport extension which dates back to 1975. All of this to be paid off by 1992, with the interest rate at 6 5/8 per cent. There is another $294,000, also dealing with the airport, to be paid between 1984 and 2003 at zero interest. There is $9.5 million borrowed from Caribbean Development Bank ranging between the Port Authority, the Civil Aviation Authority and Student Loans, to be paid off between 1977 and 2003, with interest rates mixed between four per cent and eight per cent - nine per cent on $1 million of it, ten per cent on $5.3 million of it, and an EC loan of $959,000 at one per cent interest to be paid between 1990 and 2027, dealing mainly with the Gerrard Smith Airport in Cayman Brac. This totals $10.9 million. The overall figure is $28.5, Mr. President.

Using public debt as a ratio against nominal GDP, in 1983 it was 4.5 per cent; when it reached 1984 it was 6.6 per cent; in 1985 it was 5.7 per cent; in 1986 it was 6.2 per cent; and in 1987 it was 6.9 per cent.

I believe, Mr. President, that, with regard to public debt, there are times in the development of any country when projects need to be done and the delay of such projects cause more cost to the country than the actual borrowing and the carrying out of the project.

One Member, made a suggestion that we should be trying to attract more Japanese banks. I certainly agree, but I think also, for his benefit, that I should say that at the moment we have 19 Japanese banks licenced here - beginning with the largest bank in the world, the Dai-Ichi Kangyo Bank; the number two bank in the world, the Sumito Bank, Limited; the Fuji Bank, Limited, which is number three; the Mitsubishi Bank, which is number four; the Sanwa Bank, Limited, number five; Industrial Bank of Japan, number six - and I do not need to go on with the other, but will gladly provide the list to the Member who enquired about it.

Mr. President, this 1989 Budget is so good that I do not believe that I need to say anything more. I think that when a country has the ability to fund projects which are urgent and necessary, and can dip its hands into the coffers and come up with the money without borrowing any, or a small amount, I think that we are in a healthy position. I am getting loud applause from my right, Mr. President. And I see the Members across the floor smiling too, so they agree with me.

HON. BENSON O. EBANKS: They have to fold their hands to keep from clapping.

HON. THOMAS C. JEFFERSON: Mr. President, I do not propose wasting a lot of time of this Honourable House, because as the officer of Government who has some understanding of what the cost per hour is when we are in here, it sometimes frightens me, but it certainly stresses the fact that we should not waste it.

There is one more point, Mr. President, before I sit down. One Member (although it might have been more than one Member) made a comment about bank lending and about the fact that banks need to do more. I am not going to dispute that statement, but what I would say is that in a small country like the Cayman Islands with 24,000 or 25,000 people having a loan portfolio of $240 million, the banks are doing well. I know for a fact that during the last two years in particular, I have always referred to the Bankers' Association comments and questions made to me. And I can honestly say to anyone in these Cayman Islands that I have always received a positive response. We can all remember without too much cloudiness the amount of

money that many of the clearing banks in George Town made available for housing. I have even seen statistics recently and these indicate a substantial increase over the position in 1987. So I am personally confident that money is available.

I want to make one further note, Mr. President. I believe that only one Member commented about third party insurance and the need for it to come before us. I have always tried to exercise patience, and this particular amendment has been studied by the Insurance Department and by the industry for what I believe to be close to two years now, and I think that within a meeting or two we will have that piece of legislation before us. I hope that it will be a piece of legislation that all of us in the Cayman Islands can support, for we know the dangers of travelling on the road. We know the property damage that has been caused in this country by vehicles of all kinds, and I think that the public deserves to be reimbursed from an insurance system that calls for it to be covered.

Mr. President, I am beginning to sound like the many who says that he has one more, and one more, and yet another one. I am particularly pleased, I must confess, with the performance of the Customs Department, in particular. That is not to say that the other departments in Government are not performing well, too. But when one from the outside understands the implementation of the various procedures which are taking place for the benefit and protection of our citizens, and the collection of revenue which is so needed by Government to provide additional services to the public, I say to Customs - congratulations. They have done an excellent job, and I believe that in the future it will be the same.

The one thing that bothers me, Mr. President, is driving up and down the Seven Mile Beach. This takes me back to the point I made if Members were to suggest that projects should be taken out of the capital budget. I have deliberately, over the last couple of weeks, decided to vary my time when I depart from my house, and I actually found that if I leave my house at seven-thirty in the morning, I am at my office in 15 minutes. But if I leave the house at fifteen minutes to eight, it is eight-thirty to a quarter to nine before I arrive. But, having done that a few days, I decided that I am not going to leave at quarter to eight, but that I will leave at eighty-thirty, because when I arrive at my office, it only takes 10 to 15 minutes to get to work. I am in a better frame of mind to carry out my duties. So when I leave at eight-thirty in the morning, I am at my office in 15 minutes.

If the Master Ground Transportation Plan breaks ground tomorrow morning for construction, Mr. President, it will be a long time before those four wheels of our cars will touch it, and I think that we are going to need to consider the possibility of staggering hours in coming to work.

Some years ago the private sector wanted the Cayman Islands to shift to daylight saving time so that they could operate the same hours as New York. And my suggestion to them at that time was, "Well, come into work at seven-thirty rather than at eight and you will be on the same time.". I think that the time might be right for them to consider that now, because staggered time will not only put them on the same hour as New York, but it will also lessen their frustration as they drive up and down Seven Mile Beach. But I understand that it is not only Seven Mile Beach. Coming from East End, North Side and Bodden Town is equally frustrating.

Now, Mr. President, I agree - enough of that. Before I sit down, I want to publicly thank Mr. Peter Crook, the Inspector of Banks and Trust Companies, who has served this country for three years. He is scheduled to end his tour of office in May. Mr. President, I have worked very closely with this gentleman. I find him a very able banking inspector, and I have seen him display some qualities in his duties that I believe are commendable. He honestly believes and is dedicated to training local staff, and my submission is that he has made a major contribution to the banking industry and to the Government of the Cayman Islands. I would confess that it has been my privilege to have worked with him. I believe that I can say, without fear of contradiction, that the banking industry has been much improved during his tour of inspector. And, again, I say, Mr. President, I publicly thank him and wish him, his wife, Judy, and his son, all of the very best in his future career as he moves on.

Thank you, Mr. President.

MR. PRESIDENT: The question is that a Bill shortly entitled, The Appropriation Bill, 1989, be given a Second Reading. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED: THE APPROPRIATION BILL, 1989, GIVEN A SECOND READING.

MR. PRESIDENT: Under Standing Order 63(3). The Draft Estimates now referred to Standing Finance Committee of the House. We are to proceed into the Committee on Bills.

HON. THOMAS C. JEFFERSON: Mr. President, I am not sure what the Members would like I am quite happy to stay and do the Committee stage of Misuse of Drugs Bill.

MR. W. McKEEVA BUSH: Another week-end would not hurt us having to peruse that Bill a little bit more.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: I think the response is fairly clear, Mr. President. With your

permission, I would move the adjournment of this Honourable House until Monday morning at 10:00 A.M.

MR. PRESIDENT; The motion is that the House do stand adjourned until Monday at 10:00.

STATEMENT BY HONOURABLE MEMBER
RE: death of Mr. Edingston Bush

HON. BENSON O. EBANKS: I had intended in the course of my deliberation on the Throne Speech to refer to the sudden passing of a well-known personality in the community. As indicated to you, Sir, and for the benefit of all Members, I would like to read the text of A statement which I have forwarded to the press to be published:

> "As the Member responsible for Sports and Recreation matters, I wish to make a statement to the people of the Cayman Islands in response to the sudden and shocking death of a local well-known personality, Thomas Edingston Bush. There has been some delay in issuing this statement because I wished to consult with Executive council and to gain their endorsement before saying anything publicly. This is as follows:
>
> Thomas Edingston Bush, or Ed Bush as he was better known in his later years, was a tireless worker in the interest of the betterment of sports in the Cayman Islands. He was also a favourite local radio personality and well known for his sense of humour.
>
> It is not possible at such notice to compile a list of his specific achievements though the appropriate research to clarify this must now be done. The shock of his untimely death has caused some to ask why he did not receive public recognition for his efforts while still alive. The Government will, with sportsmen and sports organisations, look into a suitable way of permanently remembering his contribution and his name. Not least, in the hope of inspiring others to work as selflessly as he did.
>
> The Government and I, in particular, as Executive Council Member responsible for Sports take this opportunity to express its sincere condolences to the family of the late Thomas Edingston Bush with the hope they will find comfort from all the good he has done and goodwill he has created and is publicly recognised.".

I am sure that all Members would like to associate themselves with such a statement. Thank you.

MR. PRESIDENT: Before putting the question, may I remind Members of the dinner being held by the Commonwealth Parliamentary Association, Cayman Islands Branch, this evening.
The question is that the House do stand adjourned until 10:00 next Monday morning. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until Monday morning at 10:00.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. MONDAY, 13TH MARCH, 1989.

MONDAY
13TH MARCH, 1989
10:03 A.M.

THE PRESIDENT: Prayers by the Honourable First Official Member.

PRAYERS

HON. THOMAS C. JEFFERSON: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: The proceedings of the House are resumed.

Item two on today's Order Paper, Presentation of Papers. The Honourable First Official Member.

PRESENTATION OF PAPERS AND REPORTS

Suspension of Standing Order 18

HON. THOMAS C. JEFFERSON: Mr. President, in accordance with Standing Orders 83, I move the suspension of Standing Order 18 to allow the Message from the Commonwealth Parliamentary Association to be tabled.

MR. PRESIDENT: The question is that Standing Order No. 18 be suspended for the purpose stated. Would those in favour please say Aye?

AYES.

AGREED: STANDING ORDERS SUSPENDED TO ENABLE THE FIRST ELECTED MEMBER FOR WEST BAY, THE CHAIRMAN OF THE CPA CAYMAN ISLANDS' BRANCH, TO LAY ON THE TABLE THE COMMONWEALTH DAY MESSAGE FROM HER MAJESTY THE QUEEN.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President and Members, the Commonwealth Day Message 1989 from Her Majesty, the Queen, Head of the Commonwealth.

COMMONWEALTH DAY MESSAGE
FROM HER MAJESTY THE QUEEN, HEAD OF THE COMMONWEALTH

"Commonwealth Day reminds us year by year of all that our unique association of Nations stands for and does. Many Commonwealth activities are of value chiefly to the Members themselves. But we also form a distinctive element in a world which grows more and more inter-dependent and which more than ever needs tolerance and cooperation to deal successfully with its problems.

Perhaps nothing during the past year has underlined this interdependence more forcefully than the dramatic growth in our awareness of the serious dangers to the environment posed by man's own activities. The threat to the environment takes many forms of which some are

so far-reaching that it is difficult to grasp them. We hear, for example, of the possibility of radical changes in our climate leading, among other things, to a rise in the sea level, with all that that would mean for small Islands and low-lying regions.

The Commonwealth has a particular part to play in facing up to such issues as these. A concern for the resources we share in common, means partnership not only across the oceans, but also between generations. A recognition of what our predecessors have bequeathed to us, increases our responsibility to transmit these gifts unspoilt, to the future inhabitants of our planet.

Our concern to safeguard the long-term prospects for our children and their children does not conflict at all with the pressing need to come to grips with the problems of the present, like poverty, illiteracy, disease, unemployment and under-development. Rather, the present and the future are brought together and linked with our efforts to deal with all of these problems together in a realistic way. We must all pray that diminished political tension, particularly among the world's great powers, will provide opportunities for better international cooperation and swifter progress in dealing with environmental, political and economic problems within the Commonwealth and beyond.".

Mr. President, I lay the message on the Table of this Honourable House.

MR. PRESIDENT: So ordered.

We move now to item 3 on today's Order Paper. Government Business. Bills.

The House will now go into Committee to study a Bill entitled the Misuse of Drugs (Amendment) Bill, 1989.

GOVERNMENT BUSINESS

BILLS

HOUSE IN COMMITTEE

MR. CHAIRMAN: The House is now in Committee.

With the leave of the House, may I assume that, as usual, we should authorise the Honourable Second Official Member to correct minor printing errors and such like in this Bill. Would the Clerk now state the Bill and read its clauses in the usual way? We do have a number of amendments.

THE MISUSE OF DRUGS (AMENDMENT) BILL, 1989

CLERK: Clause 1: Short Title.
Clause 2: Amendment of section 2.
Clause 3: Amendment of section 16C.

MR. CHAIRMAN: The question is that Clauses 1 through 3 stand part of the Bill.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED: CLAUSES 1 THROUGH 3 PASSED.

CLERK: Clause 4: Insertion of new subsection 16O, 16P and 16Q.

HON. RICHARD W. GROUND: Mr. Chairman, I have given two notices of amendment to Clause 4. The notices all relate to the new 16O, which is the new offence of assisting drug traffickers. Perhaps, I might take them in the order in which I gave notice of them.

The first amendment relates to the new section 16O subsection (1), and it is the penultimate line in subsection (1), where the words "benefited from drug trafficking" appear. The amendment proposes to substitute for the words "benefited from drug trafficking" the following:

> "at any time received any payment or other reward in connection with drug trafficking carried on by him or another.".

The effect of that is simply to provide a definition for the expression "benefited from drug trafficking". It is a definition which has already been used in our principle

legislation in the amendments which were made last year, and it is a definition which also appears in the United Kingdom legislation from which this section is derived.

When the drafting was done, the expression "benefited from drug trafficking" was used but was not defined. It subsequently became apparent that a definition was needed. The easiest way of inserting the definition into this amending Bill was simply to substitute the definition for the words "benefited from drug trafficking", rather than messing around with an interpretation section; that is the effect of it. It simply defines those words in a way which is keeping with the definition already used in the rest of the legislation.

MR. CHAIRMAN: Procedurally, I think the way to take this set of amendments which are all within one clause, is to invite Members to speak on each amendment as the Second Official Member brings them forward. If there is disagreement about any of the amendments, put each one to the vote. Otherwise, to come to the end of the set of amendments and put the whole clause as amended to the vote.

Does any Member wish to speak on this first amendment? [pause] It appears that no Member wishes to speak on that amendment. Would the Second Official Member please go forward with the next one?

HON. RICHARD W. GROUND: The next proposed amendment is contained in a different, later notice of amendment which was circulated on the 9th of March, last week. It contains five separate sub-amendments, if I might describe them as that. These derive from a letter which was written by the Caymanian Bar Association and circulated to all Members and, though we have not been able to accept all the amendments proposed by them, the amendments set out here are among those proposed by them.

The first which is numbered "(a)" in the notice proposes the insertion of certain words in the opening lines of the new section 16O subsection (1). The words which it proposes to insert are "after the date of the coming into operation of this Law", they are to go between "who" and "enters" in the second line of section 16O subsection (1).

The effect of it will be that this subsection will read as follows:

> "Subject to subsection (3), any person who after the date of the coming into operation of this Law enters into or is otherwise concerned in the arrangement... [and so on] is guilty of an offence.".

The purpose of this is to make it absolutely plain that the offence is not retroactive. I must say that I still adhere to the view that it was not retroactive anyway, but Members may well say to me that if it is not retroactive anyway, what is the objection to making absolutely clear and beyond doubt. I have no objection to doing that. That is the reason that this is put forward.

MR. CHAIRMAN: Does any Member wish to speak on that proposed amendment? [pause] In that case would you proceed?

HON. RICHARD W. GROUND: Thank you Mr. Chairman.

The next proposed amendment is "(b)" in the notice of the 9th of March, and that proposes substituting the word "believing" for the word "suspecting" where it appears in line 23 of section 16O subsection (1). It may be easier for Members to count up from the bottom of the section rather than counting down 23 lines, it is four lines up from the end of subsection (1).

The word "suspecting" did attract criticism in the second meeting debate and it also attracted criticism from the Caymanian Bar Association and other bodies. By substituting the word "believing" for it, my hope is that the nature of the offence will be made clearer. "Believing" is a word which appears in other offences in the Law of the Cayman Islands. Most particularly, it appears in the definition of the offence of handling stolen goods, which is an offence which has been around for many years and it is very well understood by both the Judiciary and the Bar.

That provision - handling stolen goods - has the phrase "knowing or believing" which is now exactly the phrase which will appear in this Law. By making this substitution by bringing this Law into line with the phraseology of a more familiar Law, it is hoped that much of the criticism and, may I say, suspicion of the use of this word will be diffused.

MR. TRUMAN M. BODDEN: I will be brief. I would like to say that I think that all these amendments are good. They will assist and I am very happy to see there has been some improvement in that area, Sir.

MR. CHAIRMAN: If no other Member wishes to speak we will go to "(c)", please.

HON. RICHARD W. GROUND: Thank you, Mr. Chairman. I am grateful for that indication from the Member for George Town.

The next amendment is a "(c)" in the same notice which meets the same point that was dealt with by "(b)" but just in different parts of the proposed new section. It substitutes the word "believe" for the word "suspect", where it appears in paragraphs "(a)" and "(b)" of subsection (4) of the new section 16O. The effect of it is that section 16O (4)(a) will read - and this is the provision which provides for a proof of a defense. It will read that:

"it is a defence of the accused that he did not know or believe that the arrangement related to any person's proceeds of drug trafficking.".

And then in (b), that he did not know or believe that by the arrangement the traffickers' retention of proceeds over his assets would be facilitated. So it is very much a follow on from the previous amendment.

MR. CHAIRMAN: If that is acceptable, can we move to "(d)"?

HON. RICHARD W. GROUND: Mr. Chairman, "(d)" relates again to subsection (4) of section 16O and it inserts the words "on the balance of probabilities", after the word "prove", in the second line of that subsection (4). So the opening lines of subsection (4) would now read:

"in proceedings against a person for an offence under this section, it is a defence to prove on the balance of probabilities that"... [and then sets out defences].

The reason for this is to clarify and put beyond doubt what burden of proof it is the accused person will have to discharge.

It is very much the common law in any event that where a statute casts a burden on a defendant that the test is on the balance of probabilities, as opposed to beyond all reasonable doubt which is the test the Crown must always discharge. But again this is put in so that there is no doubt there and it is another case where I do not object to putting it in because of my reading of the Law that is the case anyway. This certainly eliminates doubt and will avoid any possible argument in the future.

The Third Elected Member for George Town just passed a note to me, on the use of the word "suspicion" in Section 16O, subsection (3). I think we may as well look at it together, with your permission, Mr. Chairman.

It appears this is the section which deals with disclosure to a Constable, and it says "where a person discloses to a constable of the rank of Inspector or above, a suspicion or belief that any funds" .... I am grateful that he drew it to my attention. I did think whether that should be changed or not and after thinking about it at some length, came to the view that this was not creating an offence, that it did not need changing. In fact the word suspicion there might serve a useful function. It also read very oddly if one changed suspicion to knowledge, so I did think about it. I would like to reassure him of that, but subject to anything he might say now, I would not recommend changing it.

MR. CHAIRMAN: It occurs to me that if the word 'knowledge' was inserted in there it would mean the offence had already been committed.

MR. TRUMAN M. BODDEN: This does leave it a lot wider. I noticed the word suspicion again, and I thought I should refer it to the Attorney General. I am totally happy with it I am merely just drawing it to his attention and he has seen it in his astute way.

HON. RICHARD W. GROUND: Again, I am grateful to having it drawn to my attention because it is not impossible to miss things.

MR. CHAIRMAN: Shall we go on to the final amendment, "(e)"?

HON. RICHARD W. GROUND: Thank you, Mr. Chairman.

The final amendment substitutes a new subsection (5) to the existing one. The reason for doing this is to change the mode of trial. At the moment the offence is triable to summarily only. In other words, only before a Magistrate, although it carries an unlimited fine and up to 14 years' imprisonment. I think it is fair to say that this section, this offence, as opposed to the other offences that we find in the Misuse of Drugs Law, may well involve the analysis of quite complicated circumstances where a person's guilt or innocence will not turn upon hard facts, such as whether he possessed drugs or not, but may well turn upon an assessment of his subjective state of mind.

In other words, it will be much more akin to assessing whether he is honest or not, as the Courts have to do in offences of dishonesty such as theft and so on. So, it was thought more appropriate to bring the mode of trial somewhat into line for the mode used for other offences of fraud, dishonesty, offences of that sort.

What I have recommended in the amendment is that the provision reads as follows:

"A person guilty of an offence shall be liable on summary conviction to a fine of $5,000 or to imprisonment for a term not exceeding two years or to both. On conviction of indictment to a fine [which would be unlimited] or to a term of imprisonment not exceeding 14 years or to both.".

The effect of that when it is set in the context of our General Law is that both sides to the proceedings have a choice of which mode of trial to take. If both sides are content for it to be dealt with by the Magistrates Court, it would be dealt with by the Magistrates Court, but the accused can elect trial by a judge and jury, or the prosecution, if it thinks the case is serious enough. Not withstanding the fact that

the accused who wishes it, will be happy to be dealt with by the Magistrate; Prosecution can say, 'this is a serious case, it merits the case of the broader, the wider sentencing powers. We want it tried by a judge and jury.' When it is tried by a judge and jury all the safeguards that implies come into play. The two years have been chosen for the cut-off because that is the normal limit of the Magistrates jurisdiction under the Summary Jurisdiction Law.

MR. GILBERT A. McLEAN: Mr. Chairman, perhaps just at this point I would like to say, as well, that I am very happy that the Honourable Member who moved this Bill, allowed it to stand for the additional period of time and, indeed, to see that the Government Bench has taken into account certain recommendations that have been made and have inserted some of them for which, apparently, will make things clearer to all concerned. I do compliment all the persons concerned, and I certainly do support these amendments here.

MR. TRUMAN M. BODDEN: I would just like to join the Member and also thank the Member bringing the Bill for this. I think the week or so extra, we did get a lot of input from two or three organisations. I would like to thank the Government.

MR. D. EZZARD MILLER: Yes, Mr. Chairman. I would just like to thank Members for their support. Hopefully, we have the oranges now and nobody can take them away.

MR. CHAIRMAN: I have a question. What is the jurisdiction of the Magistrate in the Summary Court? I do not know off hand. Is it more than two years?

HON. RICHARD W. GROUND: Mr. Chairman, the normal jurisdiction on one offence is two years. If there is more than one offence there is accumulative jurisdiction up to four years. But then there are certain laws which create their own jurisdiction, which stand independent and outside of that. The Misuse of Drugs Law is the classic one because it confers in the straightforward possession, trafficking, importation/exportation cases, a much higher jurisdiction on the magistrate of up to 14 years, and after that it is triable by a judge and jury at the election of the accused.

MR. CHAIRMAN: The reason for my question was, I think, fairly obvious. Why, in this case should it be limited to two years for the Summary Court, when in other cases it is very much more? The level of the jurisdiction of the magistrate, and the reason is very clear. This sort of case could be extremely complicated. Thank you.

So, the question is that Clause 4, as amended - in other words, by the six amendments of which notice was given on the 17th of February and the 9th of March, respectively, stand a part of Clause 4.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED: THE AMENDMENTS PASSED.

MR. CHAIRMAN: The question now is that Clause 4, as amended, do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED: CLAUSE 4, AS AMENDED, PASSED.

CLERK: A Bill for a Law to amend the Misuse of Drugs Law, second revision.

MR. CHAIRMAN: The question is that the title do stand as part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED: TITLE PASSED.

MR. CHAIRMAN: That concludes proceedings in Committee on a Bill entitled The Misuse of Drugs (Amendment) Law. The House will resume.

HOUSE RESUMED

REPORT ON BILL

THE MISUSE OF DRUGS (AMENDMENT) BILL, 1989

MR. PRESIDENT: Please be seated.
Bills, reporting stage.

HON. RICHARD C. GROUND: Mr. President, I have to report that a Bill entitled the Misuse of Drugs (Amendment) Bill, 1989, has been considered in Committee and passed with six amendments.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

THIRD READING

THE MISUSE OF DRUGS (AMENDMENT) BILL, 1989

CLERK: The Misuse of Drugs (Amendment) Bill, 1989.

HON. RICHARD W. GROUND: Mr. President, I move that the Misuse of Drugs (Amendment) Bill, 1989, be given a Third Reading and passed.

MR. PRESIDENT: The question is that a Bill entitled the Misuse of Drugs (Amendment) Bill, 1989, be given the Third Reading and do pass.
I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED: THE MISUSE OF DRUGS (AMENDMENT) BILL, 1989, PASSED.

STANDING ORDER 63(3)

HON. THOMAS C. JEFFERSON: In accordance with Standing Order 83, I move that the Appropriation Bill do now stand referred to Finance Committee.

MR. PRESIDENT: The question is that the Appropriation Bill, 1989, do stand referred to the Finance Committee.
I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED: THE APPROPRIATION BILL, 1989, REFERRED TO FINANCE COMMITTEE.

ADJOURNMENT

MR. PRESIDENT: The House therefore stands adjourned until the proceedings of the Standing Finance Committee on the Appropriation Bill, 1989, shall be completed.

AT 10:34 A.M. THE HOUSE STOOD ADJOURNED UNTIL THE PROCEEDINGS OF STANDING FINANCE COMMITTEE CONCLUDE.

TUESDAY
14TH MARCH, 1989
2:33 P.M.

MR. PRESIDENT: Prayers by the First Elected Member for the Lesser Islands.

PRAYERS

CAPT. MABRY S. KIRKCONNELL: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Proceedings of the House are resumed. Government Business, Bills. First Reading.

GOVERNMENT BUSINESS

BILLS

FIRST READING

THE BANK AND TRUST COMPANIES BILL, 1989

CLERK: The Banks and Trust Companies Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Banks and Trust Companies Bill, 1989, has deemed to have been read a first time and is set down for Second Reading.

Bills, Second Reading.

SECOND READING

THE BANK AND TRUST COMPANIES BILL, 1989

CLERK: The Banks and Trust Companies Bill, 1989.

MR. PRESIDENT: The Honourable First Official Member.

HON. THOMAS C. JEFFERSON: Mr. President, I move the Second Reading of a Bill entitled, A Bill for a Law to Repeal and Reenact with Amendments, the Banks and Trust Companies Regulation Law, (Revised).

This Bill seeks to repeal the Banks and Trust Companies Regulation Law (Revised), and re-enact it with many of the suggested amendments contained in the report of the Committee appointed to consider possible amendments to that Law.

When we established the Committee back in October of 1985, Chaired by the then Banking Inspector, we selected a number of private sector practitioners to peruse the various sections of the Law, with a view to making amendments. We know that this Law was originally enacted in 1966, and, except for some relatively minor amendments, has remained unchanged over the past 22 to 23 years.

Experience in recent years, particularly in connection with some specific cases (which I will not mention) has highlighted a number of areas in the Law where it would seem

appropriate that Government should have stronger and more clearly defined powers to control problem banks, and to protect the interests of depositors. In addition, it has been our practice over the years to introduce a number of policy guidelines in relation to the licensing and supervision of institutions, and many of these guidelines do not have a firm basis in Law.

This Committee studied the present banking legislation, made a report and, after some further scrutiny of the report, we drafted legislation. That legislation was also scrutinized by the Bank of England on behalf of the Foreign and Commonwealth Office and we have, perhaps, the final Draft, which I believe is the seventh discussion Draft before the House. I do not recall at present any piece of legislation that has been studied for so long by such a professional group.

Clause 1 of the Law seeks to give the proposed new Law and short Title; Clause 2 seeks to relate to the interpretation of various words or expressions used in the proposed new Law; and Clause 3 seeks to repeat section 14(1) of the present Law, which makes provision for it to be in addition to, and not in derogation of any other legal provision.

In Clause 4, provision is sought to be made for a licence to be required by any person carrying on banking business, or trust business, and this Clause is virtually a re-enactment of section 3 of the present Law.

Clause 5 seeks to re-enact, with considerable amendment, section 4 of the present Law, which relates to the method of application for a licence under this Law.

Clause 6 seeks to re-enact, with slight amendment to, section 5 of the present Law which prohibits the issue or transfer of shares without the approval of the Governor in Council.

Clause 7 is a new clause which seeks to impose minimum limits on the amount of paid up capital to be possessed by a bank or trust company. I will not bother to read it because it is quite lengthy.

In Clause 8, which enacts section 6 of the present Law, is sought to place restrictions on the use by any person other than a licensee of certain names with a banking and financial connotation.

Clause 9 is a new clause which seeks to make provisions relating to the Council of Licensees under the Law.

Clause 10 is also new, and seeks to prohibit a licensee under the Law from opening offices for banking purposes outside of the Island or changing its name without the prior written approval of the Inspector of Banks and Trust Companies.

Clause 11 is likewise a new Clause, seeking to make provisions for the number and approval of Directors.

The Powers and Duties of the Inspector of Banks and Trust Companies, as set out in Clause 12 of the Bill, which is re-enacted with considerable amendment of section 8 of the present Law.

Clause 13 seeks to reenact the slight amendments, section 10 of the present Law, which relates to the preservation of secrecy.

Clause 14 seeks to confer wider powers on the Governor in Council than are contained in section 11 of the present Law, relating to the operations of the licensee.

Clause 15 is a new one and seeks to confer on the Governor in Council the power to apply for an order to the Court in certain circumstances, and that clause reads:

> "The Governor may in any case in which a licensee, or a person who has at any time been a licensee (whether under this Law or under the Law repealed by section 24), is being wound up voluntarily, apply to the Court if he considers that the winding up is not being conducted in the best interests of its depositors, the beneficiaries of any trust, or other creditor, and the Court shall make such order as it shall consider appropriate.".

Clause 16 is another new clause to make provisions for a licensee under the proposed new Law to surrender its licence in certain circumstances, and it reads:

> "16. (1) A licensee which has ceased to carry on the business in respect of which the license was granted may apply to the Governor to surrender its licence if it --
>
> (a) has ceased to carry on such business, and produces evidence that it has repaid all deposits held by it and has transferred all trust assets held or administered by it; or
>
> (b) is being wound up voluntarily and produces evidence that it is solvent and able forthwith to repay all deposits held by it and all its other creditors and has transferred all trust assets held or administered by it,
>
> and the Governor may thereupon approve the surrender.".

Section 17 is another new provision which seeks to confer on

the Chief Justice, the power to make rules governing the procedure in relation to the various applications under the proposed new Law to the Grand Court. The Power of Search contained in section 12 of the present Law is sought to be reenacted in Clause 18.

Clause 19 is also new and seeks to create the criminal offence of supplying false or misleading information to the Governor in Council or the Inspector of Banks and Trust Companies, and to provide for the penalty therefore.

Clause 20 is also new and seeks to create an offence and provide a penalty for any contravention of the proposed new Law for which no express provision is made.

In Clause 21 it is sought to re-enact with amendment section 15 of the present Law, which deals with appeals to the Grand Court from any decision of the Governor in Council in the circumstances described. It reads:

> "(1) An appeal lies to the Court from any decision of the Governor--
>
> (a) revoking a licence under subsection (5) of section 8 or under paragraph (i) of subsection (1) or subsections (4) or (5) of section 14;
>
> (b) withdrawing any approval under subsection (4) of section 8; or
>
> (c) requiring a licensee to take certain steps which the Governor may specify under section 14.".

Clause 22 seeks to confer immunity from civil proceedings on the Governor, the Inspector and the Members of Executive Council in circumstances described therein in the Bill. Clause 22 reads:

> "Neither the Governor, the Inspector nor any member of Executive Council shall be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions under this Law, unless it is shown that the act or omission was in bad faith.".

May I add that Clause 22 is taken from the United Kingdom Act in the exact words. It is a growing tendency, as evidenced by the case in the Isle of Man, that some people when disgruntled seek to sue everybody and his child for their, perhaps, error of judgment.

Clause 23, which seeks to confer on the Governor in Council the power to make regulations for all and any of the purposes therein, mentioned in this clause, is a re-enactment with amendment of section 13, of the present Law.

Finally, Clause 24 seeks to repeal the present Law but makes provision for the preservation of any licence granted thereunder which are still in force.

Backtracking a little, Mr. President, under Clause 5, and specifically subsection (5), dealing with the holder of a "B" licence and what it shall and shall not do, it reads:

> "The holder of a "B" licence shall not--
>
> (a) take deposits from any person resident in the Islands, other than another licensee, or an exempted or an ordinary non-resident company which is not carrying on business in the Islands;
>
> (b) invest in any asset which represents a claim on any person resident in the Islands, except a claim resulting from--
>
> (i) a loan to an exempted or an ordinary non-resident company not carrying on business in the Islands; or
>
> (ii) a loan by way of mortgage to a member of its staff or to a person possessing or being deemed to possess Caymanian Status under the Caymanian Protection Law, 1984, for the purchase or construction of a residence in the Islands to be owner occupied;".

Mr. President, back in 1982 we passed a similar amendment to the banking legislation and that amendment can be found in an amendment to the Bank and Trust Companies Regulation Law, 1982, (Law 9 of 1982). It reads:

> "...Provided that notwithstanding the provisions of any other Law, the holder of a "B" Licence, after given general notice to the Financial Secretary of his intention to make such advance, may advance monies to persons possessing Caymanian Status, as defined in the Caymanian Protection Law.".

If we go back to the debate at that time, and in particular the Minutes of the meeting held on the 16th of September, in moving this amendment to the Banks and Trust Companies Regulation Law, these are some of the comments I made which I believe are relevant to quote;

> "Mr. President, the Cayman Islands, as Honourable Members are aware, has experienced tremendous economic growth over the last 10 years and many statistics can be quoted to support this statement. One lagging statistic which many people of this country are not satisfied with, Mr. President, is the ability of a Caymanian to secure mortgage financing. And in keeping with the good principles, or the principles of good Government - Government for the people of these Islands - our duty, young though I am as a Member, is to ensure that, wherever legally possible, Caymanians must participate in the benefits of the development taking place in our country.".

I am aware of the amendment which is put forward to further broaden the particular section of the Bill which I read, section 5, subsection 5(b)(ii). Just about seven years have passed, and we now have 492 "B" licences, When I checked for the statistics, I found that there were only two banks making such loans. After seven years of issuing loans, between the two of them they had $1 million on their books. That $1 million was made to nine or ten different people. I believe the reason for that is that when we look at the Loan Portfolio in the Cayman Islands, we find that it is $340 million. If we have $340 million, and these two banks are only funding $1 million it suggests, at least to my mind, that any funding which is required can easily be met by the category "A" banks in the Cayman Islands.

I think I must make it clear that I cannot support the amendment before the House for a variety of reasons. The amendment would mean that 492 "B" licensed banks would be able to participate in the lending market the same as any category "A" bank. A category "A" bank pays approximately CI$30,000, while a category "B" bank pays CI$9,000. I think we must be careful. While we are - and I am always happy to provide whatever assistance I can to anyone who is seeking a mortgage or a loan - we do not want to put the Loan Portfolio of the category "A" banks in any jeopardy. I believe if you take $340 million and divide that among the banks here, you are talking about $600,000 per bank. I do not believe any bank will survive on that Loan Portfolio. Certainly not the category "A" banks.

My real concern is that the overhead costs of the category "A" bank is fixed to do business on a commercial retail basis and their lending has to bear in mind that overhead cost. If you compare this to a category "B" bank that may have a manager and two secretaries, you can quickly realise that the overhead cost of that bank is substantially less and the possibility of the bank lending at a lower rate becomes quite evident - perhaps to the detriment of the category "A" bank.

The amendment is seeking to open the door to 492 banks for not only mortgages, but any other loan that anyone wants under the stipulation set out in the amendment. I think one further danger is that the category "B" bank is likely to lend money in United States dollars and, if that is so, I would suggest to the Members that it is going to reduce the Cayman Islands dollar that is in circulation and (although perhaps on the extreme side) may even affect that particular currency.

Those are some of the reasons, Mr. President, why I am not able to support the amendment as put forward. I believe the earlier intention in 1982, was to provide another avenue at that time for people who were seeking mortgages, and we were convinced at that time that there was not sufficient mortgage funds available. I am convinced after having gone around to a number of the banks and having spoken to a number of the managers of those banks, and seeing their reaction by putting mortgage money on the market, that any person who makes a reasonable request for a mortgage will get one. Now, if I go to the bank and ask for a mortgage to build a $1 million home, I think I am going to get turned down too. That is why I use the term "reasonable application" for a loan.

The Cayman Islands have come a long way. What has taken us this far is the Banking Legislation which was enacted in 1966, with a few amendments along the way in 1979, 1980 and 1982, and, perhaps, some administrative policy which also came into effect, the last one in 1982 shortly after the time I took up office as Financial Secretary. I believe that it has served us well. What is commendable is that even in the Bill before us, the repetition was reenacted in the present Law. Although there were some slight amendments in the Bill (and some considerable amendments) they are all with the view of keeping the banking legislation along current modern banking practices, to deal with the person who tries to find a way to get around the Law and, perhaps, do some illegal act.

I believe the amendments which are purposed in this Law are important. They have been looked at not only by the Private Sector Committee but certainly, on more than one occasion, by the Private Sector Financial Community Consultative Committee of the financial sector.

Mr. President, I have no hesitation in recommending this Bill to Honourable Members.

MR. PRESIDENT: The question is that a Bill entitled, The Banks and Trust Companies Bill, 1989, be given a Second Reading, and the Motion is open for debate. (pause)

The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I rise to speak on the Bill before the House, a Bill for a Law to Repeal and Enact, with amendments, the Banks and Trust Companies Regulation Law, Revised.

Mr. President, banking is one of the main and essential areas of Revenue to the Cayman Islands, has been so for many years and continues to be. I believe that everyone in the Cayman Islands, Members of this Honourable House and members of the public, are justly proud of the banking environment of which the Cayman Islands is a part.

Having listened to the First Official Member, I am happy to note that the Government (in proper order of keeping pace with changing times) as far back as 1985 created a Committee to examine the Law which affects banks and trust companies in this country. If we are to compete with other banking centres we need to keep pace with changing times.

Mr. President, I generally agree with the Objects of this Bill before the House. I certainly see the reason as stated behind the changes, the amendments, and all the rest of it. However, there is one section where I believe we can do more than what is presently being done to assist Caymanians in effecting loans from "B" class banks. It is my intention to move an amendment at Committee stage.

As I consider banks and the service that they offer to this country, it is one thing to say that we have 500 banks registered here, and that they are subsidiaries or branches of major international banks in the world, or (as I think has come out at an earlier time in this House) that we do have branches at all of the top banks in the world represented here. That is fine! It is good for our image; it is a very saleable thing. It is good advertising both for financial business, tourism and otherwise. However, I believe that when it comes to assessing banks and what they do in this country, it is not purely the amount which they pay in a fee - only CI$30,000 per year - but the money which they make accessible to the people of the Cayman Islands.

I am now made to understand, having listened to the first speaker, that the Loan Portfolio of the "A" class banks here (and out of that I assume $1 million which was made by two "B" class banks) amounts to $340 million. I would be thrilled to think that could have been $700 million. I see no reason why we should think in terms of a minimum figure - rather, I think that this country needs the optimum, whatever that may be.

We have also heard that various banks have made mortgage monies available. I have heard of various "A" class banks in this country which are making monies available for mortgages. But it is as with the food on the shelves at the supermarkets - the food might be there, but if the person does not have the money to buy it (the person who needs it), it might as well not be there. The banks in this country, to the best of my knowledge and belief, require very great assurances of collateral and place some very severe terms, generally speaking, on people getting mortgages in this country. If that is not so, then there are a lot of people in this country telling untruths, even those who have gotten mortgages.

I firmly believe that the stable financial environment which the Cayman Islands has makes it possible for banks in this country to create easier terms for people to borrow monies, particularly for home mortgages. I would not wish to confine what I am suggesting purely to the idea of home mortgages, because I also feel there should be monies available for commercial ventures.

Mr. President, earlier in this Session of the House we approved a motion brought here which allows the Housing Development Corporation to borrow monies and offer a higher interest rate to the sources from which they borrow with the intention (to the best of my understanding), that they will make money available to people for building homes. I can see no just reason why, since in 1982 the Banks and Trust Companies Regulation Law (Revised) was amended to allow persons access to more funds in this country which did not place a restriction that those loans had to be purely for owner-occupied homes, now, at this point in time, when the new Bill comes before the House to repeal the old Law - would it have to be there to protect certain banks?

Mr. President, before I was in this House and, certainly, since I have been here, there is a favorite term which we talk about - "Capitalism" - and that this is a capitalist society and the market force regulates itself, and all the rest of it. Therefore, I could not understand any suggestion or implication that the Government must protect one group of banks against the free market system whereby another competes with it.

I believe the restriction which has been placed in section 5 of the Bill before this House does just the opposite of what is being preached. Certainly, on the other hand, if more money is made available in this country to the population then it automatically causes a situation of cheaper money, and that is what the people of this country need and want.

I do not believe that if 492 "B" licensed banks were to loan money it would necessarily, at all, put "A" class banks, who are making local loans, out of business. I think it would have the effect of creating a pool of more money and it would be cheaper money. The rates that banks are now charging, regulated by themselves, would have to be reduced and it could be reduced by creating more competition among banks. It would certainly hinder any kind of monopolistic position, and it would work in the best interest of these Islands.

Mr. President, I believe that people who go to the banks - there would be exceptions to the rules, of course - go seeking amounts that they genuinely feel they are able to repay. I know of some instances where persons have gone to a bank seeking a mortgage for a home and those persons are paying rent of $500 or $600 per month. For some strange reason, the banks do not seem to take into account that those persons who are paying that money out (which is dead money to the individuals who are paying it) could purchase a house and add to that $600 maybe another $100 or $200 to pay a mortgage which would give them a house. Of course they would have the security that the banks make sure they have when they make a loan.

Due to the considerations I have put forward here, while agreeing that this Bill is necessary, it certainly tightens up certain practices and it prescribes certain procedures. I believe a part of this Bill, which is absolutely essential and significant to the people of this country, is being restricted and I cannot see any justifiable reason for that. It should take into account, paramount, the availability of

money to the people of this country. Again, the history of the loaning has shown that of the "B" class banks, there have only been two who have made loans. I believe there could have been more and the reason why there was not lies in what has always been my impression that the "B" class banks have never been encouraged officially to get into the business of loaning.

Mr. President, I support the Bill, but I would certainly like to see an amendment to this Bill, which would allow Caymanians access to monies which are in these Islands - or so we understand is here - that could be made available from the "B" banks as well as the "A" class banks. If it is felt that the licences for "B" class banks should be increased, so be it, because even $30,000 per year for a bank - I doubt very seriously that could be termed excessive, in fact, I imagine that it is not considered that way because more banks seem to be attracted to the Islands, and I believe that the fees which they pay would be one of the attractions.

As I have said, I support this Bill, but in that particular aspect, I would like to see an amendment which could make for a better situation for Caymanians in a more general way, rather than what has been placed there and is now restricted.

Thank you, Sir.

MR. PRESIDENT: I think it would be convenient to take the tea break now. Proceedings suspended for 15 minutes.

AT 3:33 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:47 P.M.

MR. PRESIDENT: Proceedings are resumed.

Second Reading debate on the Bank and Trust Companies Bill, continuing. Does any other Member wish to speak on this Second Reading? (pause) If no other Member wishes to speak... just in time, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I am very happy to see the new Bank and Trust Companies Regulation Law being brought by the Honourable First Official Member. I think it is a very good example of how a Bill of this magnitude and importance should be dealt with. The banking community and the private sector have been working on it for several years, and they accept it.

The banking sector in this country is one of the most important sectors. It contributes a lot to Government revenue as well as the fact that it also employs a lot of people. Along with that is the fact that it is an integral part of the financial centre. The others, such as insurance, trusts, accountants and lawyers go to make this up and each one is an integral part of the private sector of the financial community.

I commend the Bill in principle. I think many of the clauses were needed in the past, a lot of it was dealt with through procedure and regulation, and now a lot of this has been entrenched in the Law and I think that is good. I also believe that as the banking and trust community progresses we are getting to a stage where it has become more important to have a harder look at the licensing and continuing of the licensing than what was done in the past. We now have a mature financial community, and along with that has to be mature regulation of the specific parts of that financial community.

I am very happy to see in this some of the sections (a few of which I will refer to) that do go into certain areas that I think are good. However, I think we have to exercise caution with some of them, and I will mention those as I come to them.

For example, Sir, I see the repetition of the secrecy provisions, because this is one basis upon which the financial community in this country has been built upon, and I think that a continuation of that and the resistance towards an erosion of that is an important factor.

In section 15 I see that the Governor in Council has the power for the protection of the licensee in which he can make an application to the court to wind up if he believes the business is not being conducted in the best interest of depositors or the beneficiaries of any trust or other creditor. In banking, Sir, we have to be very careful to ensure that the necessary protection to the public is in there. The large part of the Inspectorate's duty is towards the public to ensure that banking is sound and to ensure that, as in this case, if anything does go wrong he has access to a Court where he can apply the process to wind up the company.

I found this somewhat interesting, Sir. section 22 is the one that gives immunity to Members of Executive Council and to you, Sir, as Governor, and the Inspector. I know the history of this fairly well. In other jurisdictions there have been suits, and I do notice that the one exclusion area is for Acts or Omissions which are in bad faith. So, in this respect I guess we have to follow the principle that no one is perfect and I do believe that the Executive Council should be left to make its decisions without the worry of having a civil suit on it, unless the cases are somewhat extreme, as this would be. Provided they acted in good faith, then it would appear to me that the question of civil negligence, as such, is excluded. But that immunity, as with lawyers before a Court, is important to preserve the independence of the body that is making the decisions.

Another interesting section - because we did hear a bit of talking about an appeal from 'Caesar onto Caesar' - while I fully agree with this section, I just mention this as one of the examples, in section 14(2) one can apply for a reconsideration of the decision. I think that is a good appeal from Caesar onto Caesar, so not every forum of Caesar is bad. But, this does give the licensee the opportunity of coming back and saying; "Look, perhaps you should have known these facts", or, he could come back and say; "I

am prepared to do so and, if so, you take a certain course." I think that is good and I agree fully with it. I merely throw in the Caesar wisdom such as it may be.

I also feel that the powers in section 18 which relate to searches are necessary. If we ultimately have to deal with a large amount of documents within a bank, many times the simplest course is to seal off and sift through them in a reasonable way, rather than having hundreds and hundreds of cabinets full of files taken into custody. I think that is a somewhat more orderly way it can be done under this section. We have never had to do this, and I am sure the country is grateful. The power of search gives the power also to search a person found within the premises. This is especially most relevant to, as is mentioned, vessels, aircraft or whatever. They are wide powers but I think they are necessary.

Now, I would like to go on to deal with what seems to be the difficult section in the Bill, which has been dealt with in some depth by the other two Members who spoke. It is section 5, subsection 5(b). The history has been given by the First Official Member, relating to this and without getting into too much detail in the Bill itself, I would like to mention that the provisional, brought in 1982, was fairly short and it said, I quote:

> "Provided that, notwithstanding the provisions of any other Law, the holder of a "B" licence, after giving general notice to the Financial Secretary of his intention to make such advance, may advance monies to persons possessing Caymanian Status, as defined in the Caymanian Protection Law.".

I agree with what the First Official Member has stated in relation for the reason and the intention behind it. Be that as it may, that section as it stood under the old Law did allow any licensed "B" bank, once it gave a general notice, and I just mentioned the word general to the Financial Secretary of his intention to make an advance, he may advance monies to persons possessing Caymanian Status. What it did, in effect, was that any of the 492 "B" banks, the Law as it now stands permits those 492 "B" banks upon giving general notice to the Financial Secretary to advance money to Caymanians, and that principle is a right which has been given. It has been exercised for about seven years, and it is one which I feel should not be eroded. I say this because I have a clear duty, as I understand the Government's policy is towards the advancing to people who own homes and who have their own businesses. This has been brought out year after year in your Throne Speech and in the Budget Address this year. It has been reaffirmed as to the belief in extensive home ownership as being essential to the stability of our community. I agree 100 per cent with that. The stability of a country comes from home owners because if someone has to lose anything, his home is the last thing that he wants to lose.

Having said that, in the new Law, what is now being attempted is to narrow the one section that applies to Caymanians but to widen it in relation to non-Caymanians. I think that following along the lines of Caymanianisation, of seeing that Caymanians have the necessary funds that are needed for homes and businesses, the earlier Law (while I know what the intention was) was very clear that lending was unlimited as to the type.

This goes on to allow lending to exempt ordinary, non-resident companies not carrying on business in these Islands, foreign companies, so to speak, not by definition. They are companies which are normally owned by people abroad. Then it goes on to say that money can be lent by way of a mortgage - which is a new word - prior to this there were no limitations as to being a mortgage to a member of its staff or to a person. This does allow money to be lent to staff regardless of nationality. I would assume the part about residents would apply to both. I give the Government the benefit of the doubt there.

Then it goes on to say, mortgage money to a person being deemed to possess Caymanian Status for the purchase or construction of a residence in the Islands to be owner-occupied. We suddenly have two limits on lending to Caymanians. The first one is that it has to be by way of mortgage, and the second is that it has to be for purposes of the construction of a residence in the Island to be owner-occupied. With the new Law we are restricting the lending to Caymanians, on the other hand in that same section if a member of the staff is a Caymanian or a non-Caymanian the money can be lent. So it has widened it in relation to foreigners who are staff. It has narrowed it considerably in relation to Caymanians who may wish to borrow. They would have to borrow by way of mortgage first, and secondly, it would have to be an owner-occupied residence. The section goes on to widen it somewhat further, even though I have no objection to these areas of widening.

In subsection (iii) a transaction with another licensee, so that the "B" licence banks could lend to another licensee locally, which could unlend as perhaps it is doing in the subsection (iv), in which the Government comes in and they get a share of the pie as well by which it can purchase the bonds issued by Government or a body incorporated by statute or a company which the Government is the sole or majority beneficial owner.

If either a Government company wished to issue bonds or securities, the "B" licence bank, for example, the Housing Development Corporation I believe is what it is for, and I fully agree with it because in fact I feel the "B" licence banks probably did buy some of these securities before. That same money is being lent to persons who are owner-occupiers of property.

In section (c) it once again gives the power that it shall not without the written approval of the Governor in Council to carry on any business on the Islands other than ones which the "B" licence has been obtained. So there is power there to widen once again, to deal specifically with a couple of the things that have been mentioned.

I am grateful to the First Official Member for the statistics which I accept. What I would say, perhaps that if this is widened the way the amendment proposes, I would like to mention very briefly on that, the amendment would merely remove the general notification to the Financial Secretary which I

would have no objection being left in if he so wished. But it would allow purely owned Caymanian companies to borrow because in this day and age there are a lot of people who own homes or businesses do so through a limited liability company. I do not believe that a person should be necessarily put under the personal liability of borrowing in their own name if they wished to borrow through a company for many reason such as, public liability; someone being hurt on the premises or whatever. I think the accepted way of doing business now is through a limited company.

So, in effect, the amendment opens it to permit a Caymanian or a 100 per cent owned Caymanian company to borrow money. So all it has done, with the exception of what I will go on to mention, is that it has removed the giving of general notice which I have no objection to. It merely says instead of just being able to lend to people who are Caymanians, you can lend to companies which are owned by Caymanians. So it does not take the old section much further. But a proviso was put in because of doubt as to whether an exempted company and a non-resident company can actually do business locally. I think that is a tidying up that, perhaps, regardless of what happens to that subsection, "maybe" should be added into this because at times it is in conflict with the Companies Law which say "B" licence banks can not do certain things locally.

I do not believe that since only a small amount has been borrowed the "A" licence banks have any fear of it, but on the other hand the mortgage and borrowing market purely to Caymanians is fairly small compared to the large amount of some $340 million lent locally. I would think that a good part of that would be to non-Caymanians. So even if we could get on the market another $9 or $10 million in loans to Caymanians, I think it would help Caymanians, and my overriding duty is to see that more Caymanians become self sufficient - own their homes, their own businesses - and to do that they must borrow money. I believe that most Members of this House during the last debate have admitted that there is a shortage of readily available mortgage money and overdrafts and whatever in the Islands.

So, I believe that what is being done there by restricting the old section will hurt Caymanians because it will dry up what is otherwise - as far as the actual borrowing has been - a small pool of funds. On the other hand it might open up a very large pool of funds and, if this really got to a stage that the "A" licence banks were being hurt, I would be the first one to join with the Government and say, "look, if this can be shown to be detrimental then we should look at doing something." But, I do not think it will. I think it will provide a small, but necessary, amount of loans to the little people in some respects (to use that word) who otherwise may not be able to get what is needed in the line of borrowings.

I believe the other sections which are in here are good. I do commend the First Official Member on the way in which he has dealt with the Bill, and would hope that other Members here could take this as an example. It has been exposed to the public and also it comes with the blessing of the people who are going to have to live under it. This is good when it comes to the enforcement that something has gone in with the acceptance of the people against whom it is going to be enforced. I believe that it will assist in increasing the revenue of this country with the collection of licence fees and also with the weeding out of the few problems we had in the past with the different banks.

I believe the Bank Inspectorate, and the First Official Member's Portfolio relating to banking, is very capably run. It is one which has nurtured banking, insurance and the off-shore business generally into what is now one that the world at large regards as being the top financial community in the world. This Bill will continue to entrench Cayman's position in the future. So, basically I agree with the Law fully.

In summary, I do have reservations on the section which deals with restriction of the present right to Caymanians by stating that it should be by mortgage only and it should be owner-resident homes. I think that should be left open and we should add companies with it, which I think is only realistic because this Law deals with companies. This is the accepted legal entity in this day and age between doing business and owning things.

With that, I will be supporting the Bill fully and I believe that it is a good Law. I commend the Government for bringing it.

MR. PRESIDENT: Does any other Member wish to speak? (pause) The Honourable Member for Education.

HON. BENSON O. EBANKS: Yes, Mr. President. I had no intention of speaking on this Bill, but I believe that I would be lacking in my duty if I did not make a few comments on the contribution I just heard.

The question of restricting what the "B" class banks enjoyed previously does not seem to arise, at least not in practice. The Honourable Financial Secretary stated that during the seven years of operation of the amendment which permitted the "B" banks to lend money under certain conditions, only two "B" banks had availed themselves of the opportunity, and the entire lending was $1 million to nine or 10 customers. This would seem to indicate that there is no great demand for borrowings locally from "B" class banks.

This is nothing new from outside the amendment that was made in 1982. The original Banks and Trust Companies Law, of 1966, prescribed that "B" class banks did not do business locally. The amendment in 1982 (I think it was) permitted them to lend after giving general notice to the Financial Secretary. As the Financial Secretary pointed out, a total of $1 million has been put on the market in that time. It seems to me that in permitting the "B" banks to lend, specifically for house mortgages for Caymanians, owner-occupied homes, has expanded the ability of "B" banks to make loans because now they do not have to give the Financial Secretary any notice of this.

I would go further to say that if the "B" banks exercised the right which they are now given to loan funds on mortgages for home building purposes, then the commercial banks, the

"A" class banks, would automatically have more funds to lend for commercial purposes - which is what they would prefer to do. The "A" banks have, by necessity, been called upon to set aside sums to lend for mortgages and I know of at least three institutions in the country that are now giving up to 20-year terms on mortgages. But, in fact, two of those, I am sure, would prefer to be doing normal commercial lending which is their bread and butter, which a prudent commercial bank would prefer to do. It is only their social conscience which has caused them to do otherwise.

Secondly, I do not believe that Members can discuss this issue in isolation without taking into account Government's recent move to increase the interest on the new debenture issue of the Housing Development Corporation which is expected to raise some US$5 million to be on loan to Caymanians for housing. I believe that the housing needs of the country can be met in that way, and I do not believe that we should go back in time to five or 10 years ago when commercial banks would not normally lend for housing mortgages.

It was also pointed out that in the case of the staff, there was no restriction put there, saying that the staff who could borrow had to be Caymanians, they are non-Caymanians. In my opinion there is a very good reason for that. Certainly, any manager of a "B" bank coming into the country to work, or any staff member, needs a house to live in, and it is only common sense that it is better for that "B" bank to be able to lend that non-Caymanian money to build his home, than for that non-Caymanian to have to compete with Caymanians for money from the "A" banks. That would be counter productive.

The other telling thing, Mr. President, and what seems to me to be the Member speaking with a forked tongue, is that he said the good thing about this legislation is that it has had wide publicity, there has been wide discussion with the people who have to work with this Law and are most affected by it. Now this Bill, as it is, is what those people have accepted. Yet on the other hand the Member says that he supports the amendment with which those people apparently do not agree, otherwise they would have insisted that it be there. So, if Government is going to canvass the views of interested parties, it would seem to me that Government must be guided by the majority view of that segment of the community. It is useless to canvass opinion, if that opinion is going to be thrown to the wind.

The other point I would like to address, Mr. President, and I think it is important, we have to accept that in this Bill, and in the industry generally, we start from the position that we have two classes of banks - an "A" class bank and a "B" class bank. There is good reason why we start with that premise. The premise is that greater capitalisation is required by the "A" banks; the management and directors are subjected to greater scrutiny because they do banking generally; the Inspector of Banks, as far as I know, Mr. President, pays very close attention to the operations of the "A" class banks since they take deposits from the Caymanian public; they are subjected to greater scrutiny. If we are going to say that we are going to have two classes of banks, but by some back-door method we are going to allow "B" banks to be the same as "A" banks, then why have the difference?

It seems to me, and I hope that I may be wrong on this, that one Member who spoke was advocating that one of the reasons why a "B" class bank should be given permission to do general banking business is because they are less thorough in processing an application, they demand less security. If that is the argument that is being put forward, I would suggest that it is a dangerous argument because whether it is an "A" class bank or a "B" class bank that goes belly-up in this country through imprudent management, it can damage the image of this country and, therefore, ruin its entire financial services industry.

I believe that we, in the Cayman Islands, can now boast of having the best regulated banking system in the Caribbean - certainly among the offshore financial centres. And I do not believe, Mr. President, that is something we should take and play with lightly. If the Financial Secretary, or any other Member, had been able to stand up here and say that the demand by Caymanians for financing was so great that the "B" class banks were called upon to make a significant contribution, then I would listen to the argument.

But I believe that when the Financial Secretary stood up here and said that his information is that in seven years the "B" banks had only lent $1 million - certainly, that is what they have outstanding at the moment or, as I understand it, maybe they might have lent a little bit more and had it repaid - to nine or 10 people, that would indicate to me that it kills the argument of anyone who could say that Government is depriving Caymanians of the right to borrow money, by not opening opportunities to "B" banks to lend generally....

MR. PRESIDENT: Excuse me one moment, it is now 4:30 P.M. I understand that the House wishes to sit on to complete the Second Reading and the Committee stage of this Bill.

SUSPENSION OF STANDING ORDER 10(2)

HON. THOMAS C. JEFFERSON: Mr. President, in accordance with Standing Order 83, I move the Suspension of Standing Order 10(2).

MR. PRESIDENT: The question is that Standing Orders be suspended for the purpose stated. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. STANDING ORDER 10(2) SUSPENDED.

MR. PRESIDENT: The Honourable Member for Education continuing.

HON. BENSON O. EBANKS: Yes, Mr. President, I am certainly going to try to help with the speedy process of this Bill. I am just going to summarise. As I said, I never intended to speak in the first instance but, since it appears that the amendments got in somehow to the Second Reading, I thought I would have to put my two-cents worth in too.

My summary is that we have two classes of banks - an "A" class bank and a "B" class bank - and it is for good reason that we have that division. In my opinion we would be foolhardy to make any "B" class bank an "A" class bank by accepting the amendment which is being proposed for Committee stage. Secondly, no case has been made that the "A" banks are not meeting the demands of the public for loan funds. Thirdly, we have to be careful that we do not create something by doing what is proposed in the amendment, that is, bringing a bank that is less well regulated than the "A" bank into the same league, thereby, causing a situation that might embarrass the whole country and ruin our financial industry generally.

Thank you, Mr. President.

I support the Bill before the House as it stands, and I will be voting against the amendment when presented unless you rule that I should not vote because of my peculiar circumstances.

MR. PRESIDENT: A word of explanation on the question of voting might be in order. The precedence is quite clear in the House of Commons, that in Committee, although an interest of the nature described may be declared, the Chair has almost always allowed the Members so declaring to vote. As this is an amendment in Committee, that is the attitude I shall be taking. But the four Members, of whom I know, may wish to declare an interest when the moment comes.

Does any other Member wish to speak? (pause) In that case would the Member in charge of the Bill care to reply?

HON. THOMAS C. JEFFERSON: Yes, Mr. President, to really thank Members for their support of the Bill, although in two particular cases they perhaps had reservations about a sub clause to clause 5, and to thank those also who did not speak for their silent approval of the Bill.

Thank you, Mr. President.

MR. PRESIDENT: The question is that a Bill entitled, The Banks and Trust Companies Bill, 1989, be given its Second Reading. Would those in favour please say aye... Those against, no?

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THAT THE BILL BE GIVEN A SECOND READING

MR. PRESIDENT: The House will now go into Committee to study a Bill entitled, The Banks and Trust Companies Bill, 1989.

HOUSE IN COMMITTEE

MR. CHAIRMAN: The House is now in Committee.

As the Leader of the House may I assume that as usual, we authorise the Honourable Second Official Member to correct minor printing errors and such like in these Bills? Would the Clerk now state the clauses of the Bill?

THE BANKS AND TRUST COMPANIES BILL, 1989

CLERK:

Clause 1: Short Title.
Clause 2: Interpretation.
Clause 3: Extent of Law.
Clause 4: Licence required to carry on business or trust business.

THE CHAIRMAN: The question is that Clauses 1 through 4, stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. CLAUSES 1 THROUGH 4 PASSED

CLERK: Clause 5: Application to be made to Governor.

MR. CHAIRMAN: Amendment to be moved.

MR. TRUMAN M. BODDEN: I would like to say very briefly on this, Sir, that the amendment does widen the position as I mentioned earlier, in relation to non-Caymanians, and it limits the borrowing to Caymanians in section 5(5)(b). On that I would just like to put on record that with lending, which is not defined in the Banking Laws, banking is defined as taking of deposits only. Therefore, I cannot see any harm coming to any "B" bank in that respect.

MR. GILBERT A. McLEAN: Mr. Chairman, with your guidance may I now move the amendment which I have given notice of? I take it that I should read...

MR. CHAIRMAN: I think there is no need for you to read it as it has been circulated. We will take the amendment as moved. Would you care to speak to it?

MR. GILBERT A. McLEAN: (pause)

MR. CHAIRMAN: No seconder is required in Committee.

MR. GILBERT A. McLEAN: Thank you, Sir.

Mr. Chairman, I have a little more to add, because while attempting not to speak specifically to the amendment, I gave a general view of how I felt regarding the stage of the Bill giving opportunity to Caymanians to borrow for reasons other than specifically owner-occupied homes; also, that this amendment would allow Caymanians who had an ordinary company of which all shares were legally owned, and beneficially for all the company directors, where persons of Caymanian Status would have the opportunity of borrowing. I believe it would be in the best interest of the community on a whole for this to be extended as has been proposed in this amendment. I would, therefore, on the basis that Members have seen it and I have spoken to it, recommend it to Members.

HON. THOMAS C. JEFFERSON: Mr. Chairman, as indicated in the moving of the Bill I am unable to support the amendment.

MR. TRUMAN M. BODDEN: What I would like to point out is that for section 5(5)(b), whether it is with or without the amendment, something needs to be done about Exempted and Ordinary Non-Resident Companies in relation to where there is a restriction in the Companies Law. Many times with these transactions a lawyer has to give an opinion that the company's borrowing is intra vires the Law as well as its Memorandum of Articles, especially with Exempt Companies.

I do not remember the section off hand, but 180 (something) does say that exempt companies should not conduct business in the Islands (or words to that effect) regardless of whether the section stands as it is, or otherwise. I believe that this would be a nice cleaning up. It could be done at either place, but we have this before us now. Just to put it beyond a doubt, I would just like to mention on the amendment itself that the first part basically does not do anything more than to remove the general notice - which I would not object to going back - and it widens it to allow a company which is purely Caymanian to borrow. They are the only two alterations to the original 1982 amendment.

HON. RICHARD W. GROUND: May I just say a word about the carrying on, or not carrying on of business in the Islands? This is something which we usually come across in the context of the Local Companies Control Law where that concept is specifically defined and addressed, and that might be something the Committee, which is going to look at not just the Protection Law, but also the Local Companies Control Law, very carefully.

The question of carrying on business or not is a difficult one, certainly not something I would readily want to undertake to define in an amendment to this Bill without further consideration and/or consultation. It does seem to me that the Select Committee on the Protection Law and the Local Companies Control Law does offer one forum where that can be looked at in depth by all the Members of this House and they can take representation on it. Then, if amendments are needed to the Companies Law, they could follow on after it during the next batch of amendments to the Companies Law, which I am sure will be coming from the Committee that has been considering that. I would caution against rushing into an attempt to deal with this difficult point in this Legislation at this stage.

MR. TRUMAN M. BODDEN: I take the Second Official Member's, point on the Caymanian Protection Law, the Trade and Business and Local Companies Control Laws. But if he will give me just a minute, there is a section in the Companies Law which specifically prohibits an exempted company from conducting business in the Island. But, if you want it to work I think you need to look at it very early because, in my view, I think you may have problems if anyone asks for an opinion, which they always do.

Section 190 says:

> "An exempted company shall not trade in the Island with any person, firm or corporation except in furtherance of the business of the exempted company carried

on outside the Islands;".

There is another section that deals with failure to comply. I think it is probably section 193 and also a further section where the declaration has to be signed annually saying what the company is doing. Section 186(b) states:

> "The operation of the exempted company since the last return or since registration of the exempted company, as the case may be, have been mainly outside the Islands,"

I have no qualms beyond that, I would like to put it on record that I think at some stage the conflict needs to be clarified and tidied up, Sir.

HON. RICHARD W. GROUND: With great respect, I do not think it is a conflict where this Law is involved, because this Law simply says basically, a "B" licensed bank shall not lend to an exempt or ordinary non-resident company unless it is carrying on business outside the Islands. The Companies Law says; "such companies shall only carry on business outside the Islands." I do not see the conflict. The two are in harmony.

MR. TRUMAN M. BODDEN: Where you have the "B" bank, which is an exempted company, lend under (ii)... or are you saying that exempted companies cannot lend?

MR. CHAIRMAN: ....Sorry, I am a layman. Let me join in. Is the Member's point that under subsection (b) (ii), a loan for a member of staff would be carrying on business inside the Islands? Is that the example of your point?

MR. TRUMAN M. BODDEN: That, or lending to Caymanians or lending to other licensees within the Islands. I mean, if there is a feeling it is not...

HON. BENSON O. EBANKS: I think the point that the Third Elected Member for George Town is making is that when the "B" bank itself is an exempted company, the "B" bank making the loan is an exempted company. That is the point.

Now, as I understand it, section 190 says that the company cannot carry on business in the Islands except in the furtherance of its main business or the purposes to which it is formed that it is to do business overseas. But it is arguable that if this Law, and we are now dealing with a bank which is in fact licenced as such and that licence gives it permission to do what is given under section 5 of this Law, I believe that legally that exempted bank is doing no more than what is the furtherance of the business for which it was licensed.

MR. TRUMAN M. BODDEN: Mr. Chairman, I bend to the weight of two legal opinions, Sir.

HON. RICHARD W. GROUND: Just before the Member bends, I have not taken fully his point. I thought he was addressing the question in section 5(b)(i), whether the borrower was doing business in the Islands.

I now understand him to be looking at the question whether the bank making the loan is in contravention of the Companies Law or not. I apologise to him for not grasping that.

I think one has to come back to the fact that this Law does confer upon a "B" licensed bank the right to make loans which are not prohibited by this section, and that when you look at the two sets of legislation together, you have a statutory commission. I can see that it is not entirely happy, but I do not think that at this stage it is going to be such a problem to require us to alter this Law. But I do see his point, and apologise if I seemed to brush it aside before.

MR. TRUMAN M. BODDEN: I know it was the second opinion that added weight to it.

HON. THOMAS C. JEFFERSON: I think, Mr. Chairman, that the place where the amendment perhaps suits best is in the Companies Law, and we are presently reviewing that Law. So we will take it up with consideration.

MR. CHAIRMAN: Does any other Member wish to speak on the amendment? (pause)

In that case I will put the question on the amendment, that the amendment as tabled and debated stands part of Clause 5...

HON. BENSON O. EBANKS: Mr. Chairman, it is on this point that I think I would be safer in declaring an interest in this Bill in that I am a minor shareholder in an "A" bank, and the Chairman of the Board. But I have a split personality here in that I am also a director of some "B" banks. So, I do not know. Nevertheless, I am seeking your guidance. Am I considered to be representing the general interests in this instance?

MR. CHAIRMAN: No, I think that in Committee - we looked at it during the break - and the rulings in the House of Commons are very clear, that there have been occasions where interests were considerably more direct than that which you are now declaring and the Chairman ruled that it would be in order for

the Member to vote. So, I would feel satisfied on the precedent myself, and having considered it, I would give the same ruling to any other Member who declared themselves.

MR. TRUMAN M. BODDEN: I am a director and a minor shareholder of an "A" licensed bank, Sir.

MR. JOHN JEFFERSON, JR: Mr. Chairman, I am also the local manager of a "B" bank.

HON. LINFORD PIERSON: I am connected in a minor way, also, with a "B" bank.

MR. CHAIRMAN: Any other Members wish to declare, before we go forward?

MR. W. McKEEVA BUSH: Yes, I can declare that these Members are not really doing any justice to their constituents by being on these bank boards. (laughter)

HON. BENSON O. EBANKS: Mr. Chairman, I would just like to say that I think all borrowers should declare their interest too. (laughter)

MR. W. McKEEVA BUSH: I think you will get that in the voting, Sir.

MR. CHAIRMAN: It is rather difficult, I suppose most people have a bank account. In that case I shall put the question that the amendments stand part of Clause 5. Those in favour please say Aye...Those against No.

AYES AND NOES.

MR. CHAIRMAN: The Noes have it.

HON. BENSON O. EBANKS: Could we have a division, Sir?

CLERK:

DIVISION NO. 5/89

AYES: 3

Mr. W. McKeeva Bush
Mr. Truman M. Bodden
Mr. Gilbert A. McLean

NOES: 9

Hon. Thomas C. Jefferson
Hon. Richard W. Ground
Hon. J. Lemuel Hurlston
Hon. W. Norman Bodden
Hon. Benson O. Ebanks
Hon. D. Ezzard Miller
Hon. Linford D. Pearson
Mr. Roy Bodden
Mr. Franklin R. Smith

ABSTENTIONS: 3

Mr. John D. Jefferson, Jr.
Capt. Mabry S. Kirkconnell
Mr. John B. McLean

NEGATIVED BY MAJORITY: AMENDMENT TO CLAUSE 5 FAILS.

MR. CHAIRMAN: The amendment fails. We will proceed with the reading of the clauses.

MR. W. McKEEVA BUSH: Mr. Chairman, I invite some of the Opposition Members to come over here on the Government side, Sir.

MR. CHAIRMAN: I do not think that is a matter for this particular debate.

HON. RICHARD W. GROUND: Mr. Chairman, before we leave this clause, there are two typographical errors in it which I will need to correct. I think I ought to mention it to Members so that they can see them. They are in clause 5(5), the one we have just been discussing.

First of all "exempt" should be "exempted", it is a term of art in the Companies Law 5(5)(a) and 5(b)(i), and then, again, in 5(b)(i) where is says; "a loan to an exempted 'and' ordinary non-resident company", that should be 'or an', a loan to an exempted or an ordinary non-resident company". It should be disjunctive rather than conjunctive.

MR. CHAIRMAN: Did Members catch that? Does that satisfy you?

HON. THOMAS C. JEFFERSON: Mr. Chairman, do we take the vote on 5 as amended?

MR. CHAIRMAN: Clause 5 was not amended, the amendment failed. The Clerk will now read clause 5.

CLERK:
Clause 5: Application to be made to Governor.
Clause 6: Shares not to be issued or transferred without the approval of Governor.
Clause 7: Capital requirements.
Clause 8: Use of words, bank, etc.,
Clause 9: Accounts.
Clause 10: Certain prohibition on licensee.
Clause 11: Number and approval of directors.
Clause 12: Powers and duties of Inspector.

MR. CHAIRMAN: We are reading the clauses through. As I reminded Members the last time we were in Committee, I am keeping my eye open. Anyone who wants to stop on any clause, please signify.

CLERK:
Clause 13: Preservation of secrecy.
Clause 14: Powers of Governor.
Clause 15: Governor may apply to Court.
Clause 16: Surrender of licence.
Clause 17: Chief Justice may make rules.
Clause 18: Power of search.
Clause 19: False or misleading information.
Clause 20: Offenses.
Clause 21: Appeals.
Clause 22: Immunity.
Clause 23: Regulations.
Clause 24: Repeal and saving.

THE CHAIRMAN: The question is that clauses 5 through 24 do stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. CLAUSES 5 THROUGH 24 PASSED

CLERK: A Bill for a Law to Repeal and Reenact with Amendments the Banks and Trust Companies Regulation Law, (Revised).

MR. CHAIRMAN: The question is that the Title stand part of the Bill? I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. TITLE PASSED.

MR. CHAIRMAN: That concludes proceedings in Committee on a Bill entitled, The Banks and Trust Companies Law.

The House will now resume.

HOUSE RESUMED

REPORT ON BILL

THE BANKS AND TRUST COMPANIES BILL, 1989

MR. PRESIDENT: Proceedings of the House are resumed. Report on Bill.

HON. THOMAS C. JEFFERSON: Mr. President, I have to Report that a Bill shortly entitled, The Banks and Trust Companies Bill, 1989, was considered by a Committee of the whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, the House having completed the work which it declared by suspending Standing Orders, I now move that the House be adjourned until 10 o'clock tomorrow morning.

MR. PRESIDENT: The question is that the House do stand adjourned until 10:00 a.m. tomorrow morning? I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until tomorrow morning at 10 o'clock.

AT 5:02 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., WEDNESDAY, 15TH MARCH, 1989.

WEDNESDAY
15TH MARCH, 1989,
10:22 A.M.

MR. PRESIDENT: Prayers by the Honourable Member for Tourism, Aviation and Trade.

PRAYERS

HON. NORMAN W. BODDEN: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Proceedings of the House are resumed.

Item 2 on the Order Paper, Government Business, Bills Third Reading.

GOVERNMENT BUSINESS

BILLS

THIRD READING

THE BANKS AND TRUST COMPANIES BILL, 1989

HON. THOMAS C. JEFFERSON: Mr. President, I move that a Bill shortly entitled, The Banks and Trust Companies Bill, 1989, be given a Third Reading and passed.

MR. PRESIDENT: The question is that a Bill entitled, The Banks and Trust Companies Law, 1989, be given its Third Reading and do pass. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE BANKS AND TRUST COMPANIES BILL, 1989, PASSED.

MR. PRESIDENT: Item 3, Other Business. The Honourable First Official Member.

HON. THOMAS C. JEFFERSON: Mr. President, in accordance with Standing Order 83, I move the suspension of Standing Order 14, which sets down that the Order of Business of the House be suspended in order for Private Members' Motions to be taken this morning.

SUSPENSION OF STANDING ORDER 14

MR. PRESIDENT: The question is that Standing Order 14 be suspended. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. STANDING ORDER 14 SUSPENDED.

MR. PRESIDENT: Private Member's Motions. Private Member's Motion No. 3/89. Before the Member moves his Motion, may I draw the attention of the House to the substituted version of the Motion circulated a few minutes ago, wherein the final paragraph is somewhat altered. May I take it that the House is prepared to accept this form of the Motion without going through the full and formal procedure of moving the original and the amendments? Is that in order?

The Elected Member for East End.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 3/89

GROUP EMPLOYEES

MR. JOHN B. McLEAN: Thank you, Mr. President.

I beg to move Private Member's Motion No. 3/89, Group Employees:

> "WHEREAS a number of Caymanians work in Government Departments as group employees and are not on permanent and pensionable terms;
>
> AND WHEREAS some of these persons have given ten years or more service to their Departments;
>
> AND WHEREAS some of these persons are nearing retirement age;
>
> BE IT THEREFORE RESOLVED THAT the Government take the necessary steps to investigate what steps can be taken to have these persons classified so that they may enjoy similar benefits as permanent and pensionable officers."

MR. GILBERT A. McLEAN: I beg to second that.

MR. PRESIDENT: Private Member's Motion No. 3/89 has been duly moved and seconded. Would the Mover wish to speak to it?

MR. JOHN B. McLEAN: Mr. President, I am pleased to move Private Member's Motion No. 3/89 for group employees, and I will only speak briefly on the Motion as it is self-explanatory.

I have moved this Motion with one thing in mind, and that is the great concern for the Government employees who fall in this category. When an individual is employed for this length of time, regardless of what his or her job is in the service, they should be entitled to receive reasonable benefits, as do the monthly paid civil servants.

The job of group employees or weekly paid workers, as they are called, is equally as important as the job of a monthly paid worker, as important as anyone who may sit in an air conditioned office with neck-ties and white shirts. If it were not for those employees who falls within this category carrying out the various tasks they have to do, it is quite possible there would not be certain jobs which I have just mentioned.

Again I would like to stress, if someone is employed for ten years and weekly paid, his or her benefits should be the same as a monthly paid person. I would add that it is my humble opinion that it should be the same full benefits as the monthly paid person who has been in a similar job for an equal period of time. In most cases, these persons have shown loyalty to the Government and their country. This can be substantiated by the fact that each individual who falls within the category mentioned has had opportunities to go to other better-paying jobs during the boom years of these Islands but, because of their loyalty to their job and to their country, they have chosen to remain in their present position.

This category of employee is mainly in the Public Works Department and is comprised of persons mainly from the eastern districts, West Bay and the Lesser Islands. I am aware that there are others in other departments, but my reason for mentioning the area which I have is that it is much greater. My humble opinion is that it is in the interest of Government to attend to this group which has been mentioned, before they may take the necessary steps to attend to themselves.

I am aware that a few benefits are extended to this category of employee. I believe that I am correct in saying that free transportation is offered, leave is about the same as the monthly paid, free medical is extended to the employee and their dependents after seven years. Again my question on this is: Why should this not be as the monthly paid employees? In most cases, the persons who fall within group employees need medical assistance more than those who are monthly paid. I am not in any way trying to say that the monthly paid persons do not deserve this free medical. I would honestly submit that a probation period be set which would be more realistic. I believe that most organisations tend to give a three to six month period for their probation period which would seem more realistic than instances where people are held on

for 10 years and still not confirmed.

I also believe it was in the Halls Report where recommendations were made with regard to changing the present way by which this calibre of person received benefits. At this point I do not wish to say more on it than to ask that all Honourable Members give their full support to the Motion.

Thank you, Sir.

MR. PRESIDENT: The First Elected Member for the Lesser Islands.

CAPT. MABRY S. KIRKCONNELL: Thank you, Mr. President.

I rise to support Private Member's Motion No. 3/89, Group Employees. I feel this is very necessary, and I congratulate the Mover and the Seconder for bringing this Motion.

In my district we have a need for it. A few of the aged employees have been, or are now receiving compensation for which we are very grateful. But one thing I would like to point out to the Honourable Members of this House, and to the listening public, is that one of the reasons why this is so essential is that most of these people who are now reaching retirement age worked for a very small wage during the time they were employed. They were not able to save and, with inflation, the increased cost of living, it is just a natural reaction and they are having problems facing the high cost of living today. We are fortunate that the country is in the financial position it is today, and we are all very proud. I think it would be fitting for us to provide benefits to those who helped bring us to where we are. It was as necessary to have people working outside in the field, as it was to have them in offices, to bring the Cayman Islands to the state of development that we have reached.

I am very grateful that this Motion is before the House. I would ask all Honourable Members to give it their support. The resolve section reads:

> "BE IT THEREFORE RESOLVED THAT the Government take the necessary steps to investigate what steps can be taken to have these persons classified so that they may enjoy similar benefits as permanent and pensionable officers."

We are asking that Government investigate it and we do ask them to give this their immediate attention. I would ask again in closing, that all Honourable Members consider what these people have done to help us arrive at where we are today, and I ask for their support.

Thank you, Mr. President.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I rise to support the Motion before the House. I am very pleased to have seconded this Motion as I believe it is one that is very essential and necessary to the good of the country and, indeed, the good of a particular category of workers in Government.

This matter of benefits and terms and conditions of service for group employees has been with us for many years. As a civil servant I well recall the many discussions on it in the Civil Service Association and for some reason, it was never quite resolved. For some reason the group employees never seemed to get similar benefits or considerations as did the pensionable employees.

This Motion is not seeking to increase the number of pensionable posts in the service and I certainly do not advocate that because that could swell the numbers in the service to an extent that is not desirable. I believe, however, that within the administration of Government it is possible that something can be done - whether it is through the personnel regulations or legislation - to help the situation with this particular category of employees.

I recall that before the Hall Report of 1980 conditions for these workers were very unsatisfactory, to say the least. It was at that time that the Hall Report recommended certain groupings of officers and, as I recall, certain formulas were put in place. There were also recommendations made whereby there were incremental stages within various categories that he created. I believe something has been done, but at this stage I feel that Government is in a position, money wise and expertise wise, to bring this whole situation in line.

In the Pensions Law there is a section which provides for nonpensionable persons. It is my understanding that in some instances some workers, such as Public Works workers and workers at the hospital and in the various wages areas, have received some benefits - however, not comparable to those which are received by pensionable officers. I believe the intention of this Motion is for Government to look at the situation and bring about a similar condition for both categories of workers.

These workers make it possible for pensionable officers to sit at their desks and enjoy comforts, such as those who take care of the air conditioning, and those who build the buildings. There is dignity in work, they are as important to the Government work force and the work force of this country as are the white collar workers. It is my opinion that these persons should not be overlooked.

If we look at the wage structure, we could easily find that the private sector offers wages which are higher than Government; this is normally the case, but, certainly, within this group of workers, persons who get out into the private sector and really want to hustle on the job, can certainly earn much more money than Government pays on a weekly basis. They have proven their loyalty. They stick with the job, particularly in the Public Works Department.

I think all Honourable Members here are aware that there are a

number of instances where persons have worked 27 years and over. I can think of one case of someone working 27 years leaving before 1980 and receiving no pensionable benefits. I think that case was one cited when discussions were held with the Salary Commissioner who examined group employees in detail.

Not only should we look at rectifying the situation now for the employees, but it should be something which is kept under constant review. That is done for pensionable employees because each year the cost of living index may give a certain benefit which I think is also extended to the category of workers. I believe it is necessary to examine their wages on a yearly basis, at least, because of the changes that come about in this category of workers due to the amount of construction that is going on and the fact that labour in the semi-skilled and unskilled area is in such high demand in the country.

Again, I am aware that the Hall Report in 1980 made certain recommendations and I am made to understand since that second report recommendation was also made in respect to keeping these categories of workers under review - their salaries and conditions of service. I do not think this was done in the beginning but trust that something at this stage has been done about forming a Committee and doing what has been suggested in his Report.

I would certainly like to know that Cayman Brac was not left out in this respect because there are persons there who have been working now for 10 years and more. Certainly there are some older people who have spent just about all of their lives in the employment of Government with breaks, perhaps, but over a long period of years. Some teachers are there that have been paid within this type of category of worker and certainly some in the Public Works Department. They are at an age where they now need any assistance that could be made possible to them by a pension, and that is only fair for all workers in this category.

Something else comes into play here and I would like to mention it. In the Public Works Department of Government, workers work there 44 hours per week. To the best of my knowledge, pensionable civil servants work a 40 hour week. The Labour Law says that the work week shall be 45 hours. It would seem only logical and right that some standardised condition be brought about. I would recommend this, taking into account the Labour Law, at least Public Works workers and the hours worked by the pensionable civil servants. To the best of my knowledge it is more or less internationally accepted that a work week is 40 hours. I feel that much can be done to assist with employer and employee relationships if we could arrive at a clear position on the work week. It seems unfair to have one category of workers paid by Government working certain hours of a week, and another category working more hours in a week in a different type of work.

Having heard the Member responsible for Labour say that certain amendments would be coming to the House in respect to the Labour Law later this year, I would certainly wish to offer that. And when the time comes I will certainly make the recommendation that something be done in this respect.

I think another improvement which could be made there is to prescribe a work day. Again, I think it is recognised internationally that a work day amounts to 8 hours and with certain overtime pay and all of the other matters, such as scheduling of work and so on, which comes into play due to consideration of hours of work.

May I say here also, as I think it is connected and it is appropriate, that I have heard at least two references made in this House in this Session that Grand Cayman subsidises Cayman Brac. I think I hold a differing view in that the only other Island which takes in revenue for Government, other than Grand Cayman, is Cayman Brac. I do not think Bodden Town or North Side or East End or even the big district of West Bay takes in revenue for Government. So it would seem that George Town, then, is subsidising these other districts. I do not think it is very pleasant or helpful to look at the situation that way.

I believe there is only one Government revenue and when it comes down to Budget time, such as we have gone through here over the past two days, we sit down as representatives and look after the needs of each district and to the best of our ability we grant such monies, as necessary, to do the various things which need to be done. In this respect, I would like if the House would see Cayman Brac as being one section of that pie, or one district which needs - like every other - and complimented in that it does raise some revenue and in no way feel moved to see what is granted there as a subsidy.

MR. PRESIDENT: I would not normally interrupt, but I did make a New Year's resolution that we would try to keep the debate within the confines of the immediate subject. I am not disputing what you said, but I think maybe you should now go back to the subject.

MR. GILBERT A. McLEAN: Yes, Sir. I was trying to connect it in that I would hope that the same amount of money which is granted to Grand Cayman would be granted in Cayman Brac as necessary and not looked upon as a subsidy.

Having said what I have on the matter of the conditions of service and salaries and pensions for group employees, I believe Government is in the position to do something about it. I hope that all Members of this House would share a similar view and give support to this Motion to now attend to something that has long been outstanding.

Thank you, Mr. President.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Mr. President.

I believe that this is a timely Motion. I wish to congratulate the Mover and the Seconder. I believe that coming at a time when it does, when there are some insinuations in the media and otherwise, it is a step in the right direction. I believe it is necessary in a society like ours to let the people

who do this type of work feel they are appreciated. I hasten to remark that as far as this category of workers goes, those employed by the Public Works Department, I happen to know that they are conscientious, hard working and dedicated.

What immediately comes to mind is the experience I had in witnessing them clear up after Hurricane Gilbert. I believe that we would be doing these people a serious injustice if we did not examine the situation with a view to making their terms and conditions a little more attractive and seeing if we could afford to give them some kind of consideration which would let them understand that we appreciate their efforts.

I am also concerned, too, by the fact that in a society like ours we have to be careful that we let it be understood that there is dignity in labour, because I believe the Honourable Members of this House well realise that we cannot afford, nor is our society so structured for everyone to be employed at the white collar level. Certainly, for the future ranks, young people will be encouraged by this step if they see that we are serious and interested in compensating and are concerned about the benefits of these people who are employed.

Lastly, I would like to pass on an observation which I made when I was in Japan some years ago. I was in a corporation which is, perhaps, one of the most successful in Japan, but not unlike any other company in Japan, in that these corporations depend upon a mass of blue collar workers for their success. Let me say that there is an absence of unions as we know them in the west in Japan. The reason for that is the workers at the very lowest level understand and realise that they are treated and taken care of, and they are just as important as those in the very highest echelons. I was made to understand that this kind of relationship makes for very successful and very profitable corporations.

I say this because if we can provide this kind of encouragement and we can let this level of workers know that we are as concerned about them as we are about the people who sit in the air conditioned office and come to work in their neckties, blazers and Saville Row suits, I believe we will have not only a successful Government, but a successful country.

So, I can support this Motion and I hope that other Honourable Members of this House feel the same way. Thank you.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON JR: Thank you, Mr. President,

I rise to support Private Member's Motion No. 3/89, entitled Group Employees. I feel this Motion is a very timely one and I feel that this matter, which is being addressed today, should have been addressed a long time ago. I feel that after a period of time, even though they are hourly paid workers, the Head of the Department can recognise those employees who are serious about making it a career and the mechanism should have been in place to ensure these people could have been recommended for confirmation as permanent and pensionable employees.

I am aware that according to section 26 of the Pensions Law after 10 years these employees are entitled to something. What they are entitled to is 75 per cent of what they would have earned, or what they would have been entitled to, if they had been a part of the permanent and pensionable establishment. From what I have learned we have quite a number of employees who have been employed in this area, in particular with the Public Works Department, some in excess of 20 years. They are now facing retirement and Government is faced with the situation of dealing with them and determining exactly what would be fair in their situation.

I have always been a person who recognises the value of any person, regardless of what level of the society he operates, what his profession might be. I concur with the remarks by the First Elected Member for Bodden Towns, that there is value in labour. We all recognise the valuable contributions these employees have made over the years and I think now is the time to address the issue once and for all. I think we, as legislators, should ensure that mechanisms are in place to ensure that matters of this nature are dealt with fairly and entitlements are earned and enjoyed by all.

I know presently, after 10 years, if you are a permanent and pensionable employee, you qualify for a pension. This is good. But, you know if you walk out of Government nine years and nine months after you have started you are not entitled to anything. I do not see where it would increase the cost to Government to make these employees entitled to the same benefits, as far as pensions are concerned. I think any person, regardless of what occupation he is employed in, after spending 20 or 25 years with any establishment should be entitled to something. I do not think we should only address the problem in regards to those workers who are now facing retirement to ensure their benefits and entitlements are brought in line with the permanent and pensionable employee, but we should ensure there is not a repeat of this by putting the necessary policies and machinery in place to ensure that Heads of Departments can, after a period of time (I do not know what the probationary period would consist of), be in the position to say, "This is a good employee, it appears that he wants to make this his career, I am comfortable with his performance and I would like to recommend him to be a part of the permanent and pensionable establishment."

I am happy to support this Motion and I trust that other Honourable Members see fit to do the same. Thank you, Sir.

MR. PRESIDENT: The Honourable Third Official Member.

HON. J. LEMUEL HURLSTON: Mr. President, I rise to speak on Private Member's Motion No. 3/89 as amended, entitled Group Employees.

I am happy to say at the outset that the Government is happy to give its endorsement to the amended Motion.

The Motion calls for the Government to undertake a review with a view to comparing benefits enjoyed by group employees with benefits enjoyed by their counterparts in the civil service. In that regard, I have a number of comments to make.

The first comment I would like to make is that there has always been, and is likely to always be, a difference between a pensionable and a nonpensionable employee; be he employed in the public sector or the private sector. There is a long traditional history to this which I do not wish to go into, but my understanding is that in the public sector the pensionable employee is one who is employed in a post, provision for which appears in the annual estimates of the territory, and a nonpensionable employee is a person who is employed in a group employee category.

Up until six years ago, and the coming into effect of an amendment to the Pensions Law contained in Law 30 of 1983, nonpensionable employees were expressed in Gazette notices and were payable only to those posts as the administrator (or Governor, more recently) designated as such and had published in the form of a Gazette notice. Up until that time, a person could have been employed for many years in a group employee category, but if the post in which the function they discharged was not Gazetted as a nonpensionable office, the officer enjoyed no retirement benefits. The Government, recognising the nature of changes in this society and recognising the need to look at comparative benefits, examined the matter and amended the Pension Law in a number of ways - one of which was to substitute a new definition for this nonpensionable office. The new definition contained in Law 30 of 1983, reads: "non-pensionable office" means any office which is not a pensionable office;". It makes it quite clear and easy to understand. So, commencing 6 years ago, anyone employed in the public service in a group employee capacity commenced to work in a nonpensionable office. I do not know how many persons are presently employed in the group employee category, but I think it is safe to say this number is in the hundreds.

This group of employees is often referred to as Government's temporary labour force. The force is often expanded as demand dictates and the workforce often contracts as projects are completed. These employees work on an hourly rate of pay. They work a 44 hour work week. So, in many respects there are differences that cannot be compared with their counterparts in the career civil service.

However, the Government, recognising their contribution is worthwhile and their labour is important to the success of the machinery of the public sector, has put in place pension benefits, sick leave benefits, annual paid vacation benefits and pension benefits. One has to make the point also, that there has to be a distinction between a Caymanian and a non-Caymanian when it comes to pension benefits because, obviously, pension benefits are payable only to Caymanians. One has to, therefore, sell the benefits otherwise to the non-Caymanians who are often relied upon to provide a valuable service also.

The current provisions in the Pension Law are expressed in Government's General Orders in Chapter 11 and I will just read the section dealing with the non-pensionable officers. It reads:

> "Non pensionable officers. The position of non-pensionable officers requires special description. They are specifically provided for in R.26 of the Schedule to the Pensions Law Cap. 121. This regulation virtually applies the same rules to non-pensionable officers as apply to pensionable officers save:
>
> (a) they are not paid a pension but rather an "annual allowance".
>
> (b) the allowance, like a pension, is payable monthly in arrears.
>
> (c) the annual allowance is 3/4 of the pension the officer would have got had he held a pensionable office where the officer has completed 10 years full time service. A gratuity is provided where the officer has five or more years of service but less than ten years service."

We have heard too, that other benefits are payable to group employees. I would just like to refer to a few of them as expressed again in the General Orders in Chapter 19 which deals with group employees and their benefits. And it reads:

> "Group employees are paid overtime for work in excess of their regular work week. Severance pay is payable to a Caymanian employee. The severance pay is based at the rate of 10 working days pay at his current rate of pay for each year of service, providing the service is satisfactory and up to a maximum of 10 years if his employment is terminated for one of the following reasons
>
> (1) on medical grounds that he is no longer fit by reason of infirmity of body or mind from giving further useful service;
>
> (2) on grounds of incapacity due to age;
>
> (3) in the public interest;

> (4) on grounds of redundancy
>
> (5) where the employee dies while in the service of Government;
>
> (6) on reaching 60 years of age and completing five years' service;
>
> This group of employees receive pensions, as mentioned before, for those Caymanian Officers employed for a minimum of 10 years' full time, continuance and satisfactory service, but officers receiving pensions may not also receive severance pay.
>
> These officers receive paid annual leave. If they have worked in the service for less than seven years, they earn leave at a certain rate, either 10 or 15 days per annum. And if they have been employed in the service for seven years or more they receive more annual leave, 15 days or 20 days.
>
> They also receive wages for public holidays. After being employed for 6 months, they may be granted sick leave of up to 10 days on full pay. They receive medical benefits for themselves and their spouses and dependent children under 19 years of age", and so on.

I say that, to highlight that improvements have been effected over the years to the point of where, in my view, this group of employees, particularly the Caymanians in this group, do now enjoy considerable similarity in benefits to their counterparts in the public service.

Something else has happened recently which might be of interest on this point, and reference was made of this arising out of the Hall Report of 1980 where a recommendation was made for the establishment of a Special Committee to review, on an annual basis, and make recommendations to Government for terms and conditions of service and rates of pay for group employees. I am happy to say that that Committee has, in fact, now been appointed. It consists of the Principal Secretary of Personnel (as the Chairperson), a representative from the Financial Department, the Chief Engineer of the Public Works Department and one or more other Heads of Departments of large employers of group employees.

This Committee has been tasked with the job of evaluating and reviewing all terms and conditions of service for group employees and their rates of pay and to make recommendations to Government on the matter. As envisaged in the Hall Report and, indeed, the Government having accepted and appointed a Committee, it is the expectations that this Committee will become a Standing Committee to function on an annual basis usually at the beginning of each year when consumer price index figures are available, cost of living adjustments are being considered, so on and so forth. So this group of employees will now, and in the future, enjoy the benefit of that annual review. Of course, group employees have never been omitted from any review previously and their rates of pay have been adjusted similarly to the rates for their counterparts, the monthly paid officers.

One other point has to be made and that is, if the Government (in its review required by this Motion) should find there is merit and room to add to the existing range of benefits paid to group employees, it has to be clearly understood that there should be no expectations on the part of anyone that these benefits would be made retroactive. These benefits could only be applied to serving officers and officers retiring with effect from a future date, because there may be some persons in the public raising their levels of expectations, hearing that the Government is going to give pensions to persons who worked for Government 70 years ago and are now retired, may now come in for some additional benefits.

I believe I have said enough, Sir. The position is that the Government is happy to accept the Motion to examine the matter and to look more closely at the areas in which similarities of benefits can be further enhanced. We will, obviously, keep the House posted as to the results of the review.

I thank you, Sir.

MR. PRESIDENT: Perhaps the Mover would like to reply before the break? Sorry, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: I will be fairly brief, Sir.

I support the Motion. I think it is good, and the aim of every Government throughout the many centuries has been to see that people are put on as equal a footing as possible. It is very interesting that Plato, who lived between 429 and 347 B.C., said, "Our object in the construction of the state is the greatest happiness of the whole and not that of any one class." Here we have a class of people who are hourly paid, and I think they deserve to be upgraded, pension-wise, to that of what the permanent, pensionable civil servants are getting.

I am happy that the Member dealt with some previous upgrading of the Law relating to pensions generally. I would ask the Third Official Member, when dealing with this, to look in Regulation 26 and perhaps give consideration there to extending the 1980 Law which provided for pensions to widows and children, not only of a male pensioner but also to children of a female pensioner in certain instances. I feel this was a milestone because it is all well and good to look at the adult, but when that person dies, innocent children, or wives who may not be able to earn sufficient to support the children of the family, would need

to be considered. I know around this time the Government of the day also extended the medical benefits. I am happy to see that a lot of this has been incorporated into the General Orders, but I believe that you should also look, when you are dealing with equalising this, at the question of free medical to the widows and the children.

I believe that milestone in 1980 was supplemented in the 1983 Law, which for the first time extended and brought in many of the hourly and daily paid workers to where they could receive the three quarter equivalent of the pension, so that in 1983 there were benefits granted.

One that was not mentioned in that same Law, which I think was very important, was where there was the failure of the administrative process; sometimes a failure over the years to have the necessary documentation of people of who were in the service. It granted you, Sir, in your capacity of Governor, a discretion that you could correct it and pay those unfortunate people the equivalent.

A few other amendments were made in that. For example, where there were breaks in the service to pensioners generally, then some of these could be excluded so that the Law was made a lot more equitable in 1983.

I would also mention that, while not being one of the people who passed the Labour Law, it makes no distinction in matters such as severance to Caymanians and non-Caymanians and there is a lot of equality there that one may well have to look at. I think, Sir, and I do criticise the Departments of Government for this who did it, to keep people on a temporary basis 10, 15 or 20 years is something that, in this day and age, should not happen. It would be less relevant now as we are hopefully equalising a lot of this now. Really, if you need somebody for 10 years, they are about as permanent as you are going to get, even though there may be breaks in it. That is not their problem, it is a problem from the point of view because their services are needed sporadically from time to time and it should not be detrimental to giving them some type of permanence.

In fact, those people need security far more than those people who have their jobs on a permanent basis. In many instances this involves not just Public Works, but people working at the docks, Public Health workers, cleaners and people who do building at times. I understand what the Third Official Member has mentioned about the differences between somebody permanently in the service, but as far as possible, I think we have to equalise the position. It is that which I would beg Government to look towards doing.

It helps the 'little people' (to take words coined by one of the present Executive Council Members), and it is one where I believe the duty of this House does extend to helping them. In fact, if it were not for them many of us would not be in this House now. I think the daily paid civil servants should get their full pensions and as many of the other benefits as well. I would ask Government to please look into this. Following along that, when I was in Government in 1980 and 1983, the nearer we could get to having equality and getting the benefits extended the more it made for a stable Cayman Islands. These people have some security, and they know their children and widows could be covered in the event of death, because many times they do not make the provision that other people may in the line of savings or insurance.

I know that the Member for Education is on Official Duty abroad, I am sure that wherever he is, on an airplane or otherwise, as soon as I sit down he is probably going to make a speech and I will end on that happy note, Sir. I wish him a good happy speech wherever he is.

Thank you.

MR. PRESIDENT: Proceedings suspended for 15 minutes.

AT 11:31 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:56 A.M.

MR. PRESIDENT: Proceedings are resumed.
Private Member's Motion No. 3/89. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I would like to offer my support with a few brief words, just so people do not hear a yes only.

This Motion is something which I believe will enhance relationships with this type of worker, and I will speak from this aspect of it. I believe that any benefit we would give an employee should do just that. I think someone mentioned already that this is one of the reasons why we have been talking about such things as pensions for the whole country. We instituted a Labour Law only seeking to get benefits and have better working relations between employee and employer. For instance, we have people who left Government before the enactment of that Law in 1980 or 1983, who gave 10 years of service and today they are in need too.

I remember bringing a resolution sometime back, asking Government to look into that matter. It was defeated, but I believe the pension scheme will take all those into consideration. As I said, I would be very brief, just to let Members know I am still here, supporting the Motion.

MR. PRESIDENT: I doubt anybody believed the Honourable Member was not here. Would the Mover now wish to reply?

MR. JOHN B. McLEAN: Thank you, Mr. President.
I take this opportunity to thank all those who spoke in favour of

the Motion and also to thank those who gave their silent support. The Second Elected Member for the Lesser Islands mentioned the importance of Government examining the salaries of group employees on a yearly basis. I would like to say that this is a very important point and one which I can support.

Another good point was made by the First Elected Member for Bodden Town with regard to the important part the type of person mentioned in the Motion played in these Islands during the recent Hurricane. I must say it was heartening to see the staff of the Public Works Department as they worked around the clock making sure roads and other public areas were cleared, especially the concern that they put forward for the public in general.

The Third Official Member in his contribution made some very good points, and I would like to thank him, and the Government, for supporting the Motion. One point the Third Official Member made, which was well received, was if the Government sees fit to come up with certain recommendations it would not be retroactive. I guess this is only fair, and it was good he brought it to our attention.

I take the point about group employees who receive certain privileges, and one which was mentioned was overtime. I am quite aware of this, and I would just like to say we also have certain areas within the monthly paid officers who also received overtime. I can think of Immigration, Customs and I am quite certain there are many other areas. I feel it is only fair that this calibre of persons be given the opportunity to receive overtime also.

I wish to thank the Third Elected Member for George Town for his very valid contribution to the debate. I am sure other Members would agree with me that he did bring out certain points which had not been touched on before which were very valid. I have every confidence that the Third Official Member and the Government will do whatever possible to implement what the Motion is asking for, and once again I would like to say thanks to all who offered support.

MR. PRESIDENT: The question will now be put on Private Member's Motion No. 3/89. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. PRIVATE MEMBER'S MOTION NO. 3/89 PASSED.

MR. PRESIDENT: The next item for business is Private Member's Motion No. 4/89. The Second Elected Member for the Lesser Islands.

PRIVATE MEMBER'S MOTION NO. 4/89

REVIEW OF ELECTIONS LAW

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I would like to move Private Member's Motion No. 4/89. Entitled Review of Elections Law, which reads:

> "WHEREAS there are areas of the Elections Law which need to be reviewed in the light of experience in previous general elections;
>
> BE IT RESOLVED THAT a Committee of the whole House be appointed to review the Elections Law and to consider the establishment of a permanent elections office of Government to administer the elections."

MR. JOHN B. McLEAN: Mr. President, I would like to second the Motion.

MR. PRESIDENT: Private Member's Motion No. 4/89 has been duly moved and seconded. Would the Mover wish to speak?

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I do not propose to speak at length on this Motion because I feel it is fairly self explanatory. Our recent Election has shown certain deficiencies and, due to this we, I believe that as Members we should correct these deficiencies where they appear in procedure or practice, as the case may be. It has been more than four years since the last law was passed, the 1983 Law (which would put it much over four years, in fact) and the time has now come when we can make certain changes in that Law. I believe that various Members have different ideas about the areas which need to be attended to and this could be looked at in such a Committee.

Perhaps the only thing which is a bit different, as suggested here, is the establishment of a permanent Elections Office in Government. I do not envisage anything of any great or elaborate nature. Personally, I see this as being a room or an office in which all the various materials that are necessary - a computer terminal, or whatever it would consist of, the laws, the various lists - would be kept during the course of a four year term. If any matters relating to elections needed to be dealt with, that would be the place

to do it. The physical office would be there with the necessary phones, desks, the whole bit.

If this Motion is accepted and studied in a Committee, I would certainly recommend that Government give consideration to (at least in an Election year) a Supervisor of Elections and a Deputy, who would be appointed by the Governor, whose full time job would be assigned to the business of elections. If a person has to be recruited from the service to this particular post, I do believe that the amount of work this last Election has shown has to be done for things to work smoothly, that person would have their full time dedicated to that, at least for that Election year. Other Members may have views on this, but these are my views.

During the course of the last Election year I had reason to go to the Supervisor's Office on a number of occasions and the phones were going constantly. There was always something that had to be done - and done within a specific time, as prescribed by the Law. There is no doubt in my mind that there is a considerable amount of work to be done on time. In this respect also, I would recommend giving the Supervisor of Elections, or his Deputy, whatever staff he needs and to assign them such officers from the Police Force, to be available on a full time basis, where there is need and requirements in this respect. I suppose what I am envisaging is a functional Elections Unit, taking into account all of the staff, manpower as required, material and whatever funds are necessary.

Having said that, Mr. President, I recommend this Motion to Members.

Thank you.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Mr. President.

In a country and society with a Government based on the Westminster system, where the right to vote and to exercise one's right at the polls is sacrosanct, I would say this is a sensible and timely Motion. I believe it does not necessarily have to wind up with any wide-sweeping reforms because our system is working fairly well now. However, I would agree with the Mover of the Motion that there are some little inconsistencies, or areas of concern, which could be made to function more smoothly and, without anticipating what might come of the Select Committee's findings, I would just like to say that I believe this is a Motion to which all Honourable Members of this House should give their support.

I would also like to say that the way our country is developing in terms of the population, in terms of the growing argument and insinuations now about who is what, and who is whom, I believe if we have an office such as this, which does not have to wait until nine months before the date is set for a General Election to come into being, we could eliminate a lot of questions and discrepancies.

I would be especially happy to see such an office develop, as the Mover of the Motion suggested it might, from very small and humble beginnings and take on complements, as time approaches and necessity demands, rather than to have an elaborate, expensive office at the very beginning which takes a lot of Government's revenue.

I concur that we could very well start out with just an office, a computer terminal, probably a Director and an assistant. If we start in that way, when we come to the election year then we could add staff as necessary, thereby having a gradual training process. I believe electoral foresight is a good thing for us to bear in mind because I have, on occasion, remarked that we are fortunate. Let us try to continue to be fortunate by assessing and taking these things into consideration before something disturbing happens.

I believe we have a very good record and that we are on a good course. I certainly see in this Motion a continuation of that course. I have no qualms, Sir, in supporting this Motion. Indeed, I have no qualms in recommending its support to other Members of this Honourable House.

Thank you.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON JR: Thank you, Mr. President.

I would like to give my support to Private Member's Motion No. 4/89 entitled Review of Elections Law. I support the idea of not only reviewing the Law, but also the establishment of a permanent Supervisor of Elections Office. I think in order to make the Law effective, the office also has to be in place on a permanent basis. This is a big job, and I think we have outgrown the practice of establishing or appointing a Supervisor nine months before the Election and then expecting him and his staff to perform miracles to ensure the elections are conducted in a very smooth and efficient manner.

Having gone through the last Election for the first time I tell you that is no joke. I think the Supervisor of Elections would be in a position to look at what equipment is available in order to speed up the whole process. I know over the years that it has been a tradition, and there is a certain amount of party or carnival atmosphere associated with elections. In other words, people look forward to getting together, waiting around, talking while waiting for the results. But as a candidate, I can tell you it was no joke at all sitting in there or standing around for eight hours before the counting even started. I would like for us to be in a position in 1992, when, if God spares my life I intend to be a part of it, where an hour or two after the polls are closed we will be in a position to pull a lever and the results will be there.

I think we have taken steps to advance the financial community. We are now taking steps to enhance the conditions and level of social and health services which are available. I think we cannot do any less for the electoral process in this country. We have always been known, and I think a great degree of our success is based on our image and history of political stability. Anything we can do to enhance

that, or to ensure that continues, I support wholeheartedly.

There are areas of the Law which need to be addressed. I think first of all the penalties in the Law are to be reviewed, and possibly enhanced, to ensure that things are run properly and to discourage any thought of misconduct. I also think the area of postal voting is one area that has to be seriously addressed. The original idea behind this was to ensure that people who were not physically capable of going to the polls would not be deprived of their constitutional right to vote. This has been abused. For example, in West Bay we had...

MR. PRESIDENT: Sorry, I think you must be very careful. I am not prejudging what you are going to say, but you do remember that there is a matter which is...

MR. JOHN D. JEFFERSON JR: No, Mr. President, I have no intention of referring to any particular case. I would just like to say it is a fact that in West Bay, 20 per cent of the voters voted by postal ballot. A lot of those, if the Law was strictly adhered to, would not have qualified for those ballots.

With those few words, I would like to say that I support the Motion, and I look forward to improvements in this area. Thank you.

MR. PRESIDENT: The Honourable Third Official Member.

HON. J. LEMUEL HURLSTON: Mr. President, I rise to offer my contribution to the debate on Private Member's Motion No. 4/89 calling for a review of the Elections Law, as well as to the possibility of establishing a permanent elections office.

The Government is indeed pleased to be in a position to accept this Private Member's Motion and, in keeping with past practices, the Government itself had in mind presenting such a recommendation to the House and it was simply awaiting the receipt of the Official Report from the Supervisor of Elections on the last General Election before doing so.

As was mentioned in the Throne Speech, Sir, the review will take into account, among other things, improvements in postal balloting. Certainly, all points that have been made so far in the debate are valid and to be taken into account - points relating to planning for, managing and supervision of the various functions in the process that makes for a more efficient election operation.

I do not wish to go any further into the matter because the Committee will address its mind to the various detailed points which are in need of review. Indeed, the Supervisor of Elections will be making formal representations and recommendations in his Report, and that might be the best basis on which to kick off, if you like, the work of the Select Committee.

The Government will therefore be accepting Private Member's Motion No. 4/89, and I thank the Second Elected Member for the Lesser Islands for proposing it.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I support the Motion for a formation of a Committee of the whole House to review the Elections Law and to consider the establishment of a permanent Elections Office of Government to administer the Elections.

During the Throne Speech and Budget Address several Members aired their concerns over different anomalies which surfaced during the General Election of 1988. I would say that for this reason this Motion is most timely. I feel certain with the work load of the Elections Officer and his staff in preparation for the last General Election, that this will be most welcomed by himself, the staff, and, no doubt, the Government.

I have no problems with supporting it as I mentioned, I think it is a very good Motion and most important, very timely. So, Mr. President, I ask all Members to give their full support to this Motion.

MR. PRESIDENT: The Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Mr. President, I rise to support Private Member's Motion No. 4/89, a review of Elections Law. I believe it is needed, and is timely. I believe there should be some changes and, again, a permanent office for the Elections Officer.

Thank you, Mr. President.

MR. PRESIDENT: Does any other Member wish to speak. (pause) If not, would the Mover wish to exercise his right to reply? The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I rise to offer my support for the resolution before the House. I am indeed happy it is here because I am quite prepared and ready to sit in Committee to examine the parameters that a candidate should have to work within. There are many areas which need to be changed. There are a lot of grey areas which I think can be more fully explained.

We live in a very modern country. We are updating every Law in this country for the better workings of the country and the Representation Law is paramount in democracy. Surely we are that; we are a democratic country. I have been through elections since 1972. At that time I was only 17 years old. I have witnessed what happened not only on Election day, but in the run up to polling day. I hope that

from this Committee would come forth ideas and there will be a possibility of putting those ideas into Law. Not just on the workings of the Election machinery from a Government point of view, but on the behaviour, as a whole, of candidates.

As I said, I would be very happy to quickly get into this Law. Therefore I can offer sincere support to the resolution before us.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I support the Motion, both as to the review and the establishment of an elections office. I would like to congratulate the Third Official Member, the Supervisor of Elections, and all those who had anything to do with the last Elections. I think it was well run, very well improved in what is the most difficult, but most crucial of the democratic processes; ensuring that proper Elections are carried out.

Speaking somewhat generally, when we look at this in some depth there are going to be areas which I think need to be tightened. I am not going to get into these here. I think we need to look around, as was mentioned by the Third Elected Member for West Bay; we have to look at trying to speed up the process a bit. If computers can be used as a first line of count with a backup of a manual if anybody is unhappy, this might be looked at.

Also, some of the younger people could possibly be put on at an earlier stage. They would go on at 17 or so and come up when they are 18 and thus ensure more people would get on to the Register. It could be done. We do have a good General Registry now for births, and I believe that, overall, the aim of the Committee must be to see that everyone who is entitled to vote, gets on the Register and has a right to exercise that vote fully and has no doubt whatsoever as to the process or method of doing this.

Like I said, a lot of improvement has been made. I think we undoubtedly have good people in place to deal with it. This Committee, which hopefully will have the input from the public as well, we will get a much better system which is so crucial to the continued democracy in the Islands.

I support it fully.

MR. PRESIDENT: The Mover to reply, please.

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I would like to thank all of the Members who spoke for their support, and to thank those who did not speak. I trust they will see fit to support the Motion.

At this time I, too, would like to express my most sincere thanks and appreciation to the Supervisor of Elections for the work he and his staff did in the Election which has just passed, and to the Third Official Member under whose Portfolio this fell. I think much praise is due for the extent of work which was done in the last Election. Although there were some hitches, it came off extremely well.

A point raised by the Third Elected Member for West Bay was that we might look at voting by machine. I never really gave thought to that myself, but it is certainly something which I would recommend that the Committee do. I understand it can be done in a manner now where you go and punch in a particular number or mark to vote for a particular person. These machines actually produce hard copies and you can go back and physically count them, so it might be very timely if the House did look at such a possibility. It surely would speed up and update the process.

I also take the point of persons getting on the voter's list. I thought myself, in the last Election, that persons could have been allowed to vote once their birthday would have been before the Election date. I do not know what would be the legal implication of that, but I would like to suggest that this also be looked at.

Again, I would like to thank the Members for their support to this Bill. I, myself, think it is one that is very necessary if we are to continue in the good political trend that we have in these Islands. Thank you, Sir.

MR. PRESIDENT: I shall put the question then on Private Member's Motion No. 4/89. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. PRIVATE MEMBER'S MOTION NO. 4/8 PASSED.

MR. PRESIDENT: It appears that the - not surprisingly, in view of the short time - Report of the Minutes of the Standing Finance Committee on the Draft Estimates is not yet ready, so I assume you will be moving the adjournment until tomorrow?

HON. THOMAS C. JEFFERSON: I think, Mr. President, if we take the suspension for lunch by 2:15 we would be ready.

MR. W. McKEEVA BUSH: Just a matter of clarity. I am wondering what happened with the Government Minutes on the Public Accounts Committee's Report. Just for the sake of clarity.

MR. PRESIDENT: As I remember, it was tabled at one of the early days of this Meeting of the House. It has been tabled but that does not yet bring it forward for debate. I think that is the position.

HON. THOMAS C. JEFFERSON: Mr. President, that is correct. It is lying there on the table somewhere.

MR. PRESIDENT: Perhaps we could discuss during the break precisely what the First Elected Member for West Bay has in mind. Proceedings are suspended until 2:15 P.M.

AT 12:37 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:20 P.M.

NOMINATION OF CHAIRMAN
OF THE SELECT COMMITTEE ON THE ELECTIONS LAW
Standing Order 69(2)

MR. PRESIDENT: Proceedings of the House are resumed. Just before we go on, may I mention that in regards to Private Member's Motion No. 4/89, The review of the Elections Law, that I have nominated the Attorney General as Chairman of that Committee under Standing Orders.

Presentation of Papers and Reports. The Honourable First Official Member.

PRESENTATION OF PAPERS AND REPORTS

THE REPORT OF THE STANDING FINANCE COMMITTEE
ON THE DRAFT ESTIMATES OF REVENUE AND EXPENDITURE FOR THE YEAR 1989
AND THE APPROPRIATION BILL, 1989.

HON. THOMAS C. JEFFERSON: Mr. President, I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee on the Draft Estimates of Revenue and Expenditure for the year 1989, and the Appropriation Bill, 1989.

MR. PRESIDENT: So ordered.

HON. THOMAS C. JEFFERSON: The Budget was so good that it took us two days to agree that everything that was in it was appropriate and it delayed us an hour getting the Minutes, for which I apologise to the Members, as we had agreed to begin at 2:15.

In a brief summary, the meeting concluded with three additions to the present Bill. We added $778 to Head 8, Legislative Assembly, and under new services we added a total of $36,573 to deal with the recruitment of a Constable and a Detective Sergeant for the Drug Squad of the Police Department. Thirdly, $15,000 to be added under Head 28, Administration, Health and Social Services to provide for a coordinator for the organisation "Cayman Against Substance Abuse". We also added under the Capital section, 4112, Government Offices, an additional sum of $100,000 for the expansion of the Public Works Office which is presently under construction. That brought the total Appropriation Bill to a sum total of $96,908,042. I would like now to just go as quickly as I can to record what actually took place in Finance Committee.

It agreed unanimously to approve the sum set out in the Appropriation Bill for His Excellency, the Governor - Head 1, Auditor General - Head 2, and the Public Service Commission. A point was raised by the Third Elected Member for George Town that Government needs to reinforce and increase the liaison between the Public Service Commission, the Personnel Department, the Caymanian Protection Board, the Central Planning Authority and the Labour Board.

Under Head 4 - Finance Committee, (perhaps we can call people by name in this report, Mr. President), Mr. Truman Bodden recommended legislation to update the Limitation of Actions Law and to make provision for specific documents to be kept. Further, to a matter raised by Mr. Gilbert McLean, the Chairman undertook to look into the appointment of a Board to deal specifically with the retention of records and archives, bearing in mind that the Museum office is also now in place.

Under Sub-Head 39-001, Public Officers Pensions and Gratuities, for the record, Mr. Truman Bodden recommended that the Capital Reserve Fund, to be used solely for pensions with a specific regard to civil servants who had been employed for a number of year be created, that is a Pension Fund. The Honourable W. Norman Bodden noted that the pension scheme would embody such recommendation.

Under subhead 08-008, Commonwealth Institute, Mr. McKeeva Bush raised the point, and it was agreed, that the Cayman Island's booth at the Commonwealth Institute be upgraded and the Chairman undertook to look into this matter.

Banking Inspectorate, Head 5, approved unanimously.

Head 6, Customs, Mr. McKeeva Bush recommended that the Customs offices at the airport warehouse be upgraded. Mr. Gilbert McLean sought an examination of the situation

regarding salaries and overtime, while expressing with other Members absolute praise with regard to the honesty, integrity and good work of the Officers of the Department. The Chairman advised that the matter has and will be closely monitored. Sub Head 07-044, Maintenance, Dogs - under the Customs Department. Mr. Truman Bodden stated for the record that whatever increases are needed during the year for the drug prevention programme, that the necessary funds be implemented. The question was put and approved unanimously for the sum of $1,394,682 and included the items mentioned earlier.

Head 7, Insurance. A point was raised by Mr. Franklin Smith regarding the Superintendent of Insurance liaising with the market in order to establish some source from which an insurance scheme for farmers to cover their crops could be established. The sum of $509,420 was approved.

The Legislative Department, Head 8, Motion No. 1., Mr. Truman Bodden moved that Government employ an independent person or persons to review the MLA and Executive Council salary increases and to present to the Governor such review. The Motion was passed. Captain Mabry Kirkconnell recommended a wage increase for the Department's messenger, cleaner and cook. It was agreed to defer consideration to enable the Acting Clerk to provide the salary scale for the Committee. The Sum set out in the Bill of $731,822 for Head 8 was approved unanimously.

On Head 9, under Marine Survey, Mr. Truman Bodden made the point that a look should be taken at the cost of surveying ships. The Chairman undertook to do so. The sum set out in the Bill, $225,862 for Head 9 was approved unanimously, as well as Heads 10, 11 and 12 which are the Registrar General, Statistics and The Treasury.

When we returned from lunch, we took the recommittal of Head 8, the Legislative Department and the question was put that the wages for Department's messenger, cleaner and cook be increased from scale "B" 2 to "C" 1 in view of the fact that the officer had not received an increment for three years. That is the sum of $778, which increased the allocation of the Legislative Assembly. That sum, as amended, was approved.

Heads 13, 14 and 15, Judicial, Legal and the Administration of Internal and External Affairs were approved unanimously.

Under Head 16, Broadcasting, Motion No. 2, Mr. McKeeva Bush moved that Sub-Head 02-015, Subsistence, and Sub-Head 02-018, Official Travel, also cover reporters within the Broadcasting Department travelling overseas to cover international and regional games; that is when Cayman Island's athletes are competing. Question was put and passed unanimously, as well as the sum set down in the Bill.

Heads 17 and 18, Immigration and Police, were also passed unanimously.

Head 19, Prisons, Mr. Franklin Smith recommended that Government consider purchasing local beef and pork for the prison instead of importing the produce. The sum as set down in the Bill, $2,388,666 for Head 19, Prisons, was approved unanimously, as well as the sum set down for Personnel and Office Services, Head 20 of $3,692,304.

On District Administration, Head 21, on a recommendation from the Honourable Ezzard Miller, it was agreed the purchase of hospital equipment be coordinated between the Medical Officer in Cayman Brac and the Chief Medical Officer in Grand Cayman. I think an amendment needs to be made here because we also needed to include the Hospital Administrator. The sum of $2,701,646 for Head 21 was approved unanimously. The Committee agreed to take the estimates for Health and Social Services, at that point, to enable the Member, Honourable Ezzard Miller, to attend the meeting.

We then moved on to Head 28 and the sum for the Administration of Health and Social Services was approved unanimously. We then moved onto Medical Health Services, Head 29, Motion No. 3, by Mr. Roy Bodden, moved that an investigation be carried out with regard to a property owner erecting a fence adjacent to the Bodden Town Cemetery which is denying public access to the Cemetery. The Motion was unanimously passed, as well as the sum set down for the Department.

On Social Services, 08-033, Support Grants, that the explanatory note for Sub-Head 08-033, Support Grants be amended by adding $100,000 for Church Youth Workers. And the sum of $2,209,488 for Head 30, Social Services, was approved unanimously and the Member then took his departure for his meeting.

We then returned to consider the estimates for the Portfolio of Tourism, Aviation and Trade. Head 22, 23, 24 and 25 being the Administration for Tourism, Aviation and Trade, Fire Service, Tourism, Trade and Labour were all passed unanimously.

Head 26, Administration, Education, Recreation and Culture. Mr. McKeeva Bush moved that Government take over the cost of lighting on the West Bay playing field. That Motion was unanimously passed. Motion No. 5, Mr. Truman Bodden moved that a sum of $100,000 provided under Sub-Head 08024, The Grant for Private Schools, be increased by $50,000 and the $50,000 be deducted from the $500,000 provided for roads, under 41006 and that this increase be spread among the schools. The Motion was denied; 9 noes and 1 aye, with one abstention being Mr. Gilbert McLean. Motion No. 6 with regard to Sub-Head 08030, Youth Development organisations. Mr. Truman Bodden moved that an inquiry be made by Government to determine what the three organisations, namely; the Scouts, Brigrades and the Duke of Edinburgh Awards Scheme required, and Government be authorised to spend up to an additional sum of $10,000. That Motion was also lost; 7 noes and 3 ayes. For the Record, the Honourable Benson Ebanks stated that before Motion 6 was put by the Member, he had indicated that he would write to the organisations to confirm whether additional funds were needed. Motion No. 7. Mr. Truman Bodden moved that Sub-Head 08032, Sport Grants, be increased by $40,000. That Motion was lost; 7 noes, 4 ayes.

Motion No. 8, Mr. Roy Bodden moved the Sports Organisation

be required to present to Government a set of financial statements to enable Government to determine whether grants and requests for additional funding are required. That Motion was unanimously passed. Motion No. 9, Mr. McKeeva Bush moved that Government examine the possibility of providing accident insurance for athletes participating in games; Motion unanimously passed, as well as the sum set down in the Bill for Head 26, which is the Administration, Education, Recreation and Culture.

Head 27 was unanimously passed, $9,288,164, as well as Head 31, The Administration for Communications, Works and Natural Resources.

Head 32, Agriculture, Motion No. 10. Mr. Franklin Smith moved that the sum of $50,000 provided under Sub-Head 06-007, for the Irrigation system at Smith Road and Lower Valley Farm be removed and added to the sum of $100,000 provided for, under Sub-Head 07-12, Farm Development, and the funds be utilised for the renovation of the Cayman Brac Office and to upgrade the pavilion for the Agriculture Society in Grand Cayman. A debate ensued and Mr. Franklin Smith withdrew Motion No. 10, pursuant to Honourable Linford Pierson giving notice of the following Motion; Motion 11, that the explanatory note to Sub-Head 06-007 be amended to read, "Provided for Agricultural Development, subject to the Agricultural Development Plan coming into effect." That Motion was passed, as well as the sum set down for the Department of Agriculture.

Head 33, Mosquito Research and Control. Mr. Franklin Smith raised the point, and it was agreed, that Government would undertake to continue to ensure that all chemicals used in spraying met the E.P.A. and F.D.A. standard, that is the Environmental Protection Agency and the Food and Drug Administration of the United States. The sums set down in the Bill, $1,673,027 was unanimously passed.

The following day began by considering Head 34 and 35 and they were approved unanimously. Head 36, the Postal Department, Mr. Roy Bodden recorded his observation that on Cruise Ship days, particularly when there are four ships in the harbour, the Post Office in George Town becomes overcrowded and he recommended that a survey be taken to alleviate the congestion by either installing stamp machines or erecting postal drop boxes as recommended in his contribution to the Throne and Budget debate. Discussion ensued. The Honourable Linford Pierson stated that the new Post Office project would start within the year and he would take into consideration Mr. Roy Bodden's proposal.

The Honourable Norman Bodden suggested that a Postal Booth could be established at the Tourist Information Booth on Cardinal Avenue, provided that the Postal Department post one of its employees there to sell the stamps. Honourable Linford Pierson also advised that Government is considering the establishment of a small office on the West Bay Road to further alleviate the congestion problems. The sum set down in the Bill, $761,128 for Head 36 was unanimously passed.

Head 37, Public Works Department. For the record, Mr. Truman Bodden raised the matter with regard to road repairs and Honourable Linford Pierson gave the Member his assurance that the matter is in hand. Mr. Gilbert McLean requested that explanatory notes for Public Works be included in next year's estimates. The Chairman gave the undertaking to have this done. Motion 12. Mr. Gilbert McLean moved that Government look into the possibility of Caribbean Utilities Company Limited providing, free of charge, electricity for street lighting. Motion was passed by majority, 8 to 4. The Sum set down for Public Works in the Bill was unanimously passed.

We then moved onto New Services. We quickly dealt with Head 2, 4, 5, 6, 7, and 8 which are the Auditor General, Finance and Development, Banking Inspectorate, Customs and Insurance and Head 8, the Legislative. They were all passed unanimously.

Under Legislative Assembly Department, for the record, the Honourable Benson Ebanks noted that Mr. Truman Bodden's Motion No. 1 taken at the Committee's meeting held yesterday which states; "That Government employ an independent person or person to review the MLA and Executive Council salary increases and to present to the Governor such review", did not preclude the implementation of a sum set out in new services for the Legislative Assembly. So that is the one which was approved by the majority, $57,640.

Head 9, 10, 11 and 13, Marine Survey, Registrar General, Statistics and Judicial were passed unanimously. On judicial, pursuant to discussion, it was agreed that if the amount of CI$25,000 for Court Reporters was insufficient, the Chairman shall have authority to increase the sum.

We then went on to Motion 13. Mr. Gilbert McLean moved that the number of Court Reporters be increased sufficient to allow each court to have a Court Reporter, including the Magistrates' Court, and that all proceedings be recorded verbatim. Further, that the Chairman, the Financial Secretary, be given authority to supplement the necessary funds. This Motion was unanimously passed.

Head 14, 15 and 16 were also passed: 14 and 15 unanimously, Broadcasting by majority with the Honourable Ezzard Miller abstaining from voting.

Head 17, Immigration. For the record, Mr. Truman Bodden sought an undertaking from the Honourable Member responsible to look into and clear up the Immigration backlog. The amount of $7,000 was unanimously approved.

On the Police, the sum of $113,083 and the Committee unanimously agreed that the two new posts, in addition to the $113,083 mentioned earlier be created; a Constable at $9,297 and a Detective Sergeant at $12,276. The Question was put and it was unanimously agreed that the total sum of $21,573 be added to the new services section. Pursuant to a matter raised by Mr. John Jefferson at yesterday's meeting, he again expressed concern in regards to single persons within the Police Department being exempted from housing allowance once married. The Chairman undertook to look into the matter. The sum set down, together with the amendment for the additional $21,573, was unanimously approved.

We then moved onto Head 19 and 20, Prison and Personnel. The sums required by each Department were unanimously approved.

Head 21, District Administration. The Committee unanimously

agreed that a new post of Planning Assistant at $14,604 be established and that the allocation of $19,968 for Social Worker be reduced by such sum to $5,364; that was unanimously agreed.

We quickly moved on to Heads 22, 23, 24, 26, and 27 being the Administration for Tourism, Aviation and Trade, the Fire Service, the Tourism Department, the Administration for Education, Recreation and Culture, and the Education Department, all sums requested in new services were unanimously approved.

Head 28, Administration of Health and Social Services, $3,000 and a Committee unanimously agreed that a new post of Cayman Against Drug Abuse Coordinator at $15,000 be established. It then approved the sum requested including the amended amount of $15,000 unanimously.

Heads 29, 30 and 31 were also approved unanimously, that is Medical Health Services, Social Services and the Administration of Communications, Works and Natural Resources.

The sums requested by the Agricultural Department were approved by majority.

We then moved on to Capital, commencing with Head 43, European Development Fund a sum of $1,983,399 was approved unanimously.

We then moved onto Head 2, Loan Funds General, Sub-Head 42-007, Post Office building. Discussion ensued on this subject, further to Mr. Truman Bodden's enquiry into the proposed new site for the Post Office. The Honourable Linford Pierson advised that a final decision had not yet been reached, but it is being considered that it be placed behind the George Town Library. The Honourable Benson O. Ebanks noted that the final decision will intimately come with the George Town Study Report. In reply to Mr. Truman Bodden's enquiry, Honourable Linford Pierson advised that the total cost for the Post Office project is approximately $2 million. For the record, Mr. Gilbert McLean stated that he did not support the idea of the new Post Office building, expressing the view that the money for the project could be used to renovate the present Post Office and by establishing a separate parcel post division. The Honourable Linford Pierson stated that Government had examined that possibility but the study showed that to decentralise the parcel and bulk post is not conducive to the operation. In reply to Mr. Gilbert McLean's enquiry, The Honourable Linford Pierson stated that the building would not be completed this year. He went on to say that the study would be completed and brought to Finance Committee. Mr. John McLean expressed the view that the Post Office should be kept in the existing building and that the decision should not be made until the Committee has considered study. The Chairman noted that the Post Office is presently no longer able to cope with the growing number of Postal Box requests from the public, or the need for post office boxes. The sum set down, $2,523,699, for Head 42 was unanimously approved.

We then moved on to Head 41, and this took a little time. The Committee considered each sub-head separately, commencing with Sub-Head 41-026. Captain Mabry Kirkconnell expressed his concern that Cayman Brac is facing a serious problem with regard to solid waste and sought Finance Committee's undertaking to authorise the necessary funding for a solid waste dump, when a site is located. The Committee unanimously approved. The Committee unanimously approved the Sub-Head 41-026. We then moved onto 41-025, 41-024 and 41-023 and they were approved unanimously.

Sub-head 41-022, Captain Mabry Kirkconnell moved Motion No. 14, "The Honourable Member responsible for Education should consider the proposal to construct a staff room and Principal's Office at the West End Primary School in Cayman Brac." The Motion was passed by a majority. For the record Mr. Truman Bodden inquired about the overcrowding at the George Town Primary School.

Sub-Head 41-013, for the record, Mr. Truman Bodden requested the Honourable Member responsible to look at improving the parking space at the White Hall launching ramp. Sub-Head 41-013 also unanimously approved.

Sub-Head 40-112, the Committee unanimously agreed that $100,000 be added to sub-head 41-012 for the expansion of the Public Works' existing offices. So the Committee unanimously agreed that a sum of $264,723 provided under Sub-Head 4112 be increased by $100,000 to $364,723.

We moved on to 41-011, Motion 15. Mr. Truman Bodden moved: "Funds provided for Government House be increased by such sum necessary to allow it to be properly repaired, roofed and wall and that Government look at what other facilities could improve it. Further, that a tennis court be provided." For the record, Honourable Ezzard Miller expressed opposition to the Motion based on his Excellency's statement published with regard to the comfort of the present House. The Motion was lost, 6 Noes to 5 Ayes. For the record the Honourable Norman Bodden stated "that if additional repairs were needed to upgrade the building to acceptable standards resulting in a sum over and above that provided of $85,000 that Public Works should certify the need and provide estimates and that such estimate or estimates be brought to the Committee for approval of supplementary expenditure." For the record Mr. Truman Bodden requested that Public Works provide an estimate on the sea wall and tennis court for the Committee's consideration.

Sub-Heads 41-011, 41-010, 41-008, 41-007, 41-005 and 41-001 were all unanimously approved.

We then moved on to Head 40, which deals with the Vehicle, Furniture and Equipment, 4018, 9 through 7 and 2 and 1 were unanimously approved.

Sub-Head 6, Construction of Roads. It was unanimously agreed that of the sum of $500,000, to be allocated by Finance Committee, $100,000 be allocated for the district of East End and that the remaining $400,000 be divided equally between the districts of Bodden Town, George Town and West Bay. For the record, Captain Mabry Kirkconnell sought an undertaking from Government to get additional funds to upgrade the Bluff Road in Cayman Brac. For the record, Mr. Truman Bodden inquired what the overall impact of the Master Ground Transportation Plan is to have and how would Government provide the balance of funds. He further stated that he supported the $4.7 million allocation of funds but wished to see details of the

funding on the Master Ground Transportation Project before agreeing to its full implementation. That has not been done. The sum set down for 41-006, Construction of Roads were approved by a majority.

Sub-Head 41-009, Farm Development. Mr. John McLean moved: "that $40,000 from the Lower Valley Building Programme and $40,000 from the $50,000 allocated for the Agronomy Programme be earmarked for the construction of the Agricultural Pavilion." That Motion was unanimously passed. For the record the Honourable Linford Pierson noted that the provision of funds for the reservoir is subject to the Agricultural Development Plan being in place. The sum set down for subhead 41-009 was unanimously passed, taking into account the change in the explanatory note.

Consideration of the Clauses of the Bill: Clause 1 and 2 were passed unanimously and the schedule, as amended, was agreed. The total expenditure as amended was $96,908,042.

I am not sure if I am supposed to read this, but at the end of the meeting a vote of thanks on a proposal by Mr. Truman Bodden, the Committee expressed its appreciation to the Financial Secretary for his able Chairmanship of the two meetings, that is the work of the Finance Committee.

MR. PRESIDENT: That constitutes the Report of the Committee on the Appropriation Bill, 1989. Next, we proceed to the third reading.

THIRD READINGS

CLERK: The Appropriation Bill, 1989.

HON. THOMAS C. JEFFERSON: Mr. President, I move that a Bill entitled, The Appropriation Bill, 1989, be given a third reading and passed.

MR. PRESIDENT: The question is that a Bill entitled, The Appropriation Bill, 1989, been given its third reading and passed. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE APPROPRIATION BILL, 1989, PASSED.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I am happy to say that the business as set down for this Meeting has been accomplished. I wish first to express our grateful thanks to the Acting Clerk and her able assistants for the exemplary way in which they have conducted themselves in performing the duties of their offices, and I hope this display of efficiency will remain with us for as long as we are here.

I move the adjournment of this Honourable House, Mr. President, until the 22nd of May, 1989.

MR. PRESIDENT: Before I put the question, may I say a few words?

It has been a long Meeting, perhaps the longest Meeting of the House on record. The patience of Members, and occasionally the patience of the Chair, has been tried, but on the whole courtesy and tolerance has fortunately prevailed. For that, I think we should all be grateful.

I would particularly like to congratulate Members on dealing so expeditiously in Finance Committee with the largest Budget to date. I would like to offer my thanks, perhaps on behalf of all Member's too, to the Acting Clerk and all her staff, to the Sarjeant and to the back room staff. For them it has been a very long sitting and, of course, their work is not yet finished.

The question is that the House do stand adjourned until the 22nd of May. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until 10 o'clock Monday morning, 22nd May, 1989.

AT 4:05 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. MONDAY, 22ND MAY, 1989.

MONDAY
22ND MAY, 1989
10:10 A.M.

MR. PRESIDENT: Prayers by the Second Elected Member for Bodden Town.

PRAYERS

MR. FRANKLIN R. SMITH: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Please be seated.

The Assembly is in Session. The first item on today's Order Paper is the Obituary in regard to the late Mrs. Thomas Russell.

OBITUARY
(Late Mrs. Thomas Russell)

MR. PRESIDENT: With great regret we learned of her death last week. As you know, she was the wife of the very much respected former Governor, Mr. Thomas Russell.

Mrs. Russell passed away after a short illness on the 19th of May and cremation will take place in England on the 25th of May, this Thursday. Floral tributes have been arranged on behalf of the Cayman Islands' Branch of the Commonwealth Parliamentary Association and of the Executive Council. I am sure that Honourable Members will wish the sincerest condolences of the House to be conveyed to Mr. Russell in his sad loss.

We now move to Questions.

The Second Elected Member for the Lesser Islands.

QUESTIONS TO HONOURABLE MEMBERS

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION RECREATION AND CULTURE

NO. 30: Would the Honourable Member say why the Turtle Farm is not producing enough meat to supply the local demand?

ANSWER: Intensive culture of green sea turtles is relatively expensive, and to break even or to make a profit both the edible and decorative products must be sold. Without the United State's market it has been impossible to sell all of the shells and jewellery produced. During the 1987-1988 fiscal year, the difference between what it cost to produce a pound of live weight turtle and what we could make by selling a pound of turtle meat was a loss of CI$.301. During that fiscal year 175,713 pounds of turtle was processed resulting in a net loss of $52,889 on the sale of turtle meat. The Cayman Islands Turtle Farm therefore only manages to avoid application for Government subsidy as a result of the better rate of return it enjoys on (a) its continuing success as a tourist attraction; and (b) the limited sale of jewellery and oil that is still open to it.

Notwithstanding the support from these revenue earners, since the rate of loss does not seem to decrease with volume, it would appear that increasing production at this time would result in

the Farm no longer being capable of breaking even or of making a small profit; unless the actual price of turtle meat were to be increased.

SUPPLEMENTARIES

MR. W. McKEEVA BUSH: Can the Honourable Member say whether there is any policy at the Farm to sell turtle meat on a first come first served basis?

HON. BENSON O. EBANKS: To the best of my knowledge, that is correct, Mr. President.

MR. W. McKEEVA BUSH: I wonder, Mr. President, if the Honourable Member knows that this is not happening at the Farm, and whether he would try to correct the present procedure which is selling to a special few and the general public cannot get it on demand, even when they have it?

HON. BENSON O. EBANKS: Mr. President, as I understand it is still on a first come first served basis in that those persons who get it have engaged their supply in advance.

MR. W. McKEEVA BUSH: Mr. President, first come first served as I know it (and, I guess, as the whole Island knows it) is just that. I do not think that I have to repeat that. But what is happening at the Farm is... and I will turn it into a question if you will give me a chance to frame it... that people are calling in for it months in advance. This is not just the general public, these are people who have businesses. I think the Honourable Member knows what I am talking about.

MR. PRESIDENT: You have not yet quite got to the question which you promised us.

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I would like to ask the Honourable Member, through you, does he have any estimate of what the demand may be beyond the supply?

HON. BENSON O. EBANKS: Not specifically. But I have information which would indicate that it is not a lot in that I have been informed by the Managing Director of the plant that when some illegal turtles were brought in (I think it was last December) the Farm was left holding turtle meat for about four weeks.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands, I think you caught my eye.

MR. GILBERT A. McLEAN: Thank you, Mr. President.
In view of what the Honourable Member has said - and I have had contrary information that there is excessive demand over supply - can he say whether he would consider advising the Turtle Farm to raise the price of the meat and produce more meat for consumption?

HON. BENSON O. EBANKS: Mr. President, as the Member probably knows, a new Board of Directors has just taken over at the Farm. One meeting only has been held. I certainly would give the Member the undertaking that this will be a matter to be looked into by the Board.

MR. TRUMAN M. BODDEN: Would the Honourable Member say whether he would also look at providing a specific amount which would go to people who individually buy, rather than the wholesalers (if indeed that is the case as the First Elected Member for West Bay has mentioned), so that individual persons could be allocated, say, a half or two-thirds or whatever of the supply?

HON BENSON O. EBANKS: We will look at the market in its totality.

MR. PRESIDENT: We move to Question No. 31. The Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 31: Would the Honourable Member say what the estimated cost of installation of the various traffic lights now in progress is; how many traffic lights are to be installed and at what locations are the installations to be made?

ANSWER: The estimated cost of installation of the various traffic signals now in progress is $263,660. Two intersections (Shedden Road/Eastern Avenue and Crewe Road/North Sound Way/Thomas Russell Way) are being signalised for the first time and the existing systems at three other intersections (Harbour Drive/Fort Street/and North Church Street/Eastern Avenue) are being upgraded.

SUPPLEMENTARIES

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say how the number of lights were determined and their locations?

HON. LINFORD A. PIERSON: Mr. President, the lights were determined through the Public Works Department and the location similarly determined by the Department.

MR. GILBERT A. McLEAN: Would the Honourable Member say if the installation of these lights falls in line with the recommendations which have been made in the Master Ground Transportation Plan?

HON. LINFORD A. PIERSON: The answer, Mr. President, is yes.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, for clarification would the Honourable Member confirm whether the installation cost in the answer includes the cost of the lights themselves?

HON. LINFORD A. PIERSON: The answer: The cost does include the cost of installation.

MR. GILBERT A. McLEAN: Would the Honourable Member say, in view of various criticisms and statements being made by members of the public regarding the number of lights that are being installed, if any investigation has been made into the possibility of placing roundabouts instead of lights in these various areas?

HON. LINFORD A. PIERSON: Mr. President, I assume the reference to the Master Ground Transportation Plan by the Member was an indication that he had some knowledge of this. It is stated in there, Sir, that the roundabouts were somewhat more expensive than the signalised intersections and were not really as practical for use within the Cayman Islands. This is the reason why it was decided that we would go for the signalised intersections rather than using the roundabouts in the five various areas that I have just mentioned. However, it is intended to put a roundabout where it is desired and practical.

MR. GILBERT A. McLEAN: Mr. President, I was trying to ascertain if anyone had looked at the possibilities of roundabouts since the Report of the Master Ground Transportation Plan, and if they would not work in the Cayman Islands. If they did not have practical applications, why is that so?

MR. PRESIDENT: You may wish to reply, but I think we are straying from the original question. Honourable Member, you may take that if you wish.

HON. LINFORD A. PIERSON: Thank you, Mr. President, I have no objection to replying to that. Not being an engineer myself, this can hardly be factual, but the information that I have received was that for various reasons - one being that the Cayman Islands is a tourist resort and it is not the most practical thing to use roundabouts here (they have not proven successful in most places) - it was decided to use the signalised intersection which is internationally accepted and understood.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, can the Honourable Member say whether the present type of lights used were also recommended in the Master Ground Transportation Plan?

HON. LINFORD A. PIERSON: The present lights used were those recommended by our engineers through the Public Works Department.

MR. JOHN B. McLEAN: A further supplementary, Mr. President. I wonder if the Honourable Member could say why we are presently using three-way lights at a two-way junction, for example, by the Cable & Wireless Exchange?

MR. PRESIDENT: I do think that goes a long way beyond the original question, so we will move on to Question No. 32.

The Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 32: Would the Honourable Member say whether Government has a contract with any company or persons for the maintenance of street lights and, if so, with whom and what is the annual cost?

ANSWER: Government has an agreement with Caribbean Utilities Company Ltd. for the maintenance and power for street lights at an annual rate of $1,333.00 per month (CI$15,996.00 per annum) for

maintenance and $9,523.00 per month (CI$114,276.00 per annum) for power, for a total annual cost of $130,272.00.

SUPPLEMENTARIES

MR. GILBERT A. McLEAN: Would the Honourable Member say how the installation of any given street light is determined?

HON. LINFORD A. PIERSON: Mr. President, my understanding of the procedure is that a request is made, normally through a member of the constituency to his Member of the Legislative Assembly (MLA), and then the MLA will request it through the Portfolio. That request is then sent to the Public Works Department which, in turn, requests from Caribbean Utilities Company that street lights be placed in a particular area. That is the procedure that is being followed, Sir.

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say if attention is given to the installation of street lights to ensure that one district does not get excessive street lights while others are not so fortunate, that it is shared equally?

HON. LINFORD A. PIERSON: Mr. President, I assume from that question that some Members are much more diligent with their constituents than others. But I can give the Member that assurance, Sir.

MR. PRESIDENT: There appears to be no more supplementaries on that one. Shall we go to Question No. 33? The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION RECREATION AND CULTURE

NO. 33: Can the Honourable Member say what the pupil to teacher ratio is at the High, Middle and Primary Schools?

ANSWER: The overall pupil-teacher ratios for the Government School system is as follows: Primary Schools 1:18; Middle Schools 1:14; High Schools 1:13

SUPPLEMENTARIES

MR. W. McKEEVA BUSH: Can the Honourable Member say whether this is actually happening?

MR. PRESIDENT: Would the Member care to expand on the question? I think it needs it.

MR. W. McKEEVA BUSH: The Honourable Member says that it is the overall pupil teacher ratio for the Government School system, I am asking whether, in fact, classes are not larger than what the ratio is?

HON. BENSON O. EBANKS: Mr. President, the ratio is the number of pupils divided by the number of teachers so that the number would, in fact, be less in some classes in some instances and greater in others. But these figures which I have quoted are the ratios as they exist in the system at the moment.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member please state whether these ratios are in accordance with the accepted ratios under the Government's policy or whether they may be higher or lower?

MR. PRESIDENT: I think you have gone forward to a question which is on the Business Paper for later on which asks more or less the same question.

MR. TRUMAN M. BODDEN: Yes, Mr. President, I will leave it for that. It is really my question.

MR. PRESIDENT: The Honourable Member wishes to answer?

HON. BENSON O. EBANKS: Yes, Mr. President, these are lower.

MR. PRESIDENT: The First Elected Member for the Lesser Islands.

CAPT. MABRY S. KIRKCONNELL: Thank you, Mr. President. I wonder whether the Honourable Member would say if a similar ratio exists in Cayman Brac?

MR. PRESIDENT: I think, again, that is a question to be dealt with later on the Business Paper. Is that question not asked?

MR. TRUMAN M. BODDEN: Not specifically for Cayman Brac, Sir.

MR. PRESIDENT: I am sorry. Please go ahead.

HON. BENSON O. EBANKS: The ratio in Cayman Brac, Mr. President, is better than this.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Would the Honourable Member say whether the ratios he has given are above or below what is accepted as the standard ratio for teacher/pupil in the school, and whether he is satisfied that these low ratios are producing the results that one would expect from it?

MR. PRESIDENT: I think the first part of that question does come up later on the Order Paper, but the second part is not listed. If you wish to take the second part of that.

HON. BENSON O. EBANKS: Would that not be an expression of opinion, Mr. President?

MR. PRESIDENT: I think it invites an expression of opinion.

MR. W. McKEEVA BUSH: Mr. President, a supplementary. Can the Honourable Member say whether, in fact, there are in some classes with up to 40 children to one teacher?

HON. BENSON O. EBANKS: No, Mr. President, we do not have any classes that high, as far as I know.

MR. W. McKEEVA BUSH: Mr. President, do we have any then between 25 and 30?

HON. BENSON O. EBANKS: Mr. President, the highest number of children in any class that I have record of is in Band 1 in year three at the High School. They have approximately 28 students in one class there.

MR. PRESIDENT: I was not quite quick enough there. I think that is specifically asked on Business Paper No. 4. However, perhaps we will have another go at it.

No further supplementaries? Fine. Can we now go to Question No. 34? The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION RECREATION AND CULTURE

NO. 34: Can the Honourable Member say: (a) what is the total number of students in special education classes at the High, Middle and Primary Schools; and (b) of what nationalities are they?

ANSWER: High School = 95 total
Nationalities: 91 Caymanian; 2 Honduran; 2 Jamaican

Middle School = 155 total
Nationalities: 146 Caymanian; 7 Jamaican; 1 Honduran; 1 Nicaraguan

Primary School = 152
Nationalities: 126 Caymanian; 11 Jamaican; 1 Belizean; 11 Honduran; 3 Cuban.

SUPPLEMENTARIES

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Would the Honourable Member please mention what the criteria for these children in the special education classes is? If that is a bit wide then...I was just a bit worried when I looked at the....

MR. PRESIDENT: No, I think that is a fair supplementary. The figures have been given, there must be some basis for them.

HON. BENSON O. EBANKS: Mr. President, the criteria is broad. For example, physical handicaps, visual impairment or hearing impairment. There may be some children with a mental handicap or others who are emotionally disturbed and the greater number would be those with learning disabilities of varying

magnitudes.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Mr. President, a supplementary question. Would the Honourable Member care to say of the three categories listed, what is the proportion of students who fall in the special education category vis a vis the total school population?

HON. BENSON O. EBANKS: A quick calculation, Mr. President... It looks like less than 10 per cent.

MR. ROY BODDEN: Mr. President, perhaps I did not phrase my question properly. What is the proportion of students who fall in the category of special education in the High School as against those who would fall in the normal education? Similarly, what is it for the Middle School and the Primary School? Mr. President, I should have three figures.

HON. BENSON O. EBANKS: The answer, Mr. President, was to the High School. The figures are considerably higher in the Middle School and the Primary School. If the Member looks at the answer he will also see that the totals are higher in the Middle and Primary Schools. That is because of children, as I mentioned, in the group with varying disabilities of various magnitudes. These numbers I have given on the Middle and Primary Schools include children who are in the main stream but taken out for one class. They are not children who are hard-core in the special education stream.

MR. ROY BODDEN: Mr. President, I would like to request of the Honourable Member (and this could be done at a later date) that we be given a breakdown with the differentiation between the physical and the mentally handicapped, Sir. Thank you.

MR. PRESIDENT: I think you are being requested to provide that in writing later.
The Second Elected Member for the Lesser Islands.

MR. GILBERT McLEAN: Mr. President, would the Honourable Member say, in view of what must be taken as an extremely high percentage of these type of students, if the Member is satisfied that sufficient attention is being given to this matter in the schools and, if the answer is yes, why does he believe so?

HON. BENSON O. EBANKS: Mr. President, I believe that the figures speak for themselves. The fact that we are able to identify this number of children indicates that good quality of screening is being done. As I explained, this number, particularly in the Primary and Middle Schools, include children suffering from any learning disability whatsoever. We are, as I mentioned in the last Meeting, improving the facilities for teaching special education within the school system in terms of plant, teachers and equipment.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say if possible how he could have had, with the 95 in the High School in these classes, a nearly 100 per cent success rate with the GCSE? Can he give an explanation of this?

MR. PRESIDENT: I think that is going a long way beyond.

MR. TRUMAN M. BODDEN: It is too wide then?

MR. PRESIDENT: Yes, I think so. I hope that Members are not thinking that the Chair is too restrictive.

Shall we go to Question No. 35? The First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION RECREATION AND CULTURE

NO. 35: Can the Honourable Member say how many members of staff have resigned or requested transfers from the George Town Primary School during the tenure of the present principal?

ANSWER: The number of staff changes at the George Town Primary School during the tenure of the present principal were as follows: 25 teachers resigned; 5 teachers transferred.

SUPPLEMENTARIES

MR. W. McKEEVA BUSH: Can the Honourable Member say what are the reasons for this exodus of teachers from one school?

HON. BENSON O. EBANKS: Mr. President, I am not sure whether or not it is an exodus. I will say that the matter is being looked into at the moment by the Education Department.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Mr. President. Could the Honourable Member state how long the present principal has been in office?

HON BENSON O. EBANKS: I think the principal is completing his fifth year.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say, in view of the long time that the principal has been there, why is it that the Portfolio has waited until now to look into the large amount of resignations and transfers of teachers?

HON. BENSON O. EBANKS: Mr. President, I do not think the Portfolio is. I think I said the Department is.

MR. GILBERT A. McLEAN: Mr. President, I then withdraw the word "Portfolio" and ask why has the Department waited so long, taking note of the fact that the Member is responsible for the Department?

HON. BENSON O. EBANKS: Mr. President, to the best of my knowledge, it has just come to the notice of the Department and the Portfolio.

MR. GILBERT A. McLEAN: In the light of what the Honourable Member has just said, is he not bothered by the fact that the Department apparently is not doing its job properly?

HON. BENSON O. EBANKS: Mr. President, I do not think that is necessarily a correct deduction from the answer given.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Can the Honourable Member say whether they are going to take any steps to have this man removed or transferred?

HON. BENSON O. EBANKS: I think you need to define who you mean by this man. The question is not clear.

MR. W. McKEEVA BUSH: Well, Mr. President, we could only be referring to the principal of the school.

HON. BENSON O. EBANKS: Mr. President, that is a personnel matter which I do not answer to, Sir.

MR. PRESIDENT: That is a correct statement. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Would the Honourable Member say what the total number of teachers on staff at the George Town Primary School is?

HON. BENSON O. EBANKS: Twenty-four, Mr. President.

MR. TRUMAN M. BODDEN: I wonder if the Honourable Member would say how often he visits the schools to check the faces of the teachers there?

MR. PRESIDENT: I do not really think that is a connected supplementary question. There are no more supplementaries on this one? We then move to the last question on the Order Paper, Question No. 36.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION RECREATION AND CULTURE

NO. 36: Can the Honourable Member give an update on the progress of the Community College?

ANSWER: The Board of Governors is hard at work setting up a suitable internal management structure for the college and reviewing the entire operation. The college is planning on expansion and upgrading of its programme offerings and has begun to recruit some staff for these

developments.

However, the pace of development depends upon the planned physical expansion, and we have had some disappointment in this respect. This is as a result of: (a) the ongoing legal issues surrounding the acquisition of the property; and (b) the initial survey of this property not revealing some unexpected geological formation in the general topography of this area.

As both of these are interdependent, efforts to conclude this acquisition are being urgently followed through in order to provide an early start on the physical structures. The final architectural recommendations should be received shortly.

SUPPLEMENTARIES

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I need a dictionary for some of these words. Anyway, can the Honourable Member say if he thinks he might be able to start the Community College sometime this year?

HON. BENSON O. EBANKS: That is, I assume, the building of the structure? Yes, Mr. President.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Has the Honourable Member fixed a time for completion and operation of the Community College?

HON. BENSON O. EBANKS: You are speaking of the new building?

MR. TRUMAN M. BODDEN: Yes, the new buildings.

HON. BENSON O. EBANKS: Phase I is to be built during this year but, as I have pointed out, the initial survey of the property chosen did not first reveal some rather startling facts about the topography of the area and this is being addressed by the architects, engineers and Public Works at the moment.

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say who was responsible for checking the topography of the land?

HON. BENSON O. EBANKS? Mr. President, I am afraid I cannot be specific except to say that it should have been a part of the engineering process for the consultancy on the building.

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say who are the consultants on the building?

HON. BENSON O. EBANKS: Mr. President, the Public Works Department.

MR. PRESIDENT: There appears to be no more supplementaries, so we move to Item 4, Government Business. Bills, First Reading.

GOVERNMENT BUSINESS

BILLS

FIRST READING

THE HOTELS AID (AMENDMENT) BILL, 1989

CLERK: The Hotels Aid (Amendment) Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Hotels Aid (Amendment) Bill, 1989, is deemed to have been read a first time and is set down for Second Reading.
Bills, Second Reading.

SECOND READING

THE HOTELS AID (AMENDMENT) BILL, 1989

CLERK: The Hotels Aid (Amendment) Bill, 1989.

MR. PRESIDENT: The Honourable the Member for Tourism.

HON. W. NORMAN BODDEN: Mr. President, I beg to move the Second Reading of a Bill entitled, A Bill for a Law to Amend the Hotels Aid Law, 1976.

The Hotels Aid Law of 1976 was a sensible, timely and useful piece of legislation aimed at attracting investors both local and foreign to construct hotels within the Cayman Islands. It was also intended to encourage the further expansion of existing hotels. I would say that in the 13 years since its enactment it has served this country well. Today we have approximately 1,350 hotel rooms, the majority of which are concentrated in the area described in the second schedule of the Law which sets the boundaries from the George Town grave yard to the West Bay grave yard. Hotels built in this prescribed area were allowed to import all building materials and equipment at a special duty rate of 10 per cent if the structure consisted of 150 rooms, and 5 percent if over 150 rooms. In all of the areas of the three Islands the duty payable was only 2.5 per cent.

The West Bay Beach area as we know it today, while still offering some development opportunities, has become heavily developed especially over the past six to seven years to the extent that serious concerns are rightly being expressed by many sectors of our society as to the high volume of activity in this specific area - activity that I would daresay is seriously affecting our quality of life, the quality of our tourism product and causing Government to have to embark on high expenditure to improve our ground transportation system. In short, it is no longer a question of needing to attract new hotels in this area by offering incentives. It is no longer a question of how much more development we would like to see in this area but, really, a question of just how much more we can really afford.

It is also worthy of note that in spite of the fact that condominiums are not eligible for any form of duty concession under this Law this has not prevented nor deterred the construction of numerous attractive types and styles of condominiums, many of which are in the luxury class selling for over a million dollars for two to three bedrooms - businesses that can well afford to pay the full duty rate of 20 per cent. In fact, at this time in our development we actually have an equal number of condominium rooms with hotel rooms. It is about a fifty-fifty split at the present time.

For some time now, members of the Hotels Aid Board (both past and present) have been recommending to me and urging that duty concessions for hotels should be withdrawn. I believe that the points made were valid and I accept those recommendations; and these, coupled with the situation I have just briefly outlined, have caused this amending Bill to be placed before this Honourable House today.

This is a short Bill. It is straight forward and its Objects and Reasons are clearly set out. Clause 2 seeks to redefine the term "construct" by deleting the words "alter and reconstruct" as they appear in this section of the original Law. This has caused some concern in the past and various interpretations have been offered. I believe from the beginning some anomaly did in fact exist because, while in section 2 of the Law dealing with interpretation, it states that the words "'the term construct'" includes to erect, to alter, reconstruct or extend...", it is my opinion that an anomaly has existed because, in section 4 of this Law (and I would like to take the time to read this) the intention always was to deal only with the construction of hotels or the extension of a hotel.

Section 4 states: "Subject to subsection (5), the Licensing Board may grant to every person who desires:- (a) to construct a hotel or an extension to a hotel, a licence to import into the Islands...". Subsection (b) of section 4 states: "...to equip a newly erected hotel or extension to a hotel a licence to import into the Islands...". So I believe this amendment clarifies this definition of this term beyond any doubt and it should be clearly understood that any concession intended under this Law applies to the building of a hotel or the extension of a hotel, not to alterations or reconstruction.

Clause 3 is more procedural or administrative I would say, than anything else. While in the process of making amendments to this Law it was seen as an opportune time to specify that applications must be submitted to the Secretary of the Licensing Board who is also the Collector of Customs.

Clause 4 is the main and most important amendment. It seeks to remove the duty concession so that any hotels built in the West Bay Beach area (which I described earlier) will be required to pay full import duty rates on all building materials and equipment the same as has been collected on condominiums, restaurants, night clubs, shopping centres and all other buildings in this area for the past 13 years. I believe this to be fair, reasonable and equitable. To be frank and honest, I am also hopeful that this will introduce and encourage some measurement of development control in this area if only in a small way.

It has been said, Sir, that it is never too late to do good, and I believe that this might be the right move at this time. We have also taken this amendment a step further by making it possible for at least a period of three years for hotels to be built and fully equipped in all areas of the Cayman Islands totally free from payment of any import duty whatsoever. Again, we are hopeful that this will encourage investors to build hotels in other areas and remove some of the pressures from the referred area in Grand Cayman. I believe that this is a good deal. While this can be considered a test period only, I have no problem in even considering a longer period for all other parts of our Islands. This should prove helpful in what is considered to be the underdeveloped areas in Grand Cayman, Cayman Brac and Little Cayman as far as tourism related businesses are concerned. It is also the Portfolio's intention to advertise this offer and this incentive in selected trade magazines abroad to see if this will create the desired effect.

I recommend this Bill, and I trust that all Honourable Members will find it possible to support it. It is non-controversial, non-political and necessary. It is a measure from which we all stand to benefit, in the long term at least, and perhaps one day, even if it does take another 13 years hence, someone may be able to stand up and say that it was a good move taken at that time on the part of the

Government, the same as I have been able to say in the beginning of my presentation this morning about the 1976 Hotels Aid Law.

With those brief remarks I commend this Bill to this Honourable House.

Thank you.

MR. PRESIDENT: The question is, that a Bill entitled The Hotels Aid (Amendment) Bill, 1989, be given a Second Reading. The Motion is opened for debate.

It appears that no Member wishes to speak... Or is it that you wish to speak after the break?

Proceedings are suspended for fifteen minutes.

AT 11:11 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:38 A.M.

MR. PRESIDENT: Proceedings are resumed. We are on the Hotels Aid (Amendment) Bill, Second Reading. Does any Member wish to speak?

It appears that no Member wishes to speak. I think, therefore, there is no need for... Ah, the First Elected Member for the Lesser Islands.

CAPT. MABRY S. KIRKCONNELL: Mr. President, I rise to support the bill now before the House, a Bill for a Law to amend the Hotels Aid Law.

I would like to congratulate the Honourable Member for moving this. I think it is very appropriate and I feel that the other representatives from outlying districts share my sentiments. We feel that this will encourage development within our districts which are outside of the Seven Mile Beach area and will thereby diversify our tourist industry. I think it is timely, I think it will be beneficial to the tourist industry as a whole, to our Government and, in addition, it will create employment within the outer districts. I give it my full support.

Thank you, Mr. President.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Mr. President. I rise to support the Bill for a Law to amend the Hotels Aid Law 1976.

I think this amendment is very timely on the following basis: I do not feel that the Seven Mile Beach area, as we normally refer to it, needs any further encouragement as far as expansion is concerned. I think that by removing the concession for hotels which are planned to be constructed in this area it would encourage development in other areas of our Islands which need this activity. It would also be good from the stand point that for the first time in a long time these hotels will be required to pay 20 per cent like any other company or resident in these Islands who imports materials or other equipment. I also think it is fair to extend a concession or a time period of three years for the construction of hotels in the other areas of the Island in order to encourage development in these areas.

Mr. President, I think it is a good amendment and I offer it my support. Thank you.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I can offer my support to the Bill to reinstate full duty on hotel construction along the Seven Mile stretch. I think what the Government is doing is right, it is probably a little late, but, nevertheless, it warrants support.

We are dealing today with making provision for tourist accommodation. I have been concerned for a long time about what we offer as far as entertainment when the tourists come to these Islands. I believe that the country - and I have said this before and it is still appropriate for me to voice my opinion today on this matter - that we must be concerned about bringing thousands of tourists in this country when there is hardly anything for them to do.

I do not know whether there is any research done as to how the people feel when they come here, but I have talked to quite a few and they have voiced their opinions to me that they come here and, really, there is nothing for them to do. We have to take this thing very seriously or else, in my opinion, tourism is going to continue to fall away.

We also need to look, when we are dealing with that part of the Seven Mile Beach area, at different types of development. We are dealing with tourists and they continue to see, as I have said before, concrete buildings that have no meaning to an island, they see traffic jams and they hear of robberies. We are going to be in further trouble, and I think that we have to be concerned along those lines. While I can support the Bill, I must voice my opinion on those areas.

That area is getting into my constituency and I would hope, now that we are reinstating full duty on what is known as the Seven Mile Beach itself, that the authorities will direct people to West Bay and to the Barkers area. I think that area offers much tourist related development. I do hope that people will be told that is the area for good tourist related development.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Mr. President.

In rising to support this Bill, I would like to congratulate the Honourable Member on what I describe as a timely and very important Bill at this stage in our development. I would like to beg leave of the First Elected Member for West Bay to echo his sentiment - it may be a little late, but it is better late than never. Coming from the constituency that I represent, I would like to say that for many years now, we have been concerned that these types of developments have been escaping us, and would further hope that by the implementation of the full duty along the Seven Mile Beach, developers would look more favourably not only on Bodden Town, but also on East End, North Side and, indeed, the Lesser Islands.

I think the consensus of opinion in these Islands now would be that the Seven Mile Beach area is approaching its maximum development. Indeed, many people are concerned that the strain of resources, both physical and in terms of manpower, are beginning to show and it is cracking at the seams. Also, too, we have to consider that there seems to be an increasing concentration of a certain type of crime in that area. By broadening of the hotels and hotel-type structures and tourist facilities, it would allow us to see whether that particular area has a problem or whether the whole Island has a problem with this particular type of crime.

I would like to say, too, that developments along the Seven Mile Beach now, according to some of the opinions I hear from the tourists, are becoming a little disappointing because people are complaining of a concrete jungle. The move to diversify and spread these buildings would allow a welcomed breathing room.

I would respectfully like to submit also that we are in the time where we have to carefully look at our tourists and our tourist related facilities. The implementation of this amendment will allow us the time that we need to examine these - and I am not a prophet of doom, but what I am suggesting is that we may be going through a little transition and hopefully this amendment will allow us to move out of the doldrums that some people have been speaking about and allow us to show other areas of our Islands, namely Cayman Brac and Little Cayman, and help us to consolidate and maintain the attractiveness for which we have been known.

I will give this Bill my full support. Thank you, Sir.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I will be quite brief but I could not allow this Bill to go through without adding a few words.

I would first like to congratulate the Honourable Member who has moved the amending Bill. I am pleased to see it at this time. Coming from the district for which I represent, the district of East End, I feel that we perhaps will welcome this more than any other area of Grand Cayman. For many years we have only had one hotel out there and I am hoping that through his amendment and the other advertising means by Government that we will see some action in that area. I am pleased to know that at present we have the development of the Morritt's Tortuga Hotel which is the replacement for the Tortuga Club, and I am hoping and trusting that Government will give whatever assistance is possible to make this into a great success. This will provide some jobs for my constituents for which I am most grateful and I am hoping, as I said in the beginning, that it will be encouragement to other companies to come and build similar hotels in the area.

I would just like to say that although I welcome and support the Bill, I hope and trust that Government will monitor this properly for the three years which is laid down in the Bill because we know that in the world in which we live there are always scamps, and we need to check and see that this is not abused.

With those few words I am pleased to support the Bill.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Mr. President.

This short Bill is one that I support. I think that perhaps the time has come when there should be more inducement to have tourism spread through the different Islands here. Also, a large part of the working population in the districts outside of George Town will be assisted. On the other hand, a part of the Seven Mile Beach is in my district and as such may be lost there (which I naturally would not necessarily want to see), however, it is fairly well built up at this stage along that area which is partly in the George Town and partly in the West Bay Electoral district.

The Government's policy on tourism will have to be clearly stated once again some time in the near future, as this does materially change the position relating to hotels. I know that tourism is down and we have to hope that that will improve in the near future. The removal of the duty for the three year period in the other districts is one that should induce some hotels in those areas. It may, however, expedite the number of hotels coming here and that is why I think that in the near future a policy statement may be good - not necessarily at present, but when things stabilise a bit more with tourism. It will also ease the traffic and hopefully the crime in the West Bay Beach area. I support the Government on this. I wish them luck with the implementation of it.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I rise to support the Bill which seeks to amend the Hotels Aid Law, 1976. I think it is quite clear in the Objects and Reasons why this Bill is being brought to the Legislature. I believe it shows the wisdom of the Honourable Member who brought it to bring about certain constraints in the area which now benefits, and to bring about an attraction in other areas that have not benefited from this Law.

I have always felt that the outer districts of these Islands (and here I certainly do include Cayman Brac and Little Cayman) tend to get left out of the main stream of development because, for one, I think developers have found the Seven Mile Beach very attractive because of the beach - the beautiful clear waters, its nearness to the George Town Capital and the airport. There has been a natural trend toward development in that area. Included in that is the fact that to build a hotel, they had the benefit of such very low Customs duty.

I think it is a very good move, and I sincerely hope that it will cause developers to look to the other districts. Here I would mention the fact that if more hotels are built, it means that there is going to be more jobs coming on line and there is going to be the need for more work permits to be issued because Caymanians are not in sufficient numbers to fill the jobs which will come about as a result of other hotel developments. Having said that, I also would note the fact that if a hotel is built in the other districts that persons, for example, in Grand Cayman, who may not be able to travel to West Bay to get a job if it were in East End, North Side or wherever, could go there to seek a job and that includes older people. Certainly, that would be the case in Cayman Brac and Little Cayman. I believe that this is good.

It is also timely because we have reached the stage now where we no longer have to give away so much to attract people to build hotels or condominiums here. The facts and figures speak for themselves. It seems right and proper at this time that, if anything, we should be bringing in certain restrictions which would specify the areas in which hotels can be built. I do hope, too, that the move may be taken by Government to insist on even higher standards within the hotel operations.

The development of hotels means the expectation that people will come to the Islands to fill those rooms. I must certainly hope and ask that everything which can be done, be done to assist the situation in the Lesser Islands. I do not believe it is farfetched if I suggest that Government might look at the situation of earmarking that 2.5 per cent which we hope will be paid for the development of hotels in other districts towards airport facility development in Little Cayman, which I sincerely believe is one of the things which hinders air services to the Lesser Islands to be what it could be. I would like that to be taken into account, if some thought could be given to that and, indeed, that might be a good place to begin.

I congratulate the Member on bringing this amendment to the Hotels Aid Law, and I do look forward to seeing development come about in the areas that this amendment is hoping it will. I give this amendment my support.

MR. PRESIDENT: The Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Mr. President, I rise to support the Hotels Aid (Amendment) Bill, 1989, and I would like to congratulate the Honourable Member for bringing it.

As I understand it, any new hotels along the Seven Mile Beach from the George Town cemetery to the West Bay cemetery will have to pay the full Customs duty as any other business. I believe it is a good move to do this and it is also good to remove the duty of 2.5 per cent for the rest of the districts of the Cayman Islands which includes the Lesser Islands. I believe it will help the other districts to develop and help the residents of those districts to stay in their own districts and find employment.

I believe that the time has come for us to look at other attractions for tourism, something else for the tourists to see. I believe the time has come for the Government to look at the possibility of doing something similar to the Parrot Jungle as can be seen in Miami. I believe that catching the wild parrots of Cayman and caging them in a big area would become an attraction for the tourists. It would also help the farmers of this country because the parrots destroy every possible kind of the farmer's crops. I think the time has come now, when they could be an attraction for the tourists that come to this country. The farmers themselves would not have to destroy the birds, which are so beautiful. I believe that if we give the tourist something else other than what they have been able to see in the past, we can tie it in with the development of the sanctuary on lands that Government has donated in the eastern districts.

This is a good move and I support the Bill.

MR. PRESIDENT: Would the Honourable Member wish to reply?

HON. W. NORMAN BODDEN: Mr. President, I rise briefly to thank all Honourable Members for the wide and strong support that this Bill has received. In the past five years I have brought various types of amending bills to this House and on many occasions I have had to take criticism and my share of licks from Members who (quite rightly and in their own rights) opposed some of those bills. However, it is also a pleasure to be on the side sometimes, where a bill is brought that is non-controversial, non-political, and all Members agree and see the wisdom of the benefits that our country as a whole will gain from it. I am very pleased and encouraged as to the kind of support I have received this morning on this Bill, especially from the independent Opposition who has so strongly supported this.

Many points have been made, some of them touching on tourism as regards entertainment and increased attractions for tourists. There is much room for many business opportunities, much potential opportunity out there for the private sector and for our people to become involved in many tourism related businesses. I think that, with all due respect, sometimes we as a country and a people hone

in too sharply on other businesses that have been successful and do not really take the time to take advantage of the opportunities that we have and diversify into various other types of businesses that we can produce locally. All of this will certainly assist and increase the kind of entertainment that we would like to have for our tourists and that they sometimes complain about.

Some of the surveys which have been conducted reveal that there are some visitors who claim that there is not enough to do here. But, by far, the majority (I would say 85 to 90 per cent) come here for rest and relaxation and for watersports involvement of which we offer a very wide variety. As the Member for Tourism I would certainly like to see more attractions that we could offer to our visitors.

Before I take my seat, there is one point that I would like to make. The aim of this Bill and this Law has always been to attract and encourage developers. Now, to me (and I do not know, maybe the majority of Caymanians do not think in that vein) the word 'developer' conveys the impression of a foreign developer. This Bill and this Law are intended to help local developers as well - and a hotel is a structure of 10 rooms or more. I do not believe that it is too farfetched to imagine that one of these days our three Islands could be dotted with small efficiently operated hotels, professionally marketed and owned by Caymanians. And, if this Bill today accomplishes that much, I have to agree with everyone else, that this is certainly a step in the right direction. I would take this opportunity to encourage our Caymanian businessmen to look at this. I believe that there is much potential offered there for us to take advantage of and to really have a much greater control over the quality of our tourism product.

I have taken note of the comment made by the Second Elected Member for the Lesser Islands regarding the airport development in Little Cayman. I am not too sure of how the 2.5 per cent could be taken into account or would tie in. Nevertheless, I acknowledge the recommendation that has been made in his contribution to this debate and if there is any means of making this a possibility, we will certainly consider it at the appropriate time.

With those brief remarks, I would again thank Members for their support and trust that we will derive the benefits that are intended from this Bill.

Thank you.

MR. PRESIDENT: I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The Bill has been given a second reading.

AGREED. THE HOTELS AID (AMENDMENT) BILL, 1989 GIVEN A SECOND READING

MR. PRESIDENT: Bills, First Reading.

FIRST READING

THE FISHING VESSELS (SAFETY PROVISIONS) (REPEAL) BILL, 1989

CLERK: The Fishing Vessels (Safety Provisions) (Repeal) Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Fishing Vessels (Safety Provisions) (Repeal) Bill, 1989, is deemed to have been read a first time and is set down for Second Reading.

Bills, Second Reading.

SECOND READING

THE FISHING VESSELS (SAFETY PROVISIONS) (REPEAL) BILL, 1989

CLERK: The Fishing Vessels (Safety Provisions) (Repeal) Bill, 1989.

MR. PRESIDENT: The Honourable First Official Member.

HON. THOMAS C. JEFFERSON: Mr. President, I move the Second Reading of a Bill entitled, A Bill for a Law to Repeal the Fishing Vessels (Safety Provisions) Law, 1978.

The Bill is quite short. It has only two clauses, the second clause being the important one; that is, to repeal the Fishing Vessels (Safety Provisions) Law, a Law that has been on the books for approximately 10 years.

I believe that the rationale behind it is that there was, at that time in 1978, a strong belief that the Termilinos International Convention for the Safety of Fishing Vessels would have been passed. But even until today, that convention has not yet had the support to ratify it and there is substantial doubt that it may in future years to come have full ratification simply because a number of the countries which own a substantial number of fishing vessels are literally refusing to sign it.

This piece of legislation on our books only seeks at this stage to confuse, as there is some doubt as to whether the Termilinos International Convention (which this piece of legislation was enacted to extend to us) has been extended or not. I think the move here is to make it clear that it is

not extended to us simply because it has never been ratified. I commend the short Bill to Members of this Honourable House.

MR. PRESIDENT: The question is that a Bill entitled, The Fishing Vessels (Safety Provisions)(Repeal) Bill, 1989, be given a Second Reading. The Motion is open for debate. Does any Member wish to speak?

In that case, I will put the question.
Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The Bill has been given a second reading.

AGREED. THE FISHING VESSELS (SAFETY PROVISIONS) (REPEAL) BILL, 1989 GIVEN A SECOND READING.

MR. PRESIDENT: Bills, First Reading.

FIRST READING

THE DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 1989

CLERK: The Development and Planning (Amendment) Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Development and Planning (Amendment) Bill, 1989, is deemed to have been read a first time and is set down for Second Reading.
Bills, Second Reading.

SECOND READING

THE DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 1989

CLERK: The Development and Planning (Amendment) Bill, 1989.

MR. PRESIDENT: The Honourable the Member for Communications and Works.

HON. LINFORD A. PIERSON: Mr. President, I beg to move the Second Reading of a Bill shortly entitled, The Development and Planning (Amendment) Bill, 1989.

This is a fairly short Bill which seeks to amend the Development and Planning Law (Revised) to allow for the appointment of a Deputy Chairman to the Planning Appeals Tribunal who will act as Chairman when the Chairman is absent or unavailable to act. The proposed amendment to section 38 of the Law is amended by deleting section 1 and substituting the following:

> "...for the purposes of this Law there is hereby established an Appeals Tribunal which shall consist of a Chairman, a Deputy Chairman who, in the temporary absence or inability to act of the Chairman, shall act as Chairman and exercise all the powers and functions of the Chairman, and three other members all of whom shall be appointed by and hold office at the pleasure of the Governor.".

Mr. President, it has been customary in recent years to appoint a lawyer as Chairman of the Planning Appeals Tribunal. The rationale for appointing an individual with a legal background is that cases coming before the Tribunal are becoming increasingly complex, and more appellants are retaining the services of lawyers to represent them. On occasion the Chairman of the Tribunal has had to temporarily absent himself due to a conflict of interest or because he is otherwise engaged. This not only causes undue delay in scheduling hearings, but also increases administrative procedures due to there being no provision in the Development and Planning Law for another member to act or be deputised as Chairman.

The proposed amendment seeks to rectify this situation by providing for a Deputy Chairman who will have all the powers and be empowered to exercise the functions of the Chairman in his absence. I commend this short Bill to this Honourable House.

MR. PRESIDENT: The question is that a Bill entitled, The Development and Planning (Amendment) Bill, 1989, be given a Second Reading. The Motion is opened for debate.
The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, this short Bill has been shown to be necessary for the smooth operation of the Appeals Tribunal. In this country land is a large part of the wealth of Caymanians and it is important that the Development and Planning Board, the Central Planning Authority, and also the Authority for Cayman Brac and Little Cayman, operate expeditiously, also that they stay within the Law and do what is equitable and fair in relation to their decisions in planning.

This is the third Bill in the House that I have been happy to

support this time, and it just goes to show that once a measure before this House is good it will get the support that it needs.

The Appeals Tribunal is important because it does review the matters before the Central Planning Authority and planning matters generally. These at times do affect the large part of a person's assets and wealth. So I am happy to support the insertion of the Deputy Chairman, and I support the short amendment.

MR. PRESIDENT: It seems that no other Member wishes to speak. Would the Member in charge of the Bill wish to reply?

HON. LINFORD A. PIERSON: Mr. President, only to thank the Third Elected Member for George Town for his support of the Bill and those who through their silence have given similar support.

Thank you.

MR. PRESIDENT: I shall put the question accordingly. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The Bill is accordingly given a second reading.

AGREED. THE DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 1989, GIVEN A SECOND READING.

MR. PRESIDENT: Bills, First Reading.

FIRST READING

THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS) (AMENDMENT) BILL, 1989.

CLERK: The Merchant Shipping (Applicable Conventions) (Amendment) Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Merchant Shipping (Applicable Conventions)(Amendment) Bill, 1989, is deemed to have been read a first time and is set down for Second Reading.

Bills, Second Reading.

SECOND READING

THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS)(AMENDMENT) BILL, 1989.

CLERK: The Merchant Shipping (Applicable Conventions)(Amendment) Bill, 1989.

MR. PRESIDENT: The Honourable the First Official Member.

HON. THOMAS C. JEFFERSON: Mr. President, I move that a Bill entitled, A Bill for a Law to Amend the Merchant Shipping (Applicable Conventions) (Amendment) Bill, 1989, be given a Second Reading.

The Bill seeks to amend the Merchant Shipping (Applicable Conventions) Law, 1987, and to make provisions for the detention of unsafe ships and certain other matters.

In Clause 3, it amends the long title to broaden its application, that is, in the principal Law the long title reads: "A Law to make provisions for the safety of life at sea and as the load lines and related matters to enable effect to be given to certain International Agreements relating to the pollution of the sea and for purposes connected thereto." The long title will be amended to insert after the word "sea", "to make provisions for the manning of ships for the protection of the health of persons on ships and for the detention of ships."

In Clause 4, the Bill seeks to amend the citation of the principal Law and to omit the words, "Applicable Conventions". Clause 5 inserts new definitions ancilliary to the amendments dealt with below.

Clauses 6 through 9 amend existing provisions relating to the detention of ships by changing the expression, "may be detained" to "shall be liable to be detained".

Clause 10 corrects an error made in Law 10 of 1988.

Clause 11 substitutes a new Section 48 which deals with the detention of Cayman registered ships for non-compliance with conditions of assignment.

Clause 12 substitutes a new Section 49 which deals with the detention of foreign ships for non-compliance and conditions of assignment.

Clause 13 inserts three new sections dealing with the power to detain unsafe ships and liability for compensation in respect of detention without reasonable cause.

Clause 14 through 16 makes various consequential amendments, and Clause 17 repeals and substitutes section 74 which provides the procedure for detaining ships.

Clause 18 makes certain consequential amendments to the procedure to be followed in respect of detention of foreign ships. Clause 19 substitutes a new section 76 dealing with liability for the incidental costs of detention.

Clause 20 amends section 77 which deals with the power to make regulations.

These amendments were recommended by our overseas Legal Counsel who has been dealing with the Merchant Shipping Applications, Law, Regulations and Rules, and has been vetted by the Legal Department.

I recommend the Bill to Honourable Members.

MR. PRESIDENT: The question is that a Bill entitled, The Merchant Shipping (Applicable Conventions) (Amendment) Bill, 1989, be given Second Reading. The Motion is opened for debate. Does any Member wish to speak? The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, this is one of a series of pieces of legislation that in the end, will hopefully go together to make a good Shipping Register for the Cayman Islands. The legislation has now become extremely long and exhaustive. Over a period of time the lawyers practising in this area will have to deal in depth with quite a complex group of conventions and pieces of legislation locally.

The intent of this Law seems good to me. I would, however, like to mention that now that these provisions on detention are put in place, we have to ensure that at such time as they are brought into force we make provision for dealing with the vessels that may be detained. I also remember reading in a part of the Bill that in certain instances there can be loss or damage sustained to the owner of a ship as a result of the detention. I would mention what I am sure Government will be cautious when going through the serious motion of detaining a ship.

The provisions, especially those relating to the safety of vessels... and I noticed that in section 59A it seems to have been extended to consist of (and I am reading here) "going on voyages and excursions that do not involve going to sea be construed as a reference to this section." Perhaps if the safety provisions which we have locally, as well as those which we are now going to enact (I know that we have the Safety of Life at Sea Convention), it could well save lives locally especially if the boats - I would use the word "boats" in distinction to "vessels" - could also be made to comply fully with the safety provision, which I expect they do.

When you have a lot of people on boats it is important that the necessary safety equipment is there. In fact, I think that some of the worst disasters in shipping, as we have heard of from the point of view of loss of lives recently, have been those in which ferry boats or boats of that sort somewhere in the far East (in one instance in the English Channel another somewhere in Central America which is the third instance that I am thinking of) have capsized and people have been lost. A lot of people, in fact, were lost at sea on one of them.

I hope, Sir, that as time moves on and all of the legislation and conventions are in place that we will see the Registry continuing to move forward and that the benefits to the Islands in due course will be substantial.

I support this in principle. The amendments will assist the Registry and it will be good for the Islands. I would just remind all of the few words of caution on the detention to make sure we have provisions to deal with the vessel that is detained. We are in a belt that is subject to Northwesters and hurricanes and whatever, also bearing in mind that damages can also in certain instances accrue to the owner of a vessel which can be substantially fixed for a period of time. I support this and I wish the Honourable Member and the Registry all the best in trying to bring in all these complex Conventions and Law.

MR. PRESIDENT: The Honourable Second Official Member.

HON. RICHARD W. GROUND: Mr. President, may I just say a word on the acknowledged complexities that this particular piece of legislation is achieving? The proposal is that at the end of the day when we are finished amending the Law and fine tuning it, that it can be revised and published as a consolidated piece of legislation which will greatly assist the practitioners. That is, indeed, the reason why we are broadening the application of the Law removing the reference to Applicable Conventions. It is not just that the Honourable Financial Secretary is having to say it every time he refers to the Bill in the House, it will mean that we can bring various matters under the umbrella of this Law and then eventually publish them in one document.

May I also say that I take very much to heart the comments of the Third Elected Member for George Town about exercising care in detaining ships. He will note that Clause 17 the new section 74 is presently phrased in mandatory terms.

I would like to take this opportunity to give notice to the House that I will circulate very shortly three small Committee stage amendments that have been recommended by our London Advisors. Let me say a word on how that arises. It is slightly difficult drafting on two sides of the Atlantic and the document has to be sent back and forth until both sides are happy. Simply because of the time constraints, we published this Bill before the Advisors saw its final form and they came back to me on the telephone and pointed out three changes. Two of them are exceptionally minor, they are just wording changes which I will explain when we get to the Committee stage which do not alter the substance. The third change they recommended was that section 74 should not be mandatory but should be discretionary. In other words, that the word 'may' should be substituted for 'shall'. This will allow our authority, the Chief Marine Surveyor, to exercise a choice of discretion particularly in the sort of case which I think the Third Elected Member for George Town has in

mind. I hope that reassures him that not only will the authorities bear his caution in mind, but also the Law will give them the power to bear his caution in mind.

Thank you, Mr. President.

MR. PRESIDENT: It seems that no other Member wishes to speak. Does the Honourable Member wish to reply?

HON. THOMAS C. JEFFERSON: Mr. President, only to thank the Third Elected Member for George Town for his contribution and support of the Bill and, secondly, those who silently endorsed it.

MR. PRESIDENT: I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The Bill has accordingly been given a second reading.

AGREED. THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS) (AMENDMENT) BILL, 1989 GIVEN A SECOND READING.

MR. PRESIDENT: Now, we have only a few minutes to go before the lunch break. Could I have an indication from the Member for Communications and Works (who is in charge of the next Bill) whether you will be able to complete your moving of the Second Reading within five or six minutes? Or would you like a longer time?

I beg your pardon, it is the Honourable Third Official Member, my fault.

HON. J. LEMUEL HURLSTON: Mr. President, I welcome the challenge to beat the clock, Sir.

MR. PRESIDENT: Bills, First Reading.

FIRST READING

THE TRAFFIC (AMENDMENT) BILL, 1989

CLERK: The Traffic (Amendment) Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Traffic (Amendment) Bill, 1989, is deemed to have been read a first time and is set down for Second Reading.

SECOND READING

THE TRAFFIC (AMENDMENT) BILL, 1989

CLERK: The Traffic (Amendment) Bill, 1989.

MR. PRESIDENT: The Honourable Third Official Member.

HON. J. LEMUEL HURLSTON: Mr. President, I rise to move the second reading of a Bill entitled, A Bill for a Law to amend the Traffic Law (Revised).

The Objects and Reasons as published are self-explanatory, that is, that the Bill proposes to create a new class of two wheeled vehicles of 80 cylinder capacity (c.c.) or less to be called motor scooters, and to enable visitor permits to be issued to holders of foreign motor car licences and similar licences to drive such class of motor scooters.

Beginning with the second Clause dealing with the definitions, the first amendment is to insert a new definition in the correct alphabetical sequence; the new definition being that of a motor scooter. In this Bill the definition reads that "'motor scooter' means any mechanically propelled vehicle having two road wheels used for the transport of people with a power unit of a cylinder capacity of 80 cubic centimeters or less and having no gears or clutch that require operation by the rider;". That is the insertion of the definition and of the new category of vehicle.

Clause 2(b) seeks to expand the definition of motor cycles to include mopeds as well as the new category of motor scooter. Clause 3 provides for a new group category licence to take account of the new class being inserted and it is proposed to add a new group which will be known as Group 5 to cover the new class of motor scooters.

Clause 4 seeks to amend section 35 of the principal Law which enables car rental firms to issue visitor permits to persons who hold equivalent valid licences to drive in the Cayman Islands. In this section it is proposed to insert a new provision which would allow anyone who possesses a licence from a foreign country to drive a motor car or a similar vehicle and that while visiting these Islands such persons

may be issued a visitor permit valid to ride these classes of new vehicles. The history to this (as briefly as I can make it) is that historically the Cayman Islands has had some difficulty in interpreting the provisions of certain foreign licences issued to visitors not being absolutely clear of the categories of vehicles for which the foreign licences were valid. The Cayman Islands have had considerable difficulty in defining whether or not a particular foreign licence was valid for an equivalent vehicle in these Islands.

In an effort to address the matter, the Royal Cayman Islands Police Department has attempted to canvass as much information as possible from a variety of foreign destinations, with a view to satisfying itself as to the respective categories covered by foreign licences. Upon receipt of this information, the Traffic Department issued a comprehensive circular to all authorised rental companies on the Island explaining the definition and categories of licences to be covered in the future, and it was in this respect that it came to our attention that a number of visitors holding valid licences could have been unauthorised from riding these two wheeled vehicles on our roads. Inasmuch as we do have a number of companies on the Island renting motor scooters, it has been decided that persons holding valid motor car or similar licences issued by foreign countries should be permitted to be issued with a visitors permit to ride motor scooters while visiting our Islands. Briefly that is the background to the problem.

May I, in closing, simply underscore and stress that the intention here is not to deviate from reasonable standards; not to reduce existing standards, but to recognise that these classes of vehicles do exist on our roads and that visitor's permits will now be issued in respect to persons holding the equivalent of licences. May I also stress that the Traffic and the Police Department will be monitoring the usage by visitors of this class of vehicle on our roads to ensure that good user sense prevails and that, as far as possible, we continue the high principles of driving in our Islands. I commend this short Bill to the House.

MR. PRESIDENT: The question is that a Bill entitled, The Traffic (Amendment) Bill, 1989, be given its second reading. The Motion is open for debate, but I expect that Honourable Members would wish to pursue that after lunch. Proceedings are suspended until 2:15 P.M.

AT 12:45 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:25 P.M.

MR. PRESIDENT: Proceedings are resumed on the Second Reading of the Traffic (Amendment) Bill, 1989. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, it seems that the Bill is straight forward and I will offer my support. In fact, I intend (as has been circulated) to move a substantial amendment in the Committee on the Bill. I rise now to give Government notice of that.

I feel that in general the Traffic (Amendment) Bill should have come before this House in a new bill, taking all the amendments and putting them in one bill and overhauling the bill as is needed. I must say that I am disappointed because ever since I was elected I have been hearing that the Traffic Law is going to come to the House. When it finally comes it is just a small amendment. I am not at all satisfied that the Traffic Law in its entirety has yet to come for a proper amendment. As I have said, I intend to move at Committee stage an amendment to repeal section 13 of the principal Law.

When this section was introduced, prohibiting motor cycles larger than the 90 c.c., some people lost their investments as they could not even...

MR. PRESIDENT: May I interrupt you for one moment, please? I have, in fact, considered the amendment which you and another Member put in before the lunch break. I have considered it very carefully within the provisions of Standing Order 50(2). I have come to the conclusion that it is not within the provisions of that Standing Order because the amendment which you propose to make is not - and I will refer, in fact, to the Standing Order...

MR. W. McKEEVA BUSH: What Standing Order are you referring to Mr. President?

MR. PRESIDENT: Standing Order 50(2) which says: "A committee may make such amendments and additions to a bill as are relevant to its subject matter...". I have now come to the conclusion, after considering it carefully, that the proposal to delete section 13 which deals with the matter of the size of the motor cycles which may be imported is not connected with the subject of the bill under discussion.

Please understand me, I am taking it simply in the terms of the Standing Orders, *Erskine May* and other authorities. So, I think at this point, first of all, what you are now discussing is not relevant to the Bill in question, therefore you should not discuss it anyway at this point. Secondly, on the amendment, I am now writing a note to you explaining my reasons on the proposed amendment. It might be preferable to leave the amendment for the moment, consider this and see what you wish to do next.

MR. W. McKEEVA BUSH: Thank You, Mr. President. Obviously, you have taken some guidance on this. That is one of the reasons why I was berating the fact that the Traffic Bill has come to this House again in piece meal operation...

MR. PRESIDENT: I do not wish to continue to interrupt you. That is a perfectly fair point to make in relation to this Bill, that you would have preferred other matters to come. But, in discussing this

Bill you really must limit yourself to the matters proposed in it.

MR. W. McKEEVA BUSH: I am sorry that you have taken that route, Mr. President, because, in general, debate has been broad on bills encompassing many areas. We are dealing with the Traffic (Amendment) Bill. I understand your position and I understand that you have taken directions on this. In any event, I will move under Standing 83 for the suspension of Standing Order 50(2)...

MR. PRESIDENT: I think it would be appropriate to move that just before the House goes into Committee on the bills. That would be the moment, when you will be seeking the will of the House to suspend Standing Orders in order to be able to put that forward.

MR. W. McKEEVA BUSH: Thank you, Mr. President.
I realise that under the strict adherence to the Rules that you are right, but a past precedent has shown that Members have considerable latitude in dealing with other areas. I am only sorry that you have seen fit to curtail me in this manner.

MR. PRESIDENT: I am grateful for your kind thoughts on that. But I do think, particularly as we have a motion coming up later in regard to the Office of Speaker, that I should do my best to apply the Standing Orders strictly.

MR. W. McKEEVA BUSH: Well, Mr. President, as I have said, precedent has not shown that. But I can see your predicament and I will offer my support to the substantive Bill. But when it comes to Committee stage, I intend to move the amendment as I have mentioned. As I have said, I am sorry that you have taken this route but at present you are the Presiding Officer and I bow to your ruling.

MR. PRESIDENT: Thank you, that is most graceful.
I would just like to go over the procedure. If you do wish to move this proposed amendment in the Committee, you should move suspension of Standing Orders just before the House goes into Committee. It is the House that would accept or not accept that Standing Orders be suspended. That would not be done in Committee. Would you like to take a short suspension and we can all discuss this matter?

MR. W. McKEEVA BUSH: I would really like to do that because it seems that you are quite wrong. The Standing Orders can be suspended at any time in Committee or in the House.

MR. PRESIDENT: I would be grateful if you would draw my attention to where it says that.

MR. W. McKEEVA BUSH: Standing Order 83 says: "Any of these Standing Orders may be suspended at any time for a specific purpose by the consent of the majority of Members present.". That is Standing Order 83.

MR. PRESIDENT: I think that unless it says otherwise, it must mean in the Assembly. It does not say in the Assembly and any Committee thereon.

MR. W. McKEEVA BUSH: I am not with you, Mr. President.

MR. PRESIDENT: It says there, "...by a majority of Members present." I think that if it meant in Committee as well as in the House it would say in both.

MR. W. McKEEVA BUSH: Mr. President, I am going to take your ruling on the matter, of course, seeing that you are the Presiding Officer. But the Standing Order does not say that, it says: "...a majority of Members present."

MR. PRESIDENT: The Standing Orders are made by the House, they apply in Committee. Therefore, by implication it is the House that would suspend them not the Committee.

MR. W. McKEEVA BUSH: Mr. President, I think your suggestion of suspension would be very proper at this time because I really cannot agree with you, unless you over-rule me and not suspend the proceedings. I would prefer a suspension so that you can explain further.

MR. PRESIDENT: Well, it seems to me that, after all, it is a Committee of the whole House which takes the bills. It surely does not matter. If you are willing to accept my interpretation, it is the same Members in the House who would vote upon a proposed suspension. I cannot see why you should be concerned about it.

MR. W. McKEEVA BUSH: Mr. President, as long as I get that opportunity, I do not care when it comes.

MR. PRESIDENT: You will have it. I have promised it to you. You are indeed entitled to do it right now if you wish. My suggestion was that you do it immediately before the House goes into Committee. Having now interrupted you several times, had you, in fact, finished speaking on the second reading of the Bill?

MR. W. McKEEVA BUSH: Just to say that I hope when the Law comes back to this House that it will come in a comprehensive form because we have waited, and the country has waited, too long on the revision of the Traffic Law. As I have said, we have been promised this since 1985 and nothing has been done. It is time now that something be done to put that Law into proper perspective with today's Cayman.

MR. PRESIDENT: Does any other Member wish to speak? The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, this Bill, as I understand it, is going to legalise what the position has been over the past several years. It seems that recently the procedure whereby persons from abroad who had a driver's licences for a car could no longer get a licence to drive any motor vehicle with two wheels. The practice has been going on for many years and this Law will really put on the legal footing what had been in practice and carried on by a lot of the local rental companies on the Islands.

From that point of view, I am happy to support it because I do not believe that if people are allowed to build businesses, and there seems to have been no problem (as I could see) from the issuing of these licences, and there have not been that many fatalities on the motor bikes, then no damage really is done by leaving things the way they have been over the years. The businesses also support tourism. I think at this stage, that needs whatever support Members of the House can give.

I would only make one comment: Having talked about not seeing too many fatalities from the scooters, that is, that sometimes it is a bit nerve-racking to see one of the scooters going down the middle line on the West Bay Road with heavy traffic coming from both ways. I can only say that they are either very skilled or very brave, a lot braver that someone my size would be on a two-wheeled vehicle on that road. I do not think that there is anything in this Bill other than what would be good for the Islands and for the rental companies. On that basis, I am happy to support it.

MR. PRESIDENT: The Honourable Member for Tourism.

HON. W. NORMAN BODDEN: Mr. President, I rise to support the amendment to the Traffic Law that is before this Honourable House. I believe, Sir, that it is necessary to legalise a situation which, rightly or wrongly, has been in practise and is the custom here in the Cayman Islands for many years. To do otherwise, in my opinion, creates hardship to many of these local companies which (in many instances at great sacrifice) have invested large amounts of money.

Additionally, as it has been pointed out by the previous speaker, to deny the continuation of this would adversely affect our tourist trade and tourist facilities which are provided and available in many islands throughout the Caribbean. I think it has become a part of the North American visitor to expect that they will be able to choose their type of transportation on small islands such as ours, and many of them choose to rent a scooter, for at least part, if not all of their stay here.

I understand the concerns of some Members regarding more comprehensive amendments that should be brought to the Traffic Law. In fact, it was my understanding that there would be a total replacement of the Traffic Law. I think this measure should be seen in the light that it is intended to correct a situation which has developed very recently and that it is urgent that this matter receive the attention of this House. To prolong this and allow this situation to continue for any extended period would only further create more inconvenience to our visitors, something which we are trying to avoid.

With those few words, I support this amendment. I see it as necessary at this time to legalise a situation which has been common practice here in the Cayman Islands and I sincerely trust that all Members will see fit to give it their support as well. Thank you.

MR. PRESIDENT: Does any other Member wish to speak? Would the Mover wish to exercise his right to reply?

HON. J. LEMUEL HURLSTON: Just to say thank you to those Members who spoke and made a contribution during the second reading debate, Sir, and trust that on voting on the matter, the Bill will receive the support of the House.

MR. PRESIDENT: In that case, I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The Bill has accordingly been given a second reading.

AGREED. THE TRAFFIC (AMENDMENT) BILL, 1989 GIVEN A SECOND READING.

MR. PRESIDENT: That concludes business on the First and Second Readings of Bills. At this point the First Elected Member for West Bay will move his Motion to suspend Standing Orders for the purpose which he will explain. I think this is the moment to do it.

SUSPENSION OF STANDING ORDER 50(2) TO TABLE AN AMENDMENT TO THE TRAFFIC (AMENDMENT) BILL, 1989

MR. W. McKEEVA BUSH: Mr. President, in accordance with Standing Order 83, I move the suspension of Standing Order 50(2), so that I may move an amendment to the Bill in Committee.

MR. PRESIDENT: I think the Motion is clear, and, actually, from Standing Orders a Motion to suspend does not require a seconder. We are getting into intricate things again, but I do not think that it requires a seconder. Perhaps it does. Perhaps the Second Official Member would offer an opinion. It says, "...by the consent of a majority...". It does not say by a motion and by a seconder.

MR. W. McKEEVA BUSH: At the moment the Attorney General is desperately looking through the Standing Orders. If you will give me a moment.

MR. PRESIDENT: Can we take as our example the Motion to suspend Standing Orders to extend Question Time? We do not require a seconder for that.

HON. RICHARD W. GROUND: In fact that Motion is usually moved by the Leader of the Business of the House and, therefore, comes as a Government Motion. However, I take your point that it does not actually require a seconder. It just requires some means of finding out what the consensus of the majority of the House is. So I think it could stand moved without a seconder.

MR. PRESIDENT: We will take it then that the Motion has been put forward by the First Elected Member for West Bay and the purpose stated.

Would any Member wish to speak on the proposal to suspend Standing Order 83 for the purpose of permitting him to move an amendment under Standing Order 50(2) to delete section 13 from the Traffic Law? There will also have to be a Motion to suspend the two days' notice required for amendments.

MR. W. McKEEVA BUSH: I thought you had given that.

MR. PRESIDENT: Does any Member wish to speak on the principal question, that is, the suspension of Standing Order 83 for the purpose of moving an amendment which is not related to the subject matter of the Bill under discussion?

I might revert, while things are being discussed, to the question of suspension of Standing Orders by the House or by a Committee.

It does appear to me that the House makes Standing Orders, therefore it seems to me that it would be the House that has the power to suspend them. The Committee operates by the rules of the House. I can see I am not going to persuade you, but...

MR. W. McKEEVA BUSH: I still think you are wrong! Standing Orders are very specific.

MR. PRESIDENT: *Erskine May* does not really help. I think it is on pages 215 and 308.

MR. W. McKEEVA BUSH: Mr. President, it seems that you have given people a long time to make up their minds whether they are going to speak on this Motion before the House. I think you need to call their attention as to whether or not they are going to speak or forever hold their peace.

MR. PRESIDENT: Well, you have raised such an unusual point that I think people do need time. It is a matter of very considerable significance. Extending this principle, for example, you could tack onto a bill all sorts of other extraneous questions which is not desired generally.

HON. W. NORMAN BODDEN: Mr. President, I would suggest Sir, that since this is something different, that you call a break so that Government can discuss this and take a position on it which we have not had an opportunity to do prior to this.

MR. PRESIDENT: I think that seems very sensible because I think all Members would like to discuss it.

We will suspend for ten minutes.

AT 2:52 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:12 P.M.

MR. PRESIDENT: Proceedings are resumed.

We suspended in order for Members to reflect on the proposition - I would not call it a motion because it will get us into procedural problems - from the First Elected Member for West Bay that Standing Order 83 be brought into play to suspend Standing Order 50(2) in regard to his proposed amendment to the Bill under discussion.

Does any Member wish to speak on the proposition? The Honourable Second Official Member.

HON. RICHARD W. GROUND: Mr. President, I rise to speak on the proposition because it is a procedural proposition. I would like to make it clear right from the start that in speaking on this proposition I do not intend to reflect in any way on the topic of the amendment which lies behind the proposition. In speaking, I speak on behalf of Government and I speak on behalf of Government in opposing the proposition. I do not intend to reflect any views on the amendment. That can always be brought forward at some other time and debated at length and what you have arrived at after that.

In opposing the proposition, may I just begin by reading the first part of Standing Order 50(2), that says: "A committee may make such amendments and additions to a bill as are relevant to its subject matter...". Now the subject matter of this Bill is set out in its Memorandum of Objects and Reasons and it is stated quite succinctly that the subject matter of the Bill is to create a new class of two-wheeled vehicles of 80 c.c. or less to be called motor scooters and to enable visitor permits to be issued to the holders of foreign motor car licences and similar licences to drive such motor scooters. That is a very clear and narrow subject matter for a Bill.

The proposed amendment lies well outside of it. The proposed amendment deals with the repeal of a completely different part of the Traffic Law dealing with a different class of two-wheeled vehicles and dealing with the prohibition on their import into the Islands. In other words, it is nothing to do with licensing whatsoever.

As I understand it, the reason for the Standing Order which follows substantially the practice of the Houses of Parliament in the United Kingdom is this: If Members, by introducing amendments in the Committee stage, go outside the ambit of the bill, the effect of that is that anything can be tacked on to an amending bill. An amending bill, for instance, which we did in this House a short while ago, was to amend the Caymanian Protection Law to deal with the crew of ships passing within the Islands. A Member could come along and tack on to that a series of substantive amendments to that very important Law. But, because it was done in Committee, only two days' notice would be given and there would be no opportunity for public consultation or public debate. The amendment would not be published in the green paper form which goes out into the Gazette and is seen by the community at large. Also, the debate on it would be heard in Committee which is not broadcast.

The effect of that is that the whole public democratic process of consultation over legislation could be avoided. I use the word 'avoided' because it is neutral and one can see readily that in the wrong hands, this could rapidly become a threat to the whole system of parliamentary democracy as we know it. Having said that, I am merely pointing out the dangers that lie down the road which this sort of preliminary procedural question could lead to. Of course, I am not suggesting in any way that this Member on this motion is doing anything of the sort. I hope that he will take those comments in the spirit that they are intended.

Now, there are ways in which non-Government Members of this House can initiate legislation or initiate action. There is nothing to stop a non-Government Member, in fact, from bringing a Bill. But it has to go through the same procedure as the Government Bill. It has to be published and so on and the public has to get their chance for input. But he can bring a motion requiring the Government to take some action such as amending the Law and that can be debated at length in the House in public. Both of those are perfectly proper ways for a non-Government Member achieving the legislative aim.

But because those ways exist, and because of the dangers that lie down the road, once one starts changing bills in Committee by bringing in wholly new material, because of those two factors, on this proposition Government is going to oppose the suspension of Standing Orders.

MR. PRESIDENT: Does any other Member wish to speak? It appears that no other Member wishes to speak.

Now, we are in something of a dilemma here because this is not a motion in the normal sense, but I think it would be entirely right that if the person who put the request or proposition wished to speak last. I think that would be in order. So, would the First Elected Member for West Bay wish to speak?

MR. W. McKEEVA BUSH: Thank you, Mr. President.

According to what the Second Official Member has said, it seems that Government is scared out of its wits in setting precedents. I see this as a correct procedure. Our Standing Orders enable us to suspend any Standing Order. I hold that framers of our Standing Orders in 1976 (of which at least one is a Member of the Executive Council) must have been looking forward that something of this nature would have taken place. Why else would it have gone in the Standing Orders? It gives just in these cases. I have been a Member, I have been supportive of the Government and I have, since 1985, talked to Council and talked to Members responsible concerning this said amendment before the House. The promises keep coming, we will bring the Traffic Bill to the House and that will incorporate everything. That has not come.

This particular Standing Order gives the backbencher the

opportunity to help himself, his constituents and the country in said matters. Now as far as setting a precedent, I cannot see where it is going to hurt us in any way because our Standing Orders do provide for the suspension of Standing Orders.

They are saying that the amendment might not entirely be relevant to the Bill. However, it is certainly within the scope of the Bill as we are dealing with motor scooters which...

MR. PRESIDENT: I am sorry, I must interrupt you. I have ruled on this point already. The Chair has ruled that the subject of your proposed amendment is not relevant to the Bill. When we say "Bill", we are talking about the amending Bill, not the principal Bill.

MR. W. McKEEVA BUSH: I understand your ruling, Mr. President, but I am now replying to the Second Official Member who has replied on behalf of Government. He was the one who talked about the Bill not being entirely relevant to the subject matter. I am referring to that part of his debate. I think that I am within my rights, Mr. President.

MR. PRESIDENT: You may, indeed, but he was simply repeating what the Chair had already ruled, and I really do call upon you not to challenge that ruling again. That is past history.

MR. W. McKEEVA BUSH: I agree with you, Mr. President. Unfortunately for the Government, the Second Official Member, referred to it in his debate and I am simply referring to what he has said. I think I am within my rights.

MR. PRESIDENT: You may, indeed, but you cannot challenge the substance of what he said because that was the ruling of the Chair.

MR. W. McKEEVA BUSH: Mr. President, I am certainly replying to what he said as far as the subject matter is concerned.

MR. PRESIDENT: I can see that you are not going to give way on this. I suggest that you move on, but I have to stick to this ruling, it is fundamental to this whole question that we are discussing.

MR. W. McKEEVA BUSH: After the Member has brought it up in a debate? I will bow to your ruling Mr. President, not that I appreciate what you are ruling, or how you are ruling, but you are the Presiding Officer.

The matter is completely within our Standing Orders. Standing Order 83 gives backbenchers or any Member of Government or the House a chance to do exactly what I am doing after the administration has refused to bring something like the Traffic Law to the House. I would hope that the eight Members on this side of the House will stick together at this time and vote a 'yes' on the motion.

MR. PRESIDENT: At the risk of seeming to join in this particular discussion, I do not think that anybody has challenged your right to move for the suspension or to request the suspension of Standing Orders. If they had challenged your right, the Chair, I can assure you, would have intervened.

Now, I think I have to somehow get the view of the majority of the House. What you are seeking is the consent of the majority, and although it does not say how we do that, I proposed to ask for 'ayes' and 'noes' and then if necessary, to call a vote. I think this is the best way to do it. I hope that the House will agree with that.

I am afraid it is not a motion because Standing Orders do not provide for a motion. It is a request for suspension with the consent of the majority. This is a technicality. This House made the Standing Orders, this Chair did not.

MR. W. McKEEVA BUSH: I still think that your ruling is wrong on it.

MR. PRESIDENT: There comes a time when if the Chair is challenged sufficiently it will name the Member. Please let that be understood.

I shall now put the question on the proposition that under Standing Order 83, Standing Order 50(2) be suspended for the purpose of introducing an amendment in Committee.

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

AYES AND NOES.

MR. PRESIDENT: Based on the voices, the Noes have it.

MR. W. McKEEVA BUSH: Mr. President, I am not following you, you can throw me out or anything you wish here this afternoon...

MR. PRESIDENT: I do not wish to do that.

MR. W. McKEEVA BUSH: Well, let us be honourable then. Mr. President, as far as I am concerned, a motion is before the House that we suspend Standing Orders.

MR. PRESIDENT: Would you kindly let me conduct the Business of the House? I have put the question whether Standing Orders should be suspended. Those in favour of the suspension requested to say "Aye" those against it were requested to say "No". If that was not sufficiently clear, I am prepared to put it again.

MR. W. McKEEVA BUSH: Well, I was going to ask for a Division, that was what I was getting around to.

MR. PRESIDENT: Well, I think the House understood who were saying 'no' or 'aye' in favour of what or not. Will the Clerk please take a division.

DIVISION NO. 6/89

AYES: 8	**NOES: 7**
Mr. W. McKeeva Bush	Hon. Thomas C. Jefferson
Mr. John D. Jefferson, Jr	Hon. Richard W. Ground
Mr. Truman M. Bodden	Hon. J. Lemuel Hurlston
Mr. Gilbert A. McLean	Hon. W. Norman Bodden
Mr. Gilbert A. McLean	Hon. Benson O. Ebanks
Mr. Roy Bodden	Hon. Linford A. Pierson
Mr. Franklin R. Smith	
Mr. John B. McLean	

MR. PRESIDENT: The result of the division is eight Ayes, seven Noes. Standing Order 50(2) is accordingly suspended.

AGREED BY MAJORITY: THAT S.O. 50(2) BE SUSPENDED TO ENABLE THE FIRST ELECTED MEMBER FOR WEST BAY TO MOVE AT COMMITTEE STAGE AN AMENDMENT, HAVING GIVEN TWO DAY'S NOTICE TO THE TRAFFIC (AMENDMENT) BILL, 1989.

MR. PRESIDENT: Now I think that, again, consonant with the ruling I gave earlier, we should look at the question of amendments in Committee and notice required. Since Members did not earlier have the tea break, I propose to suspend for the tea break while I consider that matter. Suspended for fifteen minutes.

AT 3:30 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 4:15 P.M.

MR. PRESIDENT: Proceedings of the House are resumed.

The House will now go into a Committee to study a Bill entitled, The Hotels Aid (Amendment) Bill, 1989, and some other Bills.

HOUSE IN COMMITTEE

MR. CHAIRMAN: The House is now in Committee. With the leave of the House may I assume that, as usual, we should authorise the Honourable Second Official Member to correct minor printing errors and such like in these bills?

Will the Clerk state each bill, read its clauses and we will proceed as we have done recently. If any Member wishes to speak on a clause, would he catch my eye and we will then hold the clauses at that point.

THE HOTELS AID (AMENDMENT) BILL, 1989

CLERK: Clause 1 - Short Title.
Clause 2 - Amendment of section 2 of Law 6 of 1976.
Clause 3 - Amendment of section 5.
Clause 4 - Amendment of Second Schedule.

MR. CHAIRMAN: If there is no debate, I will put the question on Clauses 1 through 4 as read. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. Clauses 1 through 4 passed.

AGREED. CLAUSES 1 THROUGH 4 PASSED.

CLERK: A Bill for a Law to amend the Hotels Aid Law, 1976.

MR. CHAIRMAN: The question is that the title stand part of the Bill. Those in favour please say Aye...Those against No.

AYES.

THE CHAIRMAN: The Ayes have it.

AGREED. TITLE PASSED.

THE FISHING VESSELS (SAFETY PROVISIONS)(REPEAL) BILL, 1989

CLERK: Clause 1 - Short Title.
Clause 2 - Repeal of Law 18 of 1978.

MR. CHAIRMAN: If there is no debate, I will put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. Clauses 1 and 2 stand part of the Bill.

AGREED. CLAUSES 1 AND 2 PASSED.

CLERK: A Bill for a Law to Repeal the Fishing Vessels (Safety Provisions) Law, 1978.

MR. CHAIRMAN: The question is that the title stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. The title passed.

AGREED. TITLE PASSED.

THE DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 1989

CLERK: Clause 1 - Citation.
Clause 2 - Amendment of section 38.

MR. CHAIRMAN: The question is that Clauses 1 and 2 stand part of the Bill. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. Accordingly, Clauses 1 and 2 passed.

AGREED. CLAUSES 1 AND 2 PASSED.

CLERK: A Bill for a Law to amend the Development and Planning Law (Revised).

MR. CHAIRMAN: The question is that the title stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. The title passed.

AGREED. TITLE PASSED.

THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS) BILL, 1989

CLERK: Clause 1 - Short Title and Commencement.
Clause 2 - Interpretation.

MR. CHAIRMAN: The question is that Clauses 1 and 2 stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. Accordingly, Clauses 1 and 2 passed.

AGREED. CLAUSES 1 AND 2 PASSED.

CLERK: Clause 3 - Amendment of the long title to the principal Law.

MR. CHAIRMAN: The Honourable Second Official Member.

HON. RICHARD W. GROUND: Mr. Chairman, I have given notice of a Committee stage amendment which has been circulated as was mentioned in my Second Reading debate.

In respect of Clause 3, the amendment proposed is to delete the words "to make provision for" where they appear in the amending Bill and also to change the last "for" to "and". This is a very slight change to preserve the sense of the intended amendment which was lost at one stage during the drafting process. The effect of the amendment is that the word "international agreements" in the long title governs also the manning of ships, the protection and health of the persons on ships and the detention of ships.

MR. CHAIRMAN: If there is no debate on the proposed amendment, I will put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. CLAUSE 3 AS AMENDED PASSED

CLERK: Clause 4 - Amendment of short title to the principal Law.
Clause 5 - Amendment of section 2 of the Principal Law.

HON. RICHARD W. GROUND: I have proposed an amendment to this Clause.

MR. CHAIRMAN: I think you should speak to the amendment. I will put the question on Clause 4 afterwards.

HON. RICHARD W. GROUND: The amendment which I have circulated really falls into two halves: The first is the deletion of the words "the principal" where they appear in the second line of Clause 5 between the words "appropriate" and "alphabetical". In fact, this is simply a typographical error because if Members look at their white copy they will see that the error is not in there. I would take this opportunity to formerly delete it.

The other amendments numbered (ii) and (iii) on the notice are slight, and only slightly more significant. The effect of them is to change the words "Cayman Islands citizen" so that they read "citizen of the Cayman Islands". You might well ask me why it is necessary to do that and the only reason is for purposes of consistency in the Regulations already made under the Law. The draftsman has used the expression "citizen of the Cayman Islands", so it would be consistent and proper that the principal Law also use that expression. So we simply turn the words around by this amendment. The same comments I expect of (iii), which merely does the same thing further down the line.

MR. CHAIRMAN: May I then put the question on the amendments? Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. The amendment to Clause 4 and 5 passed.

AGREED. AMENDMENTS TO CLAUSE 4 AND 5 PASSED.

MR. CHAIRMAN: I shall put the question that clauses 4 and 5 as amended be passed. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. CLAUSES 4 AND 5 AS AMENDED PASSED.

CLERK: Clause 6 - Amendment of section 15 of the principal Law.
Clause 7 - Amendment of section 19 of the principal Law.
Clause 8 - Amendment of section 40 of the principal Law.
Clause 9 - Amendment of section 46 of the principal Law.
Clause 10- Amendment of section 47 of the principal Law.
Clause 11- Repeal and replacement of section 48 of the principal Law.
Clause 12- Repeal and replacement of section 49 of the principal Law.
Clause 13- Addition of new Part 111A to the principal Law.
Clause 14- Amendment of headnote of Part IV of the principal Law.
Clause 15- Amendment of section 67 of the principal Law.
Clause 16- Amendment of section 70 of the principal Law.

MR. CHAIRMAN: The question is that clauses 6 through 16 stand part of the Bill. Those in favour please say Aye...Those against No.

AGREED. CLAUSES 6 THROUGH 16 PASSED.

CLERK: Clause 17- Repeal and replacement of section 74 of the principal Law.

MR. CHAIRMAN: We have an amendment to Clause 17. The Honourable Attorney General.

HON. RICHARD GROUND: Mr. Chairman, the amendment is again one that I mentioned in the second reading debate. At the present, the proposed section 44 would require the Chief Marine Surveyor to detain a ship whenever he becomes aware of the grounds for which his detention exists, then we give him no choice in the matter. It was felt by our London advisors that it would be unwise and that the Chief Marine Surveyor should have an area of discretion and the proposal is to change the word "shall", which is mandatory, to the word "may", which is permissive.

MR. CHAIRMAN: The question is that the amendment be passed. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. The amendment to clause 17 is passed.

AGREED. AMENDMENT TO CLAUSE 17 PASSED.

MR. CHAIRMAN: I shall put the question that clause 17 as amended be passed. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. Accordingly, clause 17 as amended is passed.

AGREED. CLAUSE 17 AS AMENDED PASSED.

CLERK: Clause 18- Amendment of section 75 of the principal Law.
Clause 19- Repeal and replacement of section 76 of the principal Law.
Clause 20- Amendment of section 77 of the principal Law.

MR. CHAIRMAN: I shall put the question that clauses 18 through 20 stand part of the Bill. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. CLAUSES 18 TO 20 PASSED.

CLERK: A Bill for a Law to mend the Merchant Shipping (Applicable Conventions) Law, 1987.

MR. CHAIRMAN: The question is that the title stand part of the Bill. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. TITLE PASSED.

THE TRAFFIC (AMENDMENT) BILL, 1989

CLERK: Clause 1 - Short title.
Clause 2 - Amendment of section 2 of the Traffic Law (Revised).
Clause 3 - Amendment of section 34 of the principal Law.
Clause 4 - Amendment of section 35 of the principal Law.

MR. CHAIRMAN: We will take Clauses 1 to 4 first and then take the amendment which would have the effect of adding a new Clause.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. CLAUSES 1 THROUGH 4 PASSED.

DECLARATION OF INTERESTS

MR. JOHN B. McLEAN: Mr. Chairman, before going on to the amendment, I wonder if you would permit me to declare an interest as I am the owner of a company that owns a motor cycle franchise.

MR. CHAIRMAN: Clerk, would you please make a note of that.

HON. LINFORD A. PIERSON: Mr. Chairman, I should also like to declare an interest in this matter.

MR. CHAIRMAN: Honourable Members have declared an interest. Is that an indication that you wish to abstain from voting? It is normal to make that clear if that is your intention. If you have a direct interest, I think it would be appropriate.

MR. JOHN B. McLEAN: My company owns a franchise, we have done no trading with motor bikes as yet.

MR. CHAIRMAN: This is a difficult question, I am glad that we are not being broadcast at the moment. Am I to understand that were the amendment to be passed you might then find yourself in the way of business?

MR. JOHN B. McLEAN: The company owns the franchise for a long time but it has never imported any motor bikes. I just thought that I should declare my interest.

MR. CHAIRMAN: I think that I would like to consider this, that is, consider it openly. I do not mean to go away and close the door.

It has been the Law that has prevented you in fact from carrying out business in that part of the franchise? Would that be correct? It has been a fact that the Law prohibits import which meant that you were not able to import that particular vehicle?

MR. JOHN B. McLEAN: No, Sir, not at all. With my franchise I could import any size of motor bike, parts or whatever I needed to import but we have just not imported them.

MR. CHAIRMAN: Looking back on what I recall from *Erskine May,* that would be regarded as sufficient declaration but not sufficient of an interest to cause you to abstain. The Honourable Member for Communications.

HON. LINFORD A. PIERSON: Mr. Chairman, my only position is that I am quite happy to abstain if the Elected Member for East End is giving an undertaking that he is not going to compete against me in the business. I am happy to abstain, Sir.

MR. JOHN B. McLEAN: Mr. Chairman, my company could have given him a lot of competition if we so wished because my company is known for the better bike, but we just have not entered into the purchase.

MR. CHAIRMAN: Now, the procedure for taking an additional clause by way of an amendment is in Standing Order 52(8). New clauses are taken after the clauses of a bill, as printed, have been disposed of and before the schedules. There is no schedule to this Bill. So, could I call on the Member who has moved this amendment to move it?

STANDING ORDER 52(8)
Amendment to Insert new Clause

MR. W. McKEEVA BUSH: Yes, Mr. Chairman, and I would like for it be known that I do not have any interest in any motorcycle company or anything else.

With your leave I would like to move the amendment before the House. I believe that the House, in passing this amendment, is giving back a right that was taken from the public some years ago. When this section was introduced prohibiting motorcycles larger than the 90 c.c, as I have said before, some members of the public lost their investments because they could not even import parts and they still cannot.

This is wrong. It has taken a right from the people. People in the Cayman Islands import the kind of car that they want. If they want a Cadillac they import it; if they want a Corvette, they import it; if they want a Bronco they import it; if they want horses they import them too. Mr. Chairman, why not the motorcycle that they wish to import?

MR. CHAIRMAN: There is no size limit on horses in effect.

MR. W. McKEEVA BUSH: Pardon me?

MR. CHAIRMAN: There is no size limit on horses.

MR. W. McKEEVA BUSH: I hear that they are bringing in very large ones these days.

I just cannot see the opposition to this amendment. The larger motorcycles, as far as statistics are concerned are safer than smaller ones. They have been proven to be much safer. Certainly, with the number of accidents in recent years involving small scooters, it would seem that the Government of that day, in moving and passing that section of the Law, was unduly penalising the public.

So I move, with pleasure, this amendment. I think it is completely relevant within the scope of the Bill. I trust that it will be carried.

MR. CHAIRMAN: Under the Standing Order I referred to earlier, that is deemed to have moved the clause. There is no marginal note to the clause as it is a deletion that is proposed. So the clause is taken to be read a first time.

The Chairman now has to put the question that this Clause be read a second time and then is discussed by the Committee. I will now put the question. There is a side note. There is a reference to section 13 of the principal Law, so there is a side note.

Would the Clerk now read that so that we do it properly.

CLERK: Clause 5 - Repeal of section 13 of the principal Law.

MR. CHAIRMAN: Would Members now care to discuss the amendment?

The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. Chairman, quite briefly, I would like to say that I support the amending Motion. It was my intention to move such a motion but when I found out that the First Elected Member for West Bay had already started to turn the wheels, I was happy to give him my full support. I feel that it is quite necessary. We are endeavouring to give back the right to those in the public who wish to own larger motor bikes.

There are several other areas within the Law which I honestly hope and trust will be changed at a later date. I would briefly mention one, and that is the tinting on windows. I hope and trust that other Members will see it fit to offer their support to that Motion.

HON. RICHARD W. GROUND: Mr. Chairman, I did have a comment on one of the forms of the amendment. I spoke briefly to the Member moving it earlier. It is not in the normal wording that we would use for a statutory amendment, without the intention of any disrespect. Also the part of it that calls for the renumbering of subsequent sections would lead to difficulties with the internal cross referencing of the Law and of other laws amending the [principal] Law, and of other Laws that refer to the Law should it be passed. I did ask the Member whether he would consider omitting that part from the Motion and it was hoped that he would have been able to do that without forcing me to move a formal amendment.

If we, the Legal Department, had drafted this section to give effect of the Member's intention all it would have said is, section 13 of the principal Law is repealed. I wondered if he would accept it in that form.

MR. W. McKEEVA BUSH: I see nothing wrong with that, Mr. Chairman. I have to be guided by the Second Official Member in this matter and I leave it for him to put it right, legally.

MR. CHAIRMAN: Well, I think it has to be done by way of an amendment, and I really think that we have really spent a lot of time trying to do this correctly. We should try to carry on doing that. Then you should move this amendment which I presumed you would not have objected to.

HON. RICHARD W. GROUND: I would move that the amendment be amended to read: "Section 13 of the principal Law is repealed."

MR. W. McKEEVA BUSH: This is a completely new amendment then?

MR. CHAIRMAN: No, it is an amendment that your amendment should read differently. It does not alter...

MR. W. McKEEVA BUSH: Mr. Chairman, I will move that all words after the word "deleted" be set apart and the amendment will be "that section 13 of the principal Law in its entirety be repealed.

MR. CHAIRMAN: I think that probably the legal point is that "its entirety" is superfluous, I think this is the point. Repeal means that you do away with the whole thing.

HON. RICHARD W. GROUND: I am very grateful to the Member for doing that. The word "that" would also come out at the beginning because when one reads the section in the Law, we would not say 'that'.

MR. CHAIRMAN: The original Mover of the amendment should have the privilege of moving the amendment to the amendment, that seems to be proper. So, I take it that you are moving then that it be re-worded, and this is the question I shall put in a moment. I want to get it correct for you. Let me know if this is what you want, "that section 13 of the principal Law is repealed". In other words, the section ceases to exist there is no replacement, it will disappear.

I shall put the question that the amendment be passed. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. AMENDMENT AS AMENDED PASSED.

MR. CHAIRMAN: Does any Member wish to speak further on the substantive content of the amendment?

MR. JOHN D. JEFFERSON, JR: Mr. Chairman, I want to say that I support the amendment. I personally am not a motorcycle or motor scooter lover, but I do not think that I should allow my personal likes or dislikes to hamper or restrict the rights and options of members of the public.

I think that for whatever reason the original restriction was put in place, I support the idea that the rights of the public were restricted and certain members of the public who have a desire to own such vehicles were deprived of that right. I support the idea of repealing section 13 of the Law to allow the purchase and importation of larger bikes.

MR. GILBERT A. McLEAN: Mr. Chairman, I too would like to say that I support the amendment that has been brought by the First Elected Member for West Bay, and I think that it gives back something which was taken. I can really see no good reason as to why this should not be allowed.

I personally have had representation from many people regarding this from time to time here in Grand Cayman as well as in my constituency and I feel that it will allow a privilege for those who may wish to have bikes of higher cylindrical capacity and, because of this, I support the amendment.

MR. CHAIRMAN: We have moved slightly over the normal closing time and, strictly speaking, we should now go back into the whole House, suspend Standing Orders and come back into Committee. That would be the correct procedure, unless Members wish to do this we may save a few minutes by not doing it.

HON. THOMAS C. JEFFERSON: I think we will allow you to proceed. Use your discretion, Sir.

MR. CHAIRMAN: Right, the watches have stopped. The Honourable Member for Education.

THE COMMITTEE CONSENTED TO ALLOW THE HOUSE TO CONTINUE ITS BUSINESS PAST 4:30 P.M.

HON. BENSON O. EBANKS: Mr. Chairman, I would just like to say that the merits or demerits of the more powerful bike aside, I am unable to support the amendment because it seeks to amend the Law far

more widely than was publicised by the amendment. I cannot, for that reason, support it. In other words, there was no opportunity for public input on this amendment.

MR. W. McKEEVA BUSH: But, Mr. Chairman, we could hold that the whole Bill was not sufficiently publicised. It was given its regular time but when it came to the public nobody heard about it. This matter has been knocking around for many, many years. I have talked about it so often in this House. The public is well aware of it because the public is the one that is complaining and while the amendment, as I have said, might not be entirely relevant to the subject matter of the Bill, it is certainly within the scope of the Bill since we are dealing with motor scooters which carry certain amount of cubic centimeters. We are within the scope of the Bill, there is no two ways about it.

MR. CHAIRMAN: Does any other Member wish to speak on this?

MR. FRANKLIN R. SMITH: I wish to support the amendment of the Bill because I believe the present Bill contains some dicriminating factors to the public. I remember quite well in the past when this Law came into effect the Royal Cayman Islands Police Force had those big motor cycles. I believe if we could go back to the figures, it would show that the officers of the Police Force that rode those bikes were the ones that got mashed up more than anyone else in these Islands. I know a few owners of big motor bikes in the Island whom I admired riding them for years and who have not had an accident. I know that the police have had many accidents.

MR. CHAIRMAN: No other Member wishes to speak? In that case, I think the form is that this new Clause 5, as amended, be added to the Bill.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: Madam Clerk, please take a division.

CLERK:

DIVISION NO. 7/89

AYES: 8	**NOES: 6**
Mr. W. McKeeva Bush	Hon. Thomas C. Jefferson
Mr. John D. Jefferson, Jr	Hon. Richard W. Ground
Mr. Truman M. Bodden	Hon. J. Lemuel Hurlston
Mr. Gilbert A. McLean	Hon. W. Norman Bodden
Mr. Gilbert A. McLean	Hon. Benson O. Ebanks
Mr. Roy Bodden	Hon. Linford A. Pierson
Mr. Franklin R. Smith	
Mr. John B. McLean	

MR. CHAIRMAN: The result of the division is eight Ayes, seven Noes. The new clause passes.

AGREED BY MAJORITY: NEW CLAUSE 5 PASSED.

CLERK: A Bill for a Law to amend the Traffic Law (Revised).

MR. CHAIRMAN: I shall put the question that the title stand part of the Bill. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it. The title passed.

AGREED. TITLE PASSED.

MR. CHAIRMAN: That concludes proceedings in Committee on several Bills. The House will now resume.

HOUSE RESUMED

MR. PRESIDENT: Please be seated.

One Honourable Member gave me notice this morning that he would wish to raise a matter on the adjournment. Since it is now already ten minutes to five the Member concerned may wish to defer this.

MR. W. McKEEVA BUSH: I am at your will. I do not know whether you are going to give me another time to do so.

MR. PRESIDENT: Yes, naturally. I was just saying that although we have stopped the clock, we are now twenty minutes over our normal time and maybe Members may not wish to go on. Maybe tomorrow?

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this Honourable House until 10 o'clock tomorrow morning.

MR. PRESIDENT: The question is that the House be adjourned until tomorrow morning at 10 o'clock. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until tomorrow morning at 10 o'clock.

AT 4:50 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. TUESDAY, 23RD MAY, 1989.

TUESDAY
23RD MAY, 1989
10:10 A.M.

MR. PRESIDENT: Prayers by the Honourable Member responsible for Communications Works and Natural Resources.

PRAYERS

HON. LINFORD A. PIERSON: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Please be seated. Proceedings of the House are resumed. Questions. The First Elected Member for West Bay.

QUESTIONS TO HONOURABLE MEMBERS

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE

NO. 37: Would the Honourable Member make a statement regarding the payment of gratuities, and Government's policy on gratuities, as referred to in the Labour Law?

ANSWER: The collection and distribution of gratuities is a system which was adopted by the majority of the members of the Cayman Islands' Hotel Association some 20 years ago. Flexible provisions and certain measures of control were introduced in the Labour Law in 1987 to ensure that in those cases where gratuities are collected a formula for distribution is established and maintained.

From routine inspections carried out by the Labour Office, it has been determined that satisfactory agreements regarding the payment of gratuities have been reached between employers and employees. It has therefore not been necessary for the Director to register a formula for determining the distribution of gratuities among employees. It has likewise not been necessary for the Governor in Council to prescribe a formula for such distribution. These inspections by the Labour Office are ongoing and include the inspection of work accounts and gratuity accounts.

Government is keeping the matter under careful and constant review, and this is an item to be reconsidered in the revision of the Labour Law to which amendments are intended to be brought to this Honourable House at its next Meeting in September of this year.

MR. PRESIDENT: There appear to be no supplementaries. Question No. 38, the Third Elected Member for West Bay.

THE THIRD ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE

NO. 38: Would the Honourable Member say whether the Governor in Council prescribed a formula to be used for determining the payment of gratuities among employees under section 32 of the Labour Law and, if so, what is the formula?

ANSWER: No formula has been prescribed by the Governor in Council for determining the payment of gratuities because to date this has not been found to be necessary.

MR. PRESIDENT: Supplementaries. The Third Elected Member for West Bay.

SUPPLEMENTARIES:

MR. JOHN D. JEFFERSON, JR: My question is also directed to the Honourable Member for Tourism, Aviation and Trade. The question is: Would the Honourable Member say whether the Governor in Council prescribed a formula to be used for determining the payment of gratuities under section 32 of the Labour Law and, if so, what is the formula?

HON. W. NORMAN BODDEN: Mr. President, the answer: No formula has been prescribed by the Governor in Council for determining the payment of gratuities because to date this has not been found to be necessary.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: How has this conclusion that there is no necessity to establish a formula been arrived at? Because from my information, this is one of the biggest issues right now before...

MR. PRESIDENT: I am sorry, you must not make a statement, you must ask questions.

MR. JOHN D. JEFFERSON, JR: Is it not one of the biggest issues affecting employees at the hotels and condominiums?

HON. W. NORMAN BODDEN: If it is an issue, or if there is controversy or dissatisfaction regarding the system, it has not been brought to my attention, at least not through the Director of Labour. I think the statement that I made earlier would explain that, as far as the Department of Labour is concerned, satisfactory agreements have been reached between employers and employees. The necessity for a formula to be prescribed became unnecessary, at least, at this present time.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. McKEEVA BUSH: Supplementary, Mr. President. The Member has said that a satisfactory agreement has come between employees and employers. Can the Honourable Member say whether this is in all of the sectors that we are dealing with, or is this all condominiums and hotels or just some condominiums and no hotels?

HON. W. NORMAN BODDEN: The gratuity system, at present, extends to hotels, condominiums and restaurants as well. It is my understanding that the agreements which have been reached, to which I have referred to, exist equally in hotels and condominiums.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say whether all of the various hospitality properties are using the same formula to distribute gratuities or, if there are differences, how is his Portfolio advised of the various differences, if these are satisfactory to the workers?

MR. PRESIDENT: I think that is the next question, but if the Member wishes to reply, that is perfectly all right.

HON. W. NORMAN BODDEN: Mr. President, with regard to the Labour Law, the subject of gratuities was a very difficult item for the Select Committee to have dealt with, simply because, while the Hotel Association has adopted the practice, it seemed that each individual property was left to decide on the distribution system that they would apply. It is my understanding that some of the hotels distribute the collection of gratuities across the board amongst all employees - from gardeners to management. Others seem to cut off at the front desk receptionist level. So I think they all have a different method.

The conclusion that a system is working satisfactorily in a particular property would be based on reports from the Director of Labour, and if representations are received from any individual property, then it would be the Director's responsibility to investigate that. I take it from what information I have had from his Department that it has not been necessary because, generally, dissatisfaction has been expressed between employers and employees.

MR. GILBERT A. McLEAN: Mr. President, based on what the Honourable Member has said is the reason I have been trying to reach a conclusion as to whether the various formulas used can be satisfactory. The fact that the law says management should not participate, then how can the Director of Labour determine that so much variance can be acceptable in each case when the law has clearly been breached, in that management is

receiving certain payments from gratuity?

HON. W. NORMAN BODDEN: From my recollection of the provisions in the Labour Law - and I have the law here with me - it does not state specifically what category of employees are allowed to participate in gratuities.

MR. McKEEVA BUSH: A supplementary, Mr. President. Is it not a fact that gratuities have been paid to the lower members of staff in an establishment and not the managerial level?

HON. W. NORMAN BODDEN: As I said earlier, I am sure the different properties have different policies on the distribution. Some of them include management and, as far as I know, others do not. I would just say this - and I draw from many years ago when this was being discussed - I personally believe that it was the intention, when the system was adopted, for it not to be extended to managerial staff. I think it was originally intended to apply actually to waitresses and waiters who were providing the direct visitor contact and service in the dining rooms mainly. Throughout the years there were certain changes brought in by different properties and it was extended to various categories. But my recollection is that, originally, it was never intended to apply to managerial staff.

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say whether he has discussed this with the various properties about standardising the gratuities within the different categories as appears to have been under that section?

HON. W. NORMAN BODDEN: An attempt was made during the discussion of the Select Committee with representatives from the Association to standardise the system. They were asked to consider this and they came back several weeks later to say that it was totally impossible for their members to arrive at any standard system - each one insisted on having their own. I might add that I have been told by the Director of Labour that those properties claiming that satisfactory agreements exist between the employers and employees have filed signed agreements with the Labour Office.

MR. PRESIDENT: I think we should move on. We have definitely now gone into the next question which may have been answered. But could we now have Question No. 39? The First Elected Member for West Bay.

THE THIRD ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE

NO. 39: If no formula has been prescribed for the payment of gratuities to employees, would the Honourable Member say whether the Director of Labour agreed with employers on a formula and, if so, how many have been registered and how many employers have not yet done so under section 32 of the Labour Law?

ANSWER: To date, it has not been necessary to impose a formula for the distribution of gratuities because, of those properties inspected, satisfactory agreements had been reached between employers and employees (12 signed agreements have been submitted).

MR. PRESIDENT: Supplementaries. The Third Elected Member for West Bay.

SUPPLEMENTARIES:

MR. JOHN D. JEFFERSON, JR: If 12 properties have registered, does the Honourable Member have any idea how many have not registered with the Labour Office?

HON. W. NORMAN BODDEN: I do not have the total number of businesses that collect gratuities because there are hotels, condominiums and restaurants. I know that we have a total of 65 hotels and condominiums. I do not know the exact number of restaurants, it could be in the region of probably 35 or 40. But those 12 that I referred to were properties which the Director of Labour had reasons to inspect, probably because of representations that were made to him. As a result, signed agreements for those 12 were filed with his office.

MR. JOHN D. JEFFERSON, JR: A supplementary, Mr. President. Based on the feedback that we are getting as Members of the Legislative Assembly, would the Honourable Member give an undertaking that this position be reviewed and that some consideration be given to some consistency in regard to arriving at a formula for the distribution of gratuities?

HON. W. NORMAN BODDEN: Mr. President, I should point out that I think many, many hours were spent by the Committee in discussing this item before the Labour Law was presented to this Honourable House. I did mention in my earlier statement that this is an item that would be considered by the Portfolio, and if there can be a means devised to strengthen the very flexible provisions that now exist in the Labour Law, that this will be strengthened in any fashion that it can be and brought to the House in September of this year. In reply to the supplementary question, I should point out that it is not a requirement under the Labour Law for any of the

properties to register.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say if it is not highly likely that, in the instances of the 12 properties that have registered with those signed agreements between employers and employees, there could have been a serious element of caution, or sign-off type of policy?

MR. PRESIDENT: I wonder if the Member would rephrase that? I think it is not quite clear.

MR. GILBERT A. McLEAN: I mean, Mr. President, that the employees did not sign it of their free will, they were forced into signing the agreements.

HON. W. NORMAN BODDEN: Mr. President, I would not be able to express an opinion on that, Sir. I could not say whether this is highly likely or not - nothing has been brought to my attention that any employee was forced into signing any agreement against their will. If it has taken place, I would certainly like to have the specifics of it so that the Director of Labour can thoroughly investigate it. But I have no knowledge of it at this time.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, would the Member say whether the 12 filed agreements have covered the larger premises or not?

HON. W. NORMAN BODDEN: Yes, Mr. President. I would say that they covered the larger premises, and the majority.

MR. PRESIDENT: Question No. 40, please. The Third Elected Member for West Bay.

THE THIRD ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 40: Would the Honourable Member say whether the Director of Labour inspected any employers' accounts recording gratuities received or collected and paid in accordance with section 34 of the Labour Law?

ANSWER: Accounts recording gratuities have been inspected from time-to-time by the Director of Labour and his staff.

MR. PRESIDENT: Supplementaries. The Third Elected Member for West Bay.

SUPPLEMENTARIES:

MR. JOHN D. JEFFERSON, JR: Would the Honourable Member say who inspected these accounts?

HON. W. NORMAN BODDEN: Mr. President, it is my understanding that in many cases it was the Director of Labour himself, and probably his assistant in some instances.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. McKEEVA BUSH: Can the Honourable Member say what were the findings of these inspections?

HON. W. NORMAN BODDEN: Mr. President, I would take it that the inspections were found to be in order, and if they were not found to be in order, I know of no follow up action that was taken. Certainly, if there were discrepancies, follow up action would have been taken.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Mr. President, would the Member say if there are persons available to the Labour Office with specific accounting skills, who can examine the accounts prepared by the hotel properties to ensure that gratuities are done in the manner as prescribed by law and in the detail?

HON. W. NORMAN BODDEN: Mr. President, the Department of Labour does not have any qualified accountant or any person on staff who holds what I consider any extensive accounting skills. But, to be quite frank, I am not convinced that a gratuity account must necessarily be checked by an individual with accounting skills. We know that they are collecting 15 per cent, we can examine what the total amount collected is,

and they certainly must have a breakdown on how that 15 per cent was distributed amongst its staff. It does not seem like a very complicated exercise to me. A layman, surely, could check to see if there are discrepancies there.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say how many premises accounts were inspected?

HON. W. NORMAN BODDEN: Mr. President, I understand that so far it was only necessary to inspect 12. We seem to be stuck on 12 this morning, but is was 12, as I understood from the Director of Labour, that were inspected.

MR. PRESIDENT: The next question please, No. 41. The Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 41: Would the Honourable Member say how the Government ensures the enforcement of the various provisions of the Labour Law; and whether all employers have now issued job descriptions to their various employees?

ANSWER: To ensure compliance with the Labour Law, regular on-site inspections of various workplaces are conducted by the Labour Office. Where instances of non-compliance with the law become known either as a result of these inspections or by complaint to the Labour Office, the party concerned is immediately instructed to take the necessary steps to comply with the law. Based on inspections conducted by the Labour Office to date, Government is satisfied that the majority of employees have been issued with a statement of working conditions as required by the law.

MR. PRESIDENT: Supplementaries. The Second Elected Member for the Lesser Islands.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Would the Honourable Member say if it is not a requirement of the law that all full time employees are supposed to be issued with job descriptions within 30 days of their employment?

HON. W. NORMAN BODDEN: That is correct. That is my understanding of the provisions under the law.

MR. PRESIDENT: If there are no further supplementaries, Question 42, please. The Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 42: Would the Honourable Member say whether any hotels in the Cayman Islands are in arrears with payment to Government for accommodation tax over the prescribed time limit? If the answer is in the affirmative, which hotels, and how much?

ANSWER: Listed below are hotels which are in arrears with payment of hotel accommodation tax up to the end of March 1989 and the period for which such tax is due. It is not possible to state an amount because this is determined from the returns submitted by the hotels, and returns have not been filed in the cases listed. The Department of Tourism has taken steps to ensure the collection of the outstanding amounts, and failure at departmental level will result in these being handled in accordance with the Financial and Stores Regulations, which includes legal action, if necessary.

PROPERTY	1988	1989
Cayman Diving Lodge	Sept & Oct	Jan-March
Cayman Islander Hotel	July-Sept	
Island House Resort	Feb-July	Jan-March
	Oct-Dec	
Ramada Treasure Island	Jan 87-July 88	
Villa Caribe	Jan-Dec	Jan-March
Cayman Resort Club	Jan-March	
Cayman Reef Resort	Jan-March	Jan-March
	June	

Coral Isle Lodge	Jan-Aug	
Coral Reef Apts	Jan-Aug Oct-Dec	Jan-March
Driftwood Village	Jan-March	Jan-March
Eldemire's Guest House	Jan-April	
Lime Tree Bay	Jan-June	Jan-March
Silver Sands	Jan-June	Jan-March
Sundower	Jan-June	Jan-March
Tamarind Bay	Jan-July	Jan-March
Treasure Island Condos	Jan-June	Jan-March
Turtle Beach Villas	Jan-June	Jan-March
Villas of the Galleon	Jan-June	Jan-March
Villas Papagallo	Jan-June	Jan-March

MR. PRESIDENT: Supplementaries, the Third Elected Member for George Town.

SUPPLEMENTARIES:

MR. TRUMAN M. BODDEN: Mr. President, This may seem an odd question, but has any accommodation property paid Government up to date?

HON. W. NORMAN BODDEN: Yes, Mr. President. From June 1988 to May 1989, which is the period of time for which the Department of Tourism commenced being responsible for the collection of Accommodation Tax, the Government has collected CI$2,096,551.23.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I wonder if the Member would be in a position to give us the figure that is outstanding?

HON. W. NORMAN BODDEN: No, Mr. President, unfortunately, I am unable to establish that figure. Under the system the onus is on the tourist accommodation property to submit a monthly return along with their total collections and cheque in the settlement of 6 per cent for Government. That is the system that has been in place, and that provision is made for under the Tourism Accommodation Tax Law. Maybe because of these difficulties and, as I said, the Department of Tourism has not been responsible for collecting this accommodation tax for a long time, and in view of what has been brought to light, we probably will have to change the legislation which would force these properties to meet a certain criteria that is laid down in the law. Under the present system they submit their monthly returns and the payment of the tax is being based on that. For those periods I have mentioned no returns have been submitted.

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say who was responsible prior to the Department of Tourism taking over the responsibilities for collection?

HON. W. NORMAN BODDEN: I think prior to June 1988 the Treasury Department was responsible for the collection of this tax. Because of the system, they could only wait until returns were submitted, and payments were based on those returns.

MR. GILBERT A. McLEAN: Mr. President, in light of the amount collected being in the millions, it seems reasonable to assume that there are virtually millions of dollars outstanding from the other properties. Would the Honourable Member give an undertaking that he, through the Department of Tourism, will bring to bear immediate and severe pressure on these properties to pay what is due to the Government? Obviously, they have collected for the accommodation that they have given to the public.

HON. W. NORMAN BODDEN: Mr. President, I agree with the Second Elected Member for the Lesser Islands. We have a total of 65 properties, the properties I have called out totalled 19. I would say that there is a substantial amount still outstanding. I would not say that it is in the millions, but I can give an undertaking to this House that I will, through the Department of Tourism, bring all possible pressure to bear on these delinquent accounts to be brought up to date. Also, for the future, some amendments of the Accommodation Tax Law should be made so that a proper system can be implemented. I would also point out that under the law there is a 20 per cent penalty for properties which have never paid. We will be collecting not only the 6 per cent outstanding, but the penalties would be applied in full measure.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Mr. President, through you, Sir, would the Honourable Member also give an undertaking that Government, or the Department, would ensure that the figures and the returns from the hotels are entirely accurate and honest? Because it seems to me that people can play games with the system the way it is now.

HON. W. NORMAN BODDEN: Mr. President, I can give that undertaking through the Department of Tourism. I would not deny that there are loop holes which we intend to look at, but the Department of Tourism (unlike the Department of Labour) does have an experienced accounting staff, and I can give an undertaking that they will ensure (based on what is submitted) that the proper accommodation tax and the penalties will be applied and collected.

MR. PRESIDENT: The Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Supplementary, Mr. President. Could the Honourable Member say whether there is a possibility that properties could accommodate guests without reporting it to Government?

HON. W. NORMAN BODDEN: I suppose, Mr. President, if you are dealing with crooks anything is possible, but I would not be able to say whether this has happened or not. I would say that my knowledge of the system is that the invoices from the hotels are submitted in sequence - they are numbered. I think that, while it could be a situation where no invoice was written up at all, I do not know what their shareholders and directors would say if a hotel was accustomed to carrying out that type of accounting system. But, those invoices which have been submitted are checked to see if there are numbers missing. We have to see a cancelled invoice or something to give an account for the missing invoices. There is some measure of control.

MR. PRESIDENT: Question No. 43. The Second Elected Member for the Lesser Islands, please.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 43: Would the Honourable Member state how much has been expended on the construction of the gallows at Northward Prison to date?

ANSWER: CI$243,528 has been expended on the construction of the gallows at Northward Prison to date.

MR. PRESIDENT: Supplementaries. The Second Elected Member for the Lesser Islands.

SUPPLEMENTARIES:

MR. GILBERT McLEAN: Mr. President, would the Honourable Member say if the construction is completed?

HON. J. LEMUEL HURLSTON: No, Mr. President, completion is expected in September 1989, and the completed cost is estimated to be $331,900.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: A supplementary, Mr. President. Does the Honourable Member think that it will ever be used?

MR. PRESIDENT: That is not sufficiently connected to the original question. It is also inviting a matter of opinion for an answer, so it is not admissible on those two counts.

Can we take the next question please, No. 44. The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 44: Would the Honourable Member say whether there is any security reason which prohibits Caymanians from using the beach behind the Governor's residence?

ANSWER: First, there is no question of prohibition. Honourable Members may have seen the recent report in the *Caymanian Compass* on this matter. The report recorded the legal position in regard to the use of beaches including Seven Mile Beach. Property boundaries are the main high water mark, but the Prescriptions Law preserves right of access to, and use of beaches for normal purposes, provided they have been so used for 20 years and that there is no breach of the peace.

The report also quoted the Governor as saying that there is no personal security issue involved. It is simply a matter of reasonable privacy which, in any case, is very largely respected and for which His Excellency has asked me to state he is most grateful.

The statement also referred to the fact that about one-third of the beach frontage of the Government House site lies outside the walls of the residence, and that there are two large vacant sites one on

each side of Government House.

This Government considers that our Head of State should be afforded reasonable privacy, as in other countries, and it is clear that the majority of our community agrees.

The Police Constables on duty at Government House, when asking people not to settle on the beach frontage immediately between the walls of the residence, have instructions which state clearly the legal position, and that they are acting only in regard to the reasonable privacy of the Governor and his family.

MR. PRESIDENT: Supplementaries, the Elected Member for East End.

SUPPLEMENTARIES:

MR. JOHN B. McLEAN: I wonder if the Honourable Member can say whether it is correct that, for security reasons, a wall or fence will be built along the beach section behind Government House?

HON. J. LEMUEL HURLSTON: Mr. President, I know of no security reasons for a wall to be constructed. However, I do know that consideration is being given to safeguarding beach erosion.

MR. W. McKEEVA BUSH: So, Mr. President, what the Honourable Member is saying is that Caymanians can go and use the beach at any time within reason.

MR. PRESIDENT: That does not appear to be a question.

MR. McKEEVA BUSH: Well, Mr. President, I thought it was but his answer somehow...

MR. PRESIDENT: You are making a statement. Would you please put a question? Or sit down.

MR. McKEEVA BUSH: Mr. President, is it not a fact that Caymanians have gone to the beach, been very quiet, behaved themselves, and were told to move?

HON. J. LEMUEL HURLSTON: Mr. President, I know of no such occurrence.

MR. W. McKEEVA BUSH: Well, I think that you should find out because it happened - that is where we got the reports.

MR. PRESIDENT: You are not allowed to make statements during Question Time. Please do not do it.

HON. J. LEMUEL HURLSTON: Mr. President, for the record I would just like to make it abundantly clear that there are no reports on record of any such incidents.

MR. W. McKEEVA BUSH: Will the Honourable Member do an investigation to find out whether it has happened and report back to the House?

HON. J. LEMUEL HURLSTON: Mr. President, if it had happened in the research that I did in preparation for this answer, it would have been brought to my attention. It has not happened and it has not been reported.

MR. PRESIDENT: Question No. 45, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 45: Will the Honourable Member give the number of tourist arrivals by air and by cruise ships separately for the months of February, March and April 1988 and 1989?

ANSWER: The number of tourist arrivals were as follows:

1. AIR ARRIVALS

MONTH	**1988**	**1989**
FEBRUARY	22,719	19,913
MARCH	25,188	22,959
APRIL	19,128	17,294

2. CRUISE SHIP ARRIVALS

MONTH	1988	1989
FEBRUARY	30,393	38,543
MARCH	38,355	49,503
APRIL	43,502	38,144

MR. PRESIDENT: Supplementaries. The Third Elected Member for George Town.

SUPPLEMENTARIES:

MR. TRUMAN M. BODDEN: On the air arrivals, would the Honourable Member state what steps he may be taking to deal with getting these numbers back up?

HON. W. NORMAN BODDEN: First of all, let me point out that while there is a decline in tourism from January to April of this year we have experienced an improvement almost on every month. In January for example, air arrivals were down 17.6 per cent, compared with January 1988; February we were down 12 per cent; March we were down 8.8 per cent, and April we were down 9.5 per cent. The increases in cruise ship arrivals was up 61 per cent in January; in February by 26.8; in March up by 29 per cent; and April up by 10.5 per cent.

To answer the supplementary on what is being done: From January to the present time we have had monthly meetings (and more if necessary) between Government and the private sector, that is, the Department of Tourism, Cayman Airways, the Hotel Association and our Advertising and Public Relations firms. We have developed certain lead packages for the summer by the airlines and the hotels giving special rates. Those packages are effective from June and we are carrying them through to November 30th. So it covers the summer and fall. We feel they are attractively priced packages that will attract some increase in business. We have also increased our advertising through a fund that is being developed through contributions from the Watersports Operators Association, the Hotel Association, the Airlines and the Department of Tourism so that we can increase our advertising activities. We have also increased our activities in the United Kingdom and Europe. I might point out here that, while the United States market is down (has been down since January and continues to be down every month after that), the United Kingdom and European traffic has increased substantially; so this is really what accounts for the improvement in the figures for February, March and April.

We have also met with the charter operators out of Canada and they are reinstating their charter programme from Toronto - a weekly service starting in November of this year. I feel that we have taken certain steps within the limitations of our financial resources to improve the situation. Hopefully, the results will be that 1989 will end up, if not with a substantial increase, no worse off than we were in 1988. I think that we should be able to level this thing off by the end of the year.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: A supplementary, Mr. President. Would the Honourable Member say how air arrival projections for the summer of 1989 compares with air arrivals for the summer of 1988?

MR. PRESIDENT: I think that is going beyond the present question. The question is about what has happened so far this year. I do not think that you should really go forward into what might not happen.

Next on the Order Paper is Government Business, Bills - Reports on Bills.

GOVERNMENT BUSINESS

BILLS

REPORTS

THE HOTELS AID (AMENDMENT) BILL, 1989

HON. W. NORMAN BODDEN: Mr. President, I have to report that a Bill entitled, A Bill for a Law to Amend the Hotels Aid Law, 1976, was considered by a Committee of the whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

THE FISHING VESSELS (SAFETY PROVISIONS) (REPEAL) BILL, 1989

HON. THOMAS C. JEFFERSON: Mr. President, I have to report that a Bill shortly entitled, The Fishing Vessels (Safety Provisions) (Repeal) Bill, 1989, was considered by a Committee of the whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

THE DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 1989

HON. LINFORD A. PIERSON: Mr. president, I have to report that a Bill entitled, A Bill for a Law to Amend the Development and Planning Law (Revised), was considered by a Committee of the whole House and passed without amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS) (AMENDMENT) BILL, 1989

HON. THOMAS C. JEFFERSON: Mr. President, I have to report that a Bill shortly entitled, The Merchant Shipping (Applicable Conventions) (Amendment) Bill, 1989, was considered by a Committee of the whole House and passed with three amendments.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

THE TRAFFIC (AMENDMENT) BILL, 1989

HON. J. LEMUEL HURLSTON: Mr. President, I have to report that a Bill shortly entitled, The Traffic (Amendment) Bill, 1989, was considered by a Committee of the whole House and passed with one amendment.

MR. PRESIDENT: The Bill is accordingly set down for Third Reading.

I believe that we need Standing Orders to be suspended in order to proceed with the Third Reading on the same day as Reports. No? It is not necessary? Thank you.

Bills, Third Reading. Clerk.

THIRD READINGS

THE HOTELS AID (AMENDMENT) BILL, 1989

CLERK: The Hotels Aid (Amendment) Bill, 1989.

HON. W. NORMAN BODDEN: Mr. President, I move that a Bill entitled, A Bill for a Law to Amend the Hotels Aid (Amendment) Bill, 1989, be given a Third Reading and passed.

THE PRESIDENT: The question is that a Bill entitled, A Bill for a Law to Amend the Hotels Aid (Amendment) Bill, 1989, be given a Third Reading.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE HOTELS AID (AMENDMENT) BILL, 1989, PASSED.

THE FISHING VESSELS (SAFETY PROVISIONS) (REPEAL) BILL, 1989

CLERK: The Fishing Vessels (Safety Provisions) (Repeal) Bill, 1989.

HON. THOMAS C. JEFFERSON: Mr. President, I move that a Bill entitled, The Fishing Vessels (Safety Provisions) (Repeal) Bill, 1989, be given a Third Reading and passed.

THE PRESIDENT: The question is that a Bill entitled, The Fishing Vessels (Safety Provisions) (Repeal) Bill, 1989, be given a Third Reading.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE FISHING VESSELS (SAFETY PROVISIONS)(REPEAL) BILL, 1989, PASSED.

THE DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 1989

CLERK: The Development and Planning (Amendment) Bill, 1989.

HON. LINFORD A. PIERSON: Mr. President, I move that a Bill entitled, The Development and Planning (Amendment) Bill, 1989, be given a Third Reading and passed.

THE PRESIDENT: The question is that a Bill entitled, The Development and Planning (Amendment) Bill, 1989, be given a Third Reading.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE DEVELOPMENT AND PLANNING (AMENDMENT) BILL, 1989, PASSED.

THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS) (AMENDMENT) BILL, 1989

CLERK: The Merchant Shipping (Applicable Conventions) (Amendment) Bill, 1989.

HON. THOMAS C. JEFFERSON: Mr. President, I beg to move that a Bill entitled, The Merchant Shipping (Applicable Conventions) (Amendment) Bill, 1989, be given a Third Reading and passed.

THE PRESIDENT: The question is that a Bill entitled, The Merchant Shipping (Applicable Conventions) (Amendment) Bill, 1989, be given a Third Reading.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE MERCHANT SHIPPING (APPLICABLE CONVENTIONS) (AMENDMENT) BILL, 1989, PASSED.

THE TRAFFIC (AMENDMENT) BILL, 1989

CLERK: The Traffic (Amendment) Bill, 1989.

HON. J. LEMUEL HURLSTON: Mr. President, I beg to move that a Bill entitled, The Traffic (Amendment) Bill, 1989, be given a Third Reading and passed.

THE PRESIDENT: The question is that a Bill entitled, The Traffic (Amendment) Bill, 1989, be given a Third Reading.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE TRAFFIC (AMENDMENT) BILL, 1989, PASSED.

MR. PRESIDENT: Next on the Order Paper, Government Motions. Government Motion No. 5/89. The Honourable Member for Communications and Works.

GOVERNMENT MOTIONS

SUSPENSION OF STANDING ORDER 24(5)

HON. THOMAS C. JEFFERSON: Mr. President, just out of caution, I do not think the Motion presently before the House has been circulated for five clear days. Under Standing Order 83, I move the

suspension of Standing Order 24(5).

MR. PRESIDENT: I am sorry, I, was not aware of that. It was on the Order Paper, I had assumed that it was tabled within the specified time. The Motion is that Standing Order 24(5) be suspended to permit Government Motion No. 5/89 to be taken without the five days' notice required.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. STANDING ORDER 25(5) SUSPENDED.

MR. PRESIDENT: The Honourable Member for Communications and Works.

GOVERNMENT MOTION NO. 5/89

AMENDMENT TO THE DEVELOPMENT PLAN 1977

HON. LINFORD A. PIERSON: Mr. President, in accordance with Standing Order 24, I beg to move the following Resolution:-

> BE IT RESOLVED THAT this Honourable Legislative Assembly pursuant to the powers conferred on it by subsection (2) of section 7 of the Development and Planning Law (Revised), the Development Plan 1977 (being the Plan referred to in subsection (5) of section 6 of the Law) be it this day altered as follows:
>
> a) in section 1.5 of the Planning Statement, the following definitions shall be inserted in the appropriate alphabetical sequence:
>
> "composite map" has the meaning ascribed to it in the Roads Law 1974"; and
>
> "prescribed composite map" means the series of composite maps dated October 1988, revised in April 1989 and approved by the Governor on the 9th day of May, 1989;
>
> b) in section 3.11 of the Planning Statement, the words "on the prescribed composite map" shall be substituted for the words "in diagrammatic form on the map" in the sixth line.

Simultaneously, I also beg to lay a set of the approved prescribed composite maps on the Table of this Honourable House.

MR. PRESIDENT: Government Motion No. 5/89 has been duly moved. Does the Member now wish to speak to it?

HON. LINFORD A. PIERSON: Thank you, Mr. President.

Mr. President, in 1988 the Government enacted extensive revisions to the Roads Law, 1974, in order to provide a legislative basis for improvements to the road system recommended by the Master Ground Transportation Plan. The law specifically referred to is the Roads (Amendment) Law, 1988, (Law 6 of 1988).

The Resolution brought to this Honourable House today emanates from the Master Ground Transportation Plan (MGTP) carried out in 1987 and 1988. Honourable Members of the previous House had several opportunities to contribute, as did various other interested groups. The MGTP was discussed with the Central Planning Authority, the Surveyors, Architects, Engineers and Contractors Association, the Chamber of Commerce, the Bankers Association, the Hotel and Condominium Association, the Heavy Equipment Operators Association and other associations. This exercise had a wide level of participation so no one can claim that they did not have time to acquaint themselves with the details of this law and the MGTP. Also, the Roads (Amendment) Law, 1988, (Law 6 of 1988), was assented to by you, Sir, on the 24th August, 1988. Members have had sufficient time to study this. The final Report was tabled in this Honourable House in April 1988.

The study not only addressed the physical needs, but also the administrative and legislative needs of this country. As a result of these studies, the Roads Law, 1974, was substantially revised by this Honourable House in April 1988. Those revisions dealt primarily with: (a) establishing the Governor in Council as the highway authority; (b) establishing a new classification system for our roads; and (c) upgrading the provisions with regards to preserving and acquiring rights of way and the entertaining of claims for

compensation as a result thereof. I should also add that these amendments were approved without a single dissenting vote during the April 1988 Meeting.

The Honourable Members of this House, in April 1988, had recognised the need for these amendments and upgrades. At the same time, the Legislators acknowledged that the planning of our roads should not be divorced from the provisions of the Development and Planning Law (Revised). Indeed, Sir, section 25 of the Roads (Amendment) Law, 1988, is very clear on this particular issue. For the information of the listening public, and for Members of this Honourable House, I wish to read section 25 of the law. This amendment is entitled, 'Modification of the Development and Planning Law (Revised), re: The Long Term Projection of Road Corridors', and it reads:

> "Notwithstanding anything in the Development Plan and the Planning Law (Revised), the Governor may, subject to subsection (2), exercise any of the powers of the Central Planning Authority under that law in relation to the making and implementation of a development plan in so far as those powers relate to -
>
> (a) the sites of proposed roads; and
>
> (b) the particulars, in relation to roads, in Part 1 of the Second Schedule to the Law,
>
> hereinafter in this section referred to as a "road corridor".
>
> (2) The Governor shall not exercise his powers under subsection (1) until and unless he receives a recommendation for that purpose from the Central Planning Authority.".

Members will note that the set of plans tabled in this Honourable House were approved by the Central Planning Authority in April, 1989. Section 25 continues to read:

> "(3) Where in furtherance of any provision made for a road corridor in a development plan, it becomes necessary or desirable to designate land as being subject to acquisition for road purposes, the procedure therefore shall be in accordance with section 3 of this Law and such of the other provisions of this Law as relate to that section.
>
> (4) A development plan made pursuant to subsection (1) shall have effect as if it were a development plan made under the Development and Planning Law (Revised) subject to modification of that Law, in relation thereto in the following respects:-
>
> (a) Instead of any procedure under section 8 of that Law, the Development Plan shall be brought into operation by the publication of a notice to that effect published by the Governor in the Gazette;
>
> (b) subsection (2) of section 6 of that Law (which relates to acquisitions not likely to take place within five years) shall not apply;".

Section 8 of the Development Planning Law (Revised) deals with public input in enacting this amendment. The Members of the previous House gave recognition to the substantial public participation which the MGTP had allowed.

Section 25 of the Roads Law, as amended, now empowers the Governor in Council to designate proposed road corridors in the Development Plan to, in effect, make a development plan for roads. The proposed road corridors intended for designation in the Development Plan are shown on the set of prescribed composite maps just laid on the table of this Honourable House. Members were briefed on the proposed amendments to the law a few weeks ago, and have had explained to them the technical details relative to the amendments. At that briefing Members present also gave their support, in principle, to the proposed amendments.

In dealing with the objectives of the resolution before the House today, I wish to point out that the objective is to: 1) enable the corridors of the proposed MGTP network of roads to be preserved for this purpose; and 2) to allow property owners and regulatory agencies such as the Central Planning Authority to move, and more confidently make their respective decisions in respect of plans for physical development.

Mr. President, I am sure the public will appreciate that if we are to implement the recommendation of the MGTP, we must first preserve the opportunity to do so. By this, Sir, we must ensure that prohibitive physical development does not occur in the proposed corridors which would result in inconvenience to proprietors and excessive cost to the Government. Likewise, I am sure that Honourable Members are aware that the only current legal provision for the preservation of road corridors is provided for under the Development and Planning Law (Revised), and prescribed under a 1-25000 plan contained in the Development Plan. Members that have read the Development Plan will know this is a very small plan. I hold it up so that Members of the House can look at it; we could hardly have used this for the purpose intended.

Mr. President, it is obvious that on a plan of this scale property owners and regulatory agencies were unable to confidently define where the corridors lie. The recommended MGTP road network has now superceded the provisions contained in the Development Plan 1977. Similarly, the MGTP Study recognised the need in prescribing road corridors on a format of larger scale and greater detail than that previously used. Accordingly, the composite maps have been created. Firstly, these maps are at a 1-2500 scale, or ten times larger. Secondly, the composite maps represent a combination of (a) the traditional Registry Maps (or RM as they were referred to) which show property boundaries only; and (b) topographic maps prepared from aerial photography done in 1985. The composite maps therefore show both property boundaries and physical features such as buildings, fences, etcetera. It follows, therefore, that both the property owners and the regulatory agencies will find these maps much more valuable in determining where road improvements will be carried out.

Finally, it is appreciated that the act of preserving these corridors can result in some members of the public being possibly subjected to some hardship but provision is made in the law and Members will note that sections 25 (5) and (6) specifically cater to this; it will allow those persons to file an appropriate claim.

For clarity, I wish to read subsections (5) and (6) of section 25 of the Roads (Amendment) Law, 1988 (Law 6 of 1988), and it reads:

> "If, on the application of any person before a relevant section 3 notice is issued [and I will take time to explain what a section 3 notice is] the Governor is satisfied that having regard to the small size of the portion of land held by that person or other physical features of that land, the reservation of the road corridor affecting that land will cause that person undue hardship, the Governor shall require that person to submit a claim for compensation to the Assessment Committee as if it were a claim for compensation made pursuant to a declaration under section 3 and the provisions of this Law shall apply accordingly.".

Section 3 of the law deals with notification of proposal to take land, and it reads:--

> "(1) Whenever it appears to the Governor that any particular portion of land is needed for the lay out of a new public road or the widening or diverting of any existing public road, a declaration to that effect shall be:-
>
> (a) gazetted;
>
> (b) sent by registered post to the registered proprietor of the land at his address on the register; and
>
> (c) publish twice per week for three consecutive weeks in a daily newspaper published and circulating in the Islands.
>
> (2) the declaration shall state -
>
> (a) the intention of the Government to construct a road or portion of road over the portion of land;
>
> (b) the locality in which the portion of land is situated specifying particulars of block and parcel numbers on the Register and so far as feasible, any name or other information which may be helpful in identifying the land;
>
> (c) the line and anticipated boundaries of the road or proposed road;
>
> (d) the approximate area of the portion of land; and
>
> (e) the place where a plan can be inspected.
>
> (3) The Governor shall cause a detached plan of the proposed new road or of the part of the road intended to be widened or diverted and the lands through which it is to pass to be transmitted to the Registrar to be exhibited to any person who may require to examine it.
>
> (4) The plan produced for the purposes of this section shall be such as to allow correlation of particulars thereon with particulars on the composite map.".

Mr. President, further in dealing with the modification of the Development and Planning Law (Revised), regarding the long term projection of road corridors, subsection (6) of section 25 of the law reads:

> "Where pursuant to a claim made under subsection (5) a person is awarded

compensation by the Assessment Committee in respect of a portion of the land affected by the reservation of a road corridor, that person shall not be entitled to make any further claim for compensation under this Law in respect of that portion of land.".

Mr. President, the prescribed composite maps as laid on the Table of this Honourable House when adopted as part of the Development Plan 1977, will provide the Central Planning Authority with the necessary legal authority to preserve the road corridors free from development, thus facilitating Government's long term transportation planning.

As stated earlier, in order to legally adopt these maps into the Development Plan 1977, only minor word changes are necessary in section 1.5 and 3.11 of the Development Plan 1977. The minor change that is necessary in 3.11 of the Development Plan 1977, is made by deleting from that section: "in diagrammatic form on the map", and substituting the words: "on the prescribed composite map". So, that section now reads: "the existing network of public roads for which Government has accepted responsibility will continue in use and be maintained by Government. Further stretches being regraded by surfacing with asphalt. Government will construct a number of bypass roads to relieve the more populated areas where the needs of through traffic are in conflict with those of local residents. The lines of proposed new public roads are shown on the prescribed composite map.". It was necessary to bring this Resolution to this Honourable House in order for us to effect these changes.

Accordingly, I commend this Resolution to this Honourable House, and hope that all Members will see fit to support it.

MR. PRESIDENT: Proceedings are suspended for fifteen minutes.

AT 11:35 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:59 A.M.

MR. PRESIDENT: Proceedings are resumed.

Government Motion No. 5/89 has been moved and spoken to.

Does any other Member wish to speak?

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, this Motion is an extremely serious and important one. I would like to take some care in dealing with the different aspects of it.

It is an accepted fact that some planning has to be done in relation to roads and development in the country. That principle I accept. The Honourable Member responsible for this is dealing with that aspect of it. I also accept that a plan has to come forward to deal with the road corridors. Therefore, in principle I am not against seeing a plan moved forward to deal with the planning within the Island. What I do object to, on two broad grounds, is firstly, this House giving approval to measures which ultimately may bring substantial financial burdens upon the people of the country. It has to be looked at very carefully from the cost point of view. Secondly, on measures of this magnitude - where people's land will be zoned out and [rendered useless] - then the public has a right, and a very important right, whereby they must be consulted. I accept what the Member has said - that there has been consultation with some bodies - but, in my opinion, that consultation has to be with the public on these issues.

I appreciate that under the law as amended... which I would like to deal with in some depth as the Member has, he is going through a process which under the law he can go through... but I believe that this Motion and those plans should have been given very wide publicity so that the public would have had some idea whether those road corridors were going through someone's house, land, yard, or wherever. In George Town it especially worries me because these corridors do go through housing areas or developed land areas where people live. I believe that prior publicity on this is something which is necessary.

Dealing with section 25 of the Roads Law, which is very relevant to this, that law took away a very specific right that the public had - to object and to give their input in relation to matters such as these. Historically, section 8 of the Development and Planning Law (which is referred to in section 25 (4)(a) of the 1988 Roads (Amendment) Law) has caused extremely serious problems in this country because the Development Plan itself was not sufficiently publicised. It was put in some very precise terms so that before something like this happened (until the 1988 Law that the Honourable Member referred to) section 8, which was removed from the law as it now stands... I would like to read section 8 of the Development and Planning Law (Revised), which originally was substantially amended in 1977:

"The Authority shall, in the course of preparing a development plan relating to any land or proposals for alterations or additions to any such plan, consult with the Board and any other public Authority concerned with the development contemplated in the area concerned and may consult with such persons or bodies as they think fit, and the authority shall, before submitting any such plan or proposals for approval by the Legislative Assembly (which is the stage we are to now), give to the Board and to any public authority as aforesaid and to any such persons or bodies as aforesaid and opportunity to make objections or representations with regard thereto.".

The Member has stated that a part of that has been carried out: They have gone to the Hotels Association, the Chamber of Commerce and certain other bodies.

Section 8(2) reads:

> "Notice should be published in a public newspaper circulating in the Islands in two issues in each of two consecutive weeks that the Authority has prepared in draft any such plan and of the place or places in each district where copies of such plan or proposals may be inspected by the public.".

Here, we are coming on to a substantive section that has been removed. It says under the old law that there has to be publication in a public newspaper circulated in the Islands for two consecutive weeks, and they have to put the plans in each district where the public can go and peruse them and see what is going to happen to their land.

Subsection 3(a) says:

> "If any objection or representation with regard to any such plan or proposals is made in writing to the Authority within two months after the publication of the notice referred to in subsection (2), the Governor shall refer the matter to the Tribunal for an inquiry into all such objections or representations; and the authority shall before submitting any such plan or proposals for the approval of the Legislative Assembly, take into consideration the objections or representations together with a report thereon of the Tribunal and shall include such report with the plan or proposals submitted to the Legislative Assembly.".

What used to happen under that other section (or should have happened in the past - and did happen with the 1977 Plan), is that people had a right to object. When they did object within the two month period, then there was reference by the Governor to the Tribunal and an inquiry was carried out. A Report then came back to the Members of the Legislative Assembly. The Members of the Legislative Assembly then held, in effect, a mini referendum in each district where the public looked at it, and they came back to the Tribunal and the Tribunal came back to the Legislative Assembly with a Report.

There is also a provision where the board objects to any draft plan or proposals, insofar as they relate to land within the Lesser Islands (and this is not directly relevant here but there was a specific procedure for the Lesser Islands), and it went on to state about modification and the Report on that. The section that I just read was removed by section 25(4), which the Member for Communications and Works read out. It stated that:

> "A development plan made pursuant to subsection (1) shall have effect as if it were a Development Plan made under the Development and Planning Law (Revised) subject to modification of that Law in relation thereto in the following respects:-
>
> (a) Instead of any procedure under section 8 of that Law, the Development Plan shall be brought into operation by the publication of a notice to that effect published by the Governor in the Gazette.".

So, they removed the procedure which allowed consultation by the public, and the right of people to publicly object to where a road, a plan, or an amendment to the plan would be going. Then, instead of coming back here with a report on all of these objections so that this House could have guidance from the public who voted us in here, the Development Plan comes into operation by publication of a notice to that effect, by the Governor, in the Gazette.

The Motion is dealing with an amendment to the Development Plan itself. But these sections (which were read by the Member) are important, especially on the history on section 8 of the old law, and the importance of touching a Caymanian's land - which, to a large extent, is a substantial part of a Caymanian's wealth and has many times been handed down from generation to generation - and is zoning it out so that it cannot be used, which subsequently may or may not be taken by Government for roads. They should have some notice of it prior to having the roads put through.

The 1988 Law also stated that subsection (2) of section 6 of the Development and Planning Law (Revised), relating to acquisitions not likely to take place within five years shall not apply. Section 6(2) says that:

> "A Development Plan shall not designate any land as land subject to acquisition by the Authority if it appears to it that the acquisition is not likely to take place within five years from the date on which the plan is approved.".

That section was put in so Government could not play fast and loose with the Development Plan and tie up people's property for long periods beyond the five year period, by not including it in the plan unless they felt that the acquisition was likely to take place within five years. A short term tying up of property (or even five years in itself is a long time) is much better than tying it up forever. And until Government has the funds (which is the second grounds that I would like to deal with in due course) to spend on this extremely large project, the property is going to be zoned into the road corridors and cannot be used for

normal use, such as building or whatever. So removed from the old law was the second very important principle: If you are going to make the whole, or part, of a man's land useless, then you should project that, so that within five years you would have to buy that property.

Section 25 goes on to say (in section 6(3) of that law, which relates to an obligation of the authority), "...to acquire land in certain circumstances should not apply but in lieu thereof the provisions of subsection (5) of this section shall have effect.".

Section 6(3) of the old law said:

> "Where any land is designated by a development plan is subject to acquisition by the Authority, then if at the expiration of one year from the date on which the plan, or the amendment of the plan, by virtue of which the land was first so designated came into operation, any owner of an interest in the land has not been acquired by the Authority, any owner of an interest in the land may serve on the Authority a notice requiring the interest of the owner in the land to be so acquired and if within six months after service of that notice, or such longer period as may be agreed between the Authority and the owner, the interest of the owner has not been so acquired, the development plan shall have effect, after the expiration of the said six months, as if the land in which the said interest subsists was not designated as subject to acquisition by the Authority, but subject to such alternate restrictions as to user shall be specified in the development plan.".

Further, if the Government zoned land for roads, and it was subject to acquisition under section 6, then after one year had passed the owner could serve a notice on Government saying, 'Would you please buy my land?', and if Government decided not to buy the land within the six month period, then that zoning would be of no effect. It did not allow Government to tie up the property for long periods. Basically, the shortest period could have been one and a half years, but then the Government would have to decide what it was going to do. While Government has to balance its position of planning for its roads, on the other hand, it has to look very carefully at the fact that the planning is going through people's land, and the land may be made worthless in whole or in part as a result of it.

We are left in a position where the public has not had any input into the Motion which made the plan. Firstly, they are not being given the right to call on Government of their own accord - I know it is different if Government decides to buy, they will issue the notice under section 3. It is because these rights have been removed by the new law and have been replaced with what the Member has pointed out in subsection (5) of section 25, which says:

> "If on the application of any person before a relevant section 3 notice is issued [and that is a notice to acquire] the Governor is satisfied that, having regard to the small size of the portion of land held by that person or other physical features of that land, the reservation of the road corridor affecting that land will cause that person undue hardship. The Governor shall require that person to submit a claim for compensation to the Assessment Committee as if it were a claim for compensation made pursuant to a declaration under section 3, and the provisions of this Law shall apply accordingly.".

What will happen is that person, or persons, will be compensated. I would like to point out that subsection (5) is limited to, firstly, the discretion of the Governor (and here it is the Governor in Council) based upon the small size of the portion of land or other physical features of that land. So, while there is a method by which somebody suffering undue hardship can be compensated, it is only on somewhat narrower grounds. There is no right to say, generally, 'buy my land after a year, or remove the zoning.'

Subsection (6) (which the Member read) goes on to say that "...where compensation is awarded in respect of a portion of land affected by the reservation of the road corridor that person shall not be entitled to any further claim once the notice goes out." These are somewhat complex provisions, and I endeavoured to read up on these overnight, as I knew about the formal Motion, itself, yesterday.

The worrying thing to me is that while the law as it stands allows the Member and the Governor in Council to do fairly wide planning without having to resort to public checks, where members of the public have input before the plan goes in (and I believe as I come under compensation this could probably relieve Government as well of a considerable burden), it is so easy to go to people before and say, 'I am going to put a road through a certain area of your land, and we need the road to go in.' I think planning has to be done. The roads are needed to ease the traffic. If you say to the person before, 'Look, this is what we are going to do', and give them a general input at that stage, I believe it will be easier than when the notification stage under the Roads Law comes (after we have actually passed the 20, 30 or 40 very detailed respective maps). I believe what would be best, since Planning has survived since 1976, dealing, in practice, with the problems of these road corridors - and we do know it is a fact that Planning has a certain persuasive authority when dealing with applications - a few more months could be given (perhaps until the September Legislative Assembly Meeting). That would give us, the Members, time to go back to the public and explain areas of the Roads Law and the road corridors. After that, they would be allowed input on it.

Some of the corridors, especially in George Town, are going through very densely populated areas, perhaps this is necessary, but it is going to cause quite a bit of concern once the plan is put out. So, while I appreciate that the Member has followed the law, and he obviously inherited

the MGTP (since he said it was tabled in April 1988 - and up to a point he has inherited the Roads Law, he does have my sympathy there), I believe that it would be much easier to sell this to the public, so to speak, if some time could be given for Members to go back to the public to try to get their feelings on what they wish to have. He said that the Central Planning Authority gave its approval in April of 1989, and I know that they also have a very good feel for what, perhaps, is good for the Island, and they have been a responsible body. That would have been provided under the old law and has remained under the new law.

I would just like to mention here - I did not really stop the Member when he referred to it - but when he mentioned that support in principle was given to the amendments, I would like to mention that I had raised these two major points at that stage and pointed out that I would be debating them in this House. I do appreciate (and I must say this in all fairness) that at least for one of the few times there has been some consultation between the Government Members and the Backbenchers on this issue, and I appreciate that aspect of it. I did say to him at that stage that these two points did worry me when he pointed out the provisions under the new law and what he proposed to do in that respect.

I think the position of Members of the Government, as well as Members on the Backbench, could be clarified and assisted if some time could be given to carry out, or deal with, the process of the many rights that the old law gave to people, or permitting some of these rights and the public input to be given.

For the record, I was not a Member when the Roads (Amendment) Law, 1988, which the Member referred to, was passed. At the time I would have perhaps taken these similar points.

The second broad base I would like to deal with which is a very worrying aspect to me is: what is going to be the cost in the due course of putting in the roads (which I admit are necessary roads)? As we know, in this life one has to live within one's means. I would be somewhat worried to approve the very extensive plans without having some knowledge of where money for the implementation of this will come from. I really do not know the speed at which the Member for Communications and Works may move and, having regard to the short time that the Member has been in there, I know that he is a person who has taken action and he has moved on to dealing with some of these problems. I will be dealing with the Executive Summary, because the plan itself is fairly large and detailed.

The Roads Law, 1988, did include one provision which allows for compensation on a more extensive basis to be paid when land has been taken for road purposes. It substantially goes in line with the market value less the increase value that the road makes to the property through which it passes, depending on the size. Some of this land is very expensive land, especially along the Seven Mile Beach area, and I would like to see some study of what the cost to buy that land is going to be because what seems very clear to me is that when the MGTP Plan itself was dealt with, it was prior to the coming into operation of the 1988 Roads (Amendment) Law which provided for compensation along certain lines. On page 4 it says: "Under current law the landowners generally provide the land for new roads without compensation.". Obviously, the plan appears not to have been updated to show what the cost may be.

Perhaps the tables (which show some very large amounts of money) need revision, and perhaps, during the three or four months when the public could look at this, the Member could project what the cost in these areas may be. If the corridors go in I believe, out of necessity, that some of these roads - such as those that would be a two-lane road along the Seven Mile Beach area, as well as some in George Town - are going to become urgent. We are going to have to pay substantial compensation to implement the plan that is coming up.

Obviously, a lot of detailed work was done on the cost of construction, which perhaps at this stage also needs to be looked at for revision. We did approve about $4.5 million for roads, as well as another $1.5 million to deal with mainly the junctions in George Town, but when we look at the amounts involved we are looking at (for example, with the Phase I) the immediate action project of $4.7 million. Then we are going onto a further schedule which brings out the balance of these costs. This was the projected amount in 1988 to 1992: There was $4.7 million on the land and $14 million on the cost of construction, making a total of $18.7 million over the years 1988 to 1992.

I am saying this the $4.7 million total for land is going to be substantially more than that now that the new law has come in. Something else which can assist Government would be public input. If some of these persons were consulted, then it may be easier to lead them into less compensation through agreement (which the law does provide), or at least publicly they would have the right to go out and state the reason for having to deal with this land.

The $18.7 million is, in itself, quite a substantial amount, having regard to the amount of money we have borrowed. As I have said to Government Members from time to time, I know that certain projects are necessary, and I am prepared to support necessary projects, but I would like to know where the money is coming from to pay for it. As the debt escalates, at the end of this year it could well be that the public debt will be in the high 20's early 30's of millions of dollars; then the borrowings in large amounts will need to become less and we have to look at them more prudently.

Secondly, if the view is that the public must contribute and pay for these roads, then I would like to know what the impact is going to be on the public as well. One of the things that I think has to be taken into consideration, as I looked at the road, for example, which affects the George Town district (the highway that would be running from the West Bay area into George Town), even though the road is moving through people's land, there is no access from the land to the road. This, too, has to be looked at as to what the impact for compensation would be, because a road to which the access may be a couple of miles apart (in fact some of the accesses would not actually be put in by Government but left to the owners of the land to put in), then it is going to be difficult to show what benefit landowners may be getting from a road to which there is no

access except by a costly route.

The MGTP (which the Member has inherited) does deal, at least in the Phase I project, mainly with the George Town area, and the roads that will ultimately link up the West Bay/George Town areas, and areas such as the connections which will be some distance apart - some of them may be a mile or two before you can enter unto the main highway. The worry that I have is that, while I appreciate the Member moving quickly, I believe that because there has been a change in the costing of this land for the roads, there has to be some time spent on getting some estimate, and I appreciate that it might be difficult to estimate it. Already there was an estimating done by the experts who produced this report, Wilbur Smith Associates, and they do set out the basis upon which they did the projected costing on these roads.

It may well be that the phasing, such as this 1988-1992 project for the roads, may have to be taken in somewhat smaller phases. Priority may have to be given to roads which are absolutely necessary now, and some of the roads that are perhaps necessary several years further down the line may have to be delayed.

What I do not think would be fair is for Government to state that it is going to deal with the projects within a specific period, and once it finds that it cannot do so, there should be a revision of the plan so that people can prepare and deal with their property knowing that there is or is not a possibility that the land will be taken and roads built as in this instance within the four year period.

I would like to stress that even though some of these roads may be costly, it is going to be necessary to deal with the traffic problem in the near future - which is getting chronic in many areas of the Island - and we have to find out what is the best approach that we can afford. For example, if we can only build a highway from, say, Holiday Inn to George Town now, and maybe the balance of it much later, then we may have to go that route.

Another section that was dealt with, while on this question of compensation, the Member read section 3 of the Roads Law which deals with the compensation...

MR. PRESIDENT: Perhaps we should take a break now, would that suit you?

MR. TRUMAN BODDEN: I would appreciate it, Sir.

MR. PRESIDENT: Proceedings are suspended until 2:15 P.M.

AT 12:48 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:20 P.M.

MR. PRESIDENT: Proceedings of the House are resumed. Continuation of the debate on Government Motion No. 5/89. The Third Elected Member for George Town, continuing.

MR. TRUMAN M. BODDEN: Mr. President, I was dealing with the question of compensation when the House adjourned, and I would like to finish developing the reasons why I do not feel I have had sufficient knowledge of the cost that is going to be involved with the putting through of these road corridors.

In dealing with the Roads (Amendment) Law, 1988, I mentioned earlier that if owners of land are approached prior to this plan being sprung on them, it may be possible to lead them into negotiations which would be cheaper for Government in the long run. I think it is a known fact that if one approaches people at an early stage and says, 'Look, I am going to need this land and the reason for it is...', negotiations are much easier than if at a later stage one goes to them and says, 'The Legislature has passed these road corridors and they are coming through your land, let's talk.' The power, for example, to exchange land, adjust boundaries and compensate, is set out in one of the sections of the law but, in any event, prior to any type of acquisition, the simplest approach (and I am very happy to say that during the eight years that I spent in the Government with the exception of one occasion, we did not have reasons to use the Land Acquisition Law) is to go to people at an early stage and say, 'Look, the Government needs the land, this is what they would like to do. Could we sit down and talk about it and look at prices.' Once we get to a stage where the necessary notices are issued and negotiations break down, it is then a very difficult, expensive and agonising process involved in the assessment - and, ultimately, into the Courts. I believe it is easier to go to people at an early stage and lead them into the type of negotiations which would perhaps make it cheaper for Government in the long run, rather than having to use the process of acquisition under the law.

The other section that the Member referred to was section 25(4)(d), which said that Part IV of the law (which relates to compensation for refusal or conditional grant of planning permission) shall apply subject to any provisions made, or by regulations prescribed under this law. Set out in Part IV of the old Planning Law is a series of sections which deal with the problem of where Planning has been refused as the result of the Development Plan and the Planning decisions made by that and the compensation.

The position in relation to how much is going to have to be paid under this law is one that is more relevant than may meet the eye at this time. I know that it was done before the 1988 Law - and I would like to state here that I accept that the whole Development Plan in 1976 was by no means precise, it was quite small. The plans that were given to us yesterday are quite comprehensive and long, and undoubtedly more detailed. I must be very honest, Sir, and I doubt if any other Member (at least any of the backbenchers) can say that in the time that we have had it one can really go through those plans and digest them, they are in considerable detail. We did get a bird's-eye view a couple of weeks ago, but I would personally like to

look at what those plans in some depth, and at the cost. If those roads are touching on buildings, which they are apt to, at the area where the new intersections are going by Shedden Road, North Sound Road and the Flowers Block Factory area - and there are other ones that go through areas such as Rock Hole and some, in fact, right in the middle of George Town - these, I think, are bound to be areas that could be somewhat costly.

Now there are two aspects on the position of compensation that I would like to deal with briefly. There is a position where we amend the Development Plan itself, as we are now doing (as was shown in paragraph 3.11 of the Development Plan). In effect, what we are doing there is drawing lines on the old Development Plan showing where the new roads were going to be replaced by the thirty sheets of composite maps that had been laid on the Table this morning. That plan and those maps dealt with the future corridors that could be used for roads. To be very frank, back in 1976 there were not very many new roads put in on that old plan. However, I believe that the position there, where Government had to do something (either acquire or remove the right within the year and a half and also where it could only project within the five year period when it put the lines on the Plan) this would not have the effect of tying up the property without compensation - except if there was 'undue hardship'. I think those were the words used in section 25(5) on the limited grounds.

I do appreciate that you cannot get things both ways on the one hand, and get the corridors on the other hand. If Government does not have the money to pay for them, then the corridors will go. It is a difficult position. It would have been better I think, from the compensation point of view on the corridors, if there could have been some time period on it. As it appears, the issuing of the section 3 notices to actually move on with the land (and I would assume that would be like Part 1 of the Plan which is mainly the George Town West Bay area), is at the discretion of the Governor, as it specifically says; "Whenever it appears to the Governor that any particular portion of land is needed for the lay out of a new public road or the widening or the diverting of an existing public road, a declaration to that effect is made and compensation is paid.".

Once we get to the stage of gazetting the notification to actually purchase the land, then at that stage the provisions which were in the old Roads Law - I think it begins in section 8 with the application for compensation and goes on in section 10 to deal with the grounds of compensation - there the position does differ. This, at least, has been one of the good things with the new Roads Law, from the people's point of view, that it does provide that the land and the standing crops taken have to be paid for. It is not just a severance.

But the defect, as I see it, is really that you could be tying up land and only purchasing maybe 5 per cent, or 10 per cent of it for roads which go up to the eastern districts. There would be quite a long period of time that the corridors remain there and nothing could be done on them.

In closing, I would like to summarise what I have dealt with here. Firstly: I accept that we must have other roads. George Town, I know, is especially in need of them. From that point of view I do support the Member in that there needs to be something done to deal with the traffic that is presently increasing and becoming more congested by the day. So I am saying, yes, we need extra roads.

Where I differ is that I feel more time should be given for the public to look at the composite maps, and I do believe that since we have waited from 1976 to now that another three or four months will not affect the Member very much. I know that I have seen where the Central Planning Authority does have cognisance, and takes into consideration some of these corridors and will condition the Planning permission to that effect, that is, preserving the corridor. I think that, regardless of what laws are right and what laws are wrong, the time on these road corridors, time on the resolution, as such, is something that is needed by the public because these roads are not just going to affect the hotels or people within the Chamber of Commerce - it will affect the little man whose house this will be going over.

I believe it will be much better if we have the input from the people who may be affected by these road corridors now, rather than waiting further down the line when they have to get into the process of waiting for the notice to be issued or going on to show the hardship because of the size of the property or the physical condition, or whatever.

As I said before, the corridors for some of these roads on the MGTP may not be done for another 10 years, just a small portion of it which I mentioned was some $18 million. I am sure that there is several times that amount in the balance of the roads that are to come; in Table 5 it looks like another $24.3 million, for example, that deals with some of the arterial roads on page 26, which would presumably be the Phase II stage. Also, in 1993 - 1997, I noticed there was about another $18.6 or $18.7 million, the figures are separated.

I would have liked to have had the time to digest the plans, and to have gone to the public on these issues as I believe every Member should be entitled to do. It is not as if we are referring this to a committee and not passing it, we are actually now passing this as a plan, and the corridors are then going to be marked out on the Development Plan.

The second ground that I am opposed to is that the MGTP (at least in accordance with what it says in it which I quoted from page 4) has not taken into consideration the increased cost of these roads. I would really like to know what the impact and the cost of these is going to be before I commit myself. I know very well what is probably going to happen once these are passed. These different phases are going to come back and we are going to be told, quite rightly, 'You passed it (as we were told the Legislature passed the 1988 Law), therefore this is what is happening under it. I need $18 million (or I need $30 million or whatever) to implement what the Legislature has done.'

So, not only would I like to know what the estimated cost will be, but I would also like to know where the money would be coming from to pay for these, and perhaps see a scaling down or a better phasing of these road improvements to suit the money that Government has. I guess the best example was the $1.4 or $1.8 million that we appropriated to deal mainly with the junctions in George Town, and it is going to be costly.

I also felt that it was unfair to tie up people's property by putting in these road corridors without really having a period of time during which Government would purchase the property (preferably a shorter period of time) or otherwise deal with removing the restrictions. Once the acquisition is implemented the people will be compensated, and compensated well, for what is taken. We do have a position here now, where maybe 5 or 10 per cent of those roads may be actually built within the next four or eight years, but we have made the provision in them at this stage that would tie up the use of that land for any other purpose.

Mr. President, I see a need for roads, and I accept that; secondly, I feel the public should be more fully consulted; and thirdly, I think the consultation process should be done earlier rather than later so that the cost of what we are now doing can be better looked at. For the sake of a few months, I think that it would be prudent.

I have tried to keep the tenor and the level of debate within the high limits that this House has set and, hopefully, so it will remain for the balance of the sitting. With that, Sir, I am not prepared to support the Motion at this time.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I intend to be brief on this matter. I endorse the actions of the Government today, even the suspension of Standing Orders - which I did not get any support on yesterday. Nevertheless, Mr. President, as that was an important suspension, this one is too.

When I was elected in 1984 I was appointed to the Assessment Committee. The work of that committee made me realise what the position was in this country, as far as Government's dealing with people when they had to acquire or when they needed lands for development of one kind or another. I saw that people were not getting true value for their property, and I brought a resolution to the House asking the Government to look at this practice and revise that aspect of the law. The result is that people today cannot lose the value of their property - they are paid for their property.

While the passing of that resolution was going on, the Master Ground Transportation Plan (MGTP) was also being worked on. That Plan had to work hand-in-hand with the Roads Law. As far as this amendment to the Development and Planning Law goes, we were informed for quite a long time - the public have been informed and, as I have said, even with the suspension of Standing Orders, nobody can say that they did not know anything about what the Government intends to do.

The Third Elected Member for George Town agreed for the speedy handling of the chronic traffic problem, yet after a year of advertisement and consultation, he still refuses to admit that the Government needs to get going on this aspect, bearing in mind the traffic problem is not getting any better. He also said that he sees the need for roads. He mentioned that back in 1976 not many roads were put in under their plan. He also said that another three or four months would not matter.

What the Member could have said (and this is what I am fearing will happen again), was that the Opposition between 1972 and 1976 told the public that the building of roads was a Communistic act by the Government. For instance, the road between West Bay and George Town was opposed, and today we reap the rewards of their folly.

Mr. President, I believe that all of us have had adequate time to consider and deal with the matter. It is not that Government is being Communistic in any way, or is going to take anybody's property without the person being duly compensated. This cannot happen in this day and age in this country. The traffic problem that each citizen of this country must put up with is, to say the least, bad. Therefore, in order for the Government to get going on this matter I will offer my support to the resolution.

MR. PRESIDENT: Does any other Member wish to speak? The First Elected Member for the Lesser Islands.

CAPT. MABRY S. KIRKCONNELL: Thank you, Mr. President.

I rise to support Government Motion No. 5/89, which seeks to amend the Development Plan of 1977.

I feel this is very necessary. I have had the opportunity of dealing with Development Plans both in Grand Cayman and Cayman Brac for many years. I realise that had they been amended in the five year time span, as the law required, we would not be in the position that we are with the Development Plan today. Nevertheless, it is history and we must face the reality of the day.

I have also had the opportunity, having served as a Member of the Central Planning Authority and the Development and Control Board, to know the Development Plan and the aspects of why the amendment of 1988 brought the Roads Law to this House which, in turn, made a new provision for amending the Development Plan.

I congratulate Government for the appointment of the consultant who did the Master Ground Transportation Plan (MGTP). I think they did a wonderful job. It was very professionally carried out. I also appreciated the way in which the Members of this House were kept informed on a periodic basis of the progress that was being made. I am also grateful to Government that they held consultations with the different organisations here in Grand Cayman and with the public. It is unfortunate that, unless there is a lot of commotion over something, the public usually do not avail themselves of the opportunity that is afforded them to understand exactly what is taking place in their community. I know that on several occasions the presentations at meetings held at the Tower Building made by the Chief Engineer of Public Works Department (PWD) and the MGTP Team, were poorly attended. Nevertheless, it is only the responsibility of Government to make these meetings available - you cannot force the public to attend.

So, I feel that Government has done what is prescribed by law to make the people aware, and that the Island of Grand Cayman in its state of development, if it is to develop further, must have an improved Ground Transportation System. It is going to be a costly expenditure. I think if previous Governments had instituted this programme over the last 12 - 15 years, a considerable amount of money could have been saved. But, again, that is history and it is no good for us to address that here today. Nevertheless, if we want tourists to come to our Island, and if we want to travel to work in less than an hour, we must prepare the necessary routes by which we can get to work and the tourists can get about the Island.

I think the Honourable Member has outlined the Motion very thoroughly before the House, and I want to again state that I feel that Government cannot be chastised for not having referred it to the people. If the people have not acquainted themselves with it, that is their own fault.

So, Mr. President, I have a great concern with the expenditure which will be incurred to complete the MGTP here on the Island of Grand Cayman. As all Honourable Members of this House know, I reside in Cayman Brac, and when revenue measures will be passed to Finance Committee this road construction it will be felt by people of my district. We consider ourselves a part of the Cayman Islands and sincerely hope that we are considered the same, and we will accept this as part of our responsibility.

With these few words, I support the Motion.

MR. PRESIDENT: The Honourable the Second Official Member.

HON. RICHARD W. GROUND: Thank you Mr. President. I just want to say a few words on the legal framework in which this Motion is set and, particularly, to address the point made by the Third Elected Member for George Town about the tying up of land.

Before getting into the substance of what I want to say, I would like to clarify that the amendments that are being made to the Development and Planning Law, in respect of the making and the amending of the Development Plan, only relate to roads. The public consultation process and the provisions that prevent a Development Plan reaching more than five years into the future still apply in respect of all other aspects in the Development Plan. I think that was clear from what the Member said, but I would not like there to be any misunderstanding about that in the minds of the public whatsoever.

MR. TRUMAN M. BODDEN: I agree fully with that, Sir.

HON. RICHARD W. GROUND: I am very grateful for that.

Now it follows from that, that different provisions have been made for roads. Why are roads different? They are different because, obviously, they require the Government and the people to look into the future to stipulate the road corridors. That planning process inevitably is to be done properly and is to take into account the measured development of a nation over many years, it must look more than five years ahead. Also, a road plan necessitates the acquisition of land that brings into play very special considerations because the rights of individuals are affected.

Now under the old Roads Law, and under the existing Development Plan as it deals with roads, no adequate account was taken of those considerations - no real compensation was payable for any land which might be taken and, under the Development Plan the designation of road corridors (if it can be called that), was exceptionally inadequate. (I am just holding up the maps so that Members can see it and so that they can see faint dotted lines going across the centre of the Island, and a couple of places which are not on this map purport to be the routes of possible proposed roads).

Because of the scale of the plan and because of the size of the dotted lines used, it would be impossible for property owners to tell whether their property, in fact, fell in the course of those proposed roads or not. So the provisions of the Development Planning Law (particularly section 6(2) and 6(3) which relate to the Development Plan reaching into the future and not tying up land) could not effectively apply to those road corridors because nobody could know whether they could avail themselves of them or not. Particularly section 6(3), which the Third Elected Member for George Town rightly pointed out, no longer applies to roads. Section 6(3) permits the owner of an interest in land, that may be designated as subject to acquisition, to come along and either require the Planning Authority (not Government or the Highway Authority, but the Planning Authority) to buy that land or the designation would lapse. The way it used to be done, it just could not be triggered because it was too vague.

In taking away that right in respect of roads and, at the same time, deciding to define roads so that people could see if they were affected or not, the new Roads Law introduces certain other replacement safeguards. The most important and most vital safeguard is that, at the end of the day, the person whose land falls within the designated corridor will get paid - not just the full market value of it, but any expenses that he incurs from having to move from it - any expense if his home should be on it and any expenses he incurs in relocating his home.

Now, under the old law he would never have gotten that. But also, in the interim, if there is a real possibility that the land designated was open for development, the possibility of compensation under Part IV of the Development and Planning Law applies, and that is where the quid pro quo (the trade off) between the old rights under section 6(3) and the new system - so that somebody whose land might be affected gets his value, but as an interim measure, if he really does have a development scheme in mind, he can realise the development value that is being blighted or sterilised or, to use the Member's term, 'to tie up' - and the rights of the individual are being very carefully protected and perhaps the best, and certainly the most effective, way from the points of view of the public being protected in respect of the pockets of the people who might be affected by the roads corridors.

Under the old provisions of the old Development Plan, and the old Development and Planning Laws that applied to roads, none of that was possible because even if you could work out that your land was going to be affected by the roads corridor, you came and presented it to the Central Planning Authority and said, 'here, buy my land or remove the designation', even if the designation was removed, it did not at that stage hurt or hamper Government in any way because they could always come along at a later stage, acquire the land compulsorily, and pay no compensation whatsoever. In the meantime, the owner may have put up a house, he may have erected a factory or all sorts of things, but the land could be acquired - and acquired without any compensation. That, happily, is no longer the position and to effect that fact, the provisions in section 6(3) (which were always in effect in respect of roads) have now for the avoidance of doubt, been declared that they no longer do in fact apply.

The effect of all this, Mr. President, is that under the new Development Plan, as it applies to roads when taken with the Roads Law as amended, is that both sides, that is, Government and the private individual who might be affected by a roads corridor, are immeasurably better off. The public will know where the road is going to go; people whose land might be in the way of the road will know that they are affected and they can tailor their own plans accordingly and they will not outlay money upon the land and so on; Government and the Planning Authority will know where the road corridor is going and national development can be tailored to fit it. Also, planning applications for development that would fall in the way of the corridor and that would be an obstruction to it can be avoided and people can be compensated for that at the time that they make that application. So both sides benefit.

I am now just speaking from a personal point of view as the Attorney General. Before the proposal to designate a corridor came along, the Planning Department was in my office every day about the West Bay peninsula for every planning application that comes forward saying, "we know a new road is going to have to go in some time, we know where we think it might go, we have got a planning application to put up a house, hotel or a new development, it is going to lie within the course of that new road, is there anything we can do about it?" All I can do is just look back at them and say that I am sorry, that it makes no sense, whatsoever, but there is nothing they can do.

Now, if this Motion is passed, and if the new roads corridor is approved, there is something that the Planning Authority can do to avoid that nonsense situation where development goes ahead, although everybody knows that the road will be going through there or a road ought to be going through there at the end of the day and the nation would benefit by a road going through there.

MR. PRESIDENT: Does any other Member now wish to speak on this Motion? Would the Honourable the mover wish to reply?

HON. LINFORD A. PIERSON: Thank you, Mr. President.

Firstly, as I have said in this House before, it is always my pleasure to hear the Second Official Member speak in this House. He is a fountain of wisdom and I think we can all learn much from him by just sitting and listening to him in his own unassuming way. He has clarified much of the misgivings that may have been raised by the Third Elected Member for George Town. I too, would wish to thank the Third Elected Member for George Town who spoke on this, and I trust, sir, without reiterating or covering some of the grounds he has already touched on, that by this, his queries and concerns are put to rest.

I also wish to thank the other Members who spoke; the First Elected Member for West Bay for his support, the First Elected Member for the Lesser Islands for his support, and all others who, through their silence, I trust have given similar support.

It was interesting Mr. President to note that throughout the relatively lengthy debate by the Third Elected Member for George Town that he has not yet come up with a constructive suggestion for dealing with the traffic problem. But I recognise that he, too, has a job in the Opposition, and I do not mind this too much.

In closing, again I wish to thank all Honourable Members who have spoken, and to thank especially, again, the Honourable Second Official Member who covered much of the grounds that I would have covered in my summing up.

Thank you Mr. President.

MR. PRESIDENT: I shall now put the question on Government Motion No. 5/89. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

HON. LINFORD A. PIERSON: Mr. President, may I have a Division, please?

MR. PRESIDENT: Madam Clerk, please take the division.

CLERK:

DIVISION NO. 8/89

AYES: 12	NOES: 1
Hon. Thomas C. Jefferson	Mr. Truman M. Bodden
Hon. Richard W. Ground	
Hon. J. Lemuel Hurlston	
Hon. Benson O. Ebanks	
Hon. D. Ezzard Miller	
Hon. Linford A. Pierson	
Mr. W. McKeeva Bush	
Mr. John D. Jefferson, Jr	
Capt. Mabry S. Kirkconnell	
Mr. Gilbert A. McLean	
Mr. Roy Bodden	
Mr. Franklin R. Smith	
Mr. John B. McLean	

THE PRESIDENT: The result of the division is 12 Ayes and one No. The Motion has accordingly been passed.

AGREED BY MAJORITY: GOVERNMENT MOTION NO.5/89 PASSED.

MR. PRESIDENT: Proceedings are suspended for fifteen minutes.

AT 3:15 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:38 P.M.

MR. PRESIDENT: Proceedings are resumed. Private Members' Motions. Private Member's Motion No. 5/89.

The First Elected Member for Bodden Town.

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 5/89

THE ESTABLISHMENT OF AN OFFICE OF OMBUDSMAN

MR. ROY BODDEN: Thank you, Mr. President.
Mr. President, I beg to move Private Member's Motion No. 5/89, standing in my name, which reads:

> "WHEREAS Cayman is becoming an increasingly complex and complicated society;
>
> AND WHEREAS it is thought that the number of people particularly in the middle and lower income brackets are in need of some office or person to whom they can turn for assistance in matters other than purely legal matters;
>
> BE IT THEREFORE RESOLVED that the Government investigate the need and practicality of establishing an Office of Ombudsman in the Cayman Islands.".

MR. FRANKLIN R. SMITH: Mr. President, I beg to second the Motion.

MR. PRESIDENT: Private Member's Motion No. 5/89 has been duly moved and seconded. Will the Mover wish to speak to it?

MR. ROY BODDEN: Mr. President, I am happy to say that this Motion is non-controversial, and I expect that the ensuing debate will be in keeping with the good standards we have set for ourselves since this new House commenced in November 1988.

I took the liberty to circulate such information as I had to some Members of the House, and I am grateful to one Member who gave me some information yesterday afternoon. I suppose that the old adage circulated among the peoples of West Africa bears some relevance here. They say, "A man who suffers much knows much; every day brings him new wisdom."

Mr. President, mistakes can be made, and are made in any large organisation. In the course of running any Government or any bureaucracy there are bound to be people who, for one reason or another, feel that they have not been fairly treated, or have not been justifiably dealt with. This Motion seeks to ask this Honourable House to take into consideration people's complaints or observations, to see

if there is sufficient cause for us to establish the Office of Ombudsman. I might add that I would like the Chair and Members to bear with me if I sound more like the teacher I was than the legislator I am on this occasion.

The term Ombudsman comes from Scandinavia, I believe it was Sweden to be precise, and in its simplest context means a protector or defender of the rights. I believe that the setting up of such an office and the making available of such a person would strengthen and help our system and further our democratic system here. I would even suggest that it will enhance our system of parliamentary democracy and generally make for the smoother running of our society and, specifically, our Government.

I would like to say that what I have in mind with this office is to specifically address problems in the public sector because I think it would be rather difficult to suggest an office or someone to investigate what happens in the private sector. I believe that there are already mechanisms laid down for those kind of things, so we are speaking now especially of the public sector.

Some of these complaints that people have are based on simple misunderstandings. It would be the function of the Ombudsman to investigate these complaints and to make rulings. I would like to say that it goes without saying that there would be certain jurisdictions over which the Office of Ombudsman would have no authority, and I speak of the Courts, of decisions made by the Executive Council, and of decisions made by the Legal Department in Government. What the Mover and the Seconder are envisaging is someone that would deal purely with administrative and personal complaints. We are not encouraging, nor are we espousing, anyone to challenge or establish a system of government, the decisions of the Executive Council or legal decisions, nor could the Ombudsman help in any appeal that had to come from the Courts or had a legal or quasi legal basis. I wish to make that specifically and emphatically clear.

I believe that this person need not be a qualified lawyer, but I would assume that the person would be someone who would have some knowledge of Cayman's society, and I would go so far as to say that I would feel happy if it could be someone who is a born Caymanian. But, it would have to be a person who was sufficiently sure and in control so as not to be arrogant or vindictive. The Office is one that carries some responsibility and some power. I believe that the people in the public sector need have no fear because the terms of reference could be clearly laid out. I have circulated the Ontario Ombudsman Act which I believe is a good and sensible guide, and should we elect to adopt this Office we could use this with some modification.

The Ombudsman's work of investigating and resolving complaints is one of major undertaking. In my research it is interesting to note that the concept of an Ombudsman, as far as Britain goes, is relatively new. I was reading that it was not until the 1960s that they set up some office which could be roughly equated to the Office of an Ombudsman. I think it may be common in Britain to call these people Parliamentary Commissioners or some other such name.

In New Zealand the Office of an Ombudsman is well established. I believe they had one from 1962 or 1963 and, indeed, they still continue to have the office of an Ombudsman. I am familiar with the system as is adopted and practised in Ontario which office has been established since 1975.

Basically, what happens is this: When a complaint is received, the Ombudsman has the power to investigate that complaint. Either he himself, or some member of his staff is delegated with the responsibility of investigating the background. It may well be that for some reason the Ombudsman is not disposed to investigate a complaint, in which case, the complainant is told in very polite terms it is either outside the scope of the Office or, if the Ombudsman is satisfied that the complainant has personal prejudices which would bias the investigation or that there is some other similar reasons. So not every complaint received by the Office of the Ombudsman is investigated. The Ombudsman makes an assessment and deems whether the complaint is worthy of investigation or not.

In the case where the complaint is investigated, if it is a governmental organisation, the Ombudsman will make an arrangement with the Head of Department (or the Member or Members concerned) and will set up a series of interviews after which the Ombudsman will make a report. The report, Mr. President, of the Ombudsman is not necessarily binding. In many cases it will depend upon the magnitude or the seriousness of the report or the complaint, and also on the publicity generated or derived from the Ombudsman's investigations. The Department, Head of Department, or the Governmental organisation, need not necessarily follow the Ombudsman's suggestions or recommendations. In that case, it seems that the complainant will have to be satisfied that the Ombudsman did all in his power, and if the matter does not have legal implications the matter will have to reside there - nothing can be done.

I see the usefulness of this in our situation because many times complainants have come to us legislators with complaints which directly involve Governmental Departments, Government organisations or Boards or statutory bodies set up by the Government. If my understanding is clear, we as legislators cannot directly interfere in these things. So, I am suggesting that the Office of an Ombudsman would have some usefulness here.

In many cases politicians cannot pick up a telephone and order some member of the Government or the public sector to reinstate a person or to give a person a promotion, or recommend that a person, because of his work load, get an additional increment or two. But an Ombudsman could investigate these things and make a finding and, hopefully, that finding would fall on a sympathetic ear.

I see the Office of an Ombudsman as complementing the office of the Members of the Legislative Assembly and making a better and a finer stream lining of the process, particularly in cases where people expect their MLAs to pound on somebody's desk. It is sometimes difficult to let our constituents understand that we cannot do that, that we would be out of our right and that we are out of our jurisdiction in doing that. I would hasten to admit that there are some instances where together with the Office of the Ombudsman we can help. So I would stress the complementary nature of the Office of the Ombudsman

working along with, perhaps in some cases, the Members of the Legislative Assembly.

Now, if the recommendation of the Ombudsman is denied, in some cases if the complaint is of that serious a magnitude and the Ombudsman can make this recommendation to the complainant, the matter may be taken a further step in our case. It could be referred to the Public Service Commission, or it could be a matter which is referred to the Legislative Assembly. Here I might add that the Office of the Ombudsman, as I envisage it and as it is practised in Ontario, is answerable to the President of the Assembly. In our case it would be to the Speaker and, ultimately, to the Members of the whole House. Indeed, the appointment of the Ombudsman is done by the Standing Select Committee in Ontario of the whole House, which are the Members of the House. The Ombudsman tables a report yearly to the Speaker which is accessible to the Members of the House. I would see such a situation obtaining in our case because I think it would lend itself to monetary democratic control, and it would be in keeping with the Westminister Parliamentary System as we have set up in our Islands.

When the Ombudsman concludes that the complaint was justified, he then gives a copy to the complainant. But, again, that does not necessarily mean that any action will be taken.

Mr. President, I believe that such an office is timely, it could help in the functioning of our public sector, and I believe that there are enough cases to warrant our looking into the setting up of such an office. I believe too that if such an office is set up, it would further serve to enhance the image of good government which has been perpetuated in these Islands by letting people realise that the Government and the Legislature are willing to give them constructive avenues to voice their complaints and their injustices. It can only make for a better society, for a smoother functioning of our public sector, for more contented employees and, in the long run, it will be greatly beneficial to the good order, efficiency and development of our public sector.

I would urge Members to consider carefully and give this Motion their support so that we can move it to a further stage and possibly examine its implications which as, far as I can see, are purely positive for the development of our society.

Thank you, Sir.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, we are here today to try to convince the Government of the need to establish the Office of an Ombudsman which, perhaps at some time or another, would be scrutinising their handy work. The Member moving the resolution has covered much ground and has, in fact, said quite a bit of what I had intended to say as I, too, have done some research on the matter.

We all know that the powers of Government in these modern days are wide spread and pervasive. They are always claimed to be for the general good but are not always for the good of the individual. Government is often impersonal and inflexible and the exercise of the powers of the country involves dozens of officials making hundreds of decisions affecting thousands of people. Where power is exercised it may also be abused deliberately, maliciously or carelessly; positively by wrong action negatively by failure to act when action is called for. Maybe the warning of Lord Acton about the corrupting effect of power could be referred to at this time.

However, in a parliamentary democracy such as the Cayman Islands, I would think there are several built in safeguards against the abuse of power - Questions in the House, Petitions to the House, the complaint to a representative, the Press and the letter to the Editor (though not always published), and, in appropriate cases, the legal process of the Court. In spite of those safeguards, it was still possible for an eminent British Judge, Lord Devlin, to say some years ago, and I quote: "I believe it to be generally recognised that in many of his dealings with the Executive, the citizen cannot get justice by process of Law." That was said many years ago. It is still very true today.

It sometimes happens that the head of a country, and representatives of the country, from motives of self-defence or self-preservation, refuse to recognise an injustice or to remedy it. In my time in public life I have found that there is nothing quite so impenetrable as a Government Department with something to hide, and nothing quite so inscrutable as a member of Government on the defence. Now, if I have found that out as a Member of the House and can get nowhere, where would the general public be?

From my investigations of this proposition, it seems that the Ombudsman's jurisdiction is limited to matters of administration in most cases. I think the Member pointed out that it does not extend to a review of Legislative Executive or Ministerial Policy.

The Ombudsman, it seems, can act in writing on a complaint from a citizen, or he may act on his own volition - he determines his own procedure. But before he begins an investigation, he must inform the department concerned. If he proposes to find against the department, he must give the department the opportunity to be heard. The Ombudsman cannot issue judgment or make decisions which are final and binding.

If, after investigation, he decides that some action is necessary, he makes a recommendation to the appropriate authority or department. The recommendation may be that a wrong decision be cancelled or varied, that an omission be rectified or a practice changed. He may then request the department concerned to notify him within a specific time of steps, if any, that it proposes to take to give effect to his recommendations. If no action is taken, he would then send a copy of his report to the body responsible for him. I would hope that he would also be required to inform the person - and I guess that would be a natural process - who complained to him of the result of the investigation.

It must be borne in mind that if this Office of Ombudsman is set up, the question of the status of the Courts would be made quite clear. In New Zealand, for instance, it is

specifically provided in the Ombudsman legislation that if a matter is within the jurisdiction of the Courts, it is not within the jurisdiction of the Ombudsman. There is a clear dividing line between the two. It is only when a matter cannot be dealt with by the Court that the Ombudsman has any authority to deal with it. There are other areas, of course, where the Ombudsman could intervene. I have been dealing with the public sector, but there are many needs for an Ombudsman in the private sector as well.

There is so much happening in this country today which, in my opinion, is wrong and cannot be settled in a court of law (it falls outside the law) - which is very hard for people to understand and appreciate. There are complaints that undeserving people (without any experience or qualifications) are appointed and are given jobs over deserving applicants. That, in my opinion, would be grounds for an Ombudsman to investigate. There are other similar problems in the labour market that could undergo scrutinity. There are social injustices which cannot be dealt with in a court of law but, departmentally, an Ombudsman would be an ideal person to pinpoint areas of wrong doing.

Yesterday we went through quite a stormy Session about a matter which provoked members of the public for many years, and one which was thought to be discriminatory. Maybe if we had this office of Ombudsman existing, then the matter might have been investigated and, therefore, given proper ventilation. Over the years, the Government might have seen the folly of their ways and rectified the matter. So, I believe the Ombudsman to have many good aspects that could help in the Cayman of today.

In thinking on this resolution and in trying to do an investigation on it, I found out that there were some concerns about the possibility of a threat to the functioning of Members of the House. However, after much consideration I feel that there cannot be any conflict between the work of a Member and that of any Ombudsman. I feel rather good now about the whole thing because I see both as being complimentary. We as Members would still have many matters to raise on behalf of our constituents. Indeed, it may well be that a matter is raised first with a Member and then, if satisfaction is not obtained, the Member may very well suggest that the matter be referred to the Ombudsman for an impartial investigation without any taint of affiliation - with access to the files, the right to call people to give evidence and with the right to carry out much more thorough and impartial investigation that otherwise could not be done by a Member of the House - acting on his own in any such circumstances.

As far as the Members of this House are concerned we might say we are circumscribed. We do not have an office and if we make a move to try to help our constituents, we are accused of all sorts of things and branded as mischief-makers. Maybe an Ombudsman will enhance our work and, in fact, not supersede us.

This is an important decision for this country. I do think having such a person will tend to make the public and private sector more careful and will tend to ensure that they do investigate complaints more thoroughly, being mindful that if they do allow a grievance or an injustice to continue, it can be exposed publicly through the Ombudsman's office. I believe that that would have a good effect on the administration of any government.

I certainly support the establishment of an Office of Ombudsman, Mr. President. In talking to some people they felt that it could only be created to investigate any administrative matter, but in other countries an Ombudsman can be appointed for different reasons. I would hope that when we do appoint one, as I feel should be done, that his powers will be to look into as many areas as possible.

These are my brief thoughts on this issue. I thank you, Sir.

MR. PRESIDENT: The Honourable the Member for Tourism.

HON. W. NORMAN BODDEN: Mr. President, I rise to make my very short contribution to Private Member's Motion No. 5/89.

This Motion asks Government to investigate the need and the practicality of establishing the Office of Ombudsman in the Cayman Islands. This is an exercise which Government fully supports. If the investigation reveals that there exists in these Islands a need for such an office, and that such an office could be practical for the purposes of our people, then the establishment of this facility would indeed be a new area of development for the Cayman Islands.

Great care and much consideration will, of necessity, have to be given to this matter before a final decision is reached. I understand that this type of office has met with varying degrees of success in different countries and, of course, as with anything else, I am sure that it can produce its share of advantages as well as disadvantages which should be carefully weighed. I am not one who believes in the comparison that is often made (not necessarily always within this House but outside as well) that what is good for some other country is also good for the Cayman Islands, and because it works there it will work here. I honestly believe that each system or procedure that we follow must be taken on the benefits it will bring to our own country, and if a new system is accepted, it should be tailored to suit our own particular needs. It must always be borne in mind that we are a small closely knit community, special and different in many ways. Before following any other systems in other countries this must be part of our deliberation.

Should a decision be taken to proceed with this, then, obviously, there are several models that could be adjusted to suit our own particular needs. I think the Mover explained in his presentation that there are many areas of responsibility held by such an office or officer in some countries which would not necessarily be applied in what he has envisaged setting up for the Cayman Islands. As it see it, a very careful selection process of the individual charged with the responsibility will need to be followed. The investigation of grievances and allegations made by the general public and the impartial - and I repeat, impartial - handling and reporting of these matters are bound to spell the difference between success and chaos in

our particular case. Needless to say, in considering this matter it is obvious that the function and powers of this office will have to be clearly defined and, in fact, monitored by at least some legislative form or fashion. Some other mechanisms will have to be put in place the least of which is the consideration to be given to the cost of setting up such an office.

I am sure that these many areas of concern will be gone into at much greater depth at the proper time, and I have only mentioned these few in passing. On the other side of the coin, if a system such as this can be effectively operated to assist the public in receiving remedies for proven injustices or different kinds of complaints, I think this can go a long way to satisfying persons who want a sympathetic hearing to their case or, in some cases, to receive good advice. It could also hopefully put to rest some unfounded allegations and misinformation in many cases, and in many cases meet the needs of a small but developing country. I know that the public sector stands its fair share of criticism, but perhaps an office such as this would resolve in a very fair fashion, some of the allegations and misinformation that are sometimes taken as facts in our community.

In my view, Sir, we have nothing to lose, and, I believe, something to gain by further investigating this matter. I support this Motion, and as I said in the beginning I would like to thank the First Elected Member for Bodden Town for bringing it and for, indeed, making such a clear and comprehensive presentation in moving this Motion.

I would like to suggest that perhaps in our investigation of this matter the name "Ombudsman" could be changed to a name that would give more indication of the functions of such an office. I believe that the method and means of establishing the needs and practicality will have to be properly followed perhaps through discussion or a committee of some kind with all Members of the House participating, with a report and recommendations in due course tabled so that if it is indeed decided to establish such an office this can be accomplished without too much undue delay.

With those few brief remarks, Mr. President, I am pleased to support Private Member's Motion No. 5/89. Thank you.

MR. PRESIDENT: The Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Mr. President, I rise to support Private Member's Motion No. 5/89, to establish the Office of an Ombudsman. I will be very brief because I think my colleague from Bodden Town has explained very clearly to Honourable Members what his intentions and hopes are to establish this office.

I believe the need is there. The general public has complaints and problems at times that they need some help with. This is why I would like to see something established to help the public.

With those few brief remarks, Sir, I support the Motion. Thank you.

MR. PRESIDENT: Does any other Member wish to speak? The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, the Motion before the House for the establishment of an Office of an Ombudsman has probably sparked a lot of interest. It has caused me to do a reasonable amount of research in an area where there are not many books or examples to go by. However, it does seem that the office is one that has been tailored in different countries to suit the needs. From the few laws that I have been able to gather on it in the past few weeks, it seems to take a different form and position in the respective countries.

It seems to me that if ever there is one office that has to be tailored to the respective needs of a community, it will be this office. It is in some respects new to many countries; it is one that carries very wide powers, powers for entry and search in some countries to Government departments, it carries the power to subpoena witnesses in some countries and to let them give evidence on oath. In some it is more restricted in the extent to which the Ombudsman can go. In some countries the method by which the Ombudsman begins a complaint differs very materially from other countries. I believe that the First Elected Member for Bodden Town (who moved the Motion), his colleague, the Second Member for Bodden Town, the First Elected Member for West Bay and the Honourable Member for Tourism, probably accept the fact that we are looking at a fairly new office (in comparison to other offices), a comparatively tailored person and office when we are looking at the Office of an Ombudsman.

While the Scandinavian countries, which I understand were the earliest ones to have had the office of Ombudsman, have developed over the years and refined the system. We see it coming in at a much later stage in other countries. The functions for example, of dealing with complaints in the United Kingdom under the Parliamentary Commissioner who is their Ombudsman, is one that seems to be initiated by Members within the House of Commons and that differs materially, for example, from Jamaica and Ontario in Canada, where it seems that just about anyone who has a complaint can go ahead and request the Ombudsman to begin the procedure of investigation. It seems is that in many countries the scope of how far he can go is somewhat more consistent, and it seems that it is substantially limited to administrative matters. I take cognizance of what the First Elected Member for West Bay mentioned - that at least one legislature in the Commonwealth, the United Kingdom, is supreme and can do anything. The only three laws that I could find were that of Jamaica, the United Kingdom, and Ontario (which was kindly lent to me by the First Elected Member for Bodden Town).

MR. PRESIDENT: Could I perhaps interrupt you? We have come to the normal

closing time, are you likely to finish in five or six minutes?

MR. TRUMAN M. BODDEN: I would rather finish in the morning, if that is possible, because I think there is something else right after this.

ADJOURNMENT

HON. RICHARD GROUND: In the circumstances, I move the adjournment of this Honourable House until 10 o'clock tomorrow morning.

MOTION ON ADJOURNMENT
(STANDING ORDER 11)

MR. PRESIDENT: Before I put the question, I have notice from one Member who wishes to raise a matter on the adjournment. The First Elected Member for West Bay.

UNITED STATES RADAR PLANS FOR THE CAYMAN ISLANDS

MR. W. McKEEVA BUSH: Mr. President, I wish to thank you for the opportunity to rise this matter.

In recent times, on Radio Cayman and in the local newspaper, the *Caymanian Compass*, there have been reports concerning certain United States radar plans for these Islands. There has also been information that these radar plans are not only for drug interdiction, as most of the country would support but, rather, the flow of information has revealed alleged plans for the overall defence strategy of the United States.

There are conflicting reports or accounts of what was told to the media by the Third Official Member. In one breath the Member has said that there was no telex regarding the site for the proposed radar station, and in the next breath he declined to deny or confirm it. Now, Sir, what this is saying to me is that there is, or, maybe since time has elapsed, there was discussion going on. My concern, of course, would be great, and my concern is that the Elected Members of Executive Council, in my view, have been left out as far as any discussion concerning a radar base, which entails the overall defence strategy of the United States; and, that such information, if it went, could be forthcoming from the Administration Building whether by telex or otherwise, and that the Member says that the Elected Members are fully briefed on matters concerning their portfolio.

This House realises (and I realise) that this matter is in the portfolio of Internal and External Affairs, a non-elected portfolio. I am amazed that a matter of such importance seems to be discussed without the knowledge of Elected Members and I come to that conclusion, Mr. President, from what the Third Official Member has said, and I quote:

> "There has been no departure from the customary practice of keeping them (meaning the Elected Members) fully briefed on all official communications which deal with matters within their responsibilities.".

Mr. President, all this seems to be a bit confusing to me. I wish to go on record as being opposed to any sort of proposition that would include the overall defence strategy of the United States which would take away any neutral position that the Cayman Islands would have. I would further point out that these Islands cannot be used, in my opinion, as pawns on a chess board. Even the great super powers should understand this, even though the United Kingdom is responsible for internal affairs in this country. I would hope that the Member responsible can shed some light on the matter I have raised.

MR. PRESIDENT: The Honourable the Third Official Member.

HON. J. LEMUEL HURLSTON: Mr. President, I rise to respond to the remarks made by the First Elected Member for West Bay, and in so doing, I hope that I can assist in relieving some of his anxieties and fears as well as, hopefully, clearing up areas of confusion that may still hang heavily in this matter.

The first point I would like to make is that, as a subject, the matter of defence is a responsibility of the United Kingdom's Government in relation to these Islands, and that a matter of other countries responsibilities in relation to defence are not matters for which discussions take place between those foreign countries and dependent territories. So, I think it is important to establish first of all that these Islands, being a dependent territory, have no responsibility for their own defence. That responsibility is, and remains, with the United Kingdom's Government.

The second point I would like to make clear is that any such proposals dealing with foreign relation matters, of necessity, is handled by a non-elected office. That is not to say that the Elected Government is not consulted and is not briefed, but it is to say that the responsibility for the coordination of the activities is generally placed in a non-elected portfolio.

In this particular matter, having gone through the appropriate channels, the United States Government made a presentation in outline which was done earlier this year and at which Elected Members of Executive Council were present, followed shortly thereafter by a visit of a technical team

of United States Air Force personnel who undertook to review certain matters, after which a report with some recommendations would be made. As of today, the report of that technical team's visit has not yet been received.

When contacted recently by the media, I was asked if I could deny or confirm the existence of a telex. Following the first report on the matter, I was a little concerned, but not alarmed, that the press was saying to the public that I had said that there was nothing more for public information at this point in time. I have no apologies for that statement, Sir, because that was, and remains, the de facto position; there was not then (as there is not now) information to be made public on this matter. That is not to suggest that there is any need for concern, or that there is any need for any great secrecy about this matter. However, a second article appeared 48 hours later in the same media to which other conclusions were attached and other insinuations were being made, including some by the First Elected Member for West Bay, and I immediately issued a statement from my office.

The statement that was issued was aimed at clarifying the position and trying to make it abundantly clear that Members of Executive Council are always kept informed of any matter relating to policy and, certainly, such matters that include this particular matter. The report suggested that the First Elected Member for West Bay had contacted the four Elected Member of Executive Council who had denied any knowledge of being briefed on the matter, and I thought it was important to make the public understand that that inference and conclusion was an incorrect one. Obviously, my statement only served to add more confusion for the mind of the First Elected Member for West Bay, and if that is so, I apologise to him. However, the statement was intended to make it clear that there is no secrecy about the issue; and secondly, there was no secret telegram leaving (or indeed circulating around) the Administration Building as was inferred. I did acknowledge the existence of an unofficial internal communication and I refused then, as I refuse now, to elaborate or comment any further on that matter.

There is, therefore, no need to misconstrue a proposal by a foreign government which has not passed its most preliminary stage with anything covered, underhanded or unusual. A proposal is under consideration and, as and when, the agreements have or have not been reached the public will be kept informed.

When the group visited from the United States a very brief press release was issued saying that the group had arrived for consultation with Government Officials, etcetera, and that is the position of this Government. Whenever it is appropriate and suitable releases and information are issued to the public so as to maintain the reputation of an open government. That position has not changed, and we hope that we have not caused undue alarm and concern among any of our visitors or citizens residing in these Islands.

Thank you, Sir.

MR. PRESIDENT: This is not a formal debate, of course, it is raising a matter of a Motion and the Member of Government responsible has replied. I have left a pause because you have indicated you might want to ask for clarifying statements, and if you do wish to, please go ahead.

MR. McKEEVA BUSH: Yes, Mr. President, that was what I was waiting on, to get that opportunity.

Mr. President, I will reply to two points...

MR. PRESIDENT: With respect, I must try and make it clear: you are not replying, you are now in a position, if you wish, of asking questions of clarification. It is just a matter of your rephrasing what you have to say. But, let us follow the format.

MR. McKEEVA BUSH: Well, the Member talked about inferences drawn. What I said to the press was that I had spoken to Members of Executive Council and that they knew nothing, or were not brought up to date on any matter concerning the overall defence strategy of the United States. Now, it seems to me that the Honourable Member is saying that all Members knew about it.

Secondly, he talked about undue alarm. If any undue alarm has been raised, it is because the Member raised the matter himself by talking to reporters - now he is denying what he told the reporters. There must be confusion.

MR. PRESIDENT: I think that is in order for the Member responsible to reply, but we will go no further. I think that will finish it.

HON. J. LEMUEL HURLSTON: I do so rather reluctantly, Mr. President, because I do not want to prolong the position on this. There is no keeping of information from Members of Executive Council, and there need be no comparison drawn between the United States radar proposal and the United States Government's defence strategy. If Members of Executive Council said they knew nothing of the United States defence strategy they would have made a correct statement, because neither do I. I know nothing about a foreign Government's defence strategy, because we are not dealing with a foreign Government's defence strategy - we are dealing with a radar installation proposal.

Mr. W. McKEEVA BUSH: Well, would the Member say whether it was discussed or not?

MR. PRESIDENT: I think, maybe, if you would grant me for one moment to speak to you as Governor, and not as President, I can tell you categorically that United States defence strategy has not been put to Executive Council nor discussed by it. I have given myself exemption from Standing Orders to say

that.

ADJOURNMENT

MR. PRESIDENT: I will now put the question on the adjournment of the House. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until Wednesday morning at 10 o'clock.

AT 4:50 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. WEDNESDAY, 24TH MAY, 1989.

WEDNESDAY
24TH MAY, 1989
10:08 A.M.

MR. PRESIDENT: Prayers by the Elected Member for East End.

PRAYERS

MR. JOHN B. McLEAN: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Papers, the Honourable Member for Health.

PRESENTATION OF PAPERS AND REPORTS

REPORT FROM THE SELECT COMMITTEE ON MEDICAL TERMINATION OF PREGNANCY

HON. D. EZZARD MILLER: Mr. President, in accordance with Standing Order 72(5), I beg to lay on the Table of this Honourable House the Report from the Select Committee on Medical Termination of Pregnancy.

MR. PRESIDENT: So ordered.

HON. D. EZZARD MILLER: Mr. President, in accordance with the provisions of Standing Order 69, the Select Committee on Medical Termination of Pregnancy was established by the passing of Government Motion No. 4/89. This Motion was passed by a majority of 11 votes to 2 on Friday the 24th of February, 1989, at the First Meeting of the 1989 Session of the Legislative Assembly, having been introduced and moved on Wednesday the 22nd February by myself, the Member responsible for the portfolio of Health and Social Services.

Following the passing of Government Motion No. 4/89, which reads:

> "WHEREAS there is at present no law permitting abortion save in very exceptional circumstances; and
>
> WHEREAS the occasions on which abortions may be medically desirable are increasing due inter alia to the fact that the AIDS virus can be transmitted from a mother to her foetus;
>
> BE IT RESOLVED THEREFORE that this honourable House appoint a Select Committee consisting of all Elected Members and the Second Official Member to review the situation and if it finds desirable to recommend appropriate legislation.".

Following the passing of that Motion, the President of the Legislative Assembly duly nominated myself as Chairman of the Select Committee. The Members of the Select Committee were as follows:

Hon. Richard W. Ground, QC
Hon. W. Norman Bodden, OBE
Hon. Benson O. Ebanks, OBE

Hon. Linford A. Pierson, JP
Mr. W. McKeeva Bush
Mr. John D. Jefferson, Jr.
Mr. Truman M. Bodden
Capt. Mabry S. Kirkconnell
Mr. Gilbert A. McLean
Mr. Roy Bodden
Mr. Franklin R. Smith
Mr. John B. McLean, JP

The attendance of Members at meetings are set out in the minutes which are attached to this Report. The Select Committee held six meetings; 29th March, 5th of April, 19th of April, 26th April, 3rd of May and, 10th of May. The Minutes of these meetings are attached to this Report.

To assist the Select Committee with its deliberations, the public was invited to make independent or collective written representation expressing their views on the Motion before the Select Committee. The deadline for such representations was the 28th of April, 1989. At the Committee's fifth meeting held on the 3rd of May, a total of 122 written representations had been received, recorded and circulated to all Members and the President of the Legislative Assembly. Of the 122 letters received, 19 came from church Pastors and their congregations, three of those in the form of petitions, 16 from the medical profession, eight from Service Clubs and 79 from members of the general public. Four of those 79 were in the form of petitions.

In addition to the invitation for written representations the Committee extended to the public an invitation to appear before the Committee in person. The Committee met with 23 persons most of whom had made written representations. To assist the Committee in its deliberations, the Committee reviewed and considered the following legislation and papers:

1. The Penal Code;
2. The United Kingdom Infant Life Preservation Act, 1929;
3. The United Kingdom Abortion Act, 1967;
4. The King vs. Bourne Judge's Directions; and
5. The 122 written Representations.

The Barbados Medical Termination of Pregnancy Act, 1983-84 was also circulated to Members of the Select Committee as an example of legislation in this region.

The Committee observed its sections 129 and 186 of the Cayman Islands Penal Code, the only Law on the Statute Books which refers to abortion, and that it clearly sets out the termination of pregnancy on any grounds is illegal. The Committee also observed that contrary to public belief as was inferred and expressed in various representations, there does not exist in the Cayman Islands an Abortion Law. The Committee observed that in accordance with the Government Hospital's statistics, there exist an annual average of two to three cases of pregnancies in the Islands which require medical termination to preserve the life of the mother.

The Committee also observed that there is grave doubt whether such abortions can be performed within the jurisdiction according to current Law. The Committee further observed that such medically recommended abortions cannot be construed as an alternate method of birth control. I should point out that in fact, those two to three cases in the hospital's statistics were referred to other jurisdictions for medical opinions.

The Committee also observed that of the representations made a majority accept the termination of pregnancy where it is deemed medically necessary in order to preserve the life of a mother. In reviewing sections 129 and 186 of the Cayman Islands Penal Code which was enacted in 1975, based upon United Kingdom's Acts, those being the Offences Against the Person Act, 1861 and the Infant Life Preservation Act, 1929.

The Committee is of the opinion that the proviso contained in the Infant Life Preservation Act, 1929 which states, and I quote: **"Provided that no person shall be guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother was perhaps erroneously omitted at the time of drafting in 1975."**.

In light of those observations, the Select Committee by majority agreed that:

1. It is necessary that certain amendments be made to the Penal Code to provide for abortions where it is deemed medically necessary to preserve the life of the mother;

2. A certification process should be adopted prior to any act being preformed to protect a doctor performing such act and to ensure that such act is being done within the ambit of the Law;

3. That such certification process should provide for two registered doctors, one of whom shall be a certified specialist in obstetrics and or gynecology.

The Select Committee considered and agreed upon a draft Bill

amending sections 129 and 186 of the Penal Code. This Bill is annexed to the Report. The Bill, in essence provides that it shall not be an offence if the act is done to preserve the life of mother and further, that a doctor does not commit an offence if he performs such an act pursuant to a certificate in writing from two doctors that it is necessary to save the life of the mother.

Mr. President, the text of the Bill as it is proposed, and here I would like to point out that it is proposed that this Bill will be introduced in the September Meeting which will allow another three months approximately of public discussion of the proposed Bill. This Bill reads as follows:

"This Bill seeks to amend the Penal Code.

Clause 2 adds two new subsections into section 129 to provide that it shall not be an offence if the act is done to save the life of the mother and to further provide that a doctor does not commit an offence if he performs such an act pursuant to a certificate from two doctors that it is necessary to save the life of the mother.".

This is what Clause 2 reads in the proposed Bill.

"Section 129 of the Penal Code, in this Law referred to as the principal Law, is amended by -

a) renumbering the section as subsection (1) ; and

b) adding the following new subsections immediately after subsection (1) --

"(2) Notwithstanding the provisions of subsection (1) no person shall be guilty of an offence under this section unless it is proved that the act alleged to constitute the offence was not done in good faith for the purpose only of preserving the life of the mother.

(3) Notwithstanding anything in subsection (1) and (2) a Health Practitioner registered as being authorised to practise medicine under the Health Practitioners Law, 1974 shall not be guilty of an offence contrary to subsection (1) in respect of any act if such act is first certified in writing by two such registered Health Practitioners acting in good faith, one at least of whom is registered by the Health Practitioners Board as an obstetrician or a gynaecologist or is employed as a Government Medical Officer in either capacity, as being necessary for the purpose of preserving the life of the mother."

Clause 3 of the proposed Bill seeks to add two new subsections into section 186 similar to those to be added into section 129. Clause 3 reads:

"Section 186 of the Penal Code is amended by --

a) renumbering the section as subsection (1); and

b) adding the following new subsections immediately after subsection (1) --

"(2) Notwithstanding anything in subsection (1) no person shall be guilty of an offence under this section unless it is proved that the act which caused the death of the child was not done in good faith for the purpose only of preserving the life of the mother.

(3) Notwithstanding anything in subsection (1) and (2), a Health Practitioner registered as being authorised to practice medicine under the Health Practitioners Law, 1974 shall not be guilty of an offence under subsection (1) in respect of any act if such act is first certified in writing by two such registered Health Practitioners acting in good faith, one at least of whom is registered by the Health Practitioners Board as an obstetrician or a gynaecologist of is employed as a Government Medical Officer in either capacity, as being necessary for the purpose of preserving the life of the mother.".

As I said, Mr. President, that is the Bill that it is hoped to be introduced to the House in September.

The Committee recommends that this Bill as agreed upon, be introduced in the Legislative Assembly and in order to provide sufficient time for the circulation of the Bill, that it be introduced at the Third Meeting of the Legislative Assembly scheduled for September.

Mr. President, there is also attached to the Report a Dissenting Statement signed by two Members of the Select Committee, and the Dissenting Statement reads as follows:

"DISSENTING STATEMENT

We, the undersigned, hereby submit the following reasons for dissent from the majority Report.

First, we thank all those who made representations and those who appeared before the Committee to present their views and we were impressed with their concern and sincerity.

Having requested the public to give its input on this very important matter, we find that the overwhelming majority of persons feel that the present Law on abortions should stand as it is and not be changed. A substantial part of those against changing the Law were in favour of having it clarified to make certain the present Law without expanding or adding to it. Cayman remain by majority a Christian society and long may it continue so, thank God.

1. The question is the right to life not the quality of life.

2. A life cannot be valued in dollars and members of the Committee should put more stress on the value of life rather than worrying about the few dollars that will be spent on the three persons each year who may need special treatment. Government wastes many, many more times this amount of dollars each year for matters which do not relate to life and are not priorities.

3. In any event the Committee's time could have been much better spent dealing with providing facilities for those unfortunate children who needed it because as was seen with a recent mother purporting to have aids who chose to have her child, Government must face up to the fact that there are going to be children in this world who are not perfect.

4. The education of parents and the urging of health checks before marriage is good and should be developed. Prevention is better than the obvious cure of killing.

Mr. John D. Jefferson, Jr, recommends that the Law not be changed at all. Mr. Truman M. Bodden recommends that the statute, Law and precedent as it now stands, namely that (i) whenever the lives of mother and child can be saved this should be done; and (ii) if not then in the extreme cases where the mother may die unless an abortion is performed then an abortion should be carried out in good faith by a doctor.".

Mr. President, that is the Report of the Select Committee on Medical Termination of Pregnancy.

As the Chairman of the Select Committee, I would like to thank all those people in the public who took time from their busy schedule to appear as witnesses before the Committee and also to those who took time to send in written representations to the Committee, also to those who did not take the time to write but found time to telephone me or stop me at the gas station, in the supermarket or anywhere that they found me to tell me what their representations were. I would also like to thank the Members of the Select Committee for attending meetings and for their contributions during the discussions. I believe that the Committee has done what is best for the country this time.

Thank you, Sir.

MR. PRESIDENT: Questions. The Second Elected Member for the Lesser Islands. Question No. 46, please.

QUESTIONS TO HONOURABLE MEMBERS

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 46: Would the Honourable Member say what was the purchase price of the Shorts 330 Aircraft and the total cost of its operation to date, including cost of crew, maintenance and spare parts?

ANSWER: The purchase price of the Shorts 330 Aircraft was US$1,125,000. The cost of its operation up to March 1989 is as follows:

Spare engine	US$165,000
Spare rotable parts	340,500
Crew	570,186
Maintenance	902,011
Direct operating costs	641,516
Insurance	55,780
Interest	201,458
TOTAL	US$2,876,451

SUPPLEMENTARIES

MR. GILBERT A. McLEAN: Would the Honourable Member say if these costs, particular

maintenance, are considered high as compared to the operation say, of the jet service of the airline?

HON. W. NORMAN BODDEN: Yes, Mr. President, I would say that the maintenance cost as quoted here for the Shorts 330 aircraft is considered to be high.

MR. GILBERT A. McLEAN: Would the Member say if, in view of the costs involved, thought is being given to the replacement of this particular aircraft with one which might more suitably serve the route and would be less expensive in terms of these costs?

HON. W. NORMAN BODDEN: Mr. President, the company's plans would be to phase out the Shorts Aircraft probably by the summer of 1990. As regards to an aircraft that could be considered more suitable and which maintenance cost might be less, this is a matter the company would have to go into when a decision is taken as to the replacement type aircraft that the company could afford to put into service as a commuter type operation.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say why the maintenance cost has been so high - $902,000 on this aircraft?

HON. W. NORMAN BODDEN: The maintenance cost is really an uncontrollable item to a certain extent. It depends on the type of equipment that you are operating, the cost of spares and the extent to what maintenance work is done. This cost, I should point out, relates to schedule maintenance checks as well. It should not be interpreted that this amount represent emergency maintenance needs that are met. There are routine checks that have to be carried out on the aircraft, its equipment and propellers, that cost money. Those costs vary based on where you get the work done and the extent of the work.

MR. TRUMAN M. BODDEN: Mr. President, the Member mentioned something there that would imply that perhaps age, what is the age of the aircraft and would the age of it have an impact on the maintenance?

HON. W. NORMAN BODDEN: Mr. President, I would venture to say that the age of the aircraft is probably about eight years old. I cannot say that the high cost of maintenance would be mainly attributable to the age of the aircraft. I think you can have situations where you have a brand new aircraft from the factory that can cost a substantial amount of money.

MR. PRESIDENT: The First Elected Member for the Lesser Islands.

CAPT. MABRY S. KIRKCONNELL: Thank you, Mr. President.
Could the Honourable Member say how many crew is included in the $570,186?

HON. W. NORMAN BODDEN: Mr. President, they operate the inter-island service with three to four crew members and that includes a captain, a copilot and a stewardess.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, a supplementary. I wonder if the Member could say what is the present market value of the Shorts 330 aircraft?

HON. W. NORMAN BODDEN: I do not have an idea. I do not think that has been investigated by the company at the present time but, I would venture to say that it probably would not be much less that what the company paid for the aircraft two years ago.

MR. GILBERT A. McLEAN: Mr. President, could the Member indicate whether the maintenance cost could also be affected by the fact that there are relatively few of this type of aircraft in operation in certain areas for having them serviced in the United States?

HON. W. NORMAN BODDEN: Not really, there are commuter type airlines, like Pennsylvania Air and other commuter carriers within the Washington D.C. area, that operate quite a large number of these types of aircraft and the maintenance facility for the routine checks is available in Miami. I cannot say that this would cause the maintenance to be any more expensive simply because it is a Shorts 330 aircraft that is being operated.

MR. TRUMAN M. BODDEN: Could the Honourable Member say whether the high amount in maintenance has caused the aircraft to be grounded considerably more than usual?

MR. PRESIDENT: I think that is going beyond the scope of the question, we have had a thorough run through on the original question. I think it is going a bit beyond. Any other supplementaries on this? If there are no other supplementaries, Question No. 47, please. The Second Elected Member for the Lesser

Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE

NO. 47: Would the Honourable Member say what is the policy of Cayman Airways, Ltd. towards providing air service to Cayman Brac and Little Cayman and in particular, the use of Cayman Airways Ltd's jet aircraft to Cayman Brac?

ANSWER: It is Cayman Airways' policy to provide a safe and dependable scheduled air service based on traffic demand to Cayman Brac and Little Cayman. It is the company's present policy to supplement the service with at least three to four scheduled jet flights per week.

SUPPLEMENTARIES

MR. PRESIDENT: Supplementaries.

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say if the jet aircraft is presently flying into Cayman Brac three to four times per week?

HON. W. NORMAN BODDEN: Yes, Mr. President, to the best of my knowledge, it is. The latest schedule change for the summer actually has five jet flights per week to the Brac.

MR. GILBERT A. McLEAN: Would the Honourable Member say how long the present schedule of increased jet flights may be expected to continue, and if there is a decision that they should remain constant as is now proposed?

HON. W. NORMAN BODDEN: The scheduled changes that I referred to Mr. President, is the company's intention to maintain that frequency of jet service through September 2nd. That is the information that I have and to reduce it in September and October but will increase it again starting November.

MR. GILBERT A. McLEAN: Would the Member say if is possible that a firm and scheduled service of the jet aircraft to Cayman Brac could be maintained without the normal frequent changes during the course of a year?

HON. W. NORMAN BODDEN: Mr. President, I would be the first to admit, that the number of schedule changes carried out by the company affecting the jet service to Cayman Brac and Grand Cayman are far too many. I would like to say that it should be kept at a minimum of at least three changes per year. I think the number of changes at the present is far too high. In fact, I have already expressed my view on this to the management of the company and hopefully we can minimise the number of schedule changes on an annual basis, which I believe creates considerable inconvenience to travel agents and sometimes an upheaval as far as the travelling public is concerned. We would like to see that minimised and we are working towards that Sir.

MR. GILBERT A. McLEAN: Mr. President, would the Member undertake to follow through on this as he has said he has already initiated it and, indeed try on behalf of the people of Cayman Brac and Little Cayman to see if it is possible that there can be regular scheduled service to accommodate both the public, the travel agents and the wholesalers?

HON. W. NORMAN BODDEN: Yes, Mr. President, I can give that undertaking. The business to Cayman Brac by jet is very important to the company. I feel that regardless of the criticisms that are from time to time made about the inter-island service, the company and Government have demonstrated care and concern for the quality of service to the Sister Islands and this will continue.

MR. PRESIDENT: Question No. 48, please. The Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 48: Would the Honourable Member say what is Government's policy towards providing an air service to Cayman Brac and Little Cayman?

ANSWER: It is Government's policy to ensure that a safe and dependable scheduled air service, based on traffic demand, is provided to Cayman Brac and Little Cayman.

SUPPLEMENTARIES

MR. GILBERT A. McLEAN: Mr. President, would the Member say in view of the similarity in

policy of Government and of Cayman Airways Ltd., toward air service for the Brac, if Government and the Airline are fully conscious of the public needs and request for the type of service these policies envisage?

HON. W. NORMAN BODDEN: Yes, Mr. President. I would say that Government and the Company are fully aware of the needs. The efforts of Government and the Company have always been to meet those needs and while there have always been room for improvement (regardless of what conditions those services were operated), it must be remembered and borne in mind that for the past 35 years the airline and Government have been meeting those needs.

MR. PRESIDENT: We move on to Question No. 49. The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 49: Can the Honourable Member:

(a) give the total staff complement in the Judicial Department;

(b) give the numbers of:
(i) Caymanians;
(ii) Those possessing Cayman Status; and
(iii) Expatriates;

(c) give the nationalities and length of service of those possessing Caymanian Status and expatriates;

(d) say how many posts are vacant; and

(e) say whether a post of Higher Executive Officer provided in the 1989 Estimates has been filled?

ANSWER: The total staff complement of the Judicial Department is 36. Fifteen members of staff possess Caymanian status by birth or descent. One possesses Caymanian status by grant and ten are expatriates.

The nationalities and length of service are as follows:

TOTAL	NATIONALITY	UP TO 5 YEARS	5 TO 10 YEARS	OVER 10 YEARS
16	Caymanian	10	5	1
5	Jamaican	2	3	-
1	Trinidadian	-	1	-
1	Nicaraguan	-	1	-
3	British	3	-	-

There are 10 vacant posts. Two Higher Executive Officer posts were provided in the 1989 Estimates, which were approved in March 1989. When a request (which is expected) to fill these vacancies is made, the posts will be advertised within the Service and locally, if no suitable applications are received from serving officers.

MR. PRESIDENT: It is a rather long reply. Are there any supplementaries? I think the Third Elected Member for George Town did catch my eye first.

SUPPLEMENTARY

MR. TRUMAN M. BODDEN: Mr. President, would the Member please say how long these 10 posts have been vacant and the second question following on that, what is the procedure for getting these filled?

HON. J. LEMUEL HURLSTON: Mr. President, perhaps I should answer the latter question first. The procedure of filling vacant posts is, the Head of the Department is required to submit a prescribed vacancy form to the Public Service Commission containing descriptive information and particulars about the post and make a recommendation as to how it might be best filled.

The Public Service Commission takes the recommendation of the Head of the Department into account and proceeds to endeavour to fill the post either by internal promotion or competitive recruitment.

The current level of vacancies have existed for varying periods of time. For example, there is a Court Usher vacancy that has been in existence for quite some time. There are three Process Officer vacancies that have not been in existence for very long, then of course, we know that the

newly created Higher Executive Officers' post were only created in the new Estimates. So they are relatively new posts. Also, the Court Reporters were just approved in the 1989 Budget. So, the majority are all new posts awaiting to be filled for the first time.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands do you still have a supplementary? I may add one thing to that question, persons in the Judiciary and the Magistrate do not go the Public Service Commission. That is to do with the independency of the Judiciary.

Question No. 50, please. The First Elected Member for West Bay

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION RECREATION AND CULTURE

NO. 50: Can the Honourable Member say:
(a) Whether any of the money provided in the 1988 Estimates for scholarships were unspent; and
(b) how many scholarships were granted in 1988?

ANSWER: (a) Yes, CI$27,677.22 was unspent in 1988; and

(b) A total of 15 scholarships were granted in 1988 comprising 12 new awards and three awards granted in 1987 to be taken up in 1988.

SUPPLEMENTARIES

MR. PRESIDENT: Supplementaries, the Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I wonder if the Honourable Member could say what is the exact number of applications made for 1988?

HON. BENSON O. EBANKS: No, Mr. President, I am not in a position to say exactly how many applications were made but, I doubt that there would have been many more than were granted.

MR. JOHN B. McLEAN: I wonder if he would circulate the information to Members.

HON. BENSON O. EBANKS: I will attempt to get that figure from the Secretary to the Council, Mr. President.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, can the Honourable Member say what was the total amount of money provided in the Estimates for scholarships in 1988?

HON. BENSON O. EBANKS: The amount provided Mr. President was $445,614.

SUSPENSION OF STANDING ORDER 23 (7) AND (8)

HON. THOMAS C. JEFFERSON: Since it has reached 11 o'clock, I would move under Standing Order 83 the suspension of Standing Order 23(7) to allow the remaining questions on the order paper to be taken.

I shall put the question. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it. Accordingly, Standing Orders have been suspended.

AGREED. STANDING ORDER 23 (7) AND (8) SUSPENDED.

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say what steps were taken to advertise the procedures to request applications for scholarships?

HON. BENSON O. EBANKS: Mr. President, other than the list of priorities given at the beginning of the year, no specific advertisements were made. It is well known in the education field that scholarships are available for tertiary training and all of the schools are aware of this, both private and Government.

MR. TRUMAN M. BODDEN: Mr. President, if the Member does have these facts could he say how this compares with the number of scholarships for the year before?

HON. BENSON O. EBANKS: Mr. President, I wonder if that question could be repeated, I was

speaking to someone.

MR. TRUMAN M. BODDEN: If the Honourable Member has this information could he say how the number of scholarships granted compares with 1987?

HON. BENSON O. EBANKS: Again, I do not have the specifics but I know that it is up a few but generally, they are on average.

MR. PRESIDENT: The First Elected Member for West Bay, Question No. 51 please.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE SECOND OFFICIAL MEMBER RESPONSIBLE FOR LEGAL ADMINISTRATION

NO. 51: Can the Honourable Member say what was the cost of operating the Law School in 1988?

ANSWER: The total direct cost of operating the Cayman Islands' Law School during 1988 was CI$190,554. During the same period the School took in fees of $37,980, so that the net cost was $152,574.

This does not include certain indirect costs, such as recruitment expenses and housing allowances which are not within my responsibility, nor does it attempt to assess the cost of providing and maintaining the building space allocated to the Law School and for which no separate figures are kept.

SUPPLEMENTARIES

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, would the Member say how many students were at the Law School in 1988?

HON. RICHARD W. GROUND: Mr. President, as I think Members will appreciate, the academic year is not quite the same as the calendar or accounting year because it runs from October to October. So, I am going to give two separate sets of figures.

The academic year 1987 to 1988 (which ended in July) had 19 students studying the full Attorney-at-Law course plus two other students who were studying the Liverpool course but, are not taking it at the Attorney-at-Law qualification. So the full time total was 21. During the academic year 1988 to 1989, the current academic year which began in October 1988, there were 21 students doing the full time Attorney-at-Law course plus two other students doing the full time degree course. I might also mention that in each of the years five part-time students came in to take lectures for the Bankers Trustee Diploma.

MR. TRUMAN M. BODDEN: Would the Member say whether (multiplying the average salaries paid to law students) the Firms are contributing a sum which would be in excess of $152,000 per annum?

MR. PRESIDENT: That is a pretty massive invitation to express.

MR. TRUMAN M. BODDEN: I agree, Sir, but he is a bright boy...a bright lawyer, Sir.

HON. RICHARD W. GROUND: Mr. President, it is a massive invitation to mental arithmetic. I simply cannot give the exact figures because they are not within my competence. I think all that I can say is that at the moment there are 21 students doing the Attorney-at-Law course, three of them have not been articled. So there are 18 students in the Law Firms. The minimum acceptable monthly wage which the Legal Advisory Council accepts for Law Firms to pay the Articled Clerks is $800 a month. So if the Member can multiply 800 x 12 x 18 he will come out with the figure. I regret that I cannot do it standing here.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Mr. President, I wonder if the Honourable Member can say how does the cost per student in the Cayman Islands compare with the cost per student at similar institutions?

HON. RICHARD W. GROUND: I cannot say what the cost is in a similar institution, I regret that I have not costed it. I would point out that any similar institution would be overseas and there would be incurred travelling and living expenses that students attending the school may be at home and so on, do not pick up. All I can do is give a rough figure of what the cost to Government per student at the Law School is. Taking the figure of 23 students doing full time courses during this academic year and taking the direct cost for last year, one comes out with a gross total of slightly over $8,000 per student or a net cost of $6,633.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, can the Honourable Member say whether this

money contributed by the Law Firms is just given to the school or are the students articled to that Firm?

HON. RICHARD W. GROUND: The contributions by the Law Firms that I addressed earlier in answer to the Third Elected Member for George Town, was the salary paid to Articled Clerks while they are working for them. I should mention that the Law Firms do make certain direct contribution that bought books in the past; they have bought a series of Law Reports which have been donated to the Library; they have donated prizes and so on.

MR. PRESIDENT: Question No. 52, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION RECREATION AND CULTURE

NO. 52: Will the Honourable Member say what is the average, lowest and highest ratio of pupils to teachers in the Government Primary, Middle and High Schools respectively?

ANSWER: The average ratios of pupils to teachers in the Government School system is as follows: Primary Schools 1:18; Middle Schools 1:14; High Schools 1:13.

The highest ratios of pupils to teachers is as follows: Primary Schools 1:22; Middle Schools 1:32; High Schools 1:30

The lowest ratios of pupils to teachers is as follows: Primary Schools 1:8; Middle Schools 1:8; High Schools 1:7

SUPPLEMENTARIES

MR. PRESIDENT: Supplementaries.

MR. TRUMAN M. BODDEN: Mr. President, can the Honourable Member say what steps are being taken to reduce the highest ratios especially at the Middle School which is 1:32 and the High School which is 1:30?

HON. BENSON O. EBANKS: Mr. President, other than the plans which have already been made public, that is, eventually we would provide a new Middle School and a new High School and, the additional Science blocks that are being built. There are no plans to extend the schools.

MR. TRUMAN M. BODDEN: Mr. President, is the Honourable Member saying that the reason for this is due to a lack of school building space or is it teachers?

HON. BENSON O. EBANKS: Mr. President, the truth of the matter is that the average ratio is quite acceptable. What the Member is zeroing in on is actually the highest number of children in any class which is what the highest ratio has to be and, time to time these numbers are going to shoot up in the best of regulated classes. As the Member well knows, the schools are operated on a comprehensive system.

The numbers in any one set vary considerably because children are not all together in the same sets for the same subject. What I am saying is that you might have a child that is in Set I for English but in Set II or III for other subjects. So the overcrowding situation (if it could be referred to as that) is not as serious as the highest number might first appear.

MR. TRUMAN M. BODDEN: Mr. President, would the Member undertake for the new school year which will begin in September, to attempt to reduce these high ratios especially in the Middle and the High Schools?

HON. BENSON O. EBANKS: Basically, I can only repeat what I have said earlier. For example, the figure of 1:32 exists in one class only. In the top band at the Middle School the average for that band is actually something like 25.

MR. TRUMAN M. BODDEN: Lastly, Sir, is it not a fact that a ratio of 1:25 is high for that school?

HON. BENSON O. EBANKS: But the ratio is 1:14, as stated. The average ratio is 1:14.

MR. TRUMAN M. BODDEN: I was referring to the Member's answer that there was a ratio of 1:25 in one of the higher bands which I think he referred to.

HON. BENSON O. EBANKS: I did say that, but overall, the ratio is acceptable.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Mr. President. I wonder if the Member could give an undertaking to provide for comparative purposes, the ratios of teachers to pupils in schools from other jurisdictions, for example, Jamaica and Bahamas so that we may be in a better position to see how well we are doing?

HON. BENSON O. EBANKS: I could attempt to do that but I am not sure what it would serve to prove because my information is that, for example in Jamaica they have not got in the Secondary School system sufficient place for the number of children that are there. So the ratios are bound to be much higher and I would venture to bet, without any comparison that the Caymanian figures are as good as are going to find anywhere, if not better.

MR. PRESIDENT: Question No. 53, please, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION RECREATION AND CULTURE

NO. 53: Would the Honourable Member say what the total capacity of students the Middle School was built to take; how many students are now attending the said school; and, what number of students are generally accepted as maximum number in a Middle School?

ANSWER: The Cayman Islands Middle School was built to accommodate 730 children. At present there are 737 students enrolled. The generally accepted maximum number for the Middle Schools in the United Kingdom is 450.

SUPPLEMENTARIES

MR. PRESIDENT: Supplementaries.

MR. TRUMAN M. BODDEN: Just one, Mr. President. The Member mentioned in another question the building of another Middle School, can he tell me what is target timing for completion of that is?

HON. BENSON O. EBANKS: I am afraid I am unable to be specific on that because no plans or total costing has been done on them.

MR. PRESIDENT: The final question on the Order Paper, No. 54 please, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 54: Would the Honourable Member say what is the cost of the traffic lights and related equipment which has been installed within the past few months compared to the traffic lights and equipment that they replaced?

ANSWER:

ORIGINAL LOCATION	INSTALLATION	UPGRADE DATE/EST.COST	DATE/EST.COST
SHEDDEN ROAD	HARBOUR DR	DEC 82 US$18,000	MAY 89 US$46,180
FORT ST	HARBOUR DR	AUG 83 US$17,600	MAY 85 US$36,055
N CHURCH ST	EASTERN AVE	AUG 85 US$13,000	MAY 89 US$63,790

MR. PRESIDENT: There appears to be no supplementaries. Proceedings are suspended for 15 minutes.

AT 11:24 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:59

MR. PRESIDENT: Proceedings of the House are resumed. Other Business. Private Members' Motions. Private Member's Motion No. 5/89, the Third Elected Member for George Town continuing.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS:

PRIVATE MEMBER'S MOTION NO. 5/89

THE ESTABLISHMENT OF AN OFFICE OF OMBUDSMAN

(Continuation of the debate thereon)

MR. TRUMAN M. BODDEN: Thank you, Mr. President.

Mr. President, in supporting the Motion requesting that Government investigate the need and practicality of establishing an Office of Ombudsman, I would like to deal for a short period with a continuation of what I saw as comparisons in different countries. In the United Kingdom the Parliamentary Commissioner's role is set out in *The Constitution and Administrative Law*, by Greer Hogan, and what he can and cannot do, which I think is the most concise statement that my research has shown. He investigates all complaints of mal-administration by the departments listed in Schedule 2 of the Parliamentary Commissioner's Act of 1967. A passage here says, "What has become known as the Crossman Catalogue that mal-administration might include bias, neglect, inattention, delay, incompetence, ineptitude, perversity, turpitude arbitrariness and so on...". In a case in 1979 exporting Bradford, Sir Lord Denning, who is a very well known English Judge, accepted the Crossman as an adequate description of the scope of the term. It has gone on to say (and here I should mention that the public have to make a complaint to a member of the House of Commons who then passes it on. So this differs, it is somewhat more restrictive than what I have seen in Ontario and Jamaica). It says that: "...the following have been found to constitute mal-administration - failure to provide necessary information, failure to provide an adequate explanation, provision of inadequate or misleading information and advice, basing a decision on false or inadequate information, ignoring relevant evidence; delay; failure to follow departmental rules and procedures; rudeness and inconsiderate behaviour by official and bias.".

Very important with this is the exclusions that are listed and the United Kingdom's list is considerably longer because it involves areas of, for example, administration of overseas territories such as the Cayman islands that cannot be questioned.

By and large, what was listed in Jamaica (which is an independent country) was that a Crossman cannot investigate matters relating to the commencement or conduct of similar criminal proceedings in any Court of Law or before any international Court or Tribunal. Any action taken with respect to order of directions of the defence force is taken by the Minister responsible for extradition, and any decision or action of a service commission relating to appointment, removal and disciplinary control of any person and grant of honours, awards and privileges. The United Kingdom has extended that to the Cayman Islands in areas which we are not concerned, and we do not have foreign affairs to have to worry about. But, by and large, it excludes any attempt to deal with the appointment, removal or disciplinary control of Civil Servants. As to what the Committee may find acceptable or not, is a question that will have to be determined in the future.

This Motion is similar in many respects to Private Member's Motion No. 11/89 (which is coming up on the Order Paper) relating to the Referendum Law. The similarities are that the Ombudsman will look at problems of a single person, the Referendum Law allows major problems of a national level to be looked at. With the Ombudsman there is only guidance, but with the Referendum Law guidance would be given to either the case of the Ombusdman or the respective department or the Referendum Law to this honourable House. So the Ombudsman is looking at the individual's problem and getting it sorted out whereas the Referendum Law looks at national problems concerning all the people and gives advice on how best to sort them out.

Lastly on this, it is going to really depend on the person who is appointed to fill that post as to whether this will work. As I have said many times, and seen in practice as a lawyer, you can take a very good law or a very good document and two different people of similar competency can produce completely different results. So I guess what we have to remember with this in instances where any one person is given the wide and sizable powers of an Ombudsman - regardless of what we produce in the Law, it is going to be extremely important that the man who sits in that office can make it work.

The worrying thing with bringing in a new office such as this, is ensuring that the process of finding that person is one who is going to give us the optimum in ability, integrity, honesty and he must be fairly brave. In a society as small as the Cayman Islands the pressures one receives are far more extreme than one would find in a larger place. I know that many years ago when I was the prosecutor I was faced with that and ultimately had to make a decision whether I would move on as a magistrate within the service or whether I would leave and go in the private practice. I spent many long hours wondering how a country with one magistrate was going to operate, when and one may have to step down, as I had to do when I was coroner on several occasion.

In instances regardless of how unbiased one may be, it would have appeared that there may have been some biased decision. Whoever takes that post, will have to chosen well because I believe that it is going to be that person, rather than anything else under the terms of his appointment, otherwise that is not going to work if the Motion is accepted. I see in a law of Jamaica under Section 8 the salary is that of a Puisne Judge or a High Court Judge.

I support the Motion to put this to the Government but I would hope that an office of this importance and magnitude there would be some consultation to let us know what is the findings of the investigation. Perhaps let us have a look and have some input prior to having a Bill brought to this

House. I do not believe that there has been an Ombudsman in a colony and the tailoring of it is going to have to be done very carefully, while I know that the Government and Honourable Members sometimes feel reluctant perhaps to look at some of the major issues with backbenchers, I think that we can at times have some input which may avoid firstly, serious confrontation and secondly, can constructively assist them in dealing with a matter such as this which is important. But if done wrong, could also be a very serious detriment to the society.

I am happy to support this Motion. I intend to continue doing my research as best as I can so that hopefully when the time comes we will have a collection of precedents to look at. I commend the First and Second Elected Members for Bodden Town for bringing this Motion. It is far reaching, it is thoughtful and I am merely saying we have to be careful and cautious and ensure that what we are doing is going to be something that is going to be an improvement to the system and assistance to our people in these Islands.

Thank you.

MR. PRESIDENT: Would any other Member wish to speak on this Motion? The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I rise to speak briefly on Private Member's Motion No. 5/89 - The Establishment of an Office of Ombudsman.

Mr. President, this is a far-reaching Motion and it is one which attempts to address certain areas of need in the society. To create an office of Ombudsman there is the idea, the intent, of creating an office in which someone the equivalent of a judge sits almost impartially; to hear complaints, take up matters, to address matters in the society that is brought to him and in many instances his rulings are accepted and no appeal is allowed.

There is an Ombudsman in the United Kingdom, and in fact I understand there are more than one; there is the national ombudsman and there is also one at the council level, and they do seem to provide a need within that society. Perhaps the same could be done here. In the Caribbean region, Jamaica has one and there is also one in Barbados, in Canada there is one as well - this office of Ombudsman works.

In the Caymanian society where there are many complaints, requests are made and sometimes one finds that those complaints are genuine. Other times it could hardly be argued that that is the case. It might therefore be a good thing if there is someone who deals with requests or complaints, who is not a Member of Parliament, not a representative or necessarily the Head of a Government Department. But indeed there is an impartial middle person and one who could well be in the office of an Ombudsman. In arriving at a conclusion on this matter, the Government would need to take into account the difference in Cayman versus that of a larger country, say Canada or the United Kingdom. We have certain peculiarities to be addressed and it would certainly seem that if an appointment is made, it should be someone who has a very intimate knowledge of this society with all the many peculiarities and to be aware of how best to deal with matters which come to them. I would certainly recommend that as being one of the main topics for Government to consider to arrive at a reasonable and logical conclusion.

Certainly there is going to be the element of cost; that person is going to have to be paid a good and generous salary. It would be one of the ways that it could ensure some elements of impartiality in that you could have a satisfied person who feels adequately taken care of and would not have to take any particular position with regards to who they are taking for or against. It would make a psychological difference. Surely there is going to be cost for an office and equipment, it is going to be staffed and there is also going to be the need for monies for the staff to go out investigate matters on behalf of the Ombudsman. So there is a cost factor and I think it is quite a large factor involved. However, I feel that in the final analysis whomever is chosen, if indeed someone is, to undertake such a very new, vast and important office in this society, has to be a very key factor in this matter.

I believe the intentions of the First Elected Member for Bodden Town who brought this Motion, has been clearly set out by him. I believe his intentions are quite genuine in that, it is a way of addressing the needs as he has expressed them and I commend him for bringing this Motion. I see nothing wrong in requesting that the Government investigate the need and the practicality of establishing such an office in these Islands. Perhaps the whole motion hinges on those two words, the "need" and the "practicality".

Mr. President, I can support this Motion for Government to investigate the need for the establishment of an Office of Ombudsman. Thank you.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Mr. President.

Mr. President, at this time I would like to offer my contribution on Private Member's Motion No. 5/89 calling for Government to look into the possibility and practicality of establishing the Office of an Ombudsman.

Personally, I see no harm in exploring this possibility, but we have to be very careful if it is determined that we would proceed with the establishment of this office with regard to the terms of reference. In order for it to be effective great care would have to be taken in trying to recruit the right person with the right drive, qualifications and experience. We would have to make the salary that would be paid to this individual attractive enough to recruit the right person for the job.

We as Members of the Legislative Assembly can appreciate the

difficulty experienced in trying to get some things done and if it will make our job easier by establishing this office. It would be worth the investment. I do not think that it hurts to have an additional office that will keep members or officers employed specifically in the public sector on their toes. Personally I see no reason why I cannot support this Motion. Like I mentioned before, great care must be taken as to whether or not this is practical, the cost involved and the availability of the right person to appoint in this position. I do hope that, from reading the information that were made available to me, that our requests from the constituents are not automatically passed on to this office for them to pursue but, that we as Members of the Legislative Assembly would continue to play the role our people elected us to play that is, to represent them properly and adequately.

Thank you, Mr. President.

MR. PRESIDENT: Would the Mover now wish to reply?

MR. ROY BODDEN: Thank you, Mr. President.

In winding up I will like to take some time to briefly address issues which Honourable Members made in their contributions and probably tried to allay fears and some concerns which they have expressed.

Before I do that however, I would like to say that I am very grateful for the support in the contributions of Members. While for the most part I always refrain from calling names, I think that circumstances alter cases and would like to say that I was flattered and very impressed by the support which I received from the Honourable Member responsible for Tourism, Aviation and Trade and the Third Elected Member for George Town. I was very flattered at the extent of his preparation that the Member made and indeed, as the Mover of the Motion, I learnt something from the depth and extensiveness of his research. I can only say that kind of interest and co-operation bodes well for the good running, good order and the sharing of information among the Members of this House. I would think that it is to be encouraged. I thank the Members again for taking such an interest in the Motion.

Now Mr. President, I would like to say, because I was concerned that members of the public sector may think that what we are proposing is to create an inquisitor, that is not so. It is far from it. As a matter of fact, the model of the Ombudsman that I have envisaged would help the members in the public sector as much as it would help people outside, who may have reason to query or take issue with some of their decisions. The Office of Ombudsman as I see it, would be available to people in the public sector if they have queries or if they believe there are injustices which they would like to raise against people in their department or in other sectors of the Government. I would like to it be emphatically clear that we are not proposing to create any inquisitor nor do we think that there needs to be some watchdog over the public sector.

This office is perceived as enhancing the system that we have at present (and this was brought out in the contributions of Members who spoke on the Motion). The office is also intended to complement that of the Members of the Legislative Assembly and this was a particular concern of the Third Elected Member for West Bay. No! I do not conceive the role of the Ombudsman as detracting in any way, from the work or the prestige, the controversy for that matter of the Members of the Legislative Assembly. I see it as working in tandem, because ideally, according to how the office in Ontario works; if the Ombudsman's recommendations are denied, the Ombudsman may refer the matter to the Legislature through the President or the Chair if the Ombudsman deems that this is necessary.

This is an opportune time to bring this in, I would like to suggest that no appointment should be made without the consent of the Legislature. In Ontario the Ombudsman Act is so constructed that, unlike most other public officials, the Ombudsman cannot be appointed without the approval of the Legislature and, indeed, he reports to the Legislature through the Speaker or the President of the Legislature. I would strongly espouse that we use this approach so that it cannot be a Government appointed person but it must be a person who is appointed by the whole Legislature (this Honourable House) and that the Ombudsman is responsible to the whole Legislature, not just to the Government. I would not have it any other way because I think that in the best interest of democracy and efficacy that is the way it should be done.

As regards to the size of the office as some Members made mention, it would strike me that in our jurisdiction we need not have an extensive and elaborate office with any great number of staff. Ideally, an Ombudsman and perhaps two very proficient officers (being a Secretary and someone else) could do the job. It is suggested in the documents that I reviewed that the salaries should be in the range of a Puisne Judge or a Grand Court Judge. It would be left to the Members if the Motion is accepted and they decide to act on it to determine the salaries. I do not think that should be a great concern to us now, although I will concede that the calibre of person whom we expect to attract will be dependent upon the salary which we wish to offer. We cannot lose sight of the fact that it will be a controversial job and it will be very difficult. Perhaps in the beginning we may have to consider the salary aspects until we can get our office established. It is best not to go into it if we are going to appoint someone who is frustrated or who feels that they are working harder for the salary they are earning.

With regards to the name, I would say that is purely a matter of semantics. In Britain, for the most part these people are known as Parliamentary Commissioners. I am reluctant in our situation to give them that name because it may conjure notions of something else and, indeed, it may infringe on the concerns made by the Third Elected Member for West Bay. I would prefer if we go for something other than Parliamentary Commissioner. Some people call such an office a 'Citizens' Advisory Bureau', but I also have reservations about that. It is not a true connotation of the work of the Office. Personally, I see nothing wrong with using the name Ombudsman. I might add here that it is not entirely a new concept because, as I was jokingly reminded by a Member of this House yesterday, this matter had been brought up by two politicians in the past - one, I think as early as 1972 or 1976. I will not give the other part of the reminder, but I found it rather humourous

indeed.

I believe in our society there are few people who know of such an office, so it will be an entirely new concept and with a little initiation and orientation we should be able to set it off. The terms of appointment, again, could vary and would be dependent on the Standing Committee on the Ombudsman. I note with some interest a concern raised by the Third Elected Member for George Town in his informative contribution. I would just like to pass on, for what it is worth, that during my tenure in Ontario the Ombudsman who was appointed then was a very eminent jurist. There was a case in which he put the Provincial Government to some great embarrassment and they thought it was in their best interest to get rid of him. But the only way they could get rid of him was to (during the next financial year) not renew the vote for his office. They proceeded to do that, but, much to their regret, during the next election that cost them the Government because the Office of the Ombudsman was so popular and well established that the opposition used his removal as one of their campaign issues - the Government lost the Election. It may well be that there is a lesson in that for us Legislators to learn, if we are so embarrassed in any way that we think that we would like to get rid of the Ombudsman. So it is. And I note that the Member was concerned about the size and the pressures of the community, I relate that anecdote to say that the pressures and the problems that the Ombudsman is going to experience - and I concede that he is going to experience some - does not necessarily have to do with the size of our society because Ontario is a Province with about eight million people. Any issue which is deemed to be embarrassing, the Ombudsman is bound to come under some pressures for it. We need not necessarily fear that there will be undue pressures because of our small size.

With regard the effectiveness of the office, I agree that the effectiveness is dependent on the personality of who occupies that office. Ideally, I would say that the Ombudsman should be someone with an intricate knowledge of Caymanian society and of our peculiarities, as was expressed by the Second Elected Member for the Lesser Islands. It should be someone who is familiar with all our little nuances, our little prejudices and our petty concerns. The Ombudsman would have to separate the serious complaints from the trivial ones. Not only will he have to separate them, but he would have to have sufficient diplomacy to tell us that the matters which we have brought to him are not worthy of investigation; then let us understand in such a way that we can go back to our abodes feeling that we have not been put down. That in itself is a difficult challenge and it will take the best in people to do that. From some of the complaints and approaches we get as Members of the Legislative Assembly, we can put ourselves in the position to know what the Ombudsman can expect.

I see too that this office will complement the work of the Members of the Legislative Assembly and the roles that they play. As I mentioned yesterday in my introductory debate, according to how we are structured, and our bureaucratic organisation there are some things which the politicians cannot do. There are some paths which we cannot take as far as the public sector is concerned. There are some procedures which we cannot breach or cannot attempt to breach, but the Ombudsman will be able to do that. He will be able to call up a Head of a Department and say, "I have received a complaint. I would like to come in, sit down and talk with you." He can write a report but we cannot as Members of the Legislative Assembly - it would be totally out of order and against the structure of our Government and the public sector. If we have the office structured in the right way, these two can complement each other and work better for our society and function better for the public sector.

In conclusion, Mr. President, I would like to say again that this is a timely Motion. I am appreciative of the support which the Motion has received from the Members of this Honourable House. I would admonish the Government, when it is time to look at the Motion, that they bear in mind the contributions made by the Members in their debate and that they approach it in the widest possible way. Also, if they agree to adopt such an office, perhaps there are a few Ombudsman Acts that can be looked at as regards to a model. I have no qualms in recommending the Ombudsman Act of Ontario under the Revised Statutes of Ontario, 1980. I would suggest that if it is decided that we go by the model set in Ontario, we should let the Ombudsman be chosen by all the Members of our Legislative Assembly and let him be accountable to our Legislature through our President. Thank you very kindly.

MR. PRESIDENT: The question will be put on Private Member's Motion No. 5/89. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. PRIVATE MEMBER'S MOTION NO. 5/89 PASSED.

PRIVATE MEMBER'S MOTION NO. 6/89

WAIVING THE MANDATORY RETIREMENT AGE OF CIVIL SERVANTS

MR. PRESIDENT: Private Member's Motion No. 6/89, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Mr. President, I beg to move Private Member's Motion No. 6/89, standing in my name, which reads:

"WHEREAS it is considered that there is concern over the growing number of foreign nationals working in the public service;

AND WHEREAS there is considerable over employment in the Cayman Islands;

BE IT THEREFORE RESOLVED THAT the mandatory retirement age for civil servants be waived so that those who are physically and mentally capable of continuing in their posts can have the option of doing so, especially in those cases where their continuation would not retard the progress of younger officers or understudies.".

MR. FRANKILN R. SMITH: Mr. President, I beg to second the Motion.

MR. PRESIDENT: Private Member's Motion No. 6/89, has been duly moved and seconded. The Motion is open for debate.

MR. ROY BODDEN: Thank you, Mr. President.

I move this Motion because I have had representation from a number of civil servants, some of whom are retired and some who are still in the Civil Service, but all of whom are Caymanians. It strikes me, Sir, that in a society where there is little or no registered unemployment and where the established members of that society are becoming increasingly concerned over the growing number of foreign nationals taking up employment, including taking up employment in the public and private sector, that this is a sensible, relevant and timely Motion. Mr. President, it is a Motion which I think all Honourable Members should look at with a view of supporting because it is one of those issues which cuts across partisan politics, constituencies, personal prejudices and virtues. It is a national issue.

I would like to suggest also that it is a Motion with some foresight in that it seeks to address a simmering problem which will only grow worse if not addressed now. As is obvious from the last paragraph of the Motion, it carries some flexibility because it states "only in those cases where the continuation of the officer in the service does not retard the progress of younger officers or understudies"; only in those cases where the officer is deemed physically and mentally capable of continuing in their post.

Briefly, I would suggest and would implore Honourable Members of this House to support the Motion because it is one which can only benefit Caymanians. Thank you, Sir.

MR. PRESIDENT: The Honourable Third Official Member.

HON. J. LEMUEL HURLSTON: Mr. President, I rise to make a very short contribution to Private Member's Motion No. 6/89, now before the House, to say that, in fact, there are currently adequate legal provisions to meet the aims and objectives of the resolution.

The provisions of a Pensions Law were framed in such a way as to enable the Government or the employer to allow the employee on reaching the normal mandatory retirement age to continue beyond that age under certain conditions. Some of those conditions are mentioned in this Motion. Where it is expedient and in the public interest to do so, and where the officer is physically and mentally suitable to continue, there is currently no provision to debar the exercising of that discretion.

To illustrate my point may I introduce a few statistics as to the current position existing in the service? For example, we have in the service at this time three Caymanian officers over the age of 65 years old, 11 officers between the ages of 61 and 65, six officers who have just reached age 60 and, 21 officers who are now between the ages of 55 and 60 years old. That illustrates the point adequately.

The Motion, therefore, simply reaffirms the present position and I am happy to say that, in accepting the Motion, there will be no need for the Government to introduce any enabling legislation because the legislation already exists. Of course, the Government is very conscious of the need to Caymanianise the public sector and we are very conscious that wherever Caymanians are available and are suitable, they must be given preferential treatment for employment.

In addition to the provisions relating to continued employment beyond the normal retirement age, there are provisions in the General Orders dealing with the re-employment of retired persons - persons who are, in fact, pensioners, and it is practised. While I do not have the statistics to give precisely the number of pensioners who have been reemployed in the Service, we do in fact have a number of them.

So the Motion really asks the Government to continue to practise to an extent that the policy of inviting persons to continue as long as is possible in jobs in which their services are continually required. The Government is therefore, pleased to accept this Private Member's Motion on that basis.

MR. PRESIDENT: This is a convenient moment to suspend. Proceedings are suspended until 2:15 P.M.

AT 12:46 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:16 P.M.

MR. PRESIDENT: Proceedings are resumed.

The House was debating Private Member's No. 6/89 - Waiving the Mandatory age of Retirement of Civil Servants. The First Elected Member for West Bay.

MR. W McKEEVA BUSH: Mr. President, I rise in support of the resolution before the House. However, the Third Official Member who is responsible for Personnel seems to be completely off in his thinking on this Motion. He has painted a rosy picture and I do not feel that that picture includes anything favourable to a retiring officer as we are asking for. He has pointed out the provisions of the Pension Law and, of course, could have saved the House's time because we already know about those provisions. They are what we are complaining about, and the provisions in the General Orders. The Member thinks that the Motion simply reaffirms the present position and there is no need to introduce enabling legislation because the Law already permits what we are asking for. Well, he is so wrong and so off in his thinking.

The Member says that the Government, the Personnel Department, is conscious of the need to Caymanianise the Civil Service and is very conscious that wherever Caymanians are available and suitable they must be given preference for employment. This is exactly what we are talking about. We have seen the opposite in the Service. We know what the General Orders provide. We know that persons who are pensioners can be re-employed. We knew that before he told us so today. Our question is: In what capacity and at what kind of salaries and benefits can they be re-employed?

So the Motion is not asking Government to continue any practice, but rather to discontinue that practice. What we as Elected Members are asking - and I am hoping that we can get support for this - is that better provisions be made in favour of the employee where they have some say in the matter. As it stands, the Personnel Department dictates when you must go and how you must go. That is not good enough. It is not good enough to retire willing and able Caymanians who sometimes have to train their foreign replacements. That is not good enough, and I have seen it happen. I have seen it happen where local people have been replaced by older persons than themselves. I find it hard to accept that the Member or the Personnel Department is conscious of the need to Caymanianise the Civil Service. It really must not continue, and I trust that I have the votes here to do what we intend to do.

My support for this resolution is on the basis that (if it gets successful passage) there will be legislation forthcoming to correct this adverse practice. The Member must understand that if they vote for this resolution, we are expecting the legislation to come. I would reiterate, since this is his thinking, that he is completely wrong in saying that the Motion asks them to continue the practice, or that it reaffirms the present practice. The present situation is altogether bad and we want it changed. That is what we are saying here in this resolution; that is what we will be voting for, and that is what any new legislation would correct.

Mr. President, time is changing and people change with the time. People are more aware of what they can and what they cannot get in this country. Our people are saying that they cannot continue being forced into retirement without having any say in the matter...

MR. PRESIDENT: Please stick to the Motion. The Motion is not about enforced retirement it is about changing the age of retirement.

MR. W. McKEEVA BUSH: Well, Mr. President, I think the two are the same, but I will bow to your ruling.

I think I have made my point and the House understands that when they vote on this Motion they are not continuing any practice as put forward by the Honourable Member. We want it changed and the Members responsible for Personnel Department must understand that.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, this Motion is one that I will be supporting. The Motion itself, as I understand it... and I will read the operative part of it:

> "BE IT THEREFORE RESOLVED THAT the mandatory retirement age for civil servants be waived so that those who are physically and mentally capable of continuing in their posts can have the option of doing so, especially in those cases where their continuation would not retard the progress of younger officers or understudies.".

Sir, there are advantages to this Motion that have to be weighed between the persons who are retiring and the younger civil servants who are coming up in the service. The balance has to be looked at very carefully. On one side of this there will be civil servants who are reaching (or who have reached) the compulsory retirement age of 60 years old who are still active and can contribute quite a bit to the Civil Service. The advantage to them and the Civil Service will be that they can continue and contribute to the functioning of the Service. This will be weighed, however, against the younger civil servants who are in the service in that they, too, have a career ahead of them and they do not want to be left forever in a post with no hope of being able to go up the ladder to reach the top.

As to how that balance can be reached is not for me to say, but there is merit in having good civil servants of retiring age continue in their post. As life goes on and modernisation passes by, the age of people gets longer and therefore the retiring age needs to be looked at under those circumstances.

The old Pensions Law appears to have been started in 1950. It was subsequently revised in 1963 and it continued with amendments until the present time. I would like to look at

this point and what the Motion seeks to do (as I understand the Government is supporting the Motion) and to ensure that I understand what the position appears to be by what is hoped to be achieved with the Motion. It seems to me from the very narrow research... and I will admit that I am not really familiar with the Pensions Law, even though I have had to look at some sections in practise from time to time... under the 1975 Regulations I did not find anything here that amended section 31. In section 31(3) it said:

> "...except with the approval of the Governor [and this would be you acting as Governor not as the Governor in Council] a pensionable officer having reached the age of 60 years will be called upon to retire from the public service after six months notice by his Head of Department who shall advise the Principal Secretary of Establishments and the Chairman of such action.".

Under the Pensions Law it seems that after a person has reached the age (and I am dealing with normal circumstances because other circumstances are set out at section 6) of between 55 and 60 a person has the option of retiring early. But at 60 years he will retire unless the Governor decides that he should continue in the Service or, alternatively, he could be re-employed.

I think that there is a section in the Pensions Law that says that pension will stop if a person is required to come back into the service. In fact, there is also a section (and I am not sure if it has been removed) that refers to the Secretary of State, or the Governor, who thinks that a person should come back in the service, he can request him to come back in. In section 6(2), it says:

> "For the avoidance of doubt it is declared that without prejudice to the right of the Governor to require any officer to retire from the service of the Islands in accordance with the provisions of section 8, or, of any officer to elect to retire from the service of the Islands on or after attaining the age of 55 years, the normal retiring age of the officer shall be sixty years.".

So it seems that between 55 and 60 there is a right to elect to retire early, and at age 60 a person is normally retired unless the Governor re-employs him or elects that he can continue in the Service beyond that period.

The Motion seems to me to be saying that the mandatory age, the age of 60 years, should be waived. Let me mention that I had nothing to do with the drafting of the [Pension Law] but by 'waived' I would assume that it means that the compulsory age of 60 is going to be removed and that persons in the Service have an option after 55 years of age to continue in the Service beyond the age of 60. Perhaps in due course, some of the Members on the Government side would throw some light on this and I am sure that the First Elected Member for Bodden Town will also explain what is meant in the Motion having regard to younger officers or understudies. What it seems is that the Law and the Regulations may not necessarily be on all fours with the resolution depending on what interpretation is put on the word 'waived'.

What it is saying here, and I would like to read it again, is:

> "BE IT THEREFORE RESOLVED THAT the mandatory retirement age for civil servants be waived [or presumably removed] so that those who are physically and mentally capable of continuing in their posts can have the option of doing so, especially in those cases where their continuation would not retard the progress of younger officers or understudies.".

I personally would not favour attempting to open this up completely, I think there needs to be some cut off retirement age. But I believe that what the Regulations and Law appear to be saying is that at the age of 60 a person should normally retire unless at the Governor's discretion he is re-employed to continue. What the resolution appears to be saying is that when a person reaches the age of 60, that mandatory retirement should be lifted without putting any limitation in there. As I said, some time limits perhaps should be placed naturally on it, but I think many countries now go up to 65 and, thereafter, perhaps it is then in the discretion of the Governor to offer further employment.

MR. PRESIDENT: I wonder if I may break in for a moment? There seems to be some confusion in the minds of Members (and certainly the mind of the Member speaking) as to the exact intent in the resolution clause of this Motion. Perhaps I should explain how I read it when it was agreed to be put on the Order Paper. My understanding was that it was to waive the present retirement age, that is, remove it in the case of those who are physically and mentally capable of going forward. It was not to change the normal retirement age for everybody. I see the Mover of the Motion is nodding, I wonder if you would confirm that because that will sort out the immediate point being addressed.

MR. ROY BODDEN: Thank you, Mr. President.

I was under the impression, Sir, that the active part of the resolution was quite unambiguous. You are correct in your interpretation. What I intended was that the retirement age would not be lifted across the board because I realise that there are cases where the people have reached retirement age and would wish to continue working. What I would like to ensure is that in those cases where they have reached the retirement age and would wish to remain, they are given the option.

MR. PRESIDENT: If I may further pursue this, I do not want to get too involved, but, ultimately the Government Member who replied must understand what the Motion seeks. He must understand it otherwise we are at odds. There is no finality. You also have the clause in there that says "those who are physically and mentally capable". I read it to mean that if an officer who reaches the normal retirement age of 60 indicates that he wishes to continue his service and that he is physically and mentally capable, providing he does not block any younger officer, he should be permitted to serve on. Is that it?

MR. ROY BODDEN: Precisely so, Sir.

MR. PRESIDENT: Well, I believe that the Honourable Third Official Member was addressing the matter in that context. I know this is most unusual, he has made his statement on this debate and I think it would be helpful if he could state whether or not that interpretation is correct. Otherwise, we are having an argument about something which may not be and the Member in charge must know what it is that the House is binding him to do.

HON. J. LEMUEL HURLSTON: Thank you, Mr. President.

I am grateful for the opportunity because I, too, sat back and listened to the interpretations that went beyond the interpretation that was my understanding of the resolution. My understanding of the resolution is identical to that which you have just agreed to with the Mover of the Motion - that is, that it was seeking to introduce a form of discretion, an option that may or may not be exercised at that particular point in the officer's career. My reply was that there exists already provisions, perhaps not in the same fashion that the mover envisaged, but provisions that would achieve the same objective.

MR. PRESIDENT: We continue the debate.

MR. ROY BODDEN: Mr. President, the problem of a discretion as raised by the Member throws the whole thing into flux again.

MR. PRESIDENT: I think that this may be a matter of words. It may be better if we suspend and discuss this informally because I do fear that we will end up with a Motion which is not understood in similar terms that will later cause problems as a result. So I will suspend proceedings for 15 minutes and if you will kindly remain in your places, we will suspend here.

AT 2:45 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:35 P.M.

MR. PRESIDENT: Proceedings are resumed.

The Third Elected Member for George Town continuing.

MR. TRUMAN M. BODDEN: Thank you, Mr. President.

I now understand clearer both what the First Elected Member for Bodden Town meant by his Motion and what the Third Official Member replied was acceptable to the Government. As I understand the position (having regard to the Law and the Regulations and the General Orders) when a person reaches 59 years and 6 months old, that is six months before the normal retiring age of 60, that he should then, if he wishes to stay on, notify his Head of Department. Having regard to his physical and mental capability and consideration to his condition, without retarding the progress of younger civil servants, then every consideration will be given by the Governor to let that person continue in his post. This does appear to me to be something that is desirable because, as I mentioned before, when those three considerations are taken into account then I think it is in the interest of the Islands as a whole that a good person remain within the public service.

The position, therefore, is that perhaps the person who is getting near to the retiring age of 60 should, six months prior to that age, make the request and also set out grounds favourable to him upon which Your Excellency would then be able to consider his continuation in that post. Based upon that we should see the situation being carried out in accordance with the present Law and Regulations.

I support this, and in giving my support to it I believe that what is being done will result in a better Civil Service. There will be preservation within it of experience and knowledge that only age can bring about, and providing it is not retarding the progress of a younger civil servant, I am happy to support the Motion which it now appears is quite clear between the Government, the mover and myself. I will be voting for this at the appropriate time.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I rise to support Private Member's Motion No 6/89 regarding the increasing of the retirement age of civil servants. If I may refer to the "Whereas" of the Motion, it is noted that there is concern over the growing number of foreign nationals working in the public service and there is considerable over employment in the Cayman Islands. I think that perhaps these are the two salient reasons why Government could be well advised to consider the continuing employment of civil servants beyond the age of 60.

Certainly there are (and will be) those Members of the Civil Service who have valuable expertise in the Service and, by their continued employment beyond the age of 60, it can give a breather or a space for younger nationals to enter the service and to progress upward. I say that it is good that persons beyond 60 years should continue only if (and that is also noted in this Motion) it will not impede the progress of other younger officers. It is my understanding that the process in Government (and, indeed, when I was a civil servant) was that the persons finding themselves in that position should have a stronger position by which they could have requested their continued employment and, if the information available to me is correct, it seems that as stated in the Government Regulations it is the Head of Department who decides, determines or initiates the move for a civil servant to continue service. Thereafter, the Head of Department follows certain procedures by having the civil servant medically examined and makes those recommendations to the Public Service Commission which in turn makes them to the Governor.

I do know of at least two cases, one in Grand Cayman and one in Cayman Brac (the constituency which I represent) where two persons have the desire to continue and the process is being initiated. But they have expressed certain reservation and fears that their chances are going to be very slim because of what has been said to them at the very onset. I am not quite certain if these were some of the concerns of the Mover or if he has had similar instances, among other things, that has caused him to bring this Motion.

Certainly, I welcome this Motion. There are persons who are interested in continuing beyond the age of 60 who are mentally and physically capable to do so. I firmly believe that it would be in the best interest of Government organisations if this was allowed. On the other hand, I think there are also persons who certainly look forward to the age of 60 years so that they can get out of the Service. In support of this, I would not want to know that the age limit or cut off point is totally removed but, rather, that there be exceptions where the employee as well as the employer have a fair position of mutually agreeing and discussing it so that a decision can be arrived at. I certainly would not advocate that the person continues where there is a problem of ill health or bad attitude. I would personally like to be reassured, and I am sure those persons would as well, that in the process fairness obtains on both sides.

Mr. President, there is little more that I could add to what I have said at this time. I do support this Motion. If this Motion confirms or reaffirms what is now in the process, all that I would wish to add is that Government, those responsible, could perhaps take a closer look at the process to ensure that it is clearer to the employees what they may expect at the age of 60, that that is the day when they have to come to the end of the line, for all practical purposes, and it may go on if x, y or z in is place.

Having said that, I give this Motion my support. Thank you, Mr. President.

MR. PRESIDENT: The Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Mr. President, I rise to speak on Private Member's Motion No. 6/89, which seeks to waive the mandatory retirement age of civil servants, although I have already given it my support by seconding the Motion, along with my colleague from Bodden Town, who saw it fit to bring this Motion to this honourable House.

I am concerned about certain situations that I have been approached about by a number of civil servants who have reached retirement age. According to their stories, they were not given the chance to continue their service. This is why I saw fit to second the Motion, because in many instances they were replaced by persons older than they were who not from these Islands. I think that has to be stopped.

Sir, I believe that once officers approach the retirement age and they receive the notice from the Head of Department they should be given a chance to put in writing whether they wish to continue or not. That means, as the Motion clearly states, "provided that they meet the criteria of being mentally and physically capable..." and the Head of the Department feels that they are capable of fulfilling the continued need of that position, and are not hindering the promotion of a younger person (who has probably been understudying in that particular job), then I believe they should be given the chance to remain in the Service. I will not prolong this debate. I support the Motion.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Mr. President.

I rise to give my support to Private Member's Motion No. 6/89, requesting the waiving of the mandatory retirement age of civil servants.

Being a former civil servant myself, I am aware of the present policy. I can remember incidents also where an officer reaching the retirement age did not have an understudy and Government saw it fit to continue his services until someone could be found to replace him. I support the provision of this Motion in that I think an officer upon reaching retirement age should be in a position where he has some input whether or not he will continue in his position, provided that all the other required criteria are met.

I think that this is a very delicate position, and I do not think that you will find many civil servants opting to continue their term of employment upon reaching the age of 55 or 60 years. So I do not think that you will find this particular provision would be widely abused because most civil servants today look forward to reaching the age of 60 when they would be eligible for full pension and moving out to take up other challenges in other areas of the society. I think here in the Cayman Islands those options are varied and numerous. We have had civil servants retire and move into successful roles as politicians, responsible

positions in the private sector and others just chose to work for themselves or pursue their own personal endeavours.

Personally, I do not think that the main problem is that the provision is not there. The problem I think is with the implementation of these things. This is not the only area where I see discrepancies or inconsistencies. I think that you will find that even after this Motion is passed (and I think it will be passed) it will still not be properly implemented. I do not think that we need more legislation on our books. I think we only need to make sure that the provisions we do have on the books are properly implemented.

From the Civil Service standpoint, if Government have a proper training programme in place, there should be very rare occasions where an officer reaching the age of 55 or 60 would want to stay. As I have said before most civil servants at that stage would be prepared to leave, but there are exceptions to the rule. The incident I mentioned previously took place because no provision was made for the ultimate retirement of that particular officer. So the training programme must be in place to ensure that those positions, especially those at the top, must have someone understudying and exposed to the responsibilities of the job, so that, ultimately, when that senior officer reaches the age of retirement, he or she would have felt that they have made a contribution and are in a position then to pass the responsibilities to the subordinate officer.

Mr. President, I do not see this Motion causing any great burden as far as Government is concerned. But I see it as a positive step in ensuring that Caymanians continue to be in a position where they are favourably considered to continue in posts within the Civil Service of this country. Without prolonging my contribution, I would like to say that I welcome this particular Motion. I congratulate the Mover and, when it comes to the time of voting, it will get my support. Thank you, Sir.

MR. PRESIDENT: The First Elected Member for the Lesser Islands.

CAPT. MABRY S. KIRKCONNELL: Thank you, Mr. President.

I rise to support Private Member's Motion No. 6/89, which waives the mandatory retirement age of civil servants. I think this is a timely Motion and I congratulate the First Elected Member for Bodden Town for bringing it.

I, too, have had representation from members of my constituency, and also people residing here in Grand Cayman, of their desire to continue beyond 60 years of age in the Civil Service. Maybe it was a fact that they did not fully understand the procedure by which they should make their request known. Nevertheless, it was a great concern to them and I think this Motion will make very clear the procedures which are required that will indeed be available after their having served in the Civil Service for the number of years. If they are willing to continue, the resolved section of this Motion reads:

> "...that the mandatory retirement age of civil servants be waived so that those that are physically and mentally capable of continuing in their post can have the option of doing so, especially in those cases where their continuation would not retard the progress of younger officers or understudies.".

I note, particularly where these older individuals seek to continue in their posts, where it would not interfere with the promotion of younger officers. I give this my full support. I feel that we need to encourage these people who have reached their senior years. Maybe they are not prepared to branch out into the private sector at that age, and with the life expectancy increasing and better medical facilities around the world, 60 is not an old age anymore. I feel this is a step in the right direction.

I am very grateful also to the Honourable Third Official Member for the explanations he has given regarding the General Orders which are now in effect for civil servants. We now have a better understanding. I would ask that the Heads of Departments be given instructions that all civil servants reaching the age of 60 be notified that they have this option which they can exercise and, all things being equal, the opportunity will be afforded to them.

With those few words Mr. President, I support the Motion.

MR. PRESIDENT: Would the Mover wish to exercise his right of reply?

MR. ROY BODDEN: Thank you, Mr. President.

I am grateful for the break that we had so that we could discuss this Motion. Understanding that fact, however, there are some things I would like to say and I want to re-establish, and reiterate some things that I remarked in this honourable House earlier.

The first is: I have not come here to waste the country's time nor to waste the time of Members of this honourable House. I resent the insinuation made earlier that I brought a Motion here which was superfluous. I am a sensible man and I want to serve notice that I was prepared when I came here, to debate with the best. I can hold my own. I guarantee it. So if anyone thinks that they are going to embarrass or destroy Roy Bodden they had better think again!

It strikes me that this Motion was clear enough. I am grateful for the support of those Members who spoke in support of it. I give them the assurance that this Motion is meant to look out for the interest of Caymanians. It is self-explanatory. I believe we have reached a fair understanding and it now remains to see what action will be taken. Mr. President, I will be vigilant and, if need be, I will come again and again.

When I bring things of this nature to this House I am not prepared to reveal my sources. I am not going to betray the trust that my constituents put in me. So, for the most

part, I will try to frame the Motion in such a way that it does not reveal the source of information.

I hope and trust that I can derive, as well as those Members who supported the Motion, some satisfaction from bringing this Motion and that it will be unnecessary to either ask any follow-up questions or to bring any follow-up Motions. I hope that I have made myself explicitly clear.

Thank you, Mr. President.

MR. PRESIDENT: The question will be put on Private Member's Motion No. 6/89. Those in favour please say Aye...Those against No.

AYES.

THE PRESIDENT: The Ayes have it.

AGREED. PRIVATE MEMBER'S MOTION NO. 6/89 PASSED.

PRIVATE MEMBER'S MOTION NO. 7/89

NATIONAL IDENTIFICATION

MR. PRESIDENT: Private Member's Motion No. 7/89. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Mr. President, I beg to move Private Member's Motion No. 7/89, standing in my name, which reads:

> "WHEREAS the population of the Cayman Islands is increasing rapidly;
>
> AND WHEREAS an increasing number of people from outside these Islands are legally taking up gainful occupation or residence in these Islands;
>
> AND WHEREAS the increase of crime, especially drug related crime, is a matter of increasing concern;
>
> BE IT THEREFORE RESOLVED THAT Government investigate instituting a system of personal identification for all persons resident in the Cayman Islands, which would assist the law enforcement agencies.".

MR. PRESIDENT: Is the Motion being seconded?

MR. W. McKEEVA BUSH: Mr. President, I second the Motion gladly.

MR. PRESIDENT: Private Member's Motion No. 7/89 has been duly moved and seconded. Would the Mover wish to speak to it?

MR. ROY BODDEN: Thank you, Mr. President.

Mr. President, it is a recognised fact both in developed and developing countries, that some form of national identification for the citizens and residents of those countries greatly facilitate sa number of things. A very commonplace and simple example is the type of identification used and adopted in many countries which incorporates, among other things, necessary information - a driver's licence. It is such a type of identification which this Motion seeks to establish in these Islands.

Many people agree that the automobile licence which we currently have is impractical in that it is made up in the form of a non-laminated booklet, although for most part they are provided in a little plastic envelope, but it is cumbersome and cannot fit easily into one's wallet, so it is impractical to take on one's person most of the time. As a result of that, there is sometimes embarrassment and inconvenience. Additionally, since we are a major financial centre most of us have to make transactions in the banks, not on a daily basis, but certainly on a weekly basis, some form of identification which carries a picture, a finger print or a signature would greatly help and facilitate the ease with which we conduct some transactions.

I would recommend this Motion to this honourable House as being a sensible and timely Motion. I would suggest that there are other uses that could be enumerated to which this identification could be put, but I do not think it is necessary to bring that out at this stage of the debate. I would hope, Sir, that Members would see fit to support this Motion because it can only help to improve the transactions and the smooth running of our society. Thank you, Sir.

MR. PRESIDENT: Does any other Member wish to speak?

MR. W McKEEVA BUSH: I am going to speak, but I am waiting on the Government bench.

MR. PRESIDENT: The Honourable Third Official Member.

HON. J. LEMUEL HURLSTON: Mr. President, I rise to make a very brief contribution on this matter simply to indicate that the Government has every intention of supporting the Motion.

MR. PRESIDENT: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Mr. President.

As the seconder of the resolution, I rise to support it, of course, and I am glad to do so after hearing probably the briefest speech that has ever been made in this House by a Member of Government accepting something as important as national identification.

I waited because I wanted to hear what the Honourable Member had to say about this resolution, seeing that I moved a similar resolution on the 1st of May, 1987, which was soundly rejected by Government. The same Member replying now for Government in such a brief speech, took a long time to tell me that the same thing that we are doing today could not be done back in 1987. I am glad that he has changed his mind. Well, that seems to be the order of the day - see-sawing around.

Mr. President, it is needed today as it was needed two years ago. My thoughts then were that we could put any sort of identification on one single laminated card and any member of the public could wear it in his wallet. They could carry a driver's licence, identification, you name it, and it could have acted as personal identification card. What I was asking the Government for in 1987 was a very simple matter seeing that civil servants carry identification.

One of the reasons I gave in 1987 was that there is a problem with young people going into bars. I gave an example of a young girl below the age of 14 years who was allowed into a bar to dance. When I personally had to check on it I was told; "Look, she is as big as your wife. We did not know what her age was." It seemed to me that if our people had a personal identification, that would be one good reason to have it. But I was made to look like a fool then. It was made to appear that I did not know what I was doing. Today the Honourable Member gets up, and as quick as you could say 'que heh', he sat back down. Well the laugh is on them. They have to do it, we have the votes needed and it is going to be passed. As the old Caymanian saying goes, "Put that in your pipe and smoke it.".

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Mr. President.

Unfortunately, I am going to take a very unpopular stand and oppose the mandatory requirement for a Caymanian in these Islands to carry a national identification. I am not sure what the real intent of the Motion is calling for nationals being required to carry an identification who work among us. I think that is one thing, and if that is the intention that is a common policy at the present time.

Someone applying for a work permit, once it is granted, is provided with an identification which he takes with him just in case he is stopped by the Police or an Immigration Officer - they can present it and it avoids a lot of embarrassment. If it is calling for foreign nationals applying for residency to carry this, I personally do not have any problem with that either. I think in most of those cases you will find, probably without exception, those people would be carrying some form of identification. So, if it is calling for a mandatory national identification programme, I oppose it strongly.

I think most people who have travelled normally obtain an identification on a voluntary basis. I know, for example, companies do it in order to provide some type of identification for their employees. I know we did it in the Taxi Association. But, I do not think it should be a mandatory position.

Numbered societies gives me some concern. Being a bible man myself, the first thought that came to my mind was the prophesy in Revelation which specifically spells out that in the last days when the anti-Christ takes over you will be required to assume some type of identification for a number of reasons. One of which is to work; to buy is another; to remain as a part of society another, and any individual who is around at that stage refusing to accept this as a condition of their survival they will be required to pay for that decision with their life.

Before I was elected on November 16th, 1988, I made a commitment to my people. That commitment was reiterated in this House, and that is that as a legislator I will support any measure, policy or law that I feel is for the best interest of my people regardless of the Mover. I think that has been very evident in my short term in this Legislative Assembly and that will continue. But that is the reason why I cannot support this Motion. I do not feel personally that a mandatory national identification programme is in the best interest of my people. Thank you, Mr. President.

MR. PRESIDENT: Does any other Member wish to speak?
The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Mr. President, I wish to support Private Member's Motion No. 7/89, calling for a national identification, but I have to disagree with the sentiments expressed by the Third Elected Member for West Bay. This Motion does not seek to bring in a mandatory numbered anti-Christ, Biblical, prophetical, for food, for clothing or anything else.

One of the problems we have in our society is alcohol. One of the problems that we have in enforcing the Liquor Law, in particular, with minors is that there is no form of standard

identification available to the public. As I see this Motion that is what it intends to do - to make available a national identification card on a voluntary basis which people can get if they want. How else can we ask the police to insist that the operators of bars, etcetera, not let minors into the premises unless we provide the mechanism to do it?

It has never ceased to amaze me that for the time I have been in this House (and that is only five years, but it seems like an eternity) what Members can read into and suggest on motions. I can well understand the political maneuvering that seems to happen. I cannot let it be said that the intent here is to provide and force nationals, Caymanians or anyone else, to walk around with a number on their suit.

I support the Motion because I think it is worthwhile. I think we have to stop giving lip service to our concerns about alcohol, crime, etcetera, and particular age groups. I see this as one way of assisting the enforcement officers in being able to enforce the Law. Thank you, Sir.

MR. PRESIDENT: I wonder if Members can give an indication of who else may wish to speak on the Motion. We are quite close to 4.30 P.M. - I make it one minute to go. Perhaps it will be sensible to adjourn.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this Honourable House until ten o'clock tomorrow morning.

THE PRESIDENT: The question is that the House do now adjourn until Thursday morning at ten o'clock. Those in favour please say aye, those against no.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until ten o'clock, Thursday morning.

AT 4:29 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 AM THURSDAY, 25TH MAY, 1989.

THURSDAY
25TH MAY, 1989
10:06 A.M.

MR. PRESIDENT: Prayers by the Honourable Third Official Member.

PRAYERS

HON. J. LEMUEL HURLSTON: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Proceedings of the Legislative Assembly are resumed.

Papers. The Honourable Member for Communications, Works and Natural Resources.

PRESENTATION OF PAPERS AND REPORTS

FINANCIAL STATEMENTS OF THE PORT AUTHORITY OF THE CAYMAN ISLANDS FOR THE YEARS ENDED 31ST DECEMBER, 1988 AND 1987

HON. LINFORD A. PIERSON: Mr. President, in accordance with Standing Order 18, I beg to lay on the Table of this honourable House the Financial Statement of the Port Authority of the Cayman Islands for the year ended 31st December, 1988.

MR. PRESIDENT: So ordered.

HON. LINFORD A. PIERSON: Mr. President, the 1988 audit, as in previous years, was performed in accordance with the provisions of section 4(7) of the Port Authority Law as amended. In rendering his opinion on the financial statements, the Auditor General has relied completely on the work carried out on his behalf by Peat, Marwick and Mitchell - KPMG Chartered Accountants who performed their work in accordance with generally accepted auditing practices.

The Port Authority continues to enjoy an upsurge in increase revenues. For example, revenue increased from $20,825 in 1984 to $748,990 at the end of 1988. An increase of 3,596 percent. Much of the credit for the healthy profit position of the Port Authority must be given to the diligent leadership of the Port Director, Mr. Errol Bush and the foresight of the members of the Port Authority Board.

At the 31st December, 1988, the fixed assets of the Port Authority stood at $6,874,497. The net asset position stood at $2,884,395, while the net income for the year was, as mentioned earlier $748,990, bringing the total General Reserve position at the end of 1988 to a grand total of $2,884,395 - a very healthy position indeed.

For the benefit of the listening public, I would advise that the Port Authority of the Cayman Islands is a statutory body which was established on September 15th, 1976, under the Port Authority Law (Law 15 of 1976) as amended. The Port Authority is principally engaged in the management of the maritime affairs of the Cayman Islands as set out in Section 6 of the Law.

As will be seen from Note 7 of the Financial Statement at the 31st December, 1988, the total Long Term Loan Payable is $4,333,989, which is comprised of two loans from the Cayman Islands Government in the total amount of $2,859,739; together with a loan from the Caribbean Development Bank in the amount of $1,804,126, bringing the total amount to $4,663,865, less the current portion of the loan in the amount of $329,876 and leaving a net total Long Term Loan payable of $4,333,989.

The Cayman Island's Government Loan I is denominated in Cayman Islands' dollars and it is interest free, repayable in semi-annual installments until the year 2015; and Loan II is also denominated in Cayman Islands' dollars and is interest free, repayable in annual installments until the year 2002. The Caribbean Development Bank loans have been advanced to the Port Authority from funds received for this purpose by the Cayman Islands Government. These loans are denominated in a basket of currencies and attract interest at fixed rates varying between four and nine percent and are repayable in installments until the year 2002.

The loan for $56,095, outstanding at the end of 1987, was repaid during the year 1988. Under section 4(8) of the Port Authority Law, 1976, any balance of account in favour of the Port Authority up to the amount of $100,000 may be carried forward to the account of the following year and any excess of that sum shall be paid into the General Revenue. However, it is to be noted that these financial statements are prepared on an accruing basis as distinct from Government's accounts which are prepared on a cash basis. This factor therefore needs to be taken into account in interpreting and assessing the provisions of this section. No provision has therefore been made in these financial statements for any further payments that may be demanded by Government in respect of excess balances.

I also wish to report on the activities of the Port Authority during 1988, in Grand Cayman and Cayman Brac. In Grand Cayman imports continued to rise in 1988 with 117,587 tons imported through its facility. This was a 17.5 percent increase over 1987. Security arrangements for Customs and Immigration were completed at the tourist landing area. Work commenced on a new office building for the Authority which will also house representatives of Customs and Immigration as well as two rental offices for shipping representatives. Completion date is scheduled for August 1989.

An underwater obstruction which had been a navigational hazard to ships docking from the inception of the port facilities was removed during the year.

Land was purchased in the Industrial Park area for the creation of a cargo distribution centre earlier in 1989 and it is hoped that work on the project will commence soon. The Authority also negotiated the necessary funding for the construction of the new warehousing facility in the Industrial Park area.

As stated, the accounts for Grand Cayman's Port Authority reflects a record profit of $961,058 during 1988. However, this figure was reduced by $212,068 being the amount of the loss suffered at the Cayman Brac operation. This good performance mentioned earlier can be attributed partly to an increase in cargo handled but, also to increased efficiency due to tightening of controls by management.

I will now deal briefly with the situation in Cayman Brac. Although imports into Cayman Brac increased by 87.5 percent in 1988 to a total of 8,500 tons, the Cayman Brac Port nonetheless, continues to operate at a deficit with a loss position during 1988 of $212,068. Efforts have been made to improve the profitability of the its operation, expenses have been reduced to a minimum. However, due to the relatively small amount of cargo which the port handles, it is not expected that there will be any appreciable change in the loss situation in the foreseeable future.

During this financial year, the Honourable Member for Tourism, Aviation and Trade and I intend to upgrade the facilities on the dock. There has been a number of complaints about the shortage of parking facilities, inadequate toilet facilities and general problems with taxi drivers etcetera. Already policies are being put in place to effectively address these problems. For information purposes, a study is being undertaken to determine the best possible solution to generally upgrade our cruise ship facilities. Much work has been done and remains to be done.

In closing, I would again thank the Director of the Port Authorities and his dedicated staff for a job well done. There are still certain areas of the dock operation which require improvements, and every effort is being made to maintain and improve our safety standards and to ensure that the efficient and profitable operation of the Authority continues to be our main objective.

Thank you, Mr. President.

MR. PRESIDENT: Questions to Honourable Members. No. 55 standing in the name of the Third Elected Member for George Town.

QUESTIONS TO HONOURABLE MEMBERS

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 55: Would the Honourable Member say how many vacancies exist in the doctor and nursing posts at the hospital?

ANSWER: There are two vacancies for doctors and four for nursing at the hospital.

SUPPLEMENTARIES

MR. TRUMAN M. BODDEN: Would the Honourable Member please say how many posts - and I assume we are dealing with permanent posts - there are for doctors at the hospital?

HON. D. EZZARD MILLER: There are 18 posts.

MR. TRUMAN M. BODDEN: Would the Honourable Member please say how long those vacancies have been there and when are they expected to be filled?

HON. D. EZZARD MILLER: I am assuming that the Member is asking about doctors. Those two posts were created in March this year and recruitment has already began.

MR. PRESIDENT: There seems to be no further supplementaries. In that case, the next question please. Number 56, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 56: Would the Honourable Member say how many doctors and nurses have ceased to be employed at the hospital since December, 1988?

ANSWER: Three doctors and four nurses have ceased to be employed at the hospital since December, 1988.

SUPPLEMENTARY

MR. PRESIDENT: There appears to be no supplementaries. I am sorry, the Second Elected Member for the Lesser Islands.

MR. GILBERT McLEAN: Thank you, Mr. President. Would the Honourable Member say if the leaving of doctors and nurses at the hospital, is the case where they left at the end of contract or was it for other reasons?

HON. D. EZZARD MILLER: It is my understanding that the four nurses left on expiry of their contracts; two doctors left on the expiration of their contract; and, one doctor prematurely terminated his contract for personal reasons.

MR. PRESIDENT: Question No. 57 please, the Third Elected Member for George Town.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 57: Will the Honourable Member state if Government is taking steps to reduce the danger to snorkellers and scuba divers, diving in the Whitehall channel opposite the launching ramp while powerboats are using the channel?

ANSWER: The Whitehall channel has traditionally been used as a boat-launching facility. Due to an increase in the amount of boat traffic after the upgrading of the launching ramp in 1983 and a parallel increase in the amount of diving activity in the general vicinity, this channel was officially designated a navigational channel by the Port Authority in November 1986. Sections 128 and 129 of the Port (Amendment) Regulations 1978 state that no person may dive or swim in a channel which has been declared a navigational channel and mentioned in the Schedule of the principal Port Regulations.

In order to ensure that the public is continually reminded that the launching ramp area is a navigational channel, it is planned during this year to erect signs indicating a "NO SWIMMING AREA" and to demarcate the area with buoys as part of the on-going development of the boat-launching facility.

SUPPLEMENTARIES

MR. TRUMAN M. BODDEN: Would the Honourable Member give an undertaking that he will endeavour to see that the sections he quoted, that is, 128 and 129, which prohibits the swimming and diving there is carried out because of the danger. Someone is going to get hurt in that area.

HON. LINFORD A. PIERSON: Yes, Mr. President. I will give that undertaking. Our Marine Enforcement Officer has been advised that as soon as the area is demarcated with the buoys, this area will strictly be policed.

MR. PRESIDENT: That concludes Questions for this morning. We now move to Other Business.

Private Member's Motion No. 7/89 on National Identification. Continuation of Debate. Does any other Member wish to speak? The Third Elected Member for George Town.

OTHER BUSINESS

PRIVATE MEMBER'S MOTION NO. 7/89

NATIONAL IDENTIFICATION

(Continuation of debate thereon)

MR. TRUMAN M. BODDEN: Mr. President, the operative part of Motion before this House states:

> "BE IT THEREFORE RESOLVED THAT Government investigate instituting a system of personal identification for all persons resident in the Cayman Islands which would assist the Law enforcement agencies.".

In the recitals it refers to the increase in crime, especially drug related crime, which is a matter of increasing concern, and also of the increasing number of persons from outside the Islands who are taking up residence and gainful occupation. The Motion does not specifically state whether the national identification is going to be mandatory or voluntary. Therefore, I would like to deal with it on that basis. I am not saying that it may not have been the intention - that it be voluntary - and that could well be, but I want to look at a few aspects of this, mainly under the two broad headings.

If the system that is being introduced is a voluntary one, or what the Motion seeks to have investigated for introduction is a voluntary one, then I really do not have any problem to support it fully. I think it would be good if there were a Government agency that could produce identification in a fairly small and concise laminated form for persons who want it. I think that this would assist, as the Member for Health and Social Services mentioned, for example, in relation to children going into bars. One could apply and get that at will, the same way as one applies for a passport which is a form of identification or an international travel document. We also have the driver's licences which just about everybody in the islands probably would have. It does carry a picture and that is a form of identification as well.

Having mentioned that, I do not really think it would assist too much in crime generally. It may assist someone who is entering a liquor licensed premises, but, in any event, I would hope that the driver's licence or some other form would be requested whenever there is any doubt as to the person entering. So I have no problem seeing a system, which, in fact, the Government has the equipment now to do, produce identification in a concise form with a picture so a person may carry it when they wish or may use it as they may deem in one's interest.

At present it appears, if my memory serves me correctly, that when you drive a car and if there is an accident, for example, you are requested to produce your driver's licence within two or three days; or where there is somebody with a work permit and there is a problem with it, it can be requested to be produced. That does not cause me any problem. I think it would be good if this is being done on a voluntary basis for national identification.

Having said that, Sir, I am totally against it being made mandatory for people in the Cayman Islands to carry a national identification card. This is normally only done in times of national emergencies or times of war. In any event, I do not believe it is going to attack the problem of dealing with increased crime to that extent.

When we really think of it, the people who would have no identification are some 300,000 tourists coming to this territory per annum, some of whom have committed crimes. So I know and I understand the dilemma the police do have. I understand what the First Elected Member for Bodden Town is attempting to achieve in his Motion in that respect.

There are only perhaps 24,000 residents in the Cayman Islands and I would hope the police are sufficiently informed and knowledgeable that identification of the majority of those would not be a problem. If it is, then the police do have a problem and perhaps more effort should be put towards dealing with having the local features and the local personalities within the Island stepped up.

I understand what the First Elected Member for Bodden Town is saying, if, for example, a person is arrested, then it would be good for that person to have some form of identification on him. However, I believe there are far less benefits that are well out weighed by the problems of having to force everyone to carry identification at all times. I, for one, do not feel that it is necessary and the populace at large would not accept readily (perhaps not at all) that if they failed to carry an identification they could be fined or perhaps imprisoned - that is, if it is mandatory.

I am prepared to do just about anything that is reasonably necessary and acceptable to have a decrease in crime in this country and to have the problems with drugs reduced or eliminated. I believe that the efforts of Government could be far better spent in other areas, perhaps, dealing with reducing crime. This might help in limited ways with some types of crime. I would think if the police are arresting a person who is resident here, the chances are that probably nine times out of 10 those persons would be known to the police or their identity could be found out fairly quickly. In any event, I do not think it has ever been a problem upon arrest when the police officer asks, "What is your name?" They would be told truthfully the person's name. A quick check could be made on it. Failing that, if it is a serious crime they are held in custody anyway. So it would only help on minor matters which relate to identification. If somebody is found with drugs or commits other serious crimes, they will be arrested and held over so that identification is less of a problem. In fact, the police system is sufficiently efficient with competent Officer that within 24 hours they can find out who he is; whether he is

resident here on a permit or whatever. Basically, they can go into the computer for visitors - and hopefully, there would be someone at the station who would be able to identify the person. But, in any event, this would only affect instances of minor crime.

In those instances where people cannot be arrested, then I doubt very much if it would help. If it is a driving offence, then one has to produce a driver's licence. If it is one of going into licensed premises one could be asked to produce some form of identification. Then the voluntary system could work.

The problem with crime and attempting to reduce it is very serious. I believe the motive and the reason behind this Motion undoubtedly is a good one. I know I put forward some 14 different ways in which crime could be dealt with in my Manifesto, and if the efforts and money you will have to pay for this identification were used to bring in some of those measures, the money and effort would be much better spent. In relation to the mandatory carrying of identification, the position as I understand it in most countries is that in normal times (unlike national emergencies or in times of war) this is not normally done. But as I mentioned before, in any event, there are some 300,000 people per annum who would not be carrying this identification. There lies a serious problem for the police to deal with any type of investigation on those people. The residents and the nationals here are some 24,000 to 25,000 and I believe that the majority of them are known to most members of the police force.

So, Mr. President, if identification is one which is going to be provided by Government on a voluntary basis that you can apply for and have, I do agree such persons entering a liquor licensed premises should be requested to produce identification if there is any doubt in terms of age. In those instances, it can help and it would be of assistance. However, if this means that the position would be that people have mandatorily to carry some form of identification at other times, then I totally oppose it.

Perhaps the First Elected Member for Bodden Town may wish to add to the resolution just a few words saying whether it is voluntary or mandatory. This could really mean the difference between support by some Members in this House or those not supporting it. I would be happy to support the voluntary production of a national identification. If it remains in the form it is, then I am afraid that if there is any insinuation of this being mandatory and carried by Law, I would not be able to support it.

Having said that, I appreciate his concern and I think he has good intentions and good reasons for the recital he has put in bringing a Motion of this sort. On that basis, I would wait to see how the debate develops, especially the reply from the First Elected Member for Bodden Town.

Thank you, Sir.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I rise to speak on Private Member's Motion No. 7/89, National Identification. I agree with the statements in the recitals:

> "WHEREAS the population of the Cayman Islands is increasing rapidly;
>
> AND WHEREAS an increasing number of people from outside these Islands are legally taking up gainful occupation or residence in these Islands;".

Also that there is an increase in crime and it does appear that this is drug related. It does cause increasing concern. However, I must try to associate that problem with the need for identification cards for all persons resident in the Cayman Islands.

I do not necessarily see that the three areas that I have just stated require or tie into a need for the issuing of national identification for all persons. Yesterday in the debate the Honourable Member for Health made mention that an identification card would assist at liquor licensed premises, where persons below the legal drinking age could be identified - bartenders would know whether to serve them or not. I totally accept that position. I understand that clearly, and believe if the idea is to create a situation whereby the Government wishes young people to be able to go into some particular Government department to voluntarily pick up an identification card to have it for their personal use, in such instances it is quite in order. But I believe it should be specifically stated.

Mr. President, I wonder whether the idea is for the identification to be mandatory or voluntary. The Motion has not made this clear. My own opinion is if it is to be a national identification, then it would seem to follow that a person would have that identification on their person at all times which they would produce in the circumstances for which it might be used. If it is voluntary, it changes the conditions. I believe that the First Elected Member for Bodden Town who moved the Motion should clarify this position when he replies, but, as of now, it is not clear to me.

It states that it would be a personal identification for all persons resident in the Cayman Islands. That includes myself and that would seem to include everyone in this Chamber as well as every man, woman and child. It is not specific. So I do have certain doubts and wariness about what it could imply.

It has also been stated that one ID could provide various information such as gun licensing or a motor car driver's licence. I am not quite sure how practical this could be because there are various kinds of personal identifications. There is the passport, the driver's licence and, if I may refer to the matter of the driver's licence, I believe it is issued for a very specific reason - being that of driving a motor car - although, in instances where driver's licences have photographs, it gives information of the date of

birth. In the United States for example, it is often used in identifying oneself for cashing a cheque or whatever. I can see a driver's licence serving a specific purpose. If it goes to the idea of a national identification then it has a different connotation - not everyone drives.

One of the things I have always felt strongly about, and continue to do so, is any condition which suggests the limiting of freedoms or a restrictive measure being taken where one's personal freedom is involved. In the Motion I also see where it states that it would assist the law enforcement agencies. I believe that if this Motion is to achieve a specific purpose on behalf of the law enforcement agencies, it could be set out saying precisely that. My own feelings on this run very deep, for I am one of those persons who does not subscribe to the idea of police alone having guns in any society and the public at large having none. So, I see this as the way the Third Elected Member for West Bay stated it, we might be coming into a situation of a numbered society and I do have reservations about anything which could cause such a condition.

If the Motion is for Government to bring about a national identification which will be applied to all persons in this country, men, women and children alike, then it does have far reaching social significance. It would change, in my opinion, our position of an open and free society. It would bring in certain restrictive effects. This is a Motion and not a Bill, therefore I could not offer an amendment necessary to this at Committee stage, however I have expressed my views on the Motion and the Mover of the Motion may wish to explain the specific intention so that the position could be clarified. In the wide form as it stands, I am unable to support the Motion or vote for it to be passed as it is without clarification.

Thank you, Mr. President.

MR. PRESIDENT: Does any other Member wish to speak? The First Elected Member for the Lesser Islands.

CAPT. MABRY S. KIRKCONNELL: Thank you, Mr. President.

I rise to speak on Private Member's Motion No. 7/89, concerning National Identification. I carefully listened to the debate in this honourable House yesterday and today on this matter. I must admit that I am somewhat confused as to what the results of this Motion would be if passed, and I am still seeking some clarification.

I do see the need for identification. I think the first place we should start is in our educational system whereby we would give identification cards to all students in both the public and private schools. This would solve the problem of children under the age of maturity entering liquor licensed premises because they would, if asked, have an identification card provided by the Education Department. That is how it is done in the outside world and I think that is the way we should start. If it is voluntary, naturally, the person who looks older than he or she really is, is not going to obtain an identification card which would prove that they are younger than they look. So I do not think it would be of any benefit if it is entirely voluntary and I think it would have to be done, as I have said, or instituted by the Education Department if it is going to control those entering the bars under the legal age.

Another observation I have made in the second recital, where it says; "AND WHEREAS an increasing number of people from outside these Islands are legally taking up gainful occupation...", anyone who has a gainful occupation licence is given an identification card which, by law, they must carry with them. That has already been taken care of as far as identification goes.

I endorsed what the Mover of the Motion said yesterday, but I cannot associate that with this Motion - that the format of our driver's licence needs to be improved. I think if it was laminated in plastic with a photograph as licences in other territories are, it would certainly be much more successful and more durable. My own, having had it for many years, is in a very dilapidated state but when you go to have it renewed they say all you can do is add another page. So I would strongly support the improvement of our driver's licence, but, as I said, I cannot see exactly where we could tie that into this Motion.

Mr. President, it is imperative for me to fully understand the Motion. If the Honourable Member of Government who is moving this Motion would give us a clarification as to exactly how far it would be going, I would be very grateful.

As I said, I do agree that we have a serious problem with drug related crime in this territory and I stand here today in support of anything that would be beneficial in helping to control the suppression of this illegal crime of drug trafficking. I would like to know that we, the Members here, are voting for something that is going to be effective. We have a good country. Our crime rate is increasing, it is incumbent upon us to do whatever we can and I approach this Motion with a very open mind. I am quite willing to support the Mover. I have discussed it with him. I congratulate him on his efforts in bringing these things to this honourable House and I am very hopeful that before it is put to a vote all of us will fully understand it. If it is going to be the benefit that I think it will be to the country, then we will be able to support it.

I thank you, Mr. President.

MR. PRESIDENT: The Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Thank you, Mr. President.

I rise to speak on Private Member's Motion No. 7/89, National Identification. Nowhere in this Motion do I see 'mandatory' or 'anti-Christ'. The Third Elected Member for West Bay said it could be leading to the days of anti-Christ. I do not believe that is so, or that a national identification has anything to do with it.

I believe, as the Motion reads, that it is asking Government to investigate instituting a system of personal identification for persons residing in the Cayman Islands which would

assist the Law Enforcement Agencies. I feel it would also help the residents of this country who leave and go abroad. I have had a number of approaches made to me concerning residents leaving this country and taking travellers cheques with them and having to tote their passports. I would say this is my Cayman Islands passport, and I am proud of it, but when I have to pull it out in every country and store I visit, it helps to identify me if a robber or someone is looking for prey, they can see me right there. But I am proud of this passport.

This little book (being my driver's licence), I am ashamed to go abroad with it. I have on many occasions had car rental agencies say that it is one of the poorest licences they have ever seen. Not every person who leaves this country is able or capable of having travellers cheques and they are not capable of having credit cards. But, with the future thought of pensions coming in, I believe the Government should try to put together an identification card.

As the Gun Licence Law stands, one who has a licence has to have it on him at all times in case they are stopped and asked for it. So, why not? In a case where you had to have identification and you do not have it, it could be the same as if the police stopped you and is asked you for your driver's licence, they give you a time in which to produce it.

I believe it would assist residents of these Islands who travel to other parts of the world when they use their driver's licence as a sort of identification. I am suggesting Sir, that in this identification for a person like myself that has gun licence, the number of the licence could be included. In my case, I have three different licences, they give you three different sheets of paper. I have to take that with me at all times. It is very cumbersome. But if it is all on one form, on one little piece of laminated paper, then I think it would assist and help greatly. So, I will not prolong this, I would like to say that I support the Motion for a national identification. Thank you.

MR. PRESIDENT: If no other Member wishes to speak, would the mover wish to reply?

MR. ROY BODDEN: Thank you very kindly, Mr. President.

What the Second Elected Member for Bodden Town neglected to mention was that perhaps he had the advantage of knowing exactly what the Motion means. I apologise to those Members who said they did not understand. Perhaps I can attribute it to one of two things - either it is the curse of being a freshman politician, or the fact that I deliberately left the Motion open ended because I figured that since a Motion similar to this had been brought to the House before, it would have been unfair to put any restrictions on it. I had hoped to provoke some debate with a view to getting the Motion passed.

Let me just try to address some of the concerns which Members have raised this morning, and I again have to reiterate that I am gracious and I acknowledge, and apologise if the Motion seemed vague. Let me assure you that it is not the intention, as the Third Elected Member for West Bay voiced the concern about heralding any anti-Christ or any other similarly revolting measure in the society. I could say a lot about that but I will refrain myself and will not succumb to the temptation.

I do not believe, knowing Roy Bodden as I do, that he would take any liberty to bring any measure to this House which would suggest any form of totalitarianism. For me it is a very sensitive issue, because some years ago I had the misfortune of being branded, and I would ask Members, please, if there is something that they do not understand in a Motion, rather than jumping to that conclusion, attribute it to the fact that my expertise at this is very limited. In no place does the Motion suggest that the identification would be mandatory.

I would hope that since the Government already has the resources and the machinery available for this kind of identification, it could start off on a voluntary basis and it may well be that the best place to start is (as suggested by the First Elected Member for the Lesser Islands) in the school system. According to current reports in the newspapers and otherwise, that is a problem area where our young people frequently go into bars and public houses and willfully (or through other means) gain access to liquor which they should not have access to because they are minors. So that is one area which I think needs addressing.

It perhaps was a little unwise in suggesting that it would assist the Law Enforcement agencies, although that is a reality. Some people find that a bit disconcerting, but we cannot get away from the fact that the driver's licence which we now carry is rather inconvenient, and they are not very well protected. I am suggesting that such a form of identification could incorporate a driver's licence. In many countries which I have had experience in a driver's licence is one of the most, if not the most, commonly used forms of personal identification. I am suggesting that our system could incorporate this driver's licence.

I am also suggesting (as did my colleague) that it could contain information concerning firearms licences for those farmers and business people who hold such licences. In essence what I am suggesting is a form of personal identification which could be a multi purpose type contained on a standardised plastic laminated form which would be entirely up to the members of the society, if they wanted to so acquire such a document. I would hope, however, that the wide spread use and the popularity of this in addition to the convenience of having all this information on one document would make the document so popular and so wide sweeping that everyone in the society would see its efficacy and would see the sense in acquiring such a document. I would also suggest that the members of the society should pay for these documents so that it would be no additional financial burden on the Government since the use of the document would be to the convenience of the bearer.

In a nutshell, I believe that that should allay the majority of fears which I have heard voiced and expressed this morning. I would like to assure Members that being a libertarian myself, I could not subscribe to any numbered society and it would be a serious breach of trust and a serious

betrayal of the people who put me here if I suggested or set them up in any way where they could be hassled unduly and unnecessarily. So, let me assure Members of this Honourable House that was not the intention. I believe that the Motion is a good one, one which would be to the convenience of the bearers of the identification, one which allows the Government some scope in trying to arrive at the best possible formula or type of identification. I am sure that the Honourable Members on that side of the House understand that it was not intended to be mandatory nor was it intended to herald the anti-Christ or some other totalitarian or police state.

I would appreciate the support of Members of this House especially those Members who expressed their concern. I thank them for their concerns, that is their democratic right. It is incumbent upon the Mover of the Motion to lay to rest fears which Members have expressed, and I can assure you that I do not think the worst of you for expressing your concerns; it sharpens the debate and it also teaches me that when I bring a Motion before this Honourable House I have to be prepared. I would hope that with this contribution you may all see fit when the vote is put to support the Motion.

Thank you very kindly.

MR. PRESIDENT: The Question will be put on Private Member's Motion No. 7/89. Those in favour please say Aye...Those against No.

AYES AND NOES.

MR. PRESIDENT: The Ayes have it.

MR. W. McKEEVA BUSH: Can I have a Division, Mr. President?

MR. PRESIDENT: Clerk.

CLERK:

DIVISION NO. 9/89

AYES: 13	**NOES: 1**
Hon. Thomas C. Jefferson	Mr. John D. Jefferson, Jr.
Hon. Richard W. Ground	
Hon. J. Lemuel Hurlston	
Hon. W. Norman Bodden	
Hon. Benson O. Ebanks	
Hon. D. Ezzard Miller	
Mr. W. McKeeva Bush	
Mr. Truman M. Bodden	
Capt. Mabry S. Kirkconnell	
Mr. Gilbert A. McLean	
Mr. Roy Bodden	
Mr. Franklin R. Smith	
Mr. John B. McLean	

AGREED BY MAJORITY: PRIVATE MEMBER'S MOTION NO. 7/89 PASSED.

MR. PRESIDENT: The Motion is carried. Proceedings are suspended for 15 minutes.

AT 11:20 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:50 A.M.

MR. PRESIDENT: Proceedings are resumed, but I would pause for a moment because the Member who is to move Private Member's Motion No. 8/89 is not here.

He is now present. Private Member's Motion No. 8/89, the First Elected Member for West Bay.

PRIVATE MEMBER'S MOTION NO. 8/89

TEACHER TRAINING FACILITY

MR. W. McKEEVA BUSH: Mr. President, I beg to move Private Member's Motion No. 8/89 standing in my name which reads:

> "WHEREAS the number of Caymanian teachers is low in proportion to the teaching profession as a whole;

AND WHEREAS it is desirable to encourage Caymanians to enter the teaching profession;

AND WHEREAS it is considered that public expenditure on training teachers would be more cost effective if there were a teacher training facility in the Cayman Islands;

BE IT THEREFORE RESOLVED THAT Government investigate the feasibility of setting up a teacher training facility in the Cayman Islands.".

MR. PRESIDENT: A seconder, please.

MR. ROY BODDEN: Mr. President, I beg to second the Motion.

MR. PRESIDENT: Private Member's Motion No. 8/89 has been duly moved and seconded. Would the Mover wish to speak to it?

MR. W. McKEEVA BUSH: Mr. President, I believe this resolution to be very important to the progress of education in these Islands. We have complained for years about the fact that the number of Caymanian teachers is low in proportion to the whole profession. In view of this, we must ask ourselves why this is so. Is there any motivation for young Caymanians to get into the profession? We must ask ourselves how those who get scholarships are treated when they are in college? Is their progress followed? Is enough interest showed to them by checking on them, their financial well-being, their progress educationally? What about when they come back home, how are they treated? How do they fit into the system?

We move one teacher from George Town to East End. Are we saying here that since your salary is not the best let us help you with mileage as other civil servants are able to get it, we will assist you? What about their benefits? How are they treated when they are pregnant? Is their vacation pay taken from them and called pregnancy leave? What about their overall remuneration? Are we still trying to give the outsiders better salaries with the excuse that they are better off in Canada and that they are better off in the United Kingdom, and so on, when in fact income tax is killing motivation there? I have made my position quite clear. I support good benefits, good salaries for teachers but it must include our Caymanians as well. This is one way of getting, and keeping, for that matter, good teachers.

Talking about motivation, can we tell our young people to go off to Canada, to go to the United Kingdom or the United States, suffer the cold take the pressures of new surroundings and its evils; get their degrees and come back to their homeland where we can only give them less than what is offered to foreigners, that they have to be in the service longer to get what others with no degree and of less importance to the country are getting even though they have the degrees? Society is expecting too much.

We hear that 25 teachers left the system in five years from one school. What are the causes? Are young Caymanians, our young potential teachers, saying, "this life is not for me"? Motivation is a great thing, a great part of life. My mind is really questioning whether there is enough motivation. Are young Caymanians encouraged to get into the teaching profession? We see society as a whole criticizing teachers. We see some parents displaying a very poor attitude in that they try to take disciplinary matters into their own hands and, instead of going to the Department, they prefer to abuse the teacher in front of their children. These are attitudes that must change or it will continue to have a retarding effect on our education system. Respect, Mr. President, is due to the teacher.

In earlier years, the pecking order in our community was something like this: The Administrator, top civil servants, the Commissioner of Police, Ministers of religion and then school teachers. Those positions carried the social status and influenced the standing of their holders. They were recognised leaders in the community.

We, this morning, remembered the stalwarts, some of whom I never knew but heard about, people like Mr. Hill and his son, Miss Beulah Smith, Mr. McNamee, Miss Redley Powery, Mr. Lee, Miss Genevieve, Miss Iris, Mr. Gray, Miss Brown and so many more. But those are some of the people that I knew, they influenced standards of behaviour and set the pace which others followed. They were the source of guidance and inspiration to the young. So what about today? Has our society relegated teachers to something insignificant? We feel that this society as a whole needs to re-examine their attitudes and their thinking about teachers who act as substitute parents, as guardians and counsellors, but most of all as tutors. It is to the credit of successive administrations in this country that a major share of the budget has been allocated for the continued development and administration of education. In so doing they have brought a greater degree of individual and collective prosperity to our people.

I feel that an investment in a training facility or college for teachers in this country is an investment in the future just as the Law School has been an investment in the future. How much it will cost? I do not know, but, certainly, the expenditure will be money well spent. The facility in itself will be an incentive as I perhaps there are young people who already have started a family who would find it nigh impossible to leave these Islands for a long period, and would gladly pick up the challenge of becoming a teacher and attend the facility here. Scholarships could be offered and, since there is the imbalance of Caymanians as against foreign teachers, Government should be able to offer special scholarships to implement an improved system of scholarships as incentives to get more Caymanians involved in teaching, persons with the ability and promise who can be trained in subject areas and discipline, which is necessary if we are to realise the national development objectives in education.

One of those national objectives is, or should be, to offer our

children a chance to learn more about these Islands, more about what made us what we are, what makes our economy tick. Certainly, these subjects will never be taught in the United Kingdom, Canada or the United States. These are the possibilities for a teacher training facility in these Islands.

One of the primary vehicles in the delivery of quality education is the teacher and I guess most of us realise this. Education will only improve to the extent that teachers are able to deliver quality instructions and to otherwise foster its realisation. In this regard, I feel that with the building of a facility here, there could be constant upgrading and preparation of teachers already in the system to keep in line with new realities.

All over the world hopes and expectations of people rise. People are not prepared any longer to tolerate the life of the past. Knowledge has stirred this country. The idea that man can live a better life than he has lived in the past is an idea that probably sweeps around the world and is probably a universal circumstance of modern life. That is the supreme challenge upon the shoulders of us all today. The creation of a teacher's college for these Islands has gained support all around. It is a hope and expectation, and I feel as true representatives of the people we will be doing the right thing. I feel that it would be a worthwhile investment, a part of the programme of social and human development for which cause I have constantly championed from which this country ought to reap great dividends in the years ahead.

This is one aspect of it, this is something that I have pushed for and have talked about a long time. If you check the *Hansard* Report for the debate on the Community College, you will find that I stood up and said that we should have one. If you go back to debate in 1985 you will find it there. And, if you research the *Hansard* throughout my previous four year term in this House you will find that it is something that I wanted and desired. Accordingly, I recommend this resolution to all Members and trust that they will all see its merit and give it a safe passage. I wish to thank the seconder, the First Elected Member for Bodden Town, for his input on this matter.

Thank you, Mr. President.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Mr. President, were this a different type of Motion I would not rise so early to speak, but we can abandon that strategy now. It goes without saying that as the Seconder of the Motion, I support it. It is one which I, too, like the First Elected Member for West Bay, feel strongly about.

I was very impressed yesterday with the answer to a question which was put to the Second Official Member concerning the Law School and its cost of operation for students. I think that is indeed very encouraging, because I did some quick comparisons and the cost per student at our Law School compares very favourably with the cost of students in institutions abroad. In addition to that, we have the advantage of having the students here in our society so that they can return to the firms to which they are articled and do some work throughout the day. More importantly, for some they can return to their families in the evenings and on weekends. This is a convenience, but more than that, it is encouraging because it disposes the student and makes it seem like the actual task of learning is much easier and palatable. The same situation could obtain with a teachers college.

I believe that our relatively young, but vibrant, developing nation can do much better if we have our own facility for training teachers. Teacher training does not only mean training people to teach reading, writing and arithmetic, but, indeed, it means training people who will inculcate the young and malleable the moral values, the economic principles, the freedoms and the respect that we as adult members of the society hold, and there can be no persons better able to do that than our own. There can be no institution better able to inculcate these values than our own institutions. The importance of such a facility, Sir, can be gleaned from this.

I had the good fortune, as did the Second Elected Member for the Lesser Islands, of attending the oldest and most prestigious teachers' training institution in the Western Hemisphere. The material that graduated from that institution (as I am sure my colleague, the Second Elected Member for the Lesser Islands will bear me out) was absolutely amazing. The track records of graduates of that institution spans, I would venture to say, to all the countries of the world and, to the best of my knowledge, that teachers' training college has produced for Jamaica, so far, two Governor Generals, that is, not to name other prominent members of the Jamaican society politically and otherwise. So, we can see the value and the efficacy of such an institution.

I am seriously concerned that we in this country, need to pay more attention to the promulgation, the spread, the deepening and growth of our Caymanian value system. A good way to start would be to develop a Teachers' Training College and to produce teachers who will go out into the schools in our communities and spread this; teach and take care of our children. I believe that no one will be interested in Caymanian children like Caymanian teachers, and that is with all due respect to those we recruit from foreign countries. I believe that our future lies with the production of our own. Later on I will get into the purely economic aspects of the argument.

I would like to say too, that political directorates in the past have made great strides in the educational development of this country and we have in this honourable House now, two Members of political directorates in the past. Indeed, one is still of a political directorate which has made commendable steps. One being the Third Elected Member for George Town, he saw fit to establish the Middle School. The Member whose responsibility now is with Education, Recreation and Culture was the founder of the comprehensive system and the architect of the Community College which is soon to go into effect. The challenge is now to build on those moves, to take them a step further and for those institutions which those Members in their wisdom saw fit to implement, now to produce the feeding or spawning ground to produce the teachers who will

man those institutions, who will ensure that the Caymanian value system is perpetuated.

I know that we have to be concerned about dollars and cents, and we are concerned about dollars and cents, but I am also arguing that when we are here talking about the inculcation of national values, sometimes we have to take the arguments of dollars and cents and put that on the back burner because what we are talking about is basically and fundamentally the existence of a culture, the existence of a people; and it cannot be perpetuated unless we have our institution to do so or unless we have our own teachers' training college. Unless we are able to continue to produce members of the calibre of Mr. Hill, Miss Genevieve, Mr. Vernon Jackson, teacher McField and all the other pioneers and patriarchs who led the way, we, as politicians, would be seriously remiss if we pass up this opportunity.

I am not saying that our teachers' training facility will be as prestigious or as eminent as the great Mico Teachers College. We will not have that rich traditional background. But we can produce teachers, lawyers, doctors, ministers and leaders in the Caymanian society that our country can be proud of. Best of all, we can produce people who will take the young minds, who will take the malleable minds of the young people in our society and inculcate in them the values which are best for a society; the values which the very Members of this Legislature would like to see espoused and continued.

There are several models that we could use. I am very impressed with the way in which the Law School was developed. I believe since we already have a successful institution of that order in our society that our Teachers' Training College could be started and could function along those lines. I believe it will not necessarily take a fortune to develop or administer, nor does it need very impressive and expensive physical facilities. What is important is that we have good teachers and good administrators to train the future teachers. I believe it is best for us to start on a small scale and gradually build up to a crescendo depending on the demand. I believe if we adopt this stance it will alleviate a problem from which we are suffering now, in that it will encourage more Caymanians to enter the profession. After all, teaching is still the noble profession. It is still a profession where its members are very well respected.

If we have such an institution in our society, it will encourage the young. Very often people are discouraged by the fact that they have to go overseas for extended periods of time because it is not always a pleasure to spend harsh winters, to live on tomato sandwiches or macaroni and cheese, to be deprived of visiting with one's family. We are a small, close and sometimes insular society. The Canadian winters are harsh, and the distance to the United Kingdom is great. Sometimes, although students are fortunate to have scholarships, believe you me, a scholarship does not necessarily mean that one has money in his or her pocket all the time or that one can afford the necessities, let alone the luxuries.

This institution in our society will encourage Caymanians to come in, to join, because they will have the convenience of studying and living at home. It will provide the opportunity, for what I would call, the mature student (someone who is married, perhaps with a child or two) who would like to broaden or professionalise their commitment to children, to the young, who would like to make their contribution to their nation's culture, to the development of the Caymanian ideal and identity. It would facilitate them, it would be of a convenience to them.

When I was at Queens University they had a programme set up for the Bermudian Government whereby they provided the teacher training for the Bermudian Government. Some of the professors told me that they were very interested in working such a programme along with other governments in the Caribbean because, of course, that was a time of declining enrollment and retrenchment and cut backs, so many of the professors who did not have tenure lost their jobs. They also told me that such a programme was economically feasible with 12 students.

What happened was that a four-year programme in which there were concurrent degrees awarded - a teacher got for example, a Bachelor of Arts, or a Bachelor of Science degree in the discipline or the area he or she wished to teach, for example, Sociology, History, Economics or Spanish - in addition to that, they got a Bachelor of Education degree which was basically, child psychology, teaching methodology, child development, classroom management and educational administration. They also received a Teachers Certificate which was a licence for them to teach in Bermuda and this was recognised by the province of Ontario. A four-year programme in which the first three years were spent in the host country, it was only in the final year that candidates were required to go to Queens University to sit for their final year examinations. That is one model.

We could develop a similar model or we could develop a model which would be entirely unique to the Cayman Islands. In that particular model the professors went down every summer to Bermuda and during the course of the year the students had assignments which they posted to the professors and were given a grade. The final examination at the end of each year was set up and administered by the Department of Education which provided the validators who undertook to see that the papers were returned to Queens University where they were graded and marked. I am suggesting that such an arrangement would not cost our Government a fortune, it would allow us the time to make feasibility surveys to see if we had sufficient numbers with which to initiate a programme or with which to continue such a programme.

Another advantage is that if the proper studies are done we can, when we are reaching saturation point, scale down or phase down the operation. If we invest in huge buildings and expensive edifices we will stand to lose money when we have trained the number of teachers we think our society will need. Therefore, we will be hard pressed to find a more constructive use for the buildings which we have developed. There are also the possibilities that we may want to build or add onto the curriculum of the Community College and as far as I am concerned, I am suggesting that this may be the ideal alternative in our situation. The Community College is just being developed, hence it affords allows us the time to build into its curriculum some kind of teacher training facility and ability.

A third prospect which we may want to look at is the existence

of the International College of the Cayman Islands which, I understand, is about to develop some form of teachers training programme recognised by the State of Massachusetts. That in itself speaks well because my information tells me that Massachusetts teacher training accreditation is recognised by over 40 States in the United States. So there are a number of alternatives in developing such a facility.

I believe that it is a wise move. It is a wise Motion which is brought in the best interest of the country and those people who are responsible. The Motion is not in any way belittling anyone or belittling any efforts. It is constructive in that it is suggesting that the Government investigate the feasibility. There is no need to belabour the educational problems we have; there is no need to belabour the fact that we do wholesale recruitment of teachers; there is no need to belabour the fact that people are screaming for more Caymanian representation in the teaching profession.

I believe also that it may help in terms of discipline and order if the Caymanian children can see more of their own people being their teachers or educational leaders, they themselves may be inspired, as I was, to join the profession because of someone whom they thought highly of being a member of that profession. Teachers are sober-minded people and, certainly, they do not expect to be complemented in monetary terms for the efforts they make. Most of them derive the satisfaction and benefits from knowing that they can help and impart good values, good skills and productive ideals to the students in their care.

Mr. President, in conclusion let me say that I believe that the passing of this Motion will be one step in the development of our Islands and our society as a truly progressive society. It will be one step in promoting the Caymanian ideal; it will be one step in helping us to realise that we can do well, that we can to a large extent, provide educational leadership and opportunities for people to get into professions such as teaching. I would encourage and implore the Members of this Honourable House to give some serious thought to supporting this Motion.

Thank you, Mr. President.

MR. PRESIDENT: The Honourable Member for Education.

HON. BENSON O. EBANKS: Thank you, Mr. President.

I accept this Motion, as worded, on behalf of Government. In doing so, I wish to make but a few comments.

It is a fact that the numbers of practising Caymanian teachers form only a very small portion of the total number of practising teachers in the Cayman Islands. These small numbers have been a matter of concern for a long time. It is also a fact that successive Governments over the years have followed a policy of attempting to attract more Caymanians into the teaching profession, and these attempts have met with varying degrees of success.

It is more debatable and opened to question as to whether it would be more cost effective to train teachers locally than to pursue and continue the present procedure of sending students overseas. I believe that it should be clearly understood that the Official Member, in answering the question in respect of the Law School yesterday, indicated that he was not including in the figures which he gave expenses such as the provision of buildings and housing allowances which were paid to the instructors.

However, the cost effectiveness of the proposed teaching facility will certainly be one of the principal considerations of the feasibility investigation. Having said that, it is quite possible that upon examination the desirability of such a facility may, in the end, outweigh the pure dollars and cents considerations. Consideration will also have to be given to the high academic and competitive standards such a facility would have to maintain both to other reputable institutions and to the needs of this society. For example, the need for graduate teachers, especially for the Cayman Islands High School, and the proposed expanded Community College.

We will also have to ensure that if implemented the qualifications our teachers obtain would be recognised internationally. It is a fact that for some time the idea has been expressed that a teachers training component be included in the academic arm of the Community College when that is being expanded and further developed upon the completion of the college buildings. This, of course, would have to be in conjunction or affiliation with other reputable institutions from abroad and this is certainly one way forward.

The advent and acceptance of distance teaching too also opens up entirely new vistas and possibilities for developing such an institution. It would be the intention that all of this be looked into. I do not intend to carry on further on this Motion. The Members moving the Motion obviously appreciate that this is not something to be treated lightly, and that it will need careful consideration. Government will certainly investigate fully the feasibility of setting up such a facility.

With these few words, Mr. President, I support the Motion.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN McLEAN: Mr. President, I rise to support the Motion which is before us, Private Member's Motion No. 8/89 - Teachers Training Facility. I can support this Motion as I have always advocated that we must do more for our Caymanian teachers. I have asked many times why so much is done for those who are brought in and, in my way of thinking, so little done for our own. I say this, Sir, with the greatest of respect, but the records will show that I have asked these questions in the past.

It is my belief that if Government sets up a training facility in these Islands, it will be money well spent. I believe that our people would welcome such a facility and no doubt would take every advantage of promoting themselves in this important area. I can recall when the Law School was set up there were critics who said that it would not help the situation. There were those who said that our people

would not take advantage of it, but, today, we can look with pride at the many Caymanians who have come forward who have studied hard and who have passed through the Law School. Today they can stand in our Courts side by side with other lawyers who were trained abroad. As a Caymanian I am very proud to see this and, today, I stand in this Chamber with the same feeling toward the training facility for our teachers as I had several years ago when it was thought of in setting up the facility for the lawyers.

In the past, we have had some of the best teachers, I would venture to say in the world, right here in these precious Islands. I can think of many who have been mentioned, but I would much rather deal with those from my district whom I consider have worked very hard and, in some instances, under worse conditions than in other parts of the Islands. I can think of Mrs. Marie Rankine, who is deceased; Mr. Allen McLaughlin; Mrs. Evangeline Rankine; and, Mrs. Islay Connolly, who are all still with us, the latter being a lady who is respected throughout the Cayman Islands and who has contributed to education throughout these Islands. She did not only teach in the schools, she also (I am proud to say) worked herself through the system and has done an excellent job as the Chief Education Officer. These are things to look back on, Sir.

I believe the people of these Islands would have the greatest respect for this Legislature should we take a decision to pass this Motion which is presently before us. I would also add that I believe this matter is important enough that immediate action should be taken by the Government and that later on in the year a report should be made back to this Assembly as to their findings thus far.

I totally agree with the third section of the Motion which reads: "Whereas it is considered that the public expenditure on training of teachers would be more cost efficient if there were a teachers facility in the Cayman Islands." I see this as being true and correct. I also sat here and listened to a Member who mentioned that our training facility would not be as prestigious as Mico College and others, but, knowing old Caymanian background, I am certain that in the future we would build that prestige. I am certain, Sir, that it perhaps would not take the number of years it has taken those other colleges. I say this with the greatest of respect because I am aware that the Member did not say so in any bad way.

In conclusion, I would again say that I support the Motion, and I am asking all Members to offer their support since it is my humble opinion that no one will be as interested in our children as our own Caymanian teachers. Our teachers know the habits of our children and I feel certain that they will do everything possible to give them a proper education.

Thank you, Mr. President.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I rise to support Private Member's Motion No. 8/89, the investigation of the feasibility of setting up a teacher training facility in the Cayman Islands. A large part of my life has been (and continues to be) education.

I am very happy to see this moved by the First Elected Member for West Bay and seconded by the First Elected Member for Bodden Town. In fact, I think it is long overdue because the time has come within the Cayman Islands when it is going to be both professionally desirable and economically feasible to begin establishing specialised training facilities. Teachers are of necessity because they teach our children and, because of the effects produced on the younger generation who are going to be the future leaders of this country, they therefore have to be trained to the highest standards and their professional conduct have to be of the highest. Otherwise, we have made a bad investment into the future.

I know that in the Cayman Islands the calibre of teachers both locally and from abroad has been very high. What has to be remembered (and I am sure that the Honorable Member for Education, as he has said, will continue bearing this in mind) is that this facility has to be done right. If it is not, then we have one of the worst investments that this country will ever see. It will not just be the loss of funds, it could be the loss of the lives of children within that generation who otherwise would have had a good education upon which to further their professional or technical training once they have reached the school leaving age.

The Education Council in awarding scholarships, as the Member in the last meeting confirmed, continues to give scholarships to teachers on a priority basis. That, I think, must remain. There is no reason why those scholarships cannot be spread to many more teachers in training to allow the local facility to move forward. The quality and the standard of this profession has to be (and should remain) high. To do that, it has to be operated and run on a basis that has results, and examinations and other training has to be marked or evaluated by people who are both independent and very capable. If, for any reason, you get a few teachers out of this facility (and I am assuming that it will be built) who are not good for the profession it could label all future teachers leaving the facility.

I am extremely proud of the Law School. It has shown that one of the most specialised and oldest professions can be operated very successfully locally. But I criticised the Member for Education at times for not moving fast enough because I think time needed to be spent, as with the Law School, to ensure that the curriculum, the facilities, the high standard of teachers within the training facility are all in place. Until he is satisfied that the standard of the teachers coming out of that facility are going to be of the highest calibre, then he should not proceed to initiate it.

MR. PRESIDENT: Would this be a convenient moment to break?
Proceedings are suspended until 2.15 p.m.

AT 12:46 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:54 P.M.

MR. PRESIDENT: Proceedings of the House are resumed. Debate on Private Member's Motion No. 8/89, the Third Elected Member for George Town continuing.

MR. TRUMAN M. BODDEN: Just before lunch I was dealing with the Motion (which I support) to consider establishing a teachers training facility. I was pointing out how very important it is that this facility be properly established. The Member responsible for Education mentioned that it is something that may well be possible to incorporate within the Community College. That is obviously one way to look at it.

I think this College should attempt to follow as near as possible, in the footsteps of the Law School. Their success has shown very clearly that it will open up opportunities to people locally, which they would not otherwise have. There are people here who would make good teachers, but they have families and just cannot uproot and go abroad. Some have been able to do it, but, overall, the majority neither have the funds nor are they prepared to deal with the trauma that the family would go through over a period of three or four years abroad. It will give the opportunity to people like that to qualify in this old and distinguished profession.

This was clearly seen with the Law School. In fact, the two Clerks articled by me, personally, had families and they would not have been able to do this if the facility were not available locally for studying. One is now a qualified competent lawyer on the Island, while the other is a few years away from qualifying. The Law School is an outstanding example of the way things can be if done right and the standards kept very high. The examinations are accepted by a well established United Kingdom University for the academic Bachelor of Law. It has not only met the standards which we have tried to meet locally but it has also met international standards. It is well known that in the legal profession the standards have been kept high and in many respects have been kept rigidly within the confines of the highest standards, both matters regarding academic and too conduct, etiquette and discipline.

It was very interesting to see in the answer the First Elected Member for Bodden Town referred to an answer given by the Member responsible for Education (to a question I asked) that for 15 students abroad he spent somewhere in the area of $370,000. This compared to the 18 full- and three part-time Law students and the other five or so non-Law students of a sum which was in fact less than half that amount. While it did not include some of the cost, we have to accept that the economists are there to do this. Those economists work out much better the larger amount of students per class. I believe you will find that teaching may well be above those that we have in Law.

Lastly on this subject, the lawyers (despite what may be said about them from time to time, and whatever aspersions may be cast) have carried their load within the society. The expenditure by law firms taking the minimum amount of each articled clerk (excluding payments for fees or books of which we do both) comes to a sum in excess of what the Government spends at the Law School. Here we have a situation with the Government and the private sector going hand in hand towards one common goal, namely, the training of young lawyers. I am happy to say that I would be happy to put any of the young lawyers coming out of the Law School here against those of similar standing from other countries.

Having said that, I would like to mention that there are other areas that the Member should perhaps look at to extending this type of specialist facility, and this would include a facility for dealing with Banking. I began my career as a banker and I qualified in 1966. I believe that the number of persons employed in the banks and trust companies in the Cayman Islands has reached the stage that a specialist training facility could be established. I do know that we did move within the Community College the facilities to deal with the Institute of Bankers Examinations. In fact, I think the Law School at one stage tutored students on Commercial Law which is the equivalent for bankers. So this field is nearly unlimited, and I believe that it is one that should be pursued vigorously, but cautiously, because the standards are going to be the proof of the pudding in the end.

The Member for Education mentioned that things like the cost of the facilities were not included in relation to the Law School, but I would mention here that when Government builds a building it is an asset. In fact, it is not recurrent expenditure and they do have it. I therefore place less stress on that than I would on the recurrent cost because once it is built it will stand hopefully for fifty to seventy years for that or some other purpose. It is a capital investment. In any event, the best investment that this country can make is in the younger generation because they are the leaders of tomorrow.

In summary, I therefore support the Motion. I feel this is a good move and I commend the First Elected Member for West Bay for bringing it and the support by the First Elected Member for Bodden Town. I would once again say that it would be good if the Backbenchers could be kept up to date on important matters such as this. I especially would be very interested in the progress from time to time. Also, it is very important that it is done right and that in so doing it is ensured that the standard of the teachers coming out of there are of the highest one will find within this time honoured profession.

Lastly, I think the cost will not be as much as may first appear and I believe the economy to Government over a long period will be there and will justify it. But, in any event, if this has to be heavily subsidised... we subsidise many other projects which really are not, from my point of view, as important as this. I therefore not only support the Motion, but I would also be prepared to assist and support wherever I can in the progress that is made with this facility in the next few years.

Thank you, Sir.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I rise to support Private Member's Motion No. 8/89 - Teacher Training Facility.

Our own teachers are in small supply in the Cayman Islands. The largest group of non-nationals hired in the public service of this country is in the teaching profession. To say the very least, it has to be one of the most important professions in this country or in any other country because the teachers are those persons who prepare the young for adult life. Their efforts and the knowledge which they inculcate into the children, the attitudes and everything else, is to a large extent what determines each generation.

Until now we have always sent persons interested in teaching overseas for training. I myself, although now a Member of the Legislative Assembly of this country, started my career as a teacher of this country many years ago when the only scholarship that one could get was one for teaching. When Mr. Ryan and myself left the Cayman Islands, there was an interval of about 13 years where no one went to be trained as teachers. So I have close affinity to the world of teaching and I realise there is satisfaction in it, one that is not necessarily in the pay, although, thankfully, it offers a much higher pay now than what it used to years ago.

It is time, perhaps, that we look at training teachers within our own country. To train them overseas is very expensive as the figures which have been given by the Member responsible for Education shows. Even if we do not take those to mean scholarships for teaching, the average three year university course is highly expensive. Perhaps the idea of training persons here as teachers should be an area that we could sensibly look at. We would not have the cost of housing, accommodation and things of that nature. The training as I envisage would be similar to that of the Law School which has proven to be quite successful. Although it is a cost to the Government, I believe that we have seen very excellent results from that particular institution.

I think there is little that I could add to the various concepts and ways of implementing this idea of training locally because the First Elected Member for Bodden Town has obviously done quite a lot of research on this, and in listening to him this morning I think he suggested at least three major concepts which could form a basis from which we might proceed. I personally like the idea of including it in the process of developing the Community College. It seems like something that could fit into that. The type of programme, of course, is something which would have to be developed. I do trust that the Member responsible for the subject would make use of the obvious expertise which he has as First Elected Member for Bodden Town.

One thing which we must take into consideration and in arriving at a conclusion by Government is the economics of it. This has to be considered very carefully. While we can compare it to the profession of law, it is my opinion that training a person as a teacher involves a larger scope of study than does the field of law. So that, in itself, might produce more expenses in that there would initially be perhaps a larger number of teachers to teach the teachers, and I think we should not move into it suddenly without a clear picture of what the cost is going to be.

Having said that, I do give this idea or concept my support. I believe that it has reached the time when Government should investigate the matter of training teachers locally. I commend the Mover and the Seconder of this Motion. When it comes to the time to vote, I shall give it my support.

Thank you, Sir.

MR. PRESIDENT: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Mr. President.

I rise to offer my support to Private Member's Motion No. 8/89, calling for the exploration of establishing a teachers training facility in the Cayman Islands.

I think this is a good idea, and that it has proven that it can work. I recall recently there was a graduation that took place locally of a group of teachers who were upgrading their education. Also among that group were some teacher's aides who were gradually working towards a degree in education through the facilities and with the assistance of the University of Miami.

I support any measure that will train our local people to take up their rightful place in our society. I think at the present time this is especially necessary in the area of education. The establishment of the local facility for this purpose would have tremendous advantages I feel. I think it would lend itself to more locals wanting to get into the field because it would be offered locally. I am quite sure, Mr. President, that you are aware of this. As the other Members who have attended university have said, this is a tremendous advantage. I recall my days at university fighting the cold, being broke and being very, very homesick.

I feel that until someone convinces me otherwise, it must be less expensive to offer such training locally compared to what it would cost to send students or persons overseas for this type of training and, as I have mentioned before, it also provides the advantage of being at home while doing so.

I feel it is very important that this concept is well thought out and that any institution established be highly credible and recognised. One way of doing that would be by coordinating our efforts with some well known international institution which would be on the same basis as the Law School was established - offer a degree based on local examinations.

Some of the best teachers we have had in these Islands were Caymanians, and I would daresay that some of the best among them were from my district of West Bay. To name a few, Miss Genevieve Bodden, whom I had the privilege of being instructed under, Miss Beulah Smith and Miss Redley Powery. I can assure you that these Caymanian teachers had no problem with discipline in their classrooms. They were in charge and students knew it!

I think this would be a positive step in the right direction in the area of education and in resolving some of the demands (or shortage) for Caymanian teachers. But I do not think that this is the only solution because I would dare to say that if we had today in our system those Caymanian teachers who were trained, we would have less of a problem finding teachers. That number is substantial. In addition to this, more emphasis must now be placed on teachers' salaries and benefits. I see no reason why our local teachers could not be offered an option of a local contract as opposed to pension. I see no reason why our local teachers could not be offered some type of housing assistance, and I see no reason why they could not be paid some type of mileage allowance. I think this is an area where there is a lot of room for improvement and there will always be. I do not ever envisage a day when we will not need outside teachers to come in to assist us.

For the record, let me state that I have nothing against teachers of any nationality or country. I have had some very good teachers and some of the best were foreign teachers, but I think that the time has come when we have to place greater emphasis on training our own to take up their role in our society. Because of the aspect of cost, I see no reason why this facility could not be incorporated as part of the Community College. Then they could share common facilities. Whatever we do we must always be conscious of cost. We have limited resources and we as MLAs have to be responsible to make sure that public funds are spent in the best way.

I support this Motion and I think it is a good idea. I want to congratulate the First Elected Member for West Bay for moving it, and the First Elected Member for Bodden Town who seconded the Motion for bringing it to the House. Thank you.

MR. PRESIDENT: Could I have an indication of how many Members would wish to speak on this Motion to give me some idea when we might take the break?

MR. W. McKEEVA BUSH: I am not going to be very long Sir.

MR. PRESIDENT: Would you like to speak now? The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I wish to offer my appreciation for the support the House has given this important resolution. There were many good points raised which I do not think I need to refer to, but there are some that were said in passing that bear mentioning at this time.

One question arose as to the matter of cost, whether it is cost effective, and that is debatable. I do not think, as the Member for Bodden Town has said, that dollars and cents, should be the last worry. One of our concerns is that we can teach things Caymanian, teach about Cayman, the things that can make or break us. I feel that this can be done better by Caymanians in college with those possibilities. The matter of dollars and cents should not arise. If it costs $2 million per year we should set it up at whatever the cost. I would hope that no Member has the wrong impression that with the setting up of a teacher's college in this country we are asking or saying to sacrifice the criteria or standard of education in the country. That is so far away from the truth.

It always creates some stir for me. Why is it that when anything Caymanian comes up there must be this cautioning about how well it would work or whether it would be done right? Of course it will be done right! Caymanians run the country. Don't we? As that advertisement saying goes, "We have come a long way baby", and we have a lot further to go. I am pleased that more and more I see a striving for excellence in this country. I wish it was possible to set other higher educational facilities up to university level. By and large, there are many adverse influences on many of our people when they go overseas. The things that some people learn overseas that would affect us adversely would never be, I believe, taught in this country, but I guess that is something we all have to suffer to get the best. So we will have to put up with it.

A Teacher's College is needed. Some time back, information came our way that there were 261 teachers in the country and out of that amount only 71 were Caymanians. That must raise eyebrows, Mr. President. It is not a matter whether we respect or like or appreciate the foreign teacher, because we do. They played a big part in bringing us to where we are educationally. They had a big hand in it and I respect them and I think that Caymanians do. But the time has come when there must be more Caymanians brought into the main stream of education in this country. That cannot be put back any longer if we are going to go forward as we have planned. We see some of the problems with some of the teachers coming in, there are many.

We see some of their attitudes. While I respect them - I push for better salaries, better benefits - but there are a lot of things that some of them do that I do not agree with and there are a lot of things that some of the Caymanians do that I do not appreciate. Do not think that all is rosy and well with some of our own Caymanian teachers. But we need to train more Caymanians in this aspect of our development - education.

Mr. President, I think that every Member has given good cause for having this teacher training facility and I appreciate the fact that Government is going to accept it. The only thing that I am sorry about is that I did not say that they *must do it*. I said they must *investigate*, and I hope that that investigation is not ad infinitum.

Thank you, Mr. President.

MR. PRESIDENT: I shall put the question on Private Member's Motion No. 8/89. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED: PRIVATE MEMBERS MOTION NO. 8/89 PASSED.

MR. PRESIDENT: Proceedings are suspended for fifteen minutes.

AT 3:33 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 4:10 P.M.

MR. PRESIDENT: Proceedings are resumed.
Private Member's Motion No. 9/89, the First Elected Member for West Bay.

PRIVATE MEMBER'S MOTION NO. 9/89

IMPORTATION OF TURTLES

MR. W. McKEEVA BUSH: Mr. President, I beg to move Private Member's Motion No. 9/89 standing in my name which reads:

> "WHEREAS turtle meat is considered a delicacy in these Islands and was a mainstay of our economy for generations;
>
> AND WHEREAS the Cayman Turtle Farm is not producing enough meat to satisfy the demand of these Islands;
>
> AND WHEREAS the Government has failed to have the ban lifted on turtle products going into the United States of America;
>
> BE IT THEREFORE RESOLVED THAT all sections of the Endangered Species Protection and Propagation Law, its Schedule and its related Regulations which pertain to the unlawful importation of turtles and/or turtle products into these Islands, be amended, so that turtle and/or turtle products can be imported into this territory legally.".

MR. FRANKLIN R. SMITH: Mr. President, I beg to second the Motion.

MR. PRESIDENT: Private Member's Motion No. 9/89 has been duly moved and seconded. Would the Mover wish to speak to it?

MR. W. McKEEVA BUSH: Mr. President, if you go throughout the length and breadth of this country you will find that many houses were built from the turtle industry. Our fathers and forefathers made a living from that industry. Boys went out to those fishing grounds and came back as men. Life was tough, but Caymanians handled it through storm and sunshine. It is no doubt a part of our heritage.

Well, over the years the Mariculture - now the Cayman Turtle Farm - was established and while the turtle meat there was not all that good, the Farm provided jobs for 90 people - nearly all Caymanians, and at least 80 were from West Bay. Another good aspect of the Farm was the fact that we could trade its products with the United States and provide the country with foreign dollars which made a better balance of trade. That was lost, however, and therefore a greater imbalance of trade exists. That might not mean much to some people, but it does have some adverse effect on the economy and it did reduce the difference between our export and import. It was lost because of the pressure from conservationists from the Department of Interior and Commerce in the United States who passed the Federal ruling which put a ban on the exportation and importation to and from the Unites States on all Turtle products.

Prior to all that, there was continuing difficulty as most countries had signed in 1973 an agreement called CITES - the Convention on International Trades in Endangered Species. The United States is a signatory to the convention, but, interestingly, the United States Government chose to make exceptions which affected certain pacific trust areas. At that time also these Islands were shown leniency in that turtle products exported to the United States had to bear a stamp saying, "Turtle products Made in the Cayman Islands." That did not satisfy the conservationist lobbyists and they further pressured the United States Government in 1978 into lifting the exception which had been given to these Islands. It seems that these Islands which depended to some extent on the turtle trade - and which trade was a part of our heritage - was thrown to the wolves while the conservationists were prepared to concede privilege to American territories who could use turtle meat when they wanted. As I have said, they are not prepared to give us similar concessions even though this country is the only country that was doing something about what they called endangered green turtle.

All of us who can read will remember when these conservationists became active. I remember the article and was given the article recently. They first attacked shrimp and then the lobster but because of the involvement of billions of dollars to those industries in the United States, their territories and their conglomerates in other countries they had to back off. Then they zeroed in on the

green turtle which did not really affect the United States but really was killing an industry in these small Islands.

Now, Mr. President, in 1978 the Government of the day introduced the Endangered Species Protection and Propagations Law, the Law referred to in the resolution. Through that Law, the CITES Convention was adopted which prevented trade in certain plants and animals, some of which had no meaning to us, others, like the turtle, meant something to these Islands. They became party to the Convention believing that they would be in a better position to negotiate. Of course, the Foreign and Commonwealth Office had a big hand in making the Government of the day believe that that would be the position. However that was not to be the position as we have seen. Since becoming a part of the Convention, this country has spent money - and I do not know what the figures would reveal, but I daresay it is quite a large sum - going to CITES Meetings all over the world. We stopped our people from importing turtles, we prosecuted our people and caused hardship on them. We could have said, "well they knew better", but we did cause hardship and have left our people without a part of their heritage.

After co-operating with CITES for 16 years - always going on bended knees begging and trying to get the ban lifted - all that has materialised is a lot of money wasted. I do not think that the ban is ever going to be lifted because, from my observation, reading and listening to delegations that have gone to these meetings, and reading their Reports, I do not feel that the ban is going to be lifted. It is more than just conservation. It has to do with a lot of politics. Countries, for instance, like Argentina will always fight against us simply because we are a dependent territory of the United Kingdom. Strangely enough, Great Britain in my opinion, will never worry too much and, to put it mildly, is in a relaxed mood because some of the world's greatest conservationists have a lot to do with the United Kingdom. So these Islands have suffered.

Now, the man in charge of the Farm for the past decade or so is not able to do anymore - at least, that is what he says - to convince CITES. I will read from the newspaper his opinion of the position that we are in, if the Chair so allows. And I quote:

> " 'Cayman's Turtle Farm will find it absolutely impossible to meet ever tightening trade rules set by politically motivated world environment groups...' Farm Manager Dr. Wood has said. He states that the farm will continue to develop as a tourist attraction, a policy which is slated to become financially independent of Government.".

Dr. Wood said that it would be pointless for Cayman to attempt to gain exemption from a world wide ban on trade in sea turtles imposed by CITES - the Convention on International Trade and Endangered Species - at the group's next full meeting in Switzerland in October. Cayman has previously attempted to exempt the Farm by having it categorised as a ranch. The proposal was dependent on second generation turtles being bred in captivity, a criteria which the Farm has met, but as fast as Cayman meets the rules, CITES appear to change them.

After the CITES Conference in 1987 in Ottawa, a special workshop with experts, including Dr. Woods, was set up to come up with guidelines for ranches seeking exemption from the CITES plan. He found himself battling amidst a group which included members strictly opposed to any trade whatsoever of sea turtles, giving little room for compromise. " 'The draft guidelines eventually formulated,' said Dr. Wood, 'are right now impossible to meet. They are demanding the kind of research that has never been done anywhere before. I am not holding out much hope. If that was not enough, CITES has now said that a new species may be approved for ranching only after a two thirds majority vote by the convention. It will be absolutely impossible for Cayman to get two thirds majority vote', said Dr. Wood." The decisions are being made by people with no knowledge of biology but based on politics between one country and another. " 'As an environmentalist,' said Dr. Wood, he was in no doubt that the Farm's head start program, where turtles are bred in captivity are released into the wild, will help to increase the wild population. Some of the released turtles have now reached weights of more than 100 pounds, and there was no doubt in his mind that they would begin to reproduce. Unfortunately, environmental organizations did not recognize release schemes until it was proven that the animals released, reproduced in the wild. 'When you are talking about turtles, which do not begin to reproduce until they are thirty or forty years old, that kind of proof is that far away', he said.".

He forecasts, however, that eventually CITES would be forced to change its ways or begin to fall apart. They will have to be more realistic. Many Third World Countries are trying to reach an acceptable compromise between using their natural resources and preserving them. These countries cannot afford to simply sit back and say these animals are pretty to look at. " 'They have to make some economic compromise', he said." That was Dr. Wood, the Government expert on Turtles, and one who should really be familiar with the whole problem, speaking about his experience with CITES.

This resolution is asking Government to remove all the sections from the Endangered Species Protection And Propagation Law which stops our people from importing turtles. I know that Government is going to oppose this resolution because they say that if we remove that section from the Law, we will be making it legal for our people to go out to those countries in Central and South America where it is illegal to take turtles. They say we would be setting up our people to put themselves in danger and also to run this country into a lot of expenditure by having to bail them out when they get caught. Thirdly, that probably a national uproar would be caused. That is probably a just fear because those countries, where we have traditionally been able to fish in their territorial waters, are today party to CITES - to the detriment of their economies, I must add.

My argument is that it takes one year for us to withdraw from CITES, to denounce the Convention. We could pass this resolution and, in the course of the year, we could talk to these countries that are willing to sell turtles, make some kind of arrangement with them on a Government to Government basis, as they are selling now, and we all know that these countries are selling. Something could be worked out. That is my belief.

I believe that a resolution can do that. I believe in discussing it with you, or... Yes, Mr. President, he had the same impression, and that was what I was seeking to do. I believe the resolution as we have it, can do the job and I hope that Members are going to do their jobs.

As regards to the turtle meat now being produced at the Farm, the whole situation is bad. There is not enough meat for the general populace who want to get it when they want it. There is some unfairness going on about the whole thing. Some people can get the meat and others cannot. Semantics might fix that in a way to make it palatable, but the fact is that there is some unfairness there. I have just been appointed to the Farm Board and I have taken steps to try to rectify that situation, which I hope will serve the public better and more turtle meat will be produced.

I could go on and on regarding this resolution, I believe that we are past the time. I will leave the resolution and hear what Members have to say about it. I do not know whether it will pass. I stand firm in my belief that we have done our part. This Country has done everything in its power to cooperate with CITES. All to no avail. We must do now what is best for us and our people. They are saying no one cares on these little Islands except us, even though there should be. Any way, Members will have their say on it in the morning and I await the results. I have done my part. Thank you.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this Honourable House until 10 o'clock tomorrow morning.

MR. PRESIDENT: The question is that the House stand adjourned until 10 o'clock tomorrow morning. Those in favour please say Aye, those against no.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until tomorrow morning at 10.00.

AT 4:35 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. FRIDAY, 26TH MAY, 1989.

FRIDAY
26TH MAY, 1989
10:08 A.M.

MR. PRESIDENT: Prayers by the Third Elected Member for West Bay.

PRAYERS

MR. JOHN D. JEFFERSON, JR: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Proceedings of this Assembly are resumed.

Before we move to the order paper, may I draw to Members attention a slight error in item 4 in the business. The first item, the word 'amended' should be deleted from the Order Paper.

Papers, the Honourable First Official Member.

PRESENTATION OF PAPERS AND REPORTS

REPORT OF THE STANDING FINANCE COMMITTEE

HON. THOMAS C. JEFFERSON: Mr. President, I beg to lay on the Table of this Honourable House the Finance Committee Report of meetings held on the 26th of April, 10th of May and 23rd of May, 1989.

MR. PRESIDENT: So ordered.

HON. THOMAS C. JEFFERSON: Mr. President, beginning with the meeting of the 26th of April, Finance Committee considered a request for a Government guarantee for Cayman Airways to lease two 737-400s and the guarantee sought was $2 million by way of an overdraft and $3 million by way of a guarantee or a letter of credit to assist in purchasing these two aircraft and the necessary spare parts.

Quite an amount of discussion took place. The team from Cayman Airways who made the presentation was led by the Chairman of the Board, who was accompanied by the Managing Director, the Assistant Managing Director and the Senior Pilot of Cayman Airways. The Minutes will reflect considerable debate on the subject and questions asked of the team making the presentation to Members of the Finance Committee. At the end of the day the Finance Committee approved by majority the giving or providing of a guarantee by Government with a view to increasing Cayman Airways' line of credit with a local commercial Bank by $5 million. That is, as I said earlier, $2 million by way of overdrafts and $3 million either by a guarantee or a letter of credit.

Notice was given at that meeting of a Dissenting Report, which forms part of the Papers laid on the table a few minutes ago. The report is signed by the Member for East End, the Second Elected Member for the Lesser Islands and the Third Elected Member from George Town.

In that meeting the First Elected Member for Bodden Town also moved a Motion authorising the grant of $36,000 to the Cayman Islands Football Association to help offset expenses incurred in the operation of the Association along the following lines: that the Officers of the Association upon receipt of such funds must undertake to provide the Government with an accurate and proper statement detailing how the $36,000 was spent; and, going on to say further, by acceptance of such funds, the Executive Officers of the Cayman Islands Football Association acknowledged their accountability to the Government which

reserved the right to question, investigate or prosecute any officer or officers where misappropriation, embezzlement, etcetera, of the funds occur. That Motion was unanimously agreed.

We moved on to the Minutes of the 10th of May, which is the second meeting. The meeting was called to consider three matters, one being the sum of $42,470 necessary to award a 4 per cent increase to Members of the Legislative Assembly and the Executive Council Members, similarly as was done for the Civil Service. That supplementary was agreed my majority. The second matter was a medical case which sought reimbursement of funds expended by the patient and the Financial Secretary recommended the matter be put before Finance Committee for their authority of refund. It was agree by majority that the sum of $11,530 be approved for refunding to the patient.

Finance Committee, also on the 10th, considered a variation of the Government guarantee for loan financing with respect to the Port Authority. Sometime ago, Government gave a guarantee in respect of purchase of property towards the North Sound area, or more specifically along Eastern Avenue, to allow the Port Authority to establish a freight shed, and that guarantee was specific to Canadian Imperial Bank of Commerce. The second part of the guarantee, which was $1.5 million, was given in favour of Caribbean Development Bank. But the Port Authority Board was convinced that the offer from the Canadian Imperial Bank of Commerce (CIBC) was so attractive to them, they agreed to accept not only the $500,000, but an additional $1.5 million from CIBC instead. So the variation of the Government guarantee given earlier was approved in Finance Committee in favour of Canadian Imperial Bank of Commerce.

At that meeting a request for approval of funds from Capital Expenditure in the sum of $137,500 was also made. The justification was that these funds were needed for the completion of the Public Works Office which would house in addition to the staff of Public Works Department, also the staff dealing with the Master Ground Transportation Plan. The Chief Engineer explained that he calculated there would be savings under the Capital Expenditure as originally approved in the Budget and the funds sought, $137,500, would create no additional burden on the Budget.

Moving on to funds which were allocated during the Finance Committee dealing with the Budget in March, by some error there were $500,000 to be allocated to the districts. It so happened that only four districts were allocated that sum. The meeting of the 10th of May sought to rectify that error and to reallocate the funds in order to allow North Side to also have an allocation and the $500,000 was divided equally among the five districts, that is, Bodden Town, East End, George Town, West Bay and North Side.

There were resolutions made in respect to the extra road work. That resolution was dealt with in the meeting of the 23rd of May where the Finance Committee agreed the Road Vote previously agreed ($4.7 million at the time of approving the Budget) would be looked at to determine what savings or uncommitted funds... I should say, given the Budget and allocation of $4.7 million was passed in March, and we are now almost at the end of May... we wanted the Public Works Department to determine, at this stage how much of the $4.7 million would be spent in accordance with the allocation of that sum to various roads, as well as the Master Ground Transportation Plan implementation. Subject to that, the funds which were requested in the resolution would be made available. We are awaiting the analysis by the Public Works Department to say there are funds available. I expect the answer will be positive.

Thank you.

MR. PRESIDENT: The Report of the Standing Business Committee. The Honourable First Official Member.

REPORT OF THE STANDING BUSINESS COMMITTEE.

HON. THOMAS C. JEFFERSON: Mr. President, I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee.

MR. PRESIDENT: So ordered.

Other Business. Private Members' Motions.

Private Member's Motion No. 9/89. Debate continuing. The Third Elected Member for West Bay.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 9/89

IMPORTATION OF TURTLES

(Continuation of debate thereon)

MR. JOHN D. JEFFERSON, JR: Thank you, Mr. President.

At this time I would like to offer my contribution on Private Member's Motion No. 9/89, dealing with the importation of turtle meat.

In our society the turtle is a very emotional and important issue, and rightly so. For many years in these Islands going to sea was the only way of life. Many Caymanians went to sea to make a living, and Caymanians became internationally known as some of the best seamen in the

world. Others became involved with the turtle trade, supplying fresh turtle meat and products to the people of these Islands.

I can recall as a boy when the old *Adams* or *Wilson* (which were two famous Caymanian vessels involved with trade) arrived from Mosquito Key, it created a lot of excitement and joy for two basic reasons. First of all, mothers and wives were glad to see their sons or husbands arrive safely from the high seas after many weeks or months; and, once again, there was fresh meat on the Islands to be purchased. I can personally recall many mornings getting up at 4:00 or 5:00 A.M. to stand in line to purchase turtle meat. Turtle stew and hot johnny cakes were the staple of the Caymanian diet for many years. Caymanians are once again looking forward to having fresh turtle meat as a part of their diet, and breadfruit. We are responsible for returning that privilege to our people.

Because of the advent of banking and tourism, the Caymanian seamen are fast becoming not rulers of the ocean, but the land - the seamen and the turtle fishermen are fast becoming a dieing breed. But there are a few who continue to want to hang on to this way of life. They deserve the right to be able to do so. We, as legislators, must once again do all that is humanly possible to ensure this is done.

As I understand it, we agreed to fall under the umbrella of CITES (Convention on International Trade and Endangered Species) to protect mainly the Cayman Turtle Farm and to attempt to have it exempted in order for its products and meat to be exported in an effort to protect the Caymanian jobs in that part of our economy. The First Elected Member for West Bay yesterday stated there was something like 90 people employed by the farm. Most of those people were from West Bay. The joining of CITES was done in 1978. This is now 1989. That, according to my calculations, is 11 years and we still have not been able to accomplish having the farm exempted. I would daresay we will never be able to accomplish this. It has always been my opinion that we have derived little to no benefit from this agreement, but it has caused severe hardship for our people at tremendous cost.

We must do whatever is necessary now to reverse this decision. According to my information this should not be a very complicated drawn out process. As I understand it, we are not a part of CITES. It is just that the United Kingdom, of which we are a dependent territory, extended its umbrella of CITES to its dependent territories. What has to happen now, if it is decided we no longer want to fall under that umbrella, is for us to advise the United Kingdom of our intentions and, if they agree (I see no reason why they should not), they, in turn, will notify the Secretary of the Convention that the Cayman Islands no longer wish to be a part of this. Then they notify the world. Once we have been notified this has been done, then we can amend our local Laws to make this possible. At that stage... and at the same time, I feel and understand it is possible that as a Government (this is the only way I would recommend it being done) we approach other Governments in the area where we will be able to purchase the turtle and reach an agreement with them to make this possible and legal. I do not advocate changing our laws until this is done, because I think to do so would put our turtle fishermen at tremendous risk of being detained by those countries and their boats confiscated. We want it done, but it must be done right.

From my information, there appears to be no shortage of turtle available. I understand there are countries who would consider reaching an agreement with us to enable our people to purchase turtle from them. I do not see it being a big deal. I think it is possible. It could be done and done legally. I would advocate and support that we pursue this.

I support this Motion, conditional on Government being in a position to secure whatever releases are possible and necessary in order for this to be done legally. I see no reason why this cannot be done. I think the Government of the day can then take credit for reversing the situation that has been very unpopular for many years.

Thank you, Mr. President, I support the Motion.

MR. PRESIDENT: The Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Mr. President, I rise to speak on and support Private Member's Motion No. 9/89, Importation of Turtles.

As the Second Elected Member for the district of Bodden Town (and the seconder of this Motion), I do not intend to prolong the time of this Honourable House on this matter. I know now (as I knew then, when the Mover proposed the Motion) that the four Elected Members of Executive Council are not going to accept it, along with my colleague, the First Elected Member for Bodden Town.

MR. PRESIDENT: I think the Member should not forecast what people are going to say or vote. That is not exactly normal procedure. You are inviting them to comment back, before they have joined the debate properly.

MR. FRANKLIN R. SMITH: I apologise, Sir. My position is that I strongly believe the ban on turtles should be lifted so they can be imported into Cayman.

I believe the Mover of the Motion, the First Elected Member from West Bay, did a very good job in presenting his case to this Honourable House, so I will not take up any more time. I did my part. I seconded the Motion on my belief and democratic rights. The public will be the judge. I will vote for it, when it reaches that stage.

Thank you, Sir.

MR. PRESIDENT: Does any other Member now wish to speak? The Honourable Member for Education.

HON. BENSON O. EBANKS: Mr. President, as proceeding speakers have said (the Member introducing it, and others) turtle meat is an emotive issue in the Cayman Islands, especially in West Bay. The Mover of the Motion has given a fair history of the turtling industry and of the Cayman Islands Turtle Farm.

I heard the previous speaker say that his support of the Motion is conditional, that what is proposed in the Motion, the amendment of the Endangered Species Protection and Propagation Law, be achieved legally. I think this part should be placed in our agreement. I also believe there is more at stake in this Motion than just turtle meat. It seems to me our credibility as a country, and, hence, our entire economy, is at stake.

It is my understanding that any country which is a party to CITES is unable to export or import turtle or turtle products. To the best of my knowledge all the countries that could supply the Cayman Islands with turtle, that is, the neighbouring Central American countries in particular, are members of CITES and, therefore, they cannot trade commercially in turtles or turtle products. Therefore they cannot legally export turtles or permit turtles to be caught and taken out of their territorial waters.

It is true (and in some respects regrettable) that there is presently a shortfall in the amount of turtle meat being produced by the Cayman Turtle Farm. Neither that, in itself, nor the amendment of the Law as proposed in this Motion, can justify Government supporting the Motion and appearing to condone what would be an illegality.

It is my understanding that we are part and parcel of CITES by having requested the United Kingdom to extend CITES provisions to us. The application was made in February 1979, and became effective on the 8th of May, 1979 - 10 years ago. As long as we are members of CITES, we cannot legally allow the importation of turtles or turtle products into this country, even if they were available. But, as I said, my understanding of CITES is that member countries cannot deal commercially in turtle or their products.

The Endangered Species and Propagation Law and its regulations, which are proposed to be amended here, is the domestic legislation which is required to fulfill our international obligations under the CITES Convention. It is my belief that we would have to follow the provisions of CITES by giving one year's notice before we could withdraw. Similar to what was suggested by a previous speaker, we would first have to approach the United Kingdom and acquaint them with our desires. If they concurred they would have to give notice on our behalf. After one year it would become effective. It would seem to me that is what the first step would need to be.

I would remind Members that CITES deals with more than turtles. CITES covers many other species of wild and endangered flora and fauna, all our marine life (and we have areas which we need the protection of CITES in addition to any local legislation we have). It would also introduce an element of (shall I say?) question, as to the stability and integrity of this country, if after 10 years we were to request release from our obligations.

I believe the only way we could go is by first approaching the United Kingdom, and I believe that would have greater ramifications for us than is first obvious. If we were to take the route proposed in the Motion, I believe even the appearance of the abrogation of the convention at this time would do much to damage the good name and reputation of these Islands.

Members will be aware that already there are those who say (for their own ends, of course) that the Cayman Islands are dubious as to their obligations under Treaties and obligations. I do not think we should give any credence to that view because it would have serious effects on our economy. We have many obligations now under Agreements and Treaties, and if we give out the wrong signals - indicating that we are only prepared to honour such Agreements and Treaties when it suits us - then I think we could do irreparable damage to the reputation of this country - a reputation we have worked so hard to improve over the last couple of years. I believe that at this time in our development the creditability of this country is all important.

There is also the fact that the Turtle Farm at the moment sells quite legally to certain members of CITES. Japan, for example, who before it signed the convention took out protocol or reservation that it would trade in certain products, has recognised the Cayman Islands Turtle Farm as a farming operation. So it purchases some $20 to $25 thousand worth of product annually. But it is done under permits and reports to the CITES office. If we were to withdraw from CITES this trade would be lost to the Farm.

Only a few days ago Members quite rightly pointed out that the Cayman Islands have a very limited attraction to tourists. I believe no one will dispute the fact that the Farm is perhaps our greatest single attraction for tourists at this time. If, per chance, some legal way was found to import turtles into Cayman, I believe it would adversely affect the economic operation of the Farm. If the revenue was lost from the sale of the turtle meat I doubt whether the Farm could carry on without it and be just a tourist attraction. I believe, too, that it would lose some of its appeal.

We would be well advised to note the many spin-off effects. The taxi drivers make a lot of money taking tourists to the Farm and there are still some Caymanians who make a livelihood there. I believe that while it is true to say in years gone by the turtling trade was the mainstay of our economy, things have changed and there would be very few people who would rely on turtling for a livelihood at this time. The Turtle Farm with its double function of producing meat and providing an attraction for our visitors can make a far greater input into our economy than what would be achieved by passing this Motion today.

I think we must also realise that if Caymanians were encouraged to go out and take other countries' turtles, not only would we be encouraging illegal acts, but it is

highly likely this Government would be called upon to spend a lot of time, effort and money on representing Caymanians caught up by foreign Governments. Of course, I note the Motion speaks of permitted turtle to be legally brought into the country. I am speaking from the view of my understanding of CITES - it is impossible for this to be done legally as long as our neighbouring countries remain members of CITES. I have heard of no indication that those countries are in any way ready to give up their membership in CITES. All of us must remember quite vividly the number of times whole boat crews from Cayman have been locked up in Nicaragua. I am sure none of us would like to contemplate that prospect today.

I do not believe it is too farfetched to suggest that conservationists world-wide would mobilise sufficient support to have a large (if not a total) boycott of our tourism if we threw the gates open to trade in the wild turtle again. The Member moving the Motion quite rightly pointed out the influence of conservationist groups on their legislation, and if they have that much clout I do not believe it would be difficult to envisage that they could have effects on our tourist trade.

The most important thing against this Motion is the message we would be sending to other countries in CITES, countries we have other Agreements with. As Members know, we have obligations not only under conservation conventions (and we do have several other than CITES), we have a further obligation under a Memorandum of Understanding with the United States Fish and Wildlife Services, the United States Marine Fishery Service signed on the 18th of December, 1984, which calls for cooperation from many spheres of scientific research with turtles and many other types of marine species. That agreement, for example, is also subject to termination with six months' notice from either side. But, again, we would be called into question as to our intentions.

We have obligations under the Narcotics Agreement and the MLAT, when ratified by the United States. There are also obligations under agreements affecting air transport. We recently amended legislation to improve our Shipping Registry to the point where we now have the International Conventions extended to us, so we can hopefully increase and improve our Ships Registry. Therefore, in my opinion, we should not tempt fate by appearing to treat our obligations under Treaties, Agreements and Conventions lightly.

It is true that up until this time we have not been able to convince many members in CITES of the practical value of our Farm, but we have many strong allies. Perhaps with a bit more perseverance we can still achieve our goals. The Member moving the Motion quoted yesterday from the Managing Director of the Farm who obviously expressed in his statement certain misgivings about progress. But the key part of that statement, in my opinion, was the final sentence or two which he said: "CITES will have to change its attitude or fall apart." It was his opinion many third world countries were beginning to think there had to be a compromise between conservation and use. From my reading of articles it seems to me to be the direction in which most countries are moving in their thinking on conservation.

For that, and other reasons which I have stated, I would suggest the more practical and responsible way forward is for us to consider ways and means of producing more turtle meat at the farm as suggested and agreed to at Question Time here on last Monday. This, of course, would have the added affect of providing more jobs at the Farm.

To sum up, it is my opinion that to support this Motion would be to arbitrarily renege on international obligations which we have assumed, thereby conveying to the world a wrong impression of the true character of Cayman and Caymanians which would surely be to our general detriment. We stand in danger of having strong lobbying done against us in areas that could affect our tourism. I believe when all is said and done, we stand to lose much more than we stand to gain by accepting this resolution.

I would ask all Members to think carefully and seriously on the points which I have made - the strongest one being that we cannot afford to send the wrong signal as to the integrity of this country to the world. I believe because of the number of commitments we now have and the potential they have for bringing us prosperity, we should not do anything to give the wrong impression.

I accept that this is an emotional matter, but I believe this is an instance where we have to let discretion be the better part of valour. We have to think of the overall image and welfare of the country and in so doing, I am unable to support this Motion.

Thank you.

MR. PRESIDENT: Does any other Member wish to speak? If no other Member wishes to speak... Oh, sorry, I beg your pardon. The Honourable Member for Communications and Works.

HON. LINFORD A. PIERSON: Mr. President, I rise to speak to Private Member's Motion No. 9/89, on the subject of importation of turtles. I wish to reiterate the preamble and resolution to this Motion. It reads:

> "WHEREAS turtle meat is considered a delicacy in these Islands and was a mainstay of our economy for generations;
>
> AND WHEREAS the Cayman Turtle Farm is not producing enough meat to satisfy the demand of these Islands;
> AND WHEREAS the Government has failed to have the ban lifted on turtle products going into the United States of America;
>
> BE IT THEREFORE RESOLVED THAT all sections of the Endangered Species Protection and Propagation Law, its Schedule and its related Regulations which pertain to the unlawful importation of turtles and/or turtle products into these

Islands, be amended, so that turtle and/or turtle products can be imported into this territory legally.".

Mr. President, it is understandable that the Mover and the Seconder of this Motion would want to see these Islands once again legally trading in turtles, a trade which has long been traditional to the people of the Cayman Islands. I personally share these sentiments, as I am sure do most Caymanians. Although these Islands have gained nothing by participating in the Convention for International Trade and Endangered Species or wild fauna and flora, more commonly known as CITES, we do not, at this time, want to take a retrograde step in our conservation efforts in respect to our participation as a party to CITES. Since 1983, Government has expended over $300,000 in trying to obtain CITES recognition of the Cayman Islands Turtle Farm. Much further expenditure has been incurred by Government and the United Kingdom in travelling to various meetings.

Raising the highly endangered Kemps Ridley, has also been very costly. We have done much for the protection and propagation of these endangered species at the Farm, but have received no international recognition for these efforts. The Farm has been successful in breeding the Kemps Ridley, which was part of a cooperative effort with the United States Fish and Wildlife Service.

What seems somewhat hypocritical is the fact that the United States Fish and Wildlife Service has since advised us they do not want any more of the hatchlings. Yet, these turtles are reported to be the most critically endangered species today. The rejection of our hatchlings has come after so much time, effort and money has been expended. This decision, by the United States Fish and Wild Life Service is virtually nullifying a formal memorandum of understanding between that agency and the Portfolio of Communications, Works and Natural Resources. It was then Development and Natural Resources which was signed in 1985 for the cooperation in the protection of endangered species.

I think this Memorandum of Understanding is so important and relevant to this issue that I would take time to read this, so Members of this Honourable House and the listening public would have an idea what this contains. This Memorandum of Understanding was signed between the Portfolio for Development and Natural Resources on the 18th of December, 1984, with the United States Fish and Wildlife Service, Department of the Interior and the United States National Marine Fisheries Service, Department of Commerce, and it reads:

> "Concerning the conservation of wildlife and its environment, particularly sea turtles, between the Portfolio for Development and Natural Resources of the Cayman Islands and the United States Fish and Wildlife Service and the National Marine Fisheries Service of the United States, considering the Portfolio for Natural Resources herein after, referred to as DNR, has both the authority and the responsibility to act for and behalf of the Cayman Islands Government, in regard to the Conservation of Wildlife and its environment, including sea turtles, and considering the United States Fish and Wildlife Service, herein after referred to as FWS, and the National Marine Fisheries Service, herein after referred to as NMFS, have the authority and responsibility under section 8 of the Endangered Species Act of 1973 to act in regard to the conservation of wildlife and its environment, including sea turtles.
>
> Cconsidering several species of sea turtles are widely distributed and probably migratory throughout the Caribbean and Western Atlantic waters and beaches and are presently within the territories of the Cayman Islands and the United States and considering the development and natural resources, the Fish and Wildlife Service, the National Marine Fisheries Service view the conservation of sea turtles and their environment as a matter of high priority which would benefit from coordinated, cooperative efforts.
> Considering the Cayman Islands are home to a unique effort to propagate sea turtles in captivity and the facilities, techniques, expertise and resources of this operation are available for broader conservation purposes, including training and scientific research.
>
> The Development and Natural Resources, Fish and Wildlife Service and the National Marine Fisheries Service have reached the following understanding:".

This was signed on the 18th of December, 1984;

> "Article 1 - Information exchange: Development and Natural Resources, the Fish and Wildlife Service and the National Marine Fisheries Service will establish a system for exchanging relevant information, non-confidential and non-privileged information relating to the conservation of wildlife and its environment, particularly sea turtles.".

Mr. President, I will not go through all of the details but the second article has to do with the cooperative program which basically states:

"There would be mutual benefit of scientific research on conservation and management practices, etc. Also, article three deals with the mechanism of exactly how this would be done.

In article four, it was stated this memorandum would be the understanding, between the Cayman Islands and the U.S. Fish and Wildlife Service and the National Marine Fisheries Service.".

This has not been rescinded. This agreement or memorandum of understanding is still in effect.

MR. PRESIDENT: Would it be convenient to break there for you? Or do you want to complete your train of thought?

HON. LINFORD A. PIERSON: Yes, Mr. President.

MR. PRESIDENT: Convenient? Proceedings are suspended for 15 minutes.

AT 11:19 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:56 A.M.

MR. PRESIDENT: Proceedings are resumed. The Honourable Member for Communications and Work continuing.

HON. LINFORD A. PIERSON: Thank you, Mr. President.

The Agreement which I referred to, the Memorandum of Understanding, may be amended at any time with the concurrence of all the parties to the Memorandum of Agreement. The Memorandum may be terminated at any time upon 6 months' written notice of termination by any party. As far as my understanding goes, this Memorandum of Understanding is still in effect.

The fact that the United States Fish and Wildlife Service may not have cooperated as fully as they should have under this Memorandum, they did not in any way abrogate its intent or the Agreement which was signed. I wish to make it quite clear that I hold no grief for CITES. As a matter of fact, I find it very difficult to see where they have, in fact, benefited the Cayman Islands.

The point here is we are a party to that Convention and we have to be very careful that we do not allow these Islands to illegally trade with other countries whose domestic legislation prevents them from doing such trade. This is the point. Regardless of our disappointment with the United States Fish and Wildlife Service, these Islands must continue in their commitment to conservation and we cannot falter in those efforts. Therefore, in keeping with this commitment, the Cayman Islands Turtle Farm has released over 14,000 green turtle in these waters since 1980. To allow importation without strict control would counter our efforts of local control, necessitating an increase of our enforcement efforts.

I should point out that at this time the avenue exists for legal trade with certain countries who accept the CITES certificates. These countries include the United Kingdom, France and Japan. It is extremely cumbersome to effect this trade, but if the countries involved are mutually interested, this can be overcome.

What we will be saying in this resolution if it is passed, is we are making it legal for this country to receive the turtles, even if the other countries do not want them to leave their territories. The most important part of the resolution to this Motion states that it is required that an amendment be brought to the Endangered Species Protection and Propagation Law so turtles and/or turtle products can be imported into this territory and the operative word is Legally. We cannot give that undertaking in this House, that any trade could be done in turtles or turtle products within these waters or from the Central or South American countries legally because as I understand, those countries have put their own domestic legislation in place which would prevent them from doing any trade with other countries.

Extensive discussions were held with the CITES authorities of Nicaragua and Costa Rica in early 1985 and the Cayman Islands were advised that neither country allowed export of turtles. So exactly how we intend to get these turtles from those territories escapes me at this point, unless we are suggesting that Government should enter into illegal trade with people who are prepared to do so. The situation with Nicaragua and Costa Rica is true of the other Central American countries. In view of this, it would therefore seem to be an impossible situation, which is being contemplated in the resolved section of this Motion. Regardless of the sentiments and the good intention, we cannot condone wrong doing or sit in this Honourable House and approve an act that is illegal.

I heard a previous speaker reminisce on the good old days. I too am happy we were able, in those good old days, to experience a situation in these Islands where the Caymanian people and visitors to these Islands, in days gone by, were able to get all the turtle meat they desired. Those good old days are in the past. They are history. In those days we had a very small population with very few restrictions. It is not easy or wise for us to pull out of any agreement, especially at an international level because we feel at a later date and reflections that maybe a few or possibly the majority of our people may not be very happy with this. Especially if it is going reflect on us badly on the international level.

Speaking of the Central and South American countries, with whom we would be doing most of our trade, to them the supply of turtle is not an unlimited source. Those same

countries are having similar problems to the Cayman Islands. They want to use the same turtle for their people. They are parties to CITES and other similar conventions and they are not allowed to trade with other countries. They use whatever they have within their own countries. Therefore, it would seem inconsistent with our own policies for us to encourage the fisherman of those countries to illegally sell turtle to our fisherman as they too, are bound by the CITES Convention.

We must understand what the CITES Convention is trying to achieve and our domestic legislation in the Endangered Species Protection and Propagation Law was enacted to administer this Convention. This Convention was entered into by approximately 100 countries in order to help prevent the illegal taking of endangered species because it was recognised that any one country on its own, did not have the enforcement capabilities to prevent its own people from trading internationally or prevent foreigners from entering a countries border and removing its resources.

Only by international efforts could this be achieved. There is no doubt that many species, including turtle, could not sustain uncontrolled exploitation and utilisation. A schedule to the local Law corresponds to a similar appendixes of CITES Convention.

For clarity and information Appendix One of our Law specifies those species which are determined to be critically endangered. They could become extinct if use of these species are not strictly controlled. Trade in this category of species is therefore, only in cases where both exporting and importing countries agree that such trade would not further endanger, but benefit the species. Therefore, it is only allowed for scientific and other non-economic purposes. It is a misconception that the only species we are talking about is the turtle. Within this group of endangered or critically endangered species we include parrots, iguana and some orchids found on our Islands which are also in that category. So, to do away with CITES would be doing away with the technical and other support we could get to preserve these species.

Appendix two of the domestic legislation is the category in which the species are determined to be endangered, although not critically. If trade is not controlled, the situation could become more serious. The country of origin or exporting country must issue an export permit, certifying the trade would not be detrimental to the species. The importing country should confiscate the shipment unless this permit had been presented. To further elaborate on this, commercial trade in appendix one species is allowed if they are specimen which are bred in captivity or artificially propagated.

Many countries recognise the Turtle Farm as a true captive breeding facility and accept their products. Unfortunately, the Convention does not. The cards are unfortunately stacked against the farm and its ability to meet the criteria for recognition for trade set by CITES. Let us not delude ourselves. As I mentioned earlier, CITES has not benefited these countries but this is not the point here. We are focusing on this country entering into an illegal trade with other countries. This is the scope of my concern. Even though we might try to pull ourselves out of the CITES Convention, if we entered into trade with other countries that are a part of this Convention, we would be trading illegally. As stated, the Convention has been impractical in this respect and I have my doubts as to how it functions overall. Nevertheless, the intention is honourable. I believe this is why so many countries have become parties to it.

It is incumbent upon us to do our best to uphold the spirit of the Convention despite the apparent unfair treatment to these Islands. If we were to allow this resolution to pass, it would severely damage Cayman's creditability to honour any other international agreements which we may become a party to, such treaties as the Mutual Legal Assistance Treaty with the United States.

I believe we can meet our Islands' demand for turtle meat by increasing production on the Farm. Nothing comes without a price, and this may mean Government may have to subsidise the cost (an act I feel most Members of this House would be favourable to), this may mean that Government will have to cooperate with the Farm to see where economies can be effected. Expenditures at the Farm may have to be reduced, where possible. Also, the Farm could minimise other conservation efforts not directly beneficial to our Islands. Such conservation efforts would include the Kemps Ridley breeding program, which, as I stated earlier, the United States Fish and Wildlife Service seems to have lost interest in.

The day may eventually come when the countries in our region may be able to truly cooperate in the management of this valuable, but endangered, species through farming, ranching and other carefully considered efforts, such as limited fishing, as may be contemplated in this resolution.

In closing, let me summarise by reiterating the ramifications if this resolution were to be approved in its present form. One: The Cayman Islands would be discredited for not honouring an international agreement. Two: Our own local turtle conservation efforts would be compromised because it would be impossible to distinguish between turtles which were imported and any caught illegally in our own waters. Three: Further cooperation with our neighbours in the management of turtles would become impossible because we would be first and foremost, viewed as the country which encouraged the trade without first agreeing on mutually beneficial terms.

While I can appreciate what this Motion purports to accomplish, I must, in the interest of this country, and in the interest of preserving our integrity, oppose this Motion on the basis of the reasons which I have given. However, I trust the day is not too far removed when these Islands will be supplied with adequate turtle meat through the Turtle Farm and the products will meet with the demands of our people and visitors to these Islands.

I cannot stress too strongly that as far a I am concerned, the question is not the protection of our affiliation with CITES. The point I am concerned about is the section of the resolution which states; "The endangered species protection and propagation law and its related schedules should be amended in such a way so that turtles or turtle products can be imported in this country legally.". As I have taken time to show, this is an impossible situation unless, and until, the countries which these Islands would trade rescind their agreement with CITES or otherwise strike from their records or books the domestic laws preventing

outside trade - we would be trading illegally. For this Honourable House to support such a move, we would lose respect, not only with our people when they understand what we have do, but indeed with the whole world.

Thank you, Mr. President.

MR. PRESIDENT: Does any other Member wish to speak? (pause) Does the Mover wish to reply?

MR. W. McKEEVA BUSH: Mr. President, as the Second Member for Bodden Town has said, it certainly looks like Government is not accepting this resolution. However, I doubt I can agree with them on the reasons given, at least all of the reasons. This resolution does what I want in regard to turtles. If the resolution is accepted it would be natural progression - Government would have to take steps to have CITES amended in regards to the import and export of turtles which is what we want.

I must point out our flora and fauna and marine life are protected by our local Marine Conservation Law. So the idea put forth by the Member that we would be endangering our local flora and fauna, our marine life, what have you, I do not think is correct. No country, according to the Convention as far as I can understand it, can import anything without a certificate from the exporting country. There should be no fear in that.

My case has been put. I thank Members for their support and I am only sorry Government is not supporting the resolution. I hope and pray that if any turtle comes into the Islands, they do not eat it. (laughter) I hope and pray the Farm will be extended to a position that Caymanians on the whole can get turtle meat. As I said, that is one of the concerns right now - not that I eat it that much, I think I should make that known to the House. But I would hope, since there are so many complaints about the operation of the farm... in fact, the whole farm will be looked at. I give the House my undertaking (as I am a Member of the Board) that I have already taken some steps and I will be taking further steps hoping Government is now going to act, seeing as they are not going to act on this resolution.

Therefore, I am not going to further carry on this debate. I thank those Members who are supporting it and leave the resolution to the House.

MR. PRESIDENT: The question will be put on Private Member's Motion No. 9/89. Would those in favour please say aye? Those against no?

AYES AND NOES.

MR. PRESIDENT: I think I will now call for a division. On the voices, that was difficult.

CLERK:

DIVISION 10/89

AYES: 7	NOES: 8
Mr. W. McKeeva Bush	Hon. Thomas C. Jefferson
Mr. John D. Jefferson, Jr.	Hon. Richard W. Ground
Mr. Truman M. Bodden	Hon. J. Lemuel Hurlston
Capt. Mabry S. Kirkconnell	Hon. W. Norman Bodden
Mr. Gilbert A. McLean	Hon. Benson O. Ebanks
Mr. Franklin R. Smith	Hon. Linford A. Pierson
Mr. John B. McLean	Hon. D. Ezzard Miller
	Mr. Roy Bodden

MR. PRESIDENT: The result of the division, seven Ayes, eight Noes. The Motion fails.

PRIVATE MEMBER'S MOTION NO. 9/89 NEGATIVED.

MR. PRESIDENT: Continuing with Other Business. Private Member's Motion No. 10/89. The First Elected Member for West Bay.

PRIVATE MEMBER'S MOTION NO. 10/89

OFFICE OF SPEAKER

MR. W. McKEEVA BUSH: Mr. President, I beg to move Private Member's Motion No. 10/89, entitled, Office of Speaker, standing in my name which reads:

> "WHEREAS section 32 of the Cayman Islands (Constitution) Order 1972 provides that the Governor may in his discretion appoint a Speaker of this Assembly;

AND WHEREAS it is considered that the business of this Assembly and of the Government has evolved to such an extent as to necessitate the separation of the offices of President of this Assembly and of the Governor;

BE IT THEREFORE RESOLVED that in accordance with section 32 of the Cayman Islands (Constitution) Order, there shall be an Office of Speaker.".

MR. ROY BODDEN: I beg to second the Motion, Sir.

MR. PRESIDENT: Private Member's Motion No. 10/89 has been duly moved and seconded. Before the debate continues, I would like to make a statement. When a similar motion was debated in this Assembly some two years ago, my predecessor spoke briefly before the debate began, and I shall do the same today.

First, under section 9 of the Constitution, I have agreed that the Members of the Executive Council shall not, in regard to this Motion, be bound by collective responsibility. Thus, each Member is free to vote in whatever way he judges is right. Second, the Official Members of Executive Council and I have agreed that they will not participate in the debate and will abstain from voting. It is their view, and I share that view, that this matter is most appropriately to be decided by the Elected Members of this House. Third, I would like to explain the position if this Motion results in a tied vote. Standing Order 42(2) states that: "The Presiding Officer shall not vote unless on any question the votes are equally divided, in which case he shall have and exercise a casting vote.". Our Standing Orders do not indicate how such a casting vote should be exercised. We therefore look to the practice of the House of Commons.

Erskine May records that under standing practice if the Speaker has to vote he will cast his vote for the status quo ante, that is, leave things as they are. In the case of a tied vote on a motion the Chair will therefore vote against the motion so that the matter is left open for further consideration by the Assembly, if and when it so decides. I would like to emphasise that such a casting vote would not in any way reflect the personal views of your present Chairman, but would simply be in accordance with long standing practice.

Finally, and this is as much for the members of the public who may be listening to this debate as it is for the House, I would like it to be recorded that I welcome the opportunity which this Motion gives for Members to discuss a very important question of whether there should be an Office of Speaker in this House. I express no view either for or against the idea. I only say that I am glad the House is exercising its privilege in debating the matter, and I shall accept with equanimity whatever conclusion the House shall come to.

Would the Mover wish to speak to his Motion?

MR. W. McKEEVA BUSH: Mr. President, I believe this Resolution to be one which is of paramount importance to Parliament and to democracy as a whole. The creation of the Office of Speaker would be the beginning of real democracy in this Legislative Assembly. I say this because it is a fact that there are, at times, questions as to whether true democracy is at work in the Legislature. In my opinion, it can never be - as long as there are Governors who sit as Presiding Officers in this Legislature; who sit as Chairman of Executive Council (which is the Cabinet); who, in turn, are responsible for portfolios, especially portfolios and departments as important as Police, Defence, Immigration, Customs and, indeed, the entire Civil Service.

The cornerstone, and, indeed, the success of Parliamentary democracy depends greatly on the impartiality of the Speaker, but also on his indifference to favours and frowns of the Executive. It is essential, in my opinion, in the interest both of Government and the functioning of democracy, that all the important matters which we as representatives have to deal with and question (which sometimes affects the Governor) get truthful and unbiased answers. This, Mr. President, sometimes may not exactly seem to be taking place. This could only be possible if the Governor has courage in dealing with the matters coming before him as Presiding Officer in an impartial manner, without any kind of personal strings.

I remember once, sometime back in 1986, submitting some questions about the Police, and the previous Governor called me to his office. I went, and he said; "Now, McKeeva, do you make allegations in this question?" And, being the very brave man that I am, I said; "Of course." He said; "But do you know if these allegations are true?" I said; "No, that is why I am asking the question to find out from the Government whether they are true or not." He said; "If you do not know whether they are true or not you ought not to make the allegation, and I am very much afraid that the question is out of order." Well, I guess Mr. Lloyd probably would not have agreed with that account of the story, but I can tell you that is exactly what happened.

There was another time when I was again asking about the Police, and again he asked if the allegations were true. This time (remembering what he did to me the first time) I again very confidently said; "Yes, certainly they are true." "Well," he said; "If they are true, you do not need to ask the question."

Mr. President, it might sound laughable but it did happen and, of course, I was rather crestfallen (being a young Member), but I had to take it. It seems to me today, and after some thinking about it, those questions had to do with the Governor's responsibilities. So, those are the kinds of things in which the Presiding Officer must be impartial.

MR. PRESIDENT: If I may interrupt you for one moment, I would like you to witness my impartiality in not calling you to order under Standing Order 35(7).

MR. McKEEVA BUSH: Well, Mr. President, you know, I think I am being very kind in my debate, and I am trying to keep it at a very high standard. I have to mention these things and try to do so as kindly as possible, because we are dealing with the Governor versus the Presiding Officer. I cannot see how I can do it any other way, unless I ...

MR. PRESIDENT: I have not questioned that. I am just pointing out that I do not propose to question it, I am going to give you full rein.

MR. McKEEVA BUSH: I did not understand that last statement, Sir.... I am still not hearing you, Sir.

MR. PRESIDENT: Pray, continue.

MR. McKEEVA BUSH: That this House should be free is a fundamental question for Parliament; that Members should be free - free to say what we like, to be as critical of the Government as we wish and raise as many questions affecting individuals and grievances of humble citizens in order for it to be ventilated. That is what we are here for and our work should never be curtailed. Before I move on, I should say that we are free to say what we like, in concurrence with the Standing Orders, of course, but we should never be curtailed when we are about the country's business.

Originally it was thought it would be a good thing to have the Governor in the Chair in this House, because then he would be here to listen to what Members had to say on matters, especially those matters that concerned his portfolios, Police, Civil Service etcetera, and that might have a telling effect on the situation and any problems. Well, that was sometime ago, many years back. In those days there was no communication; there was no radio and not much press reports I would say. Of course, the work of Executive Council was much different and did not range into all the departments and areas they are ranging today. So it was probably a good idea for those days. But what do we find today? Sometimes, because we have to raise certain things, we are interrupted to the point that debate becomes unintelligible when dealing with those touchy areas. I hold that it is very necessary for any man who aspires to fill that high office we are discussing to lay aside all that is personal, all that severs political predilection, and to submit everything to the greater interest of the House; to maintain not only the written Law, but to maintain the unwritten Law as well.

Where it would be an ideal situation for the Governor to continue to be here as Presiding Officer was if we had a situation in this House where we had very few interruptions from the floor, very few Points of Order or Points of Explanation, no Divisions or he hardly gave a ruling. That would be a good position. I imagine any Presiding Officer or Governor would like that situation very well, but this can never be so in this House because there is virtually two sides, if not parties.... My colleague from Bodden Town is now telling me there are three sides, the Government, the opposition and us!

Like every holder of a great office, the Speaker's life is one of service - and a difficult position to be in, no doubt about it. He is the servant of the House, not its master, Mr. President. The authority which he has is the authority of the House which he must exercise in accordance with the interest and the wishes of the House in regulating the course of debate, in calling on Members to speak, in ensuring the established conventions of debate are observed and also in utilising the powers which are conferred upon him in the Standing Orders. He is implementing and interpreting the will of the House. It must never be seen that he is a dictator, protecting his own vested interest, inhibiting debate and being rude - I guess you could say he was made to be rude, but it should never be seen that he is rude by snide remarks to Members. It must never look like that, and that provokes a situation sometimes and puts the Speaker in a spot. He must be like Caesar's wife - not only must he be pure, but he must be above suspicion.

As I have pointed out, and as Members have witnessed, this is almost impossible when the Governor is in the Chair - he is Chairman of Executive Council and the manager of departments. In my opinion, impartiality cannot exist. Therefore, we must have this change. I feel today we can get a Caymanian to be Speaker of the House. There are qualified Caymanians. If some of us here say we cannot get one who is honourable and just to uphold this high office, I say their thinking is unfortunate and rather backward.

There is always this attitude that Caymanians cannot do this, or Caymanians cannot hold this office, or speak like this. Well, that attitude seems to prevail when the opposite is so true. Why is it that there are those who have that pessimistic, cynical, and even derogatory view that a Caymanian cannot fit the office of Speaker? Tell me why! We must show them the opposite is true. I do not care who we put there, once they are a Caymanian. I am going to abide by his rulings because I would feel that he is not being partial and would not take sides, irrespective of which political persuasion he is. That is the point I am making.

We must stop paying lip service to the whole matter. We all want it. Let us vote for it. All of us stand in here and in other public forums and expound the need of putting Caymanians in top positions where they can get the respect due them. Here we have the chance. We must exercise the will of our convictions to accomplish this task. We must want to, there cannot be the lip service that I hear. We must want to.

This House is the bastion of representative Government in this country. Representative Government is all about democracy, and if true Parliamentary democracy is to continue in its true sense, then we must regard this House as sacrosanct - not to be violated, subverted or perverted, but to be respected and to be defended. How much longer can we go in the present position? These days we are stepping on ground where angels feared to tread in the past. The Speaker forms an integral and essential part of Parliamentary system and without the impartiality of the Office, the machinery of representative Government is hampered and impaired.

I know all of us in this House want the Office of the Speaker created. I know that. Nobody is going to fool McKeeva otherwise. How we get it and who brings the Resolution is a different story. Which Government brings it and who has the guts to stand up and do exactly what I have done this morning... thank God I have those kind of feelings, the nationalistic spirit, which shall always exist in me, never minding what anybody else says.

I leave this resolution to the whims and fancies of the Opposition, the Government Bench, and the three of us on this side.

Thank you.

MR. PRESIDENT: Proceedings are suspended till 2:15 P.M.

AT 12:47 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:19 P.M.

MR. PRESIDENT: Proceedings resumed.

Continuation of the debate of the Private Member's Motion No. 10/89. Would any Member wish to speak? The Fist Elected Member for the Lesser Islands.

CAPT. MABRY KIRKCONNELL: I thank you, Mr. President.

I rise to make my contribution on Private Members Motion No. 10/89. This Motion has given me great concern from the time I first heard that it was going to be presented at this meeting of the Legislature. Having been a Member here for nine years, never having any problem in having to be sat down by the President, having been very appreciative of the way yourself and the former Presidents have conducted the affairs of this Honourable House, I really do not feel this Motion is necessary at this time. I think it is rather premature, and I am unable to support it. I am not adhering to what some of the other Members are saying about their nationalistic inclinations. I am resorting to my patriotic position, and I am very proud that the Cayman Islands over the last 17 years has been able to function so well under its Constitution. I am proud we are a British Crown Colony and we derive many benefits from that association.

To get right down to the issue, I think it adds prestige to this Honourable House to have His Excellency the Governor, Her Majesty's Government representative to our Islands, sitting in the capacity of President of this Honourable House. I have found it very beneficial as a Backbencher. It also makes it possible that his Excellency understands all legislation and the procedure in which it is passed in our House. I know he comes to this territory extremely well qualified but, nevertheless, there are some things which are peculiar to the Cayman Islands, and sitting as President of this Honourable House, listening to the debates day after day, enabled him to better understand us, as Caymanians.

At this time I do not see where we can benefit by exercising the provision of our Constitution, whereby a Motion brought and passed in this Honourable House - that His Excellency the Governor can appoint a Speaker in his discretion - I do not see this as having any direct benefit to the Cayman Islands as a whole. I would like to caution all Members that all countries have aspired to great success, and when success was coming to them, they could not visualise there could be failure in the future. All they could see was success. Some of our neighbours around us realise today that, had they taken other steps during their colonial days, maybe their situation today would be better.

Again, I would like to reiterate that I feel a territory as small as the Cayman Islands is very fortunate to be a British Crown Colony. I hasten to say (before some other Member says it for me) that you do not necessarily have to change the Constitution and not be a British Crown Colony not to have the President as it is today. I am fully aware of that, all Member's, so you need not remind me of that. I am saying the prestige which His Excellency brings to this House cannot be achieved otherwise. I would also like to make it abundantly clear to all in this Honourable House and the listening audience, that I am not saying there are not Caymanians who are qualified to sit in the Chair as Speaker. We have many former politicians who are students of our Standing Orders and are quite capable. I am saying, as a Caymanian, that I do not feel there is anyone of us who can sit in that Chair and be totally impartial - I think it is a physical impossibility. I feel as long as we have the opportunity to preserve the status quo we have in our Honourable House, we should endeavour to continue as we are today.

I would again like to ask all Members to remember the words of the former President of the United States, President Harry S. Truman, who said 'If something works, why fix it?' I feel our House, the Legislative Assembly, is doing the job which the Constitution has laid down for it and doing it most efficiently. I feel this is not the time we should be considering these matters. I think there are far more important matters which we could be addressing our time here today, and to seeking to change a situation which we do not need and to alter a situation which we do not know will work, but we do know how it has worked for the last 17 years.

In conclusion, I would like to ask all Members to search their conscience and regardless of what they might say against what I have said, to realise I am speaking on behalf of the people of my constituency and myself, that we, as Caymanians, are very fortunate people. We are located in a very dangerous area where we need the protection of our Mother country.

Although it has been repeatedly pounded into my ears, the action which this Motion suggests here today has nothing at all to do with advancement with our Constitution, I tend to disagree. In my opinion it will send a signal to the international world that we are having other ideas. I think it is imperative that we say to the world we are satisfied with where we are and we are thankful to Almighty God for

the blessings he has bestowed upon us. Let us all do all we can to continue to enjoy the prosperity of these Cayman Islands.

Thank you, Mr. President.

MR. PRESIDENT: Does any other Member wish to speak? The Honourable Member for Health.

HON. D. EZZARD MILLER: Mr. President, I rise to support Private Member's Motion ..... (inaudible)..... You would think the Opposition had something to do with this, Sir. Those who are opposing the Motion.

MR. PRESIDENT: I certainly did not.

HON. D. EZZARD MILLER: Anyway, as I said, I rise to support Private Member's Motion No. 10/89, which seeks to create the office of Speaker which is now provided for under section 32 of the Cayman Islands Constitution Order as drafted in 1972. For the benefit of all, I must emphasise what I am saying is the view of D. Ezzard Miller and not that of Government, since this is a free vote issue and we have been relieved of our collective responsibility.

Basically, my reasons for supporting the Motion to create the Office of Speaker are the same as they were two years ago when I moved the Motion and was soundly defeated. I should make it clear, my stance on this issue is not a reflection on anyone who does, has, or might occupy the Chair under the present arrangement. I believe part of my responsibility as a Member is to obey and conduct my debate under the realms of Standing Orders. I have been able to do that for four years. I do not believe I have once been called to order by any President.

There are several reasons why I support the appointment of a Speaker at this time. One of those reasons is because I believe it is very difficult and complicated to perform three functions under the present arrangement. The same individual is President of the Assembly, Chairman of Executive Council and holds the office of Governor. I believe it is easy for Members who are in Parliament, who know the Standing Orders and know the relationship, to understand and appreciate it. I believe it is more difficult for the listening public to understand and appreciate it, particularly when Members and the press identify the person sitting in the Chair as 'Governor', and not as 'President of the Assembly', which is the specific hat the person under the present arrangement is wearing.

During my tenure in here I have seen some past Members and some members of the public make a deliberate attempt to erode the respect and integrity of the office of Governor by disagreeing with the Chair and purporting to the public that they are disagreeing with the Governor - who is not here, he only comes here to deliver the Throne Speech. I believe that is deliberate. I believe there is a particular political reason for that. What I do not support is the political reason, because if they are successful in eroding the high office of Governor enough, they could achieve other things, such as Constitutional change, because they blame the Governor instead of the President of the Assembly. If we appointed someone else who had only the role of President of the Assembly I do not think that would be possible. It would no longer be possible to confuse the minds of the public of the role of those involved.

This Motion is not seeking to remove our British Crown Colony status. It is not an attempt to erode our connection with Britain. Our connection with Britain is through the Governor. Britain appoints the Governor to the Cayman Islands and when he accepts the post of Governor, then they tell him he also has to take the unpopular job of President of the Assembly. I believe if we appointed a Caymanian to the post of Speaker, we could have continuity. This is the second President for me in four years and, while I will agree that all Governors come here with some expertise, there is some time spent in training and familiarisation of the role of the local situation. Everybody knows I have always advocated that if we were going to train anybody, let us train one of our own.

I find it very difficult to accept that appointing a Caymanian to be Speaker or President of our Assembly is going to be in any way a retrograde step. Some people told me, in lobbying for support for this Motion, in discussing it with the public - and I have been discussing and lobbying for it with the public for over three years now, so I have had quite a bit of discourse with people - we are not going to respect the Caymanian. I do not know about other Members, but I really do not care who is in the Chair, I respect the Office of Speaker and, as a result, whoever is in the Chair gets the respect.

I find it difficult to understand why people are caught up with the who. There seems to be a lot of concern as to who would be appointed Speaker. Again I respect their concerns, but I find it difficult to support or understand because I am going to respect anyone who is appointed to that high office and I believe it is our duty as parliamentarians to do that. We have to develop and foster that respect for whoever is in the Chair whether he is from Cayman or Timbuktu.

I find it even more difficult to understand how, on the one hand, we can be legislating that Caymanians must be given first chance - Caymanians who are qualified to do any job must be given the opportunity to do so - I refuse to believe Members mean Caymanians cannot do the job. I believe all Members of this Honourable House believe Caymanians can, will and could. The problem is they should, shall or will. But I believe we have to start setting examples. I believe that if we are telling a developer (or in whatever sphere, hotelier, banker, lawyer, an accountant) that he has to employ Caymanians, that we have to set the standard. I think we need to employ a Caymanian as President of the Assembly too, because the public in Cayman, the investors, are all getting more and more sophisticated and knowledgeable daily and it is nice to get up here and thump our chests and say Cayman is for Caymanians (all of those fancy political rhetorics and emotional

promises), here is an opportunity to do what we tell everybody else to do. I believe it is time.

I have said in the past that I do not believe the success of the good ship Cayman lies entirely in any magical position of one's Constitutional status quo. I would rather believe, from my nationalistic point, that Caymanians themselves, their integrity, ambition, willingness to accept a challenge, the courage to perform, the belief that they can, and the confidence in their ability, has a lot to do with the success of Cayman. I believe it is time to give someone the opportunity to demonstrate that it can be done. I believe, given the opportunity, encouragement, reward and the respect of Members of this House, a Caymanian will do a good job of the Office of Speaker in this Assembly.

While no Member has suggested to me that Caymanians cannot do the job, my concern is that a no vote against this Motion will signal to some of our Caymanians (even if they are the weaker minded members of our community at large) that we do not believe Caymanians can perform the job properly. Even though we say yes they can, we know they will, if you do not vote yes for this Motion and provide them with the opportunity - in essence a no vote is denying them that opportunity. The more informed, the stronger willed individuals, might see we really do believe in Caymanians, but we always have to be concerned about the weaker ones in our society. I believe it is time to give them that chance. We want to be very careful not to signal the populace in that way.

It is interesting how some Members can support what the Government views (as in the last Motion) an illegal activity, but they cannot support this. I am not trying to revive a debate of any kind, Sir. This is a legal activity, because it will have no such international repercussions on the world. I find that difficult to understand. Maybe with a little more explanation I can swallow the pill, but it is going to take a lot of grease and water.

Cayman is growing up. The political arena must grow with the country. Any sector of this Islands that remains stagnate for too long is going to destroy this economy eventually. I do not subscribe to the old adage of 'if it works, don't fix it'. I much prefer (if it is working) to make sure you have looked deep enough to find that which is about to break and fix it before it breaks. We always say an ounce of prevention is better than a pound of cure. While I am not one to expound the difficult and unfortunate wound that is festering in our society about anti-expatriat or anything else, I think here is an example where we can remove once and for all any possibility of that being introduced in this setting at a later date for some other political move which might be a lot more catastrophic than this one. As sure as the sun rises tomorrow, change is going to come, and I have always been one who believed very strongly that one has to accept that as a given; therefore one must expend one's energy as far as possible in orchestrating the change for the benefit of all. I believe we need to do some things to encourage the growth of our political environment and the political systems of this country; or else, when the change comes, it is going to be very difficult to control it and to orchestrate it.

I have heard so many times from the floor of this Honourable House that a Motion is frivolous or not important; that it should not be here, and there are so many other important issues that should be here. But the people who are telling you that have not taken the time to bring them, and they should. If there is so much which is much more important than this, why are they not here? I believe this one is very important. I have heard arguments that we do not know who we are going to put there; we do not know how we can move him, pay him or what his conditions of employment are going to be. All of those things can only be decided after we have made the decision to get one. I have no problem with the Governor appointing a Speaker in his discretion because, as I said earlier in my debate, I respect the office and therefore the person, and not the other way around.

Tradition is a good thing in some respects, but there must be a reason why we are all driving automobiles today and not riding buggies. I think this is a similar set of circumstances. When this post was first put in the Constitution (and before that) the amount of work involved, the amount of debate in Parliament, the cut and thrust of debate, the maneuvering in Standing Orders to try to get (and in some instances get) one's point across as successfully and as forcefully as possible in order to succeed in a Bill or Motion have all changed. The temperament of the people involved has changed. I do not think most of that is a bad thing. I enjoy a good debate, as do most people, and I think I can take as much as any man on the floor of this Assembly and be as nice with anybody else in the Common Room afterward. That is democracy. Everybody should be entitled to their own opinions.

I believe the time has come when we need a full-time Speaker for Parliament. It appears in individual conversations that the Speaker is a good thing. But there is one thing that bothers me - we are becoming very partisan. It looks very much like the vote on the Speaker Motion is going to go on party lines and some people are going to smite their consciences a little bit and vote the party line. That, in itself, in some people's minds in some political arenas is a maturing of the political process. Being the individual minded person I am I do not believe I could last very long in a party system, with a party Whip telling me what to do. Maybe if I was the Whip... but I really do not think I could tolerate not being the Whip, having somebody else whipping me in line. I cannot change that. Ned and Mary did that a long time ago.

I would close with one little quotation. That is: "Beware of the treacherous Huns, who pledge loyalty in public then spread discontent in private. Make every effort to identify and remove these ignoble actors, be they enemies or your best friends.". Mr. President, I urge Members to support the Caymanisation *in toto* of the Legislative Assembly, and let us put a Caymanian as Speaker of the House.

Thank you, Sir.

MR. PRESIDENT: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, the Motion before the House to provide the office of Speaker under the Constitution is, in my view, a very serious Motion. You can change an instrument, be it a

document or Law or Constitution, normally in one of two ways. In most countries that have a Constitution there is a specific provision in it by which the Constitution itself can be changed, so the document itself can provide the means to change that document. Or it can be changed by virtue of a procedure of changing the instrument from authority from without.

The Constitution of the Cayman Islands is usually changed by an Order In Council, which itself is under the West Indies Act of the United Kingdom. I am drawing this analogy because section 32 provides a procedure for changing the office of Presiding Officer and Speaker. Unlike most provisions for changing a Law or Document, the provision in section 32 only permits one change to be made and then the trap door drops. Section 32 states:

> "(1) At sittings of the Assembly there shall preside:
>
> (a) the Governor; or
>
> (b) at any time when there is a person holding the office of Speaker, the Speaker; or
>
> (c) in the absence of the Governor or, as the case may be, of the Speaker, the senior official member of the Assembly.
>
> (2) The Governor, acting in his discretion, may appoint a Speaker of the Legislative Assembly, who is qualified and not disqualified to be a member of the Assembly:
>
> Provided that this sub-section shall not come into force until the Legislative assembly has passed a resolution that there shall be an office of Speaker.".

What this section does not provide is for, if the resolution is passed to appoint an office of Speaker and problems arise, is to change back to the original office and have the Governor preside. It is what I call a trap door section. Once this resolution is passed this country is stuck with it for better or worse. That type of section which provides a change only one way is similar in many respects to the sections that would allow changes of Constitutions of Colonies generally. Once you move in one direction, and with rare exception... I know of one or two colonies which instead of advancing, have taken a more colonial status in states of grave emergency which have arisen, but it is a change that slides in only one direction. This is where the danger lies in any change or advancement of the Constitution as it does with this Clause. It is a well known fact that with a colony Constitution, in general, you only advance; if it does not work, there is no going back. That is why I think it is so important.

Issues such as this are highly exposed to the public, and they understand very clearly the passing of this resolution. For example, the Member responsible for Health and Social Services referred to a resolution earlier. That resolution is reversible. The resolution we are dealing with now, once we have done it, there is no provision here to reverse it and put the Governor back as Presiding Officer. As I see it, it is not something where through a resolution we can ultimately change it back - we are moving in one direction. Once the section comes into operation it can only be changed by an Order in Council under the West Indies Act of the United Kingdom. I am saying this because it is a different type of resolution to the normal clear majority resolutions passed in this House. It is one of the steps that has to be cleared in due course (whether now or later) for the Constitution to advance.

What I find somewhat unusual is that he should have put in here for the bare majority rather than the two thirds entrenchment, which is usual in most Constitutions that normally provide a two thirds majority and a referendum. But, be that as it may, it is our Constitution and we have to abide and live with it. While it could be said in theory that you could appoint yourself Speaker, that would never...

MR. PRESIDENT: ...Forgive me. That is not possible under the Constitution.

MR. TRUMAN M. BODDEN: At least we have cleared that one out of the way. So there is no going back in that direction.

MR. PRESIDENT: It must be a person qualified and not disqualified to be a Member of the Assembly.

MR. TRUMAN M. BODDEN: Yes, Sir. I was going to go on to that. Subsection (2) in practice makes it impossible for any appointment. What we have at this stage, is really a very serious Motion before this House. It is serious because it is beginning to clear the way for things to come. We are looking now at touching the tip of the iceberg, and once this small hurdle has been gotten over, then I believe bigger hurdles are going to be attacked.

Where I differ with the Member for Health and Social Services is if something is working then one has to be very cautious before one touches it. I do not believe that in going out to the public (who now listen to the larger part of the Legislative Assembly debates) you would find people who are dissatisfied, as a majority. I have touched base with many people in this area and I am personally satisfied that the majority of my electorate are not dissatisfied with this House. In fact, statements have been made to me that the

House is in one of the best states of order that it has been in.

The analogy which I have drawn (which I know there can be opposite views to in relation to whether this is a change of the Constitution or not) is merely bringing into operation a section of the Constitution, but it is one of the obstacles in the road that has to be cleared before there is any serious advancement in due course.

Now let us look at what we are going to do. Some of the arguments put for this change and against having the President in this House is that we need a full time Speaker. This House sits maybe five weeks a year. I fail to see how that is going to radically change or increase in the future because these debates have been about as long in this House in the last two sessions as we have had. One has gone three weeks, this one may reach one and one half weeks, maybe two weeks, so I do not think that is a good argument.

When you are worried about the other argument of international repercussions, the worst repercussion you will see internationally - especially in the finance centre - is the day there is worry that the Constitution of this country is going to advance. I am not saying the Speaker Motion is of the seriousness of an advancement of the Constitution, I do not want it to be taken that way. But what I am saying is that it is a step that could be making way for this to happen in due course. The day that happens, the day the economy is eroded, you are going to lose the balance of the rights you have. I can tell you because I have to live out there in the private financial sector. This is a very serious concern in our country and we must never forget that.

You can only stand on a empty stomach and shout freedom of this or independence of that for so long. We have to look at the overall good of this country. We have to accept that in any country or any document there are going to be problems. You can alter this document today and put someone else in that Chair and a year or two down the line you are right back to square one, because no one is perfect. We have to have enough good common sense to keep the best of the situation.

I have been in this House for three terms. I have been here through three Presiding Officers who have also been Governor's, and I am very happy with your presiding in here. Order is kept and I think you are able and experienced. I know one of the criticisms of me from time to time is that I am somewhat conservative, but look at the countries all around us who have gone because they have politicians which have either moved too quickly for reasons which ultimately ended up (regardless of the intention) not to be for the good of the country.

I went to school in the 1960s with many of the politicians of other countries. Many of them are still in power in those countries. In the debates throughout my time at the Law School, I would always say to them; 'Yes, it looks green on the other side but weigh what the consequences may be when you leave this side to go to that', because once you advance and move forward without any hope of coming back to the status you have been, you are taking a very serious step. The people I was at Law School with now range between places to the north, the Bahamas, all the way down to the Leeward Islands. So I have had years of rubbing shoulders with politicians from other countries.

Another aspect which might be less important is that we are going to have a further reasonably substantial expenditure. I assume the Speaker would have to be paid. If he is paid in accordance with our MLA salaries (and I would presume he would because he is in a more senior position than we are), then we are looking at a good salary. I would like to see us take that salary and spend it on the drug problem or crime in the Islands. While not being critical, we do not really have to end up spending that excess amount of money which would be more than a straight salary.

MR. PRESIDENT: Would that be a convenient moment to break for you?

MR. TRUMAN M. BODDEN: Sure.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 3:15 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:40 P.M.

MR. PRESIDENT: Proceedings are resumed.
The Third Elected Member for George Town, continuing.

MR. TRUMAN M. BODDEN: Mr. President, much has been said, and is going to be said, on this Motion as to the advantages and disadvantages. I would like to adopt a statement made a couple of years ago, in fact, I will quote from the *Hansard* of the 12th of February, 1987, where the Honourable Benson O. Ebanks says: "My responsibility is to see to the welfare of the Cayman Islands... and it has quite rightly been pointed out, Mr. President, that we have an economy that is the envy of many countries in the Caribbean.". He developed the argument in dealing with the reality of the situation against change just for the sake of change. This was on the Speakers Motion at that time. He went on to say: "I believe in balance: the advantages of the Governor as sitting here as President, as regards the way in which he can carry out his high office as Governor, far outweighs any disadvantage which might be attached to the office of Governor because of any problems encountered here.". That sums up the next area that I am going to deal with - what has been put forward as a possible conflict.

I do not think there is any conflict in practice between your sitting here, Sir, in one capacity, in Executive Council in another capacity, and being responsible for your Portfolio given to you under the Constitution. If that had been the case, I think most of the Constitutions in the past prior to

ours, would have been corrected. Conflict is of degrees, and the converse to it is a knowledge (and what I would have to call the synchronising) of the different positions. I think it is very important that in your capacity here you also sit in another capacity in Executive Council as Governor and you have responsibility for you Portfolio. It does two things: It gives you contact, and an overall look at the position; and, secondly, it is one of the few times we as Backbenchers get any extensive contact with you. I have found this important because while you need to know Members of this Legislature, it is also good for those who are not in contact with you (as the Executive Council Members on a daily basis are) to have some means of having contact with you as well. After all, you are the Governor of the Cayman Islands, not the Governor of the Government.

I believe if you were to have spent most of your time in the Glass House it would be a disadvantage to you; I think it would be a disadvantage to us. I am saying that honestly, Sir, because this is the first time in my eight or nine years in this House that I have been on the Backbench, and it is the first time I have come to appreciate that. Further, Government Members here also sit on Executive Council and they also have Portfolios.

While the point was made that your time could be better spent (I do not know if they were the words used) in your office... I am sure you would welcome more time, everybody does, in their different offices. I believe that, on the whole, when you really look at the practicality of this, the full Executive Council is sitting down here any way, so the Government has slowed down during the time the Legislature sits in any event. The question of continuity... nothing is continuous ad infinitum when it comes to the human race. By and large, of the Governors have been here for quite long periods. In fact, somewhat longer periods than what is usual in other territories. So we do have that continuity. But more than anything else we have the advantage of seeing the overall picture between the Legislative, the Executive and the Administrative.

In the countries that have the office of Speaker, such as the United Kingdom... and this is the main area I could find reference to in my research, other than very brief passages in Commonwealth Colonial Law. This is from *Wade and Bradley on Constitutional Law*. Very briefly it says:

> "The chief office of the House of Commons [which is the equivalent of the Legislative Assembly] is the Speaker. Except when the House is in Committee he is its Chairman responsible for the orderly conduct of debates. It is through the Speaker the House communicates with the Sovereign. The Speaker is appointed at the beginning of each Parliament. The party with the majority in the House selects the candidate for the Speakership. Such selection is made after consultation with the other parties. In order, the selection may be the unanimous choice of the House.
>
> It is customary for the previous holder of the Office to be re-elected, if he is again willing to serve. The Speaker's seat was until recently not contested at an election.".

It goes on to say with the Labour party that this had been done.

What I would like to point out here about the question of conflict (and I would assume there would be some consultation prior to an appointment) is that I am not necessarily saying... and I really do not know what would be followed, but at least in countries, such as the United Kingdom, the Speaker is appointed by the majority party in the House. While I know you may continue on, what I am saying now is that it is far more difficult for a person coming from a specific party to be unbiased towards the opposite party. Basically, you have a person who is dedicated to the party in power because he comes from the party in power. So there are other disadvantages when you look at conflicts.

Let me make this abundantly clear: I have no doubt that there are people in these Islands who can fill this post, but it is going to be difficult because the choosing of that person has to be done very carefully. It is going to be difficult not to find people who are either involved in business, or somehow involved in politics. Some who come to mind have both. The first time the Speaker makes a ruling against a Member, and the Member feels it is because of politics or because of some other local reason, then we will get the same problem we have had from time to time - where no one likes to be told they are doing something outside the Standing Orders, or whatever. It is at that time you would begin to see truth coming out from that person and you would suddenly realise the reason why he may not be accepting the ruling readily could be because matters such as these exist. However, there are people here who could be Speaker. I am not saying that is not the position.

Having said that, I would like to remind Members that the person who sits in the Presiding Office in this House is a person with extremely wide and very powerful functions. For example, if there is a ruling before a Court there is access to the Court of Appeal. I am drawing this conclusion just to show how important it is that we be very careful on this resolution and whatever is done here. If there is a mistake in a lower Court, there is a Court of Appeals, then the Privy Council. In this House, there are no appellate levels (and never have been in the Commonwealth countries) so it is very important that we get back to where if we have something that is working let us leave it alone. It is my position that if the position is not properly filled it can really create a problem. I am saying this with all honesty because we do not know what problems may arise from putting a Speaker in this House.

We have had a history of this Constitution (and the ones before it, but since 1972 for this one) that the position has been here and remained through many Governments. Many people have sat as representatives of the people in this House. What could have assisted with this is if during the General Elections it had been made a general issue to get some feel for what the public may have wanted. Whenever I have any doubts, as a conservative I take the approach you mentioned this morning that you have in relation to your casting vote, if I have any doubt I vote to leave things as they are because then I know what I have.

I believe I have the interest of these people at heart as much as any other Member who now sits (or has sat) in this Legislative Assembly. When I think of the nationalistic side, I have to think of the realistic side of things. I am not prepared to run risks in matters which are serious. That conservative side of me has helped me come to conclusions on decisions which are important to this country. There is always tomorrow. I believe actions have to be timely, and more than anything else, as representatives in this House, they have to be in accordance with the wishes of the majority of the people in these Islands.

I believe democracy is alive and working in this country, far more than it has worked in any other country. We have seen it in this House throughout this Session, the Session before and in years prior when I was here. I have no worry whatsoever about that. I do not think that the passing or failure of this resolution is going to in any way affect democracy in this country.

In life, whether we like it or not, we all have someone to answer to - different people in different places - and it is a hard fact of life. When someone sits in this Assembly they have to accept the rulings of the Presiding Officer. When I am in Court I have a similar situation with a Judge or a Magistrate. Throughout life, that is one of the things I think denotes the attributes of the human race from the lower races of animals. This is the other aspect I am coming to. Throughout time, we have learned that respect begets respect. If you want respect, there are times you have to show it. Sometimes the position might be difficult, but this is a two-way street throughout life. No matter what we do in life - with this Motion or with anything else - it is a situation of give and take. Every one of us, at some stage, sits in the master's position, at other times we sit in the servant's position. That gives the balance and the rounding off of the personality of the human race. Regardless of who sits is the Chair as Speaker, there are going to be times when people are going to be upset with the rulings. That is not going to change. However, we must remember that rulings, once made, are binding on us as Members of this House.

I would just like to mention that I went along with Mr. George Smith to the United Nations, and one of the things throughout the talks which became important was that you have to take a realistic approach. There is, at times, more to life than changing things because they may appear to be an obstacle today or to anyone specifically. I believe with this resolution, even though it was debated in this Honourable House as I read from the Minutes of the *Hansard* a few years ago, I believe it is very important. In fact, it is an issue that should have been dealt with publicly in advance. However, that is up to the specific politicians and what they wish to do.

In summary, I think the Motion... and I have used the word trap door, I would not like that to be associated with trap, but once we pass the resolution to make the office of Speaker there is nothing we can do to un-pass it and reverse it. So, once we create the office of Speaker, it can only be changed if the Constitution itself is ultimately changed. That is the first point. The second point is that I feel regardless of who sits as Presiding Officer in the Chair in this House, there will always be some people, at some time, who will get upset. That is life. That is the human race. Thirdly, I am satisfied that this House has been presided over very efficiently. I am satisfied, as I had been with previous Presiding Officers in the Chair. The section has stood since 1972 and worked well over those 16 or 17 years.

The other point is that I believe it is going to create a fair amount of public expenditure which I do not see as being necessary at this time. I do not believe there are any more problems with conflict, or with you, Sir, in your capacity here, your capacity as Governor, than one will find with any person whom we put in here. From time to time these things are alleged whether they are a fact or not. In my opinion, it has not affected your presiding here. I also think it is very good for you to be here to get an overall feel of what the Legislative Assembly is doing and where it is going.

I also believe there are people in these Islands whom we could find to well fill the position. But, like everything else, there would be some people who would raise things against them as well - possible conflicts, or whatever. I do not believe democracy has in any way been affected by there not being a Speaker in this House.

Lastly, I would like to remind the public that in my view (from sounding out the public as I have done) there are no serious complaints out there upon which we should change the present position. Therefore, being one of the older (in age), Members of this House (so I do not get challenged as to old, in time here), I believe if I err in being too conservative in preserving the position and voting against the Motion, it is a error in experience which is good for the country.

Therefore, Sir, I am not prepared to support the Motion to approve the office of Speaker.

MR. PRESIDENT: The Second Elected Member for the Lesser Islands.

MR. GILBERT A. McLEAN: Thank you, Mr. President.

I rise to speak on Private Member's Motion No. 10/89. I would like to read that Motion:

> "WHEREAS section 32 of the Cayman Islands (Constitution) Order 1972 provides that the Governor may in his discretion appoint a Speaker of this Assembly;
>
> AND WHEREAS it is considered that the business of this Assembly and of the Government has evolved to such an extent as to necessitate the separation of the offices of President of this Assembly and of the Governor;
>
> BE IT THEREFORE RESOLVED that in accordance with section 32 of the Cayman

Islands (Constitution) Order, there shall be an Office of Speaker.".

Mr. President, in 1962 the Island of Jamaica (which we were a part of, and through which these Islands were administered, by the Governor of that country at the time) became independent. In the records of the Assembly or the Vestry (I would not swear at this time exactly which it was called) it shows that the representatives of the people of these Islands at that time had some very definite and precise ideas about where the Cayman Islands were, where they should go and how they should go there. From 1962 to 1972 there was no written Constitution for the Cayman Islands which obviously meant these Islands were ruled directly from Britain or indirectly through Jamaica. It was not until 1972 that a Constitution order was made for the Cayman Islands.

In section 32 of the Constitution which presently exists... and I wish to state very emphatically, because I can hear the persons saying in the forthcoming Elections about who did and who did not try to change the Constitution of the Cayman Islands - I want to state most emphatically that what is being brought here with this Motion is not any attempt to change the Constitution which now exists.

In the Constitution section 32(2) says:

> "The Governor, acting in his discretion, may appoint a Speaker of the Legislative Assembly, who shall be a person, whether or not a member of the Assembly, who is qualified and not disqualified to be a member of the Assembly:
>
> Provided that this sub-section shall not come into force until the Legislative Assembly has passed resolution that there shall be an office of Speaker.".

Section 32(1) provides;

> "32. (1) At sittings of the Assembly there shall preside -
>
> (a) the Governor; or
>
> (b) at any time when there is a person holding the office of Speaker; or
>
> (c) in the absence of the Governor or, as the case may be, of the Speaker, the senior official member of the Assembly.".

The present situation with the Governor presiding as President of the Legislative Assembly has been long standing for 17 years. To date, no one has been appointed as Speaker of this Assembly. I am not arguing about how well any President to date has performed. The question of any reference to any personality, any former Governor, or our present Governor, bears no reference in what I have to say. I am in no way criticising that position. However, in this country there are persons who are capable of being appointed as Speaker and there have been persons capable of being Speaker. It is simply the case that for various reasons the Legislative Assembly has not passed such a resolution,

I cannot subscribe to the view as expressed in some instances that we suffer some type of incapability of being able to assume such a position. I can not subscribe to that because that falls directly in line with the colonial propaganda that has been with us for centuries. I cannot subscribe to any idea or philosophy which would attempt to create self doubt or instigate a situation of a lack of self-respect, or an uncertainty of anyone's ability, because I believe there is ability in the Cayman Islands to assume the responsibility of Speaker of the House, if this House should decide it should come about.

As I have noted (and it has been noted by other speakers) the Governor presently presides in the Legislature as President. The Governor is also the Chief Executive in the Cayman Islands. If we refer to our Laws (in those Laws as in colonial territories) we see much action is left to the discretion of the office of the Governor. Appointments are made at the pleasure of the Governor and, administratively, the post of Governor has wide and far-reaching effects, including wide reserve powers.

I would like to refer to section 7 of our Constitution. Section 7(1) says:

> "The Governor shall, subject to the following provisions this section, consult with the Executive Council in the formulation of policy and in the exercise of all powers conferred upon him by this Constitution or by any other law for the time being in force In the islands, except in the exercise of-...".

It goes on to list various instances when the Governor does not consult with the Executive Council. I would like to refer to 7 (1) (c) and note:

> "any power that in his opinion relates to-
>
> (i) defence;
>
> (ii) external affairs;

(iii) internal security;

(iv) the police; or

(v) the appointment (including the appointment on or transfer, appointment on contract and appointment to act in an office) of any person to any public office, the suspension, termination of employment, dismissal, or retirement of any public officer or taking of disciplinary action in respect to any officer, the application to any public officer of the terms or conditions of employment of the public service (including salary scales, allowances, heave, passages or pensions) for which financial provision has been made, or the organisation of the public service to the extent that it does not involve new financial provision:".

It goes on to state;

> "...the Governor shall keep the Executive Council informed of any matters that in his judgment may involve the economic of financial interests of the Cayman Islands...".

I cited that section to attempt to make the point that the powers of the Governor are extremely wide and far-reaching. Over and beyond that, there are also reserve powers. So the post of Governor is very much all-encompassing, and the person in the post of Governor in this territory has wide duties and responsibilities. In other real terms, the Governor is responsible for various departments of Government which have been assigned for administrative purposes to some civil servants who serve and sit on Executive Council, and who also serve as Members in the Legislative Assembly.

I note the fact that the Governor also presides over Executive Council (which is the equivalent of a Cabinet) as the Chairman. Executive Council determines Government business, because from it emanates Bills and legislation, and it is in Executive Council where the Governor agrees with Bills or Legislation or matters which are to be put before the Legislative Assembly. In the Legislative Assembly the Governor then takes up the position and presides as President. Of course, this must be done independently, nonpartisan and impartially over Parliamentary business between the Government with whom he has agreed in Executive Council on matters. The Opposition's voice is not heard until matters come to the floor of this Legislative Assembly for debate. What comes into play is how well can impartiality be expected to prevail vested in the instance of one office. That is one of the matters that I believe is in question here today.

If I may, I would like to refer to a book called *The Commons Under Scrutiny*, and read a section here. It is one of the latest books on matters relating to the Commons, and I would like to read what it says about the place of Speaker. It says:

> "Within the framework agreed by the usual channels (or in the event of their failure to agree laid down by the government), the control of business is largely in the hands of the Speaker and his deputies. Despite the highly party-oriented environment of the Commons, the office of Speaker has retained its aura of impartiality. The Speaker represents the whole House and has a special responsibility to safeguard the interests of minorities within it. Although many Speakers come with a background of non-partisan committee chairmanship, most recent occupants of the Chair (Speakers Morris, Hylton, Foster, Lloyd and Thomas) have had very visible ministerial pedigrees.
>
> When the office of Speaker falls vacant, the choice of successor rests formally with the House as a whole. In practice the Government of the day, in consultation with other parties, has had a large voice in the outcome. However, there were suggestions in the most recent case in 1983 that the voice of Backbenchers was taken rather more into account. Once in office, great responsibility falls on the Speaker for the conduct of business on the floor.".

I read that and note it also speaks on the question of impartiality in performing the duties of Speaker.

The question of the Speaker, and the Governor of the territory performing the duties of Speaker, then comes into question. I believe if the post of Governor and that of Speaker were separated, it would free the holder of the office of Governor to perform the duties and responsibilities of Governor (which are numerous) and it would separate the association of the Governor as Chairman of Executive Council from mitigating or presiding in the normal process of adversarial parliamentary debates.

The question of who should be Speaker has been raised. I note that the Motion does not suggest any names. I do not know if the Mover of this Motion has contacted anyone whom he might have an idea would be interested if they were asked. No names have been suggested, and I believe that is a very important part of this process.

MR. PRESIDENT: May I interrupt and ask... we are just on 4:30 P.M., would you like to finish within a reasonable extension, or how are you placed?

MR. GILBERT A. McLEAN: It might take awhile, Mr. President.

MR. PRESIDENT: I think we should adjourn then.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this Honourable House until 10:00 A.M., Monday morning.

MR. PRESIDENT: The question is that the House stands adjourned until 10:00 A.M., the next following Monday morning? I shall put the question. Those in favour, please say Aye... Those against, No.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until Monday morning.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. MONDAY, 29TH MAY, 1989.

MONDAY
29TH MAY, 1989
10:10 A.M.

MR. PRESIDENT: Prayers by the Honourable Member for Tourism, Aviation and Trade.

PRAYERS

HON. NORMAN W. BODDEN: 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, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess 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 Members of Executive Council and Members of the Legislative Assembly that they may be enabled faithfully to perform the responsible duties of their high office.

All this we ask for Thy great Name's sake, Amen.

Our Father, who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done, in earth as it is in Heaven. Give us this day our daily bread: And forgive us our trespasses, as we forgive them that trespass against us: And lead us not into temptation; but deliver us from evil: For Thine is the Kingdom, the power and the glory, for ever 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 His countenance upon us and give us peace now and always. Amen.

MR. PRESIDENT: Proceedings are resumed. Private Member's Motion No. 10/89 on an Office of Speaker, debate continuing. The Second Elected Member for the Lesser Islands continuing.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 10/89

OFFICE OF SPEAKER

(Continuation of debate thereon)

MR. GILBERT A. McLEAN: Thank you, Mr. President.

When we adjourned on Friday I was debating the matter of the creation of an office of Speaker. Before I proceed further, just to clarify the position and not to give any wrong information, I did comment that the Country was without a Constitution from 1962 until 1972. However, it has been pointed out to me by the Third Elected Member for George Town that this is not quite correct because there was a Constitution, albeit not ratified. The present Constitution which we now operate under came into effect in 1972. I would like to make that point at this time.

Continuing, I was arguing the position that the Governor, presiding at this point in time as President of the Legislative Assembly, fills the roll of Speaker of the House. I noted that one of the elements that seems to be necessary is that impartiality and non-partisanism should prevail. If the Office of Governor was separated from being the President of the Legislative Assembly, it would free the Office of Governor for the other duties which it is called upon to perform. It would also separate the association of the Governor as Chairman of Executive Council, being placed in the position to preside over adversarial debate in the Legislative Assembly.

If there is to be a Speaker in the Legislative Assembly, who that person is would be extremely critical. If that person is biased towards the Government of the day, or biased towards the Opposition Backbenchers, there can be trouble. It is absolutely vital and critical that the person chosen in the appointment of a Speaker is one which both the Government and the Opposition can live with.

I refer once again to what was said when I read from the book, *The Commons Under Scrutiny*, it says:

> "In practice, the Government of the day in consultation with other parties, has had a large voice in the outcome. However, there were suggestions in the most recent

case of 1983, that the voice of Backbenchers was taken rather more into account. It is a position where at any time that such a motion may come to this House, there is bound to be opposing sides.".

Rightfully so, because I personally believe the purpose of democracy can best be served in such an instance. In selecting a person to be Speaker of the House, the Constitution says that person be someone selected by the Governor who is qualified and not disqualified to be a Member of the Legislative Assembly.

I personally would not want to see someone who has, for example, fought a bitter battle in the last Election from the Government side against the Opposition side who would be slated for such a position. Nor, for that matter, would I want to see one who would be clearly biased towards the Backbench Opposition. I feel someone would have to be considered who has a knowledge of Parliamentary procedure and practice and though, while they may have been involved in politics, they are not presently so involved; to neutralise, to as great an extent as possible, the Office of Speaker would have to be one of clear duties and responsibilities prescribed, for which the person would be paid by the Government Treasury.

I would have to be honest and say I have certain reservations when it comes to deciding who would be chosen in such a case. I have fears, because I believe we have some informal Governments in this country, such as the overnight millionaires and the bacon and eggs Government. I definitely have my fears of those entities which I have just termed and it might be possible for someone to be obliquely thrust into the Parliamentary process in this country by default.

I do believe that there are Caymanians in this country who could bring experience and ability to the office of Speaker. In speaking on this particular aspect, I would like to state here that dignity and prestige are the qualities all Members bring to the Legislature. It is not necessarily vested in any particular office of the Legislature.

I also believe it is necessary for the Governor to function best by having contact within the Executive Council in the seat of President of the Legislature. I do not feel there is a lack of communication between the office of Governor, as Governor or as Chairman of Executive Council, which would necessitate the Governor having to sit as President in the Legislature for that reason.

Also, the question that it is uncalled for to discuss the idea of creating an office of Speaker: I think it is time, because it has been 17 years since such a provision has been in the Constitution that it could be done. No one could logically say that in four or 10 years time that is the right time. Where the necessity can be seen, or Members in this Legislature may feel it is time to discuss it, then it is the right time. I do not share the view that it is untimely or this matter should not be discussed. I think it should be.

I also note the point made by the Honourable Member for Health when he said certain confusion occurs in the country when members of the public hear the debates in Parliament broadcast. They tend to feel that a Member may be holding a contrary view to that of the President and the President is being tough, or unreasonable, or reasonable, with the Member and it is a confrontation between a Member of this House and the Governor. In fact, the truth is, that is not so because the Governor is sitting in capacity of President. I have seen it in the newspapers on a number of occasions, where the Governor ruled him out of order. It is not the Governor who rules the person out of order, it is the Governor presiding as President. However, because the public does not understand the difference, it sets up opposition where it is not healthy, or desirable in my opinion, for that position to be given. I believe the media could take steps to be correct in reporting such matters. However, I also take the view that in some instances there may be arguments or disagreements here purely because someone chooses - since it is the only time it is aired on the radio - to have exchanges between the President, who in this case is the Governor, and a Member and the occasion is seized upon to show a disagreement between the Governor and any given Member.

Mr. President, having spoken of the need to carefully choose a Speaker to be appointed to this Legislative Assembly, I believe that such a person should be chosen only after the whole House has had an opportunity to look at a list of names and then short-list them. That list should be made available to the Elected Members of Executive Council who would be requested to pass it on to the Governor for his consideration and possible appointment. I feel it follows the natural sequence. While the Governor, acting at his discretion, may appoint a Speaker as is provided for in the Constitution under section 32 subsection (2), it goes on to say; "Provided that this sub-section shall not come into force until the Legislative Assembly has passed a resolution that there shall be an office of Speaker.".

It was envisaged when this was done that an attempt should be made, as far as possible, to involve all Members of this Legislature. Certainly, if this Motion is to pass in this Legislature, an opportunity would be given to the whole House to look at the list of names and agree. Of course, the final decision would be made by the Governor in an appointment. I believe that is democratic, and what was envisaged when this section was put in with the proviso.

I feel the country is moving along at a terrific physical development rate. The Cayman Islands is not developing its manpower resources in keeping with its physical, financial and economic development. It is absolutely essential that these Islands look to giving the opportunity and experience to its people in filling all posts as time goes by. Not excluded from this is the post of Speaker. I know there will be dissenting views on this and arguments and debates.

I wish to say that I have been elected by the people of the Lesser Islands, Cayman Brac and Little Cayman, and I do not feel for one moment that I am doing any injustice to them when I favour the idea of creating the office of Speaker. I do not feel I was elected being known as someone who agrees with the established order, or as someone who goes along with most anything that is provided. I feel sure my political enemies and others did an excellent job - which worked out to my benefit to show that I was not such a person - and I believed it was on that basis the people of Cayman Brac and Little Cayman elected me. They

believed I would take a stand when there was an opposing view and where I felt it would be something in the best interests of this country.

I think if the Legislature should decide today to create the office of Speaker, it would be a single step in the political developmental process. Thus, I favour the position of creation of an office of Speaker. I believe the time is right - as right as it can be. Democracy will be served. I believe in the political development of the Cayman Islands, is it desirable. I believe it decentralises the position of power from one office and spreads it more evenly. If it were done, it would give a Caymanian the opportunity to experience the appointment of Speaker in the Legislative Assembly. Thus, I believe this Motion is one which would work in the best interests, the development interests, of the country. I favour this Motion.

Thank you, Sir.

MR. PRESIDENT: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Mr. President.

I would like to preface my contribution to this debate by saying that any observations I make are not intended to cast any reflection on the persons who occupy the position of President of this Assembly; nor are they intending to cast any reflection on the present occupant. Rather, I will try to argue that this move is a logical progression of the Development of the Cayman Islands towards a true Parliamentary democracy.

It seems to me that we are confronted with two divergent and distinct arguments: one which is primarily conservative, passive and seeks the retention of the existing state of affairs. There is nothing wrong with this because in a democracy such as we are, we have to respect the points of view of other people. The other argument, however, is one which tries to argue along the lines of a logical, historical precedent to the development of a system which has been good, it has taken us to this point. But a system which can be more effective is taken a step further. Especially as that step has already been laid out in our Constitution for the past 17 years. This, I might add, is the step which I favour. This is the position which I take, so this is the position which I am going to express my bias towards.

I would like to make the observation that there are four developments which fundamentally affect the evolution of our system towards true Parliamentary democracy.

First, I would argue that there is a kind of management of the present system that we have in favour of the Executive branch. I say that because the Executive Council has the advantage when they bring Bills to our House, they already have seven Members who will support them and also by virtue of the fact that the President (Governor) is Chairman of the Executive. There is some advantage to that, which the Backbenchers do not necessarily have when they introduce motions. So that is number one.

It logically follows that when Backbenchers ask certain questions, the Executive Council can justifiably or unjustifiably expect some help from the President, who is another capacity is Chairman of the Executive Council, they may be ruled as not tolerated because they infringe on some boundary which they should not infringe upon. Or it may be in some cases they will cast the Member in an unfavourable light by portraying him as not on top of Portfolio matters. Sometimes that may be the case.

The third point I am concerned about is the advent of the media, especially radio, when the Chair is challenged - and I would like to say the Chair will be challenged because that is a logical and healthy aspect of the democratic process of debate. What is intolerable is when the Member who is challenging the Chair is out of order, or persistent, or goes outside the rules of our Standing Orders. Then it is intolerable. What frequently happens is members of the public, while listening, do not see the President of the Assembly being challenged. Rather they say; 'Roy Bodden challenged the *Governor*, Roy Bodden is out of order'; when, in essence, it is the *Speaker* or the *President* who is being challenged. So that is an ambiguity which exists under the current system which could be better streamlined were we to have a professional Speaker.

The fourth point is that with the growth and sophistication of this country it would seem logical to expect a clearer definition. I suppose the Heads of States and the Governor can only speak for themselves in this capacity, but the advent of a professional Speaker would probably free the Head of State to carry on more important duties. So we should look at it also from that light.

As Harry Belefonte remarked (when someone asked him why he was getting involved in the Civil Rights issue), when future generations say to Roy Bodden; 'You were there, what did you do?' - I want to be able to say that my sense, guided by my conscience as it always is, was in the best interest of the country - not only now, but in a decade or two decades from now. I believe Members would be well advised to consider that.

I would like to take some time to address some concerns which I understood were made by those people who were arguing against the Motion. There was some reference made to the erosion of dignity and prestige. To put it mildly, I believe that was ill advised because dignity and prestige in this Honourable House are carried by every one of us as Members. I do not know about anyone else, but I want to reassure my constituents that when they elected Roy Bodden and Franklin Smith, they elected the quintessential examples of dignity and prestige, as far as Bodden Town is concerned. I have not let them down so far, and I do not think we will let them down in the future. So I do not buy that argument.

The trap door... this provision has been laid out in our Constitution. It is a singular step, one which is expressed, like the Spaniards put it, *punto finale* - it cannot lead to any Constitutional change. There should be no interpretation, nor any perception of this as a threat which will lead to the further evolution of a Constitutional change. That is a paranoia upon which too many politicians prey. I am sure if the founders of this Constitution had deemed it unwise they would have left the provision of a Speaker out as they have left out many other things which could be deemed controversial.

I have always said that our relationship with the metropolitan country is a sensible one. Our people are very sensitive and the vast majority of people to whom I have spoken have sanctioned this Motion and have said it is a step in the right direction. I am not saying that I conducted any empirical survey; I spoke informally to many people across the full spectrum of our society.

Mr. President, I am concerned that if we miss this opportunity, the next time it comes up it may be more emotional, more bitter and a lot more things will have to be said. It strikes me that the creation of an office of Speaker can only enhance the Parliamentary democracy as it has been evolving in the Cayman Islands. I want to suggest that in a country where we talk of not enough Caymanians gaining positions of prominence, we may be missing an opportunity for creating a role and a role model that the rest of us can look to with the respect as we look upon the present office holder.

I cannot miss this opportunity to say that I believe the way in which this debate has been conducted is a compliment. I can think of many countries where debate of an issue as sensitive, nationalistic and deep - the language and the rhetoric would be more powerful. I listened very intently and, being the scholar that I am, I never heard one mention of colonialism. You know, I was saying we are unique because some people would talk about colonialism with all of its incipient nuances, and here we have risen above that. We have risen above emotions and rhetoric. I promise I will not introduce it, Sir. So, maybe I had better get off that subject.

We would like to think that we are serious and while we respect the views of those people who would say it is not the right time, I would like to pose the question: When is it the right time? The obligation of this Honourable House is to look at this Motion without disdain, to look at it without sarcasm and to channel these manifestations towards true Parliamentary democracy.

I was listening very intently to the last speaker, the Second Elected Member for the Lesser Islands, and I concur - I would be prepared to support him, if that is the concern of some Members. The fact that we tried to arrive at some consensus, because we realise that in choosing a professional Speaker (if I may term it that way) we are making a trade-off that we do not need to make now with the Governor sitting in the capacity of President of the Assembly. So, to satisfy or allay the fears of some people, we could try to arrive at a collective input so the submissions we make can be submissions with which a majority of us can live with. Then we will pass them on to the Governor in his capacity to consider and make the final choice. I see nothing wrong with that, if we have to do that.

The four reasons I have given suggest that the main weakness of our system now is that of a structural weakness, and it imperils the organisations and the contributions of those very same people whom it seeks to enfranchise. We could make it stronger; we could make it more effective; we could take it one step closer to the ultimate evolution of true Parliamentary democracy. The time has come to look seriously at the appointment of a Caymanian Speaker for our Assembly.

I will only prolong this Honourable House long enough to say that my motto is: It is fearless, incorruptible and independent; a belief in frankness and voracity; one that will call a spade a spade and make no concessions to likes or dislikes, or spare any man of pity, respect or propriety; one who sets down and says things as they seem. It is a good Motion. I would recommend it to Members to support. If we miss this opportunity, we may be missing a good opportunity.

Thank you kindly.

MR. PRESIDENT: The Honourable Member for Communications and Works.

HON. LINFORD A. PIERSON: Mr. President, I first wish to congratulate the First Elected Member for West Bay for having the courage and the strength of character to bring this Motion to the House, and for the very high standard with which he introduced this Motion. Also, for the very strong and wise support that was given by the Seconder, and the other Members who spoke in favour of this Motion.

I am not going to keep the public guessing as to my position. Some Members, in introducing their debate, will stand and say that we should speak on the Motion and leave it until the last before they state their position. I am not criticising that, but I am a pretty consistent person and I want to thank you at this point, Sir, for allowing the Executive Council and the Elected Members of this House the freedom to vote on this very crucial issue as they see fit - you have waived the section dealing with collective responsibility in section 9 of the Constitution, and for this, Sir, I am most pleased.

Also, before you allowed debate on this Motion you made us quite clear on your position in this matter. I believe this speaks well of our country when we have the person who is filling the Chair of this Assembly stating that if he has to vote on this matter it would not reflect his personal views. You further stated, Sir, that you welcome the opportunity for legislators to discuss this very important question, and that you would accept with equanimity whatever decision the House came to. I think it is very commendable that you have taken this position.

My views and my debate today will, as usual, deal very objectively to the matter I am addressing. It has no reflection on the present holder of the post of President of this Legislative Assembly. It has been my experience that you, Sir, have carried out your post well. I would be somewhat hypocritical if I did not say that there have been times, especially as a Backbencher, when I did not necessarily agree with some of your rulings but, Sir, I must admit at this point that was when you had just filled that Chair.

Whoever we put as Speaker of this Honourable House will have the job of having to learn the Standing Orders of this House and the Parliamentary Procedures that govern this House. Whether that person is the Governor of the Cayman Islands or some other member who may be appointed to fill that Chair, he will have to learn the Standing Orders.

If it had not been a matter of concern over a number of years, Legislators would not have seen fit to have provided in the Constitution some 17 years ago a provision where a Speaker could be appointed. They did that at a time when the development in this country was perhaps 50 per cent of the level it is today. I wish to make it very clear that I, the Second Elected Member for George Town and the Member responsible for Communications, Works and Natural Resources, would not be supporting this Motion if I felt it would endanger this country or our Constitutional position. It will not, even though there have been rumours to the effect this is a possibility. Any Member who stands in this Honourable House and tries to give the impression that the support of this Motion would mean major Constitutional change is misrepresenting this position.

Section 32 of the Constitution reads:

> "(1) At sittings of the Assembly there shall preside-
>
> (a) the Governor; or
>
> (b) at any time when there is a person holding the office of Speaker, the Speaker; or
>
> (c) in the absence of the Governor or, as the case may be, of the Speaker, the senior official member of the Assembly.".

This, of course, is our First Official Member. But, subsection (2) of section 32 is most important. It states: "(2) The Governor, acting in his discretion, may appoint a Speaker of the Legislative Assembly...", this is already provided for in the Constitution and it goes on to say, "...who shall be a person, whether or not a member of the Assembly, who is qualified and not disqualified to be a member of the Assembly: Provided [and this is important] that this sub-section shall not come into force until the Legislative Assembly has passed a resolution that there shall be an office of Speaker.".

Mr. President, there is no basis, no foundation for anyone to spread the rumour, or to get up in this Honourable House and try to give the impression that the passage of this Motion today will end up in major Constitutional changes. This is a position I could not support. My support of this Motion is with the understanding that this would not happen.

Private Member's Motion No. 10/89 reads:

> "WHEREAS section 32 of the Cayman Islands (Constitution) Order 1972 provides that the Governor may in his discretion... appoint a Speaker of this Assembly;
>
> AND WHEREAS it is considered that the business of this Assembly and of the Government has evolved to such an extent as to necessitate the separation of the offices of President of this Assembly and of the Governor;
>
> BE IT THEREFORE RESOLVED that in accordance with section 32 of the Cayman Islands (Constitution) Order, there shall be an Office of Speaker.".

Mr. President, for me to stand in this Honourable House today and not support this Motion would be a vote of no confidence in my people. How can I stand here and say to the listening public, to the people who fill these galleries, and to the generations coming that there is nobody who is capable of sitting as the Speaker of this Legislative Assembly? that we have no Caymanians who are capable of that? That would be a slap in the face of the people of the Cayman Islands to have to accept this.

We have a number of people, and I will not call names - one only has to look around - there are a number of people who are capable of filling this position. We are not here discussing personalities. That is why I said in my opening remarks that I was very pleased with the position the First Elected Member for West Bay took in introducing this Motion at a very high level.

There is no question of an anti-Governor's Motion, or an anti-Expatriat Motion - this is not the position. Where is our national pride? What is our patriotic position? When we say to our people, the very people who had confidence in putting us here, that we have no Caymanian who is capable of sitting in that Chair, I cannot accept this. I cannot be a party to this. I cannot subscribe to this view because there are many Caymanians out there, if they decide that they will fill the position, who are capable of doing it. One only has to go back a number of years and look at the manner in which this country was developed. One only has to look at the leaders of this country, before we had Governors and administrators. What about the people, like Mr. Eddie Parsons and Mr. Albert Panton, who ran this country? I could go on, and on, and on.

What are we saying to our people, Mr. President? Are we saying that we must have an expatriate sitting in that Chair in order for our people in this Assembly to give that person respect? Is that a vote of confidence in the people who put us in this Legislative Assembly? It is not!

I am going to show some references from authorities on the subject of the office of Speaker and of precedence which has been set in small Caribbean territories similar to this one that did not have to accept any major change in their Constitution. The book to which I will refer to is entitled, *The Office of Speaker in the Parliaments of the Commonwealth*. I am not talking about the office of Speaker in the United States or in some other country. My reference will be to Parliaments within the Commonwealth. And it is written by an authority on the subject and supported by Parliamentary stalwarts such as the Rt. Honourable Bernard Weatherill, M.P., and Viscount Tonypandy.

What we are hearing here is an expression of sentiment for the status quo. We are not hearing reasoned debates on this issue. We are not taking into account the Cayman Islands today are perhaps the greatest Islands within the Caribbean, yet we are the most backward when it comes to our nationalistic pride.

What are we saying to our people? I sincerely believe that if we had an appointment of the right person - and there are many out there for that position - that any Member of this House would give due respect to that individual. But the point we are missing is that we are not giving respect to the individual as much as to the position. We should show respect to anybody who is put in that Chair, regardless of whether the President is the Governor of the Cayman Islands or not. Do we want to move forward, or do we want to remain 50 years back when it comes to our Constitution?

What is happening in this country today is not new to Parliament. It is not new to the democratic process. We have precedence. This has happened in every small country with a similar system to the Cayman Islands. It should be that way. Anyone with nationalistic pride will want to see their people in positions of power. This is such a position.

Let me just read an excerpt from the book, *The Office of Speaker in the Parliament of the Commonwealth*. They are speaking of what obtains in the early representative legislature, such as ours. It reads, on page 6:

> "The system, however, was not a success, for although it conceded the principal of popular representation, it did not incorporate the cabinet system. There was no ministerial responsibility to Parliament, and therefore no bridge between the legislature and the executive. Executive authority was concentrated exclusively and absolutely in the hands of the Governor, and as most of the early Colonial Governors were, at best, tactless. [I am sure this does not refer to our present Governor because this was written many years age, so it would not apply to him, but this is a history that we can fall back on]
>
> Early Colonial Governors were, at best, tactless and at worst, tyrannical, colonial grievances multiplied and the elective House of the legislature was permanently at variance with the administration. The colonists became highly resentful of external control, and through their elected representatives they never ceased to press for the right to control their own affairs, while the colonial Governors, pledged to uphold the Royal Prerogative, stubbornly resisted all demands for political reform.".

This is true of many of the colonies (or ex-colonies) of the Mother country. What we are asking for today is no major departure from precedence. We are asking to be allowed to exercise our national prerogative and pride.

There are difficulties, and I am not going to point out any specific difficulties or conflicts I see with the Governor of the Cayman Islands also being the President of this Legislature. One of the problems that I have seen in the past - and I am happy to say this was not during your administration - was that the President of the Legislature also fell back on his position of Governor in determining the procedures to be followed in this House. I have had problems with this, but I will not go into any detail.

What should be the conduct of a Speaker? We are responsible people in this Legislative Assembly. If the people of George Town did not regard me as responsible, they would not have given me 1,523 votes in the recent Election. I need not get up in here and pound my chest and compare my intelligence with other people. I think that is pretty well documented - otherwise I have a lot of other things going against me - but yet, out of a number of people running, I got that number of votes from my people. So they expect a certain level of intelligence from me. I am not going to disappoint them on that. I have tried to exercise this whenever I have a matter before me.

MR. PRESIDENT: Would it be convenient to take a break for you?

HON. LINFORD A. PIERSON: Certainly, Mr. President. Thank you.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 11:15 A.M. THE HOUSE SUSPENDED

THE HOUSE RESUMED AT 12:05 P.M.

MR. PRESIDENT: Proceedings are resumed on the Private Member's Motion No. 10/89. The Honorable Member for Communication and Works, continuing.

HON. LINFORD A. PIERSON: Thank you, Mr. President.

Before the break I had been speaking on the question of the national pride of representatives and the ability of their own people, saying that I would consider it a slap in the face of my people to say no to this Motion. I also made the point that we are not dealing with personalities in this issue. There is no question that any such matter is contemplated by the Mover, the Seconder, or those people who will support this Motion. There is no reflection on the person occupying the Chair. I cannot stress that too much. The

question that lingers in the minds of a number of Members regarding this Motion is the question as to who will fill the Chair, and whether the Members of this Honourable House can trust that person. To me, that is as much a slap in the face to the people of this country as a no confidence vote in a Caymanian to fill this position.

I would not advocate appointing a Member of the House as Speaker of this House. Not because I feel that person could not do a very good job, but being the practical and realistic person that I am, I realise that like other small legislatures there might be a problem with a Member of the Legislature filling the post of Speaker because that Member, at some stage, has to take a party position. This could be particularly sensitive when an Election is coming up. This is the reason why I would not support the appointment of any Member of the House - be that Member an Elected Member or an Official Member. Sometimes in a small community it is difficult to know peoples' political affiliations.

It is against this background why I have spoken to the Mover of this Motion, requesting that he bring an amendment which hopefully will meet with the full support of the Members of this House to alleviate any problems which they may have in their minds on the question of a political appointment. Even though it is quite clear in the Constitution that the Governor acting in his discretion, section 32(2) states: "The Governor acting in his discretion may appoint a Speaker of the Legislative Assembly." It does not read, 'shall appoint a Speaker', it reads, "may". But, I would like to see a safety valve where an amendment is made to the Motion that would suggest such an appointment would be on the recommendation of the Honourable Members of this House. I have mentioned that because the Mover of the Motion will not have the opportunity to bring this until he is winding up, or maybe before if he wishes, and it is with your approval.

The previous speakers in Opposition to this Motion have tried to give the impression that support of this Motion is saying to the United Kingdom Government that we, the people of the Cayman Islands, are interested in Constitutional advancement. Nothing could be farther from the truth. In the same way any other Member of this House wish to see this country continue from strength to strength, those same sentiments are shared by myself.

The fact that I am supporting this Motion should not reflect as if I am pro any major changes in the Constitution. I do not believe any Member supporting this Motion feels that way. We are not asking for this, and this is just a red herring to try a give the listening public the wrong impression. There is no such intention contemplated in this Motion. It is totally beside the point. It is just those people who are afraid of changing the status quo. Whether we are successful in this Motion during the sitting of this House or not, I want to go on record as saying that I trust, if this Motion is defeated in this sitting, it will be successful in some future sitting. Otherwise what will our people have to look forward to in this country?

I am well aware of some of the reasons against this. But, I have not yet heard anything to convince me that this is a bad Motion. What are the qualifications and type of conduct that the Speaker of our Parliament should have? Once elected, if the Speaker was once a Member of this House, he sheds his previous political affiliation and not only becomes totally impartial but is seen to be so. He not only resigns from his group, his team, his party but changes his whole life-style. He must restrict certain things like club memberships, and can no longer allow himself the informal social activities permitted to other Members. He has got to be very careful so no one can accuse him of being biased or of being partisan. To a great extent, he isolates himself from the camaraderie of Parliamentary life, while at the same time remaining accessible to all his colleagues as an ever-sympathetic listener to their problems, personal as well as Parliamentary.

Just so the listening public can understand what we are trying to achieve, I wish to point out some of the other qualities and procedures that a Speaker should follow.

The Speaker presides over debates in the House but does not participate himself. As the First Elected Member for West Bay said in his presentation of this Motion, the Speaker is the servant of the House, not its master. He maintains order and enforces the rules as necessary, interprets Standing Orders and the practice of the House. He deals with points of order and gives rulings when called upon to do so.

I have taken the time to deal with this point because I feel it is most relevant in deciding as to whether or not we should have a Speaker and the type of person who should fill that Honourable Chair. Any person who is chosen by this House, if that Motion and the amendment are agreed upon, or whether or not it was agreed upon, any person chosen as Speaker of this House, I feel would get the full respect of the Members of this Honourable House.

I have seen Caymanians in that Chair before. I have seen the First Official Member there, I have seen the past Chief Secretary fill that position and not once have I seen Members of this Honourable House act disrespectfully towards them. They are Caymanians and no more qualified than a lot of other Caymanians who could fill that position.

As a matter of fact, I feel that a trained lawyer, could be more desirable for the position because that person would not only understand the Standing Orders but could deal with any legal point arising thereunder. The Speaker of the House is equipped with disciplinary powers with which he can call Members to order. He can suspend a sitting in circumstances of grave disorder, he can order a Member to resume his seat or withdraw from the Chamber for the remainder of a day's sitting, or name a Member. The Speaker has wide powers. It does not means that because this post is a very important position that it is too high for one of our people. The Speakers office is akin to a judge. As I said earlier, lawyers have frequently, although not invariably, been selected to fill it.

To support this I wish to point out that of the 24 Speakers in the House of Commons, who by 1983 had held office in that Parliament, all but nine had been lawyers. So I feel that a highly respected lawyer or other person who has good knowledge of the Standing Orders and the Parliamentary Procedure would be suitable for this position. I can think of a number of people that I feel would be admirably suited.

Had it not been for the respect which I feel this House holds for you, Sir, and for which I personally hold for you, I might have been tempted to ask that the President disqualify himself during this debate. But, Sir, you have acted above that. I have no reason to feel that even though this Motion is calling for a change in the person holding that position by calling for appointment of a Speaker, a Caymanian person, that there will be any problem from the Chair in this respect.

Mr. President, provision has been made in our Constitution since as far back as 1972, to allow Members of this Honourable House to exercise the will of the people without a referendum. This section has been enshrined in our democratic process for 17 to 18 years. It is not a new matter we want to raise in this Assembly. It has been raised here before and defeated. But this is no insult for the Members supporting the Motion to feel ashamed of - to the contrary. I feel every pride, win or loss, to be supporting this Motion because I am convinced that it is good for this country. Not like some people would have you believe, that to have one of our own people sit in that Chair will mean doom and destruction for the Cayman Islands. What a low opinion to hold of our people. They do not speak very highly.

I just wonder what those same people, who echo those sentiments will tell the generations to come in this country? I cannot stress this too clearly. Where I am concerned, and I am sure I speak for previous speakers in support of this Motion, is that this Motion is not an anti-expatriat Motion. It is not made with the view to take this country into any major Constitutional changes. This is not correct. This is the rumour which is being circulated out there. What they have not told the people of this country by clouding the issue, by trying to tell the people the support of this Motion will mean this country will be taken into independence. This is a lot of rubbish.

Each Member of the House has a right to express his opinion. I am not here to tear up any Member for not agreeing with me. He has a right and this is why I am happy that you, Sir, have given that right, even to Elected Members of Executive Council so that we are free to speak on this Motion. We are free to vote as we please. In my opinion, a vote against this Motion is a vote of no confidence in our people.

The question is: Who will we find to fill the position? That is not important at this point in time. It is totally irrelevant at this time. Regardless of who we decide at this point should be the Speaker of this House, we, the Members of this Honourable House have no authority to make a selection. All we can do at this time is exactly what we are doing - we can bring a resolution to this House, so the appointment of a Speaker can be possible.

The appointment itself is with the Governor in his discretion. It does not say he shall or that he must make such an appointment. The section of the Constitution, section 32(2), states he 'may' make such an appointment. In addition to this, I understand the Mover of this Motion is asking the Governor to listen to the recommendation made by the whole House, so no Member of this House can say it is a political appointment. They will have the opportunity of casting their ballot or voting for an individual if the Motion is successful, or the amendment to the Motion is successful.

If this is the fear of the Members of this House, that a political appointment may be made, I feel that such a fear is misplaced. I will go as far as to say that there are a number of people in opposition to this Government sitting on the Backbench that I would have no fear of, if the appointment was made from this House for them to sit as Speaker. I feel they are honourable men who would divorce themselves from any party affiliation or any partisan views.

As I said earlier, there is a problem with appointing an Elected Member to that position in a small territory. This is why I would move to the position that such an appointment should be other than a Member of the House. Do we have any precedent for the Speakership of the smaller nations of the Commonwealth? The answer is a resounding yes. On the question of whether a Speaker should be made appointed from the House or from the outside. There are a number of countries who have appointed Speakers from outside the Elected Membership of the House, as well as a number who have made the appointment from within the Elected Membership, within the Caribbean and some of the smaller Commonwealth nations.

In support of my position, as to whether or not an appointment should be made from within the House and in support of my view of the appointment should be made from outside of the House, I would read, also a section from *The Office of Speaker in the Parliaments of the Commonwealth*, dealing with the appointment outside Parliament. It reads, in chapter 10, pages 236 and 237:

> "The option, this is just a few examples of selecting a Speaker from inside or outside parliament, is provided in the Constitution of a number of British Commonwealth countries, such as Malta, Trinidad and Tobago, Guyana, Dominica, St. Lucia, St. Vincent, Belize and the Cook Islands. There is also the other side where the appointment is made from within parliament. Examples of countries close to us would be Jamaica, Barbados, Bahamas, Fiji, Papua New Guinea, Western Samoa, and so on.".

I am highlighting that it depends on the country involved as to exactly what they want. If we want an appointment from within our Parliament, this is possible. We can see from the names that I have read out the smaller countries tend to make the appointments from outside their parliaments because of the possible political conflicts.

There are various reasons why the Speakers in the Parliaments in small countries find it difficult to detach themselves from party politics. Reasons such as they are usually closely committed to the governing party and the Speakership is likely to be regarded as a prize for the victors.

We recognise there are some problems. We do not have to be told by anybody whether there are inherent problems. We are intelligent enough to know this. The problems we have in this country are there are those who feel the people of this country are less intelligent than some of those we welcome to stay in this country. Some of the dangers of a political appointment to this post in a small country, a small Assembly where the Government has a narrow majority, the latter may find itself dependent on the Speakers casting vote. This is one of the problems.

So, in debating this Motion I do not want to give the impression to the listening public that we are not aware of some of the pitfalls if we were to appoint a political individual. This is reason why I feel that as honourable as the Members of this House are, for those reasons stated I could not support a Member of the House unless that Member was willing to totally and unequivocally separate himself from any partisans affiliation.

I can live with myself in supporting this Motion. The constitution of some countries impose duties upon the Speaker which require him to rise above his political associations. There in no reason why this could not be done here. For example, in the Solomon Islands, Vanuatu, Dominica and other areas the Speaker acts for the Head of State, in the absence or incapacity of that individual. This person must be of very high standing, so there is no question that Members of this Honourable House would just put somebody in there because it is felt that individual supported him in the Election. This is misinformation that should cease at this point. This is wrong to try and give this impression.

I have doubts (because this seems to be the major concern of those who have spoken against this Motion) that the Government would get together and appoint a political person. I wish to make it quite clear that I would not be party to that. I want to see somebody placed who is Caymanian, but who is totally unbiased and independent from any partisan restrictions or affiliations. My position on this is because of my pride in the people of this country, and because I feel the people elected us here to represent them and to make them feel proud of us. The children and generations to come need the commitment from their leaders so they can have something to look forward to in the future.

When we stand in this House and tell them there is nobody past, present or future who is Caymanian, that can fill that position because of the danger of placing the country in jeopardy with the Mother Country, then I say this is not stating the position correctly. To give the impression the supporters of this Motion are anti-Mother country is not only mischievous but is misstating the position.

It was not my intention to make references to points raised by other Members, but I believe this question is so fundamental to this Motion that certain points need to be clarified. The Third Elected Member For George Town raised the point of possible advancement in the Constitution if this Motion is approved. I have a lot of respect for the Member. I think this is well known. I respect the Member but I cannot agree with him. He has his role to play as an opposition Backbencher. I have mine.

The Motion we have before us will not have the effect of causing any major change in the Constitution. It has been ingrained and enshrined in our Constitution for almost 18 years. It is not a new position this country is taking. Whether we, the conservatives in this Assembly or whatever we want to call ourselves. Some Members refer to themselves as conservatives.

Whether we like it or not, this country will have to advance with the changing times. We cannot expect our Constitution and the development in our country, publicly can continue to lag. For years, decades behind our physical and economic development.

Again, for those who will speak after me, let me make it abundantly clear that I am not advocating any major change in Constitution because I no some Members will jump on that. I want to make that quite clear, because nobody is going to use that against me politically. If anybody tries in or out of this House, I think my record shows that I can defend myself. The appointment of a Speaker to this House is the logical extension to our physical and economic development. We have to move with the times. We are safe to say let the status quo remain. We are saying to our people you are not good enough. In my opinion, the passing of this Motion today would be a step in the right direction. It would not reflect badly on this House because I firmly believe the people of this country would be proud of us if we say to them, yes, we have Caymanians that we feel are not only available but capable of filling this position.

Mr. President, a vote against it is a vote of no confidence in our people. We talk about respecting the Chair. I think it is true that 95 to 98 percent, maybe more of the times we sit in here that Chair receives 100 per cent respect. Even in the minority cases or 2 or 3 per cent of times that it may appear to the public the Chair is not being respected, it is many times because Members feel very strongly that a particular point might need to be clarified. This is the democratic right of the people of this House. This is their responsibility. There is no disrespect if the President makes a ruling and it is question. There is no disrespect in that. This is a part of the democratic process. No Speaker should feel that it is disrespectful if his ruling is questioned in a proper manner.

I am going to summarise before closing. In summary, the major point of my debate are as follows: The national pride of the people of the Cayman Islands is at stake. Are we saying to our people that we do not think enough of them to put them in a position of power in this House? Is this the question that we are asking them? Or is this the statement we are making by not supporting this Motion. No matter what anybody says about this Motion being the first step toward other things to come, I am still waiting to see any Elijah's in this House that can predict the future. Nobody can read the minds of the people speaking in this House. You have to listen to the debate and on the basis of what is said, make your comments.

The next point I want to make is that there are Caymanians who are available, willing and capable of filling that position. I trust we will get away from our past partisan views and well thinking on this matter. Let us put the country first and forget about our own political futures, at this point in time. Some of us do not want to support it because they are afraid that their constituents will not support them if

they plan to run again because it may appear to them they are advocating some change in the Constitution.

Let me make it quite clear, again, that a vote for this Motion is no indication that any of the speakers supporting this Motion would be in the least bit interested in any major changes. We are only asking that our people be recognised and given the opportunity for which they are qualified. The common feeling is that Caymanians are not capable of these positions. You bring somebody from Cayman Brac or Little Cayman and as long as they are flying into Grand Cayman from abroad, they are immediately put in the category of experts. But our own local people are not given the recognition they should be given.

My other position is that the present situation creates a potential conflict within the whole parliamentary structure. As I said earlier, I will not go into any depth on that statement, but I think it has been raised in this House that there are potential conflicts when the Governor also sits as the President of the House, as the Chairman of Executive Council. I am not advocating any change where Executive Council is concerned.

The people should understand that if a speaker was appointed to this House, the Governor, who is the Queen's representative, would still be expected and entitled to his ceremonial duties as the Queen's representative. I want the opponents of this Motion to explain to me why is it, the Queen, herself, does not get involved in political matters. If she does not, why should her representative be exposed to this situation?

In closing, I would ask the Members of this Honourable House to give very serious consideration to this Motion and what it is trying to achieve. Not only for Members of this House but for the generations to come. I also want to make it quite clear that I have refrained consciously from dealing with some of the debates which were raised by previous speakers because I recognise this Motion is one which every Elected Member of this House should have the opportunity to debate as he sees fit.

This is why I was very pleased for the opportunity to express my personal views. I would ask each Member of this House to give this Motion their full support. Even if this Motion is lost today, it will not reflect badly on the people supporting it because I feel the generations to come will be grateful they had representatives that had the strength of character to speak up in their favour.

Thank you, Mr. President.

MR. PRESIDENT: Proceedings are suspended until 2:25 P.M.

AT 12:55 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:30 P.M.

MR. PRESIDENT: Proceedings of the House are resumed.

Continuation of the debate on Private Member's Motion no. 10/89, Office of Speaker. Does any Member wish to speak? The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, President.

I rise to voice my opposition to Private Member's Motion No. 10/89, entitled Office of Speaker. I consider myself a very progressive minded individual. I will support anything that I feel is good, even though it means change. But, honestly speaking, I cannot see how this is going to benefit the people of these Islands in any way or the Members of the Legislative Assembly other than the Government of the day since, in essence, it is my opinion this will boil down to be nothing other than a political appointment.

As part of the Opposition I cannot support any moves or measures that are going to make my job in here that much more difficult. I think it is difficult enough as it is. There are some questions that have to be asked and we need some answers.

First of all, the Speaker would only be required to be present in this Legislative Assembly when we are in Session, and unless the present policy changes (we only sit four times a year) I feel this is going to be a very expensive investment as far as our people are concerned, taking into consideration the number of times he will be required to serve in his capacity. Any person who is selected to be a Speaker would have to be someone who is highly respected and qualified. I do not think we would consider paying that particular individual any less than we presently pay our Members of Executive Council, which is a substantial amount of money. When you compare Executive Council's responsibility to that of a Speaker, I think Executive Council would be short changed in this process.

I heard many arguments about the present arrangement we have. I personally feel these arguments are not correct as far as I am concerned. To the contrary, I support the present arrangement. The Governor who presently serves as President of the House, first of all, is not a political appointment, so there is a greater possibility the Governor serving in the capacity as President would maintain a neutral position, while serving in that capacity.

I personally think it is an advantage that a Governor who also serves as President of the House is a Member of Executive Council, because he is informed as to what is going on a daily basis and what is involved in the day to day running of this country. While serving as President of the House, it gives him the opportunity to keep abreast of what is going on in the Legislative Assembly.

I heard arguments and statements trying to invoke a feeling of nationalism. I do not regard anyone who opposes this position to be unpatriotic. I do not think that has anything to do with it. I can assure all Members here that I am as interested in seeing Caymanians promoted and pushed forward as much as anyone. That was one of the issues upon which I was elected on November 16th in my district of West Bay. If people have the confidence in me, I will see to it that the interests of Caymanians are protected.

I do not see the appointment of a Speaker as a progressive step in the right direction. Maybe there is something I am missing. I think, right now the system we have in place and which has been in place since the Constitution was implemented in 1972 has worked well and will continue to work if we allow it to.

If the argument to appoint a Speaker is to have someone sitting in that Chair that is impartial, I think that is totally unrealistic. To believe because we vote here to appoint a Speaker, we are going to find somebody who is going to be totally objective. As I said, in essence, I cannot see yourself, Mr. President, or any other Governor making a decision in regards to appointing a Speaker without some input or consultation with Members of Executive Council. So if the argument for us to have a Speaker in order to have somebody that is impartial. I do not buy it.

Politics have come a long way in this country. I only entered the arena last year, but the conclusion I came to is even though we do not have a party system, our people are divided right down the middle. If I were a Member of Executive Council, and a decision like this was going to be taken, I would want to ensure that whoever is appointed is somebody that would look favourably with regard to my government. I do not expect Members of Executive Council to take any other position. Any of those who say otherwise, I am not sure they are being very truthful or honest.

There is a saying, 'To the victor goes the spoil', including the appointment of a Speaker to this House. I do not see how this is going to advance or promote the interests of Caymanians. The reason I am opposing this is not because I feel there are no Caymanians out there who are qualified or capable of filling this position. To the contrary. I could think of a dozen, off hand, that I would be very comfortable in regard to their qualifications to hold the position. That had not even entered my mind in opposing this Motion. I think we have some very capable Caymanians and Caymanians have proven over the years that given the chance they can hold their own with anyone. It has been mentioned by previous speakers that we have had Caymanians who, on occasion have sat in the position of President of the House and they have done a very capable job. I think the argument that we cannot find a local, qualified Caymanian is unfounded.

I am not going to belabour the point. I feel very strongly about the present position I am taking. I cannot see this step as a positive one. Maybe 10 years down the road if I am still a Member of this House I may be convinced of the argument. At the present time I am not. Taking into consideration what we will have to commit our country financially to make this appointment effective, is not justified. The mere fact we are dealing with limited resources, we, as legislators must be cognisant of how we spend public funds. So, when the vote is taken on this issue, I will be opposing it.

Thank you, Sir.

MR. PRESIDENT: The Honourable Member for Tourism.

HON. NORMAN W. BODDEN: Mr. President, I attach a great deal of value and importance to Parliamentary democracy. I am happy that I still live in a free country where every person is entitled to express his or her opinion with the required degree of responsibility.

In rising to speak to Private Member's Motion No. 10/89, calling for the appointment of a Speaker of the House, I am reminded of the quotation which I believe goes something like this: "I may disagree with what you say, but I will defend to the death your right to say it." I too, am pleased it has been possible for me, as an Executive Council Member, to be released on this occasion from collective responsibility so that I may speak my mind and vote according to the dictates of my own conscience on this important matter.

While I highly respect the rights of others, I also zealously guard my own. Here, I would like to state briefly and, hopefully, candidly and clearly my position on this matter to which I have given serious thought. I must say that I have been very pleased with the presentation of this Motion and the debates, so far, have been conducted to a very high standard which is becoming this House and our country. This is commendable for surely personality must play no part in the final decision on this Motion. I do not think this was ever the intention of the Mover or any Member contributing to this debate and it is certainly not my intention.

Mr. President, when a similar Motion to this was brought to this Legislative Assembly some years ago, I opposed it then and I like wise, oppose it today. Nothing has happened since that time nor during the debate this time which has caused me to change my mind. I do not happen to share the view that the business of this Assembly and of the Government has evolved to such an extent as to necessitate the separation of the offices of President of the Assembly and of the Governor. I believe that with due respect to all concerned, it will take a stronger argument to convince me the time has come for this long standing practice to be discontinued.

As I understand it, under section 32 of our Constitution, it is the Governor acting in his capacity as the Governor of the country, who in his discretion may appoint a Speaker, once the Assembly passes a resolution. It is therefore obvious to me that the architects of our Constitutions intended that the proceedings of the Legislative Assembly would be presided over by either the Governor himself or someone who is acceptable to him as Speaker.

The role of the Governor in any process of change in this regard is likewise abundantly clear. If a Speaker were to be appointed who proved to be unsuitable, how would he or she be removed and replaced? Although the Constitution is silent on this, it once again apparently be the Governor who would decide in the final analysis on the new Speakers replacement. I imagine the power to appoint also conveys the power to disappoint.

So the fact is, the final authority rests with the Governor of these Islands under our carefully crafted Constitution. I, of course, accept that in time to come there are bound to be

certain changes that may be considered necessary. As far as I am concerned these could relate mainly to Portfolio operations and change of Title items. But, until a proper review is made and the input of the people of this country taken into consideration, I am not at this time prepared to support what I consider can be interpreted by some sectors or in some circles as a chiseling away in a piece meal fashion at the Constitution of the Cayman Islands.

My information differs somewhat from what other Members who have spoken before me and who support this Motion state. I have personally, up until yesterday, received telephone calls from several concerned citizens of this country who have let me know they do not support the change this Motion is calling for. This has not come from only people from George Town, but I have had calls from other districts as well.

Additionally, we must bear in mind that watchers of the Cayman scene at International levels who hold many interests in our country, they read the fine print too. The Cayman Islands being geographically located in an area where unrest can change things overnight, we have to approach changes in this and any other areas with considerable care and caution.

The Speaker of the Legislative Assembly is a serious and responsible position. The good conduct of it reflects the stability and Parliamentary style of these Islands. It is undoubtedly a demanding and trying task, as well as an unpopular position to be in. It is almost as bad as being a politician in the Cayman Islands.

I have had the privilege, or should I say the experience of being a Member of the Legislative Assembly where three different Governors have served as Speaker. I have also sat on both sides of this Honourable House and I have witnessed developments which have produced accusations of every kind and class. That rulings from the Chair are unfair and biased, the President is protecting the Government Bench, and depriving the rights of the minority to be heard and so on and so forth.

I, too, on occasions, have held different views as to the Chairs interpretation of certain Standing Orders. But, I realise the person presiding over the Legislative Assembly is only a human being, subject to mistakes, errors and omittance. Whether he is the Governor of the Cayman Islands or someone else. Whether he is Caymanian or expatriate.

I realise that this is certainly a condition we will have to reckon with, regardless of who sits in the Speakers Chair. It could be a case where Standing Orders should be changed. The elimination of ambiguously stated Standing Orders and clarification of others could make life easier for any Speaker, regardless of who he or she may be.

Now, a great deal has been said on this. I would certainly hate to be misunderstood because I am as Caymanian as breadfruit and fish and stew dinner, so do not tell me that I am not concerned about what happens to this Country and that Caymanians are in control in certain positions. I am as much so, as any Member in or out of this House. There is absolutely no doubt in my mind that we have in this Country several capable, experienced and highly qualified Caymanians who could fill the responsible position of Speaker of our Legislative Assembly.

But as I have said before, this is certainly not a popular position. To my mind, the person who fills it must be accepted as a totally impartial individual, free from political ambition, or I am almost certain that he or she will be very quickly accused of using their position to win the next Election for themselves or to, at least, help some of their friends win it. That element and degree of political independence concerns me. Finding such a person who would agree to serve, who is acceptable to the Governor, who will satisfy all Members and with whom all Members would fully cooperate is actually what I see as a difficult, if not impossible job.

This is a small, closely knit and interrelated community. While we may all have a fair knowledge and some idea of the ability and experience of each other, we are surely aware of our dispositions and temperaments. So, Mr. President, what concerns me today is not the lack of ability, but rather acceptability is what concerns me. I do not believe that this will enhance the image and improve the dignity of the House. The change being sought here can provide no guarantee that the situation can be better than the present. I am not convinced that this move will be in the better interests of the Cayman Islands at the present time. Therefore, my position is that the status quo be maintained.

I do not relish disagreeing with my valued colleagues and seldom do so, but as I have heard so much in this particular meeting about the democratic system of which we, thank God, are still a part. I do not support Motion No. 10/89 and will vote against it when the time comes.

Thank you.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I rise to speak on Private Member's Motion No. 10/89, for an office of Speaker.

Our present Constitution was given in 1972 and in section 32 there are provisions for the Office of Speaker. This office is considered as very important as it will be the office that our Parliament is directed from and presided over. Therefore, I must say this appointment cannot be taken lightly.

I feel, taking into consideration the importance of this very high office, every caution should be exercised when we are making the appointment. I would like to remind the listening public, as well as other Members, we are still a very small territory. Much has been said in this debate and other debates to our present position in the Constitution, and otherwise, versus many other smaller Islands.

I would like to add that I would not like to see these beautiful Islands follow the trend of many such Islands. Yes, they do have much more than we do as far as Speaker of the House and advancement in the Constitution, but have we asked ourselves what else do they have. I have said in

many contributions to Budget Address and Throne Speeches that our Islands happen to be the envy of the Caribbean and indeed, the world.

Speaking for myself, I am aware of the Standing Orders we have to work by. I have tried to operate within the realms of the Standing Orders, the rules and guidelines for procedure within this Legislative Assembly at all times over my 13 years in this Honourable House. I am not here to say that on occasions the present Presiding Officer or the past ones may not have had to rule against the point I was putting across, but at all times I have respected, not the individual in Chair as much as the post.

If we are thinking the day to day problems we may come across when we are in session will be brought to an end by appointing this Office of Speaker. I do not see it this way. I think somebody referred to the Governor sitting in the House as bringing dignity to the Assembly. I believe that between the Members and who ever sits in that seat, is where the dignity should come from. It cannot come from one side. It must come from all of us working together for the same cause.

The question has arisen in the debate concerning who may occupy the office of Speaker, should the Motion be passed. Of course, various suggestions have been made as to how the individual should be chosen. I see no subsections in the Constitution or Standing Orders. As I read section 32(2), it states: "The Governor, acting in his discretion, may appoint a Speaker of the Legislative Assembly, who is qualified and not disqualified to be a member of the Assembly:". I cannot see, even with the circulated amendment to the Motion, how we can change what is laid down for us in the Constitution.

My record in this Legislative Assembly will prove that I have always tried in every way possible to uplift my Caymanians. I have always tried for their promotion, and my stand against this Motion is in no way (as has been suggested by previous speakers) a slap in the face for Caymanians. There is no doubt in my mind there are Caymanians capable of and those who would be willing to do the job of Speaker of this House. I know we have them. My question at this time is: Why the urgency? Why the desperation to get this Motion through? I cannot see, as has been suggested, if we do not do it at this time, we will lose our chance of doing a good thing. I believe that as it has been brought now, it could have been brought at a later date. It would have done the same job.

I believe these Islands have come a long way. The past Caymanians who have contributed to the well-being these Islands speaks for itself, as to what a Caymanian can do. So, I think it is unfair for anybody who is in support of this Motion to use this to say those who are not supporting the Motion is really not thinking well of their fellow Caymanians.

I have been very pleased on different occasions during my 13 years when I have seen a Caymanian sitting in that seat and who has done a wonderful job. I ask myself at this time is what will happen six months down the line, should we go ahead and appoint a Speaker of this Legislative Assembly? What will happen if that individual finds he or she is in a position where they have to make a ruling? I am certain this will not be met by favour of all and of course, we will end up with some who will feel a bit upset. We are all human. But will that give us the right, at that time to decide the individual should be removed?

I know my stand on this and as with many other issues, I am certain the pulse of the public has been tested. I know in my case, many called and said they support it, but I would say that, by far, there have been many more who have called and aired their feelings of non-support to the present Motion before the House. I could go on and on about this Motion, but I do not see it as being necessary because I would be repeating what has been said by previous speakers.

I think I have made my case on this. I respect the views of each Member regardless of whether they are for or against the Motion and I would hope and trust that all Members take this stand. We are put in here by the various districts and we have a job to do. We have to use our better judgement and not because we may differ on a certain issue, that we should resort to personalities.

Thank you, Mr. President.

MR. PRESIDENT: Does any other Member wish to speak? (pause) In that case, would the Mover wish to exercise his right to reply? The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Mr. President.

I certainly have a lot to reply to, and I intend to do just that.

This Motion has taken quite a lot of debate. There has been a lot of talk for and against. I would say those Members speaking in support of an independent Speaker for this Legislature know what we are talking about, and know what we are dealing with. Those speaking against and in favour of keeping the status quo have not the slightest idea of what we are dealing with. I am surprised that some Members have so misconceived the purpose of the occasion, the intention of the debate and the importance of the what is before us for consideration. Before I deal with other Members, I will deal briefly with the few remarks which were made by the Third Member for West Bay.

He talked about cost. To that I can only say that I doubt any Speaker in this Legislative Assembly would need to be full time but, certainly, we would have to pay him whether at Executive Council salary level or at Member's level. Of course, the Member opposed the salary but he is getting the same salary as those. He could be at either one.

The most important aspect of his debate was about how if he was in Executive Council he would appoint someone who would be partial to him. I had to think about what he said. It certainly has been made clear to me that, indeed, some of those are voting against the resolution because they say they will not have an input into who is appointed. How sad. Some of those same Members say they want Caymanians in important positions. In my thinking what they are saying is that if they are not involved in when, how and where a Caymanian is to get a position, then the Caymanians should not get it. I say how sad, because it goes

to show that if they were in that position, and they did not want a certain Caymanian to get the position, then the poor Caymanian would not get the position, even though he might be qualified. That is what they are saying. Anyway, the other remark he made (this is the last one), was that maybe he is missing something. Well my answer to him is that is quite obvious. [Members' laughter]

Another Member said in his debate that the Motion was premature and the Governor brought prestige and dignity to the House. Well, I pose the question to him (and to any Member): When would it be a good time to bring such a resolution? When? We brought one here some two years ago. It was the same excuse then. I believe some benighted souls will be using the same excuse 25 years from now if we allow them to.

It is all about *who* appoints. You see, that is the whole story. The excuse of prematurity was pitiful enough, but the most ludicrous of all (and I stress ludicrous) is the other idea that we must not get an independent Speaker because the Governor gives us prestige and dignity. What an attitude! Is it any wonder that so many Caymanians are being kept down in so many areas when we have that kind of backward thinking? Surely, those Members are saying that any Caymanian whom we foresee in the Chair would be so poor, so shoddy and inept that this august House would immediately fall into great disrepute. That kind of thinking is as far away from reality as east is from west.

I challenge them on that because today there are so many decent Caymanians - blue-blooded, if you want - who could add a great deal of prestige to this Honourable House, if that is what Members want. I thought Members of this House in themselves gave it the decorum and prestige that has made the House what it is today - not the office of Governor, it has nothing to do with it. I do not know what got into the Member, my good friend from Cayman Brac. It must have been that Disraeli thing - filled with the exuberance of his own verbosity. That same Member said there are far more important matters that we should be dealing with. I agree there are other matters. Why does he not raise them? He is a Member, just as I am, who can raise motions under the Standing Orders. This Member cannot be accused of not raising important matters. No matter how controversial and no matter how often I and the President of this Legislature are caught in jangle sometimes. What he needs to do is give the unqualified support that is needed to pass the issues of the day, rather than trying to lobby and play games. I do not play games, you know. If that is what some Members believe I think they are going to have to go through four years to understand that again.

There were all sorts of things. Some people said they were not a nationalistic person, but a patriotic person. Well, I do not see how the two could be split. I do not see. My dictionary tells me that a nationalistic person is a person devoted to his country's interest; it tells me a patriot is one faithful to his country. So I do not see how one could be a nationalist without being a patriot - it cannot be separated. But I must ask where is that nationalism and where is that patriotism? It must be displayed and this is one instance where it can be.

With that said, the question of the importance of an independent Speaker should be paramount in Members' minds, seeing as we are a developing country and a territory of the United Kingdom, the single most Colonial power in the world. In getting into dealing with this area (which should not have arisen in the debate) I will reply to the remarks as made by the Third Member for George Town, who also raised the matter of the importance of the subject. He went to great lengths imputing that to appoint a Speaker would mean we are advancing Constitutionally. Other Members tried to do the same thing. They joined in with him.

I said the United Kingdom is the single most Colonial power in the world and we need to be aware of it. One might ask: Where does the Speaker come into question here? One of the most important qualities of Parliament and Parliamentary democracy is its endurance and its ability to generate confidence amongst the people. Confidence is generated among the people if they see their representatives, at all times, being able to function properly in Parliament and working together to achieve a common aim.

The Governor is a part of that Colonial power I spoke about. He is also a part of the Executive Council here, responsible for many important departments. There is the rub. Members should accept it. I certainly know they see it. The Governor in the past has protected those Departments from full scrutiny, even if a Member is dissatisfied with performance or treatment of certain matters.

The same Member for George Town raised the matter about conflict. They all tie in together. When a Member raises a matter here - and I will use this example as I did in the Budget and Throne Speech debate about British aid, about our inflated per capita income and the inability of the police to stop the inflow of cocaine and Britain's refusal to help with helicopters or large sea-going vessels to enable us to combat the problem - the Presiding Officer quickly interrupts. There were a lot of people who said: "Well, where was the impartiality?" That is where the confidence of the people in their Parliament would be eroded. Once the confidence of the people in us is gone, Parliamentary democracy is headed for disintegration. So do not tell me there is no danger in today's Cayman for the Governor to remain in the Chair. Justice must not only be done, but it must be seen to be done.

Now, Sir, the debate of the Member for George Town hinged around the issue of advancement of the Constitution. First of all, it is utter rubbish for any Member to say this resolution is a quiet move to advance our Constitution. It is utter rubbish. In fact, it is a grave distortion of the truth. I really object to any suggestion and imputation that we are here doing any kind of back door change. If this Member wanted to talk about an examination of the Constitution... if I believe there needs to be, I will make a motion saying that. I do not hedge my bets. I am not a person to do one thing and mean another. I am forthright and outspoken and, thank God, the people of these Islands know that, even if they judge me wrong sometimes. So this rubbish about trap doors... There were many trap doors and some people fell through them and they cannot get back out. This is no advancing the Constitution. It is but a brave move to invoke section 32; it is but a

progressive move to reinforce the impartiality of the Chair.

The same Member said he did not see the possible conflict of the Governor's office and the office of President. Let me remind him and other Members of one such occasion - and this is a touchy area but I will raise it as I have done in the past. All of us remember the matter of the Government House move. All of us remember that! Every one of us was talked to within the precincts of this Legislature, and when the matter could not be resolved to anyone's satisfaction - not to us on this side, I am talking about Government - a press release was made and what evolved from that press release was that it made us, the entire House, look like we were instigating the move. Maybe some Member will tell me where I am wrong, but in my opinion that action, because it took place within the precincts of this Legislative Assembly, breaks down the impartiality or the independence of the Chair.

Maybe I am wrong here too, but another such occasion happened the other day in the House. A question was raised about a matter which involved Government House. If you listen to the tape you will see what I am talking about. Supplementaries were cut short and I was snapped at. To put it kindly, Mr. President, there appears to be conflict, and that is what I maintain is wrong. If that perception exists and grows it will not auger well for a free and unbiased Legislature. We must put an independent Speaker in this Legislative Assembly who will have no one to answer to except the Standing Orders and the will of this House. There is conflict. There is no doubt about it. If the presiding Officer is to carry out the role for which he is responsible in this House, it is essential he be recognised by all of us as a person above partisan feelings.

In my opinion this section 32 of our present Constitution is a retrograde step anyway, because at least in the Constitution before this one we had a Deputy - a Deputy Speaker or a Deputy Chairman or a President - in the person of Mr. Spurgen Ebanks, a Caymanian. So we have gone backwards, there is no doubt about it. The backwardness is causing conflict and it will continue to cause conflict.

Now the other point that was raised by several Members is that the appointment of a Speaker is going to cause concern in the financial sector. It must be brushed aside as foolish rhetoric. Thank God Caymanian people are more aware of what is happening, they listen and can add two and two. That sort of rubbish has fallen by the wayside. I have personally checked with some of the more important people in the financial sector, and I must say they feel the way we do, some of them. Actually, what was said to me was this: If the Governor continues in the Chair and is seen to be constantly in conflict with Members about things like police and Government House and these things, they are afraid it will come to a point where people will not have the confidence in the Governor and ask for more direct changes. I mean people in the country. This is where the finance sector might suffer.

The putting into effect of this section of our Constitution will not detract one iota from these Islands. It will not detract one bit from any business venture in this country. They are trying to scare people, and they have been doing it all along since this House resumed on the 22nd. This resolution cannot take away one thing from the financial sector in these Islands. I object strongly to those imputations. I am as responsible, and more responsible than some Members of this House. But there is a price to pay for those scare tactics. Whether some Members believe it or not we can reach the point where, as the result of excessive and extravagant, exaggerated criticism, the people will no longer believe in representative government. That is the situation which is entirely dangerous.

In my opinion leadership in a democracy must have a corporate sense of responsibility for the guidance and education of the electorate. But when we hear Members getting up in this House and going off the deep end about the finance sector suffering from appointing a Speaker, we have to wonder whether some of our people can actually benefit. If the electorate is not informed, and informed truthfully, there is no basis in which to make an intelligent judgment.

Political behaviour in my belief, and from what I have seen around the world, becomes irrational, erratic and irresponsible and the democratic system breaks down. They must stop telling this foolishness. Let us educate the people. Do not lead them backwards. Le us be a leader, not a follower.

Above all Members, the Third Elected Member for George Town should understand that the first rule of democratic government is a rule of law. I am sure he understands that phrase. And the first duty of the citizen is to respect it.

MR. PRESIDENT: Perhaps we could take the tea break? Proceedings are suspended for 15 minutes.

AT 3:35 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:56 P.M.

MR. PRESIDENT: Proceedings of the House are resumed.

Private Member's Motion No. 10/89, the First Elected Member for West Bay, continuing.

MR. W. McKEEVA BUSH: Mr. President, when we took the break I was dealing with the points raised by the Third Elected Member for George Town. The Member said that Members of the House must abide by the rulings of the Chair. None of us have any problem with that. We understand the Chair for what it is. We must always abide by the ruling, but the ruling must be straight to us.

When we scrutinise anything that could cause a conflict, the Chair must be careful to allow debate to flow freely and unimpaired. Otherwise Members would continue to

question his authority because he would seem to be hiding something. So the Third Elected Member for George Town cannot continue to blow hot and cold on this issue of Constitutional change. They cannot pay homage to the struggle of injustice but not participate; they cannot give lip service to justice while their actions might aggravate the inequalities; and they cannot destroy the truth that does not fit into the pattern of their self-interests.

Some people want Constitutional change. They want a Speaker. But when? When they are the boss! That is when they will accept it. The same Member for George Town, who imputed so much about where we were going Constitutionally, wants Constitutional change - but only when he is directing policy.

MR. TRUMAN M. BODDEN: Mr. President, with respect. I made it abundantly clear... and he is misleading if he is imputing that I want any Constitutional change. What I undoubtedly said was that I am totally against it, Sir.

MR. W. McKEEVA BUSH: The Member knows that there can be breakdowns if there is any deficiency in our Constitutional workings. I do not know what he is trying to hide behind. He says that he does not want Constitutional change? Well, to support what I am saying I will read a part of his speech from the *Hansard*, and this is what he said:

> "Along with this, Mr. President, I believe that the time is coming when the Members of the Executive Council should also be provided with an assistant because I have found, especially in the last three years, that the work has become far more detailed, more complex and it has taken more and more of my time. And to have an assistant to do research and to deal with certain matters would greatly relieve the burden which the present Executive Council Members, and especially those in the future, are going to have, because the pressure can only increase. It cannot get less by the looks of it.". [25th November, 1983]

I hope the House took note that this is the same Member who now refuses to invoke section 32 which is already imbedded in the Constitution and would require no change.

What was he saying in that speech while he was in Executive Council? How could he get that political help if we did not change the Constitution? I hope the House understands he could only be talking about the Parliamentary Secretary or the Minister of State, which is the position in other countries, which would certainly give him the help he talks about. It would certainly require a change in the Constitution because it is not now provided for.

MR. TRUMAN M. BODDEN: If he does not give way may I have a right at the end, Sir?

MR. PRESIDENT: The Member speaking has given way to you.

POINT OF ELUCIDATION

MR. TRUMAN M. BODDEN: Mr. President, my position is abundantly clear. I am against changing the Constitution and I do not want the Member to impute otherwise. I made that abundantly clear time and time again. In any event, whatever he is reading from there, I can assure you - and I can assure the people of these Islands - I am against Constitutional change.

MR. W. McKEEVA BUSH: Mr. President, we certainly gave the Member some latitude. What I was reading was from the *Hansard*, part of a speech made just before the Member was removed from office in 1984. What he is saying is that the Office of Executive Council had become so overloaded and so overworked they needed special assistance. How was he going to get the special assistance? Can he explain that to the House? Certainly, the Constitution did not provide for it. It would need some reorganisation or examination of the Constitution. It would need a change in the Constitution. So he cannot blow hot and cold on this issue, Mr. President.

MR. TRUMAN M. BODDEN: I wonder if I may ask him what he is reading from? He just said the *Hansard*. He has not said what date or anything, so I may look at the *Hansard*?

MR. W. McKEEVA BUSH: Mr. President, it is very clear what the Member has said. It was in the fourth Meeting of the 1983 Session of the Legislative Assembly held on Friday, 25th of November, 1983. The Member was echoing what the then First Elected Member for Bodden Town was talking about. In fact, what he said was:

> "I would like to endorse what my colleague , the First Elected Member for George Town said in relation to providing an office for Members of the Legislative Assembly. As I opened my debate, the business of Government is now big and I would fully support this.".

He went on to say what I have already read, and I will read it again for emphasis:

> "Along with this, Mr. President, I believe that the time is coming when the Members of the Executive Council should also be provided with an assistant because I have found, especially in the last three years, that the work has become far more detailed, more complex and it has taken more and more of my time. And to have an assistant to do research and to deal with certain matters would greatly relieve the burden which the present Executive Council Members [he was talking about the Members then], and especially those in the future, are going to have because the pressure can only increase. It cannot get less by the looks of it.".

They all want Constitutional advancement. They want it when they are there. They would prefer to see the country break down so they can get up and say that Government is no good. We cannot continue to blow hot and cold. What the Member could only be talking about at that time was a Constitutional change because you cannot get it now. You cannot get any assistance to help do Executive Council work. That is not provided for in the Constitution, and I say the Member wanted Constitutional advancement when he was talking about needing assistance. It is recorded in the *Hansard* what he wanted.

I agree with him. He never said anything wrong then. There must be change because there is overloading, but we must be man enough and have the guts and the will to go out on a public platform and say to our people, 'Look, this is what we want.' They are not prepared to come now and talk about Constitutional examination. You know why? They want to do it when there is an Election and everybody is in an uproar and they can try to beat out the other party and win the Government and come in and change the Constitution. That is what usually happens. So there is overloading, and when anything is overloaded it must break down. That is my fear for this country and I have told my colleagues so. I have told the people of the country that I am scared about the overloading.

We should get a good lesson from some of our neighbours who got the political machinery without anything to go with it. The English finally had to suspend the Constitution they had and chastise them. Why? Because they broke down. We are in a different position in this country. We have most everything else and not the political machinery. The same machinery that the Member was seeking to help out Executive Council so the work could get on faster, and faster, and faster, is what I am talking about - which can also cause a breakdown. The Member was pointing this out in his speech. I agree with him, but he cannot now come and say he did not.

Bear in mind what happened to that other country. We do not want somebody else to come and take us over because we broke down and we could not handle the job. This is what I am afraid of. They do not want to credit me with having that much foresight. I know the tactics. I will come to that before I finish.

I think I have answered the Third Elected Member for George Town quite sufficiently. If he loved the country the way he says he does he would vote with us today to bring in this very fundamental change which only affects this House but will set the example for the rest of them. Certainly, he cannot continue to blow hot and cold. You know what the Bible says about that.

I have some serious concerns about some of the flimsy reasons given as to why we cannot appoint a Caymanian as Speaker. That is what we are talking about. I am concerned that if we cannot do something already provided for in the Constitution, how are we ever going to agree to put Caymanians in top positions around the country? We must remember and bear in mind what the Member from West Bay said about who is to elect them and who is to put in the position. That is a serious, serious thing. There is absolutely no doubt in the eyes of the world that we have come a long way. Like trustworthy Captains, we have taken the good ship Cayman safely through many adverse conditions despite stormy recessions in the United States, civil disobediences, political upheavals and labour strikes elsewhere in the Caribbean and other dependent territories. We have continued to prevail.

Through the years Caymanians have had to learn to accept and take advantage of changes and opportunities presented to them because they are smart enough to grasp these opportunities. It seems we must ask ourselves: Are we not capable? Are we so politically immature that we cannot trust and believe that one of our own is qualified, could handle the House, could rule on debates, handle our questions? Tell me, is this House really saying that? I am amazed. Why is it that hundreds of banks, hundreds of insurance companies and thousands of off-shore companies who are registered here can trust us with billions and billions of dollars deposited with banks and investments here, but we cannot trust ourselves to do this? They are saying it is not time. When? It seems some people are afraid of taking charge of our own children, their children's children and our own affairs by supporting such a Motion. Members have given many reasons.

There is another factor the Members (I am talking especially to the younger Members now) must consider. What I see here is that all the older Members of this House seem to see this move as a moving away from the status quo, which might mean there is a sort of changing of the guard. But that is what the people wanted when they sent so many young people to this House in November 1988. Perhaps in voting to reject this Motion they are saying, 'look we cannot afford to look like you young people have so much to say and can get so many resolutions passed and can get up and debate the issues that we have feared to tread for so many years.' If we young legislators permit this we will be taking a back seat. I doubt very much this is what the public is expecting from us. Therefore, a clear message would be sent in the passing of this resolution.

In conclusion, Mr. President, and in summarising what Members had to say, I think we have destroyed all the weak arguments about this being a Constitutional advance. We have successfully shown that conflicts can exist. We have shown that partiality comes across at times, and the public believes it sometimes. We have destroyed the sinful thought that only a Governor brings prestige and dignity to this House. We have given many sound and progressive reasons why the Speaker should be appointed. This vote

demands the depth of our conscience and the invoking of the nationalist spirit that is within us, to stop playing politics with the Caymanian people, making them believe we have done so much for them - this high and mighty attitude and people cannot even see them. I object to all the wishy-washy, nasty stories.

We have given good reasons, and underlying them all is the fact the Office of Speaker is part and parcel of our democratic way of life and one which expresses the greatness of all in this House. That thing called impartiality must always exist or Parliaments break down. I contend that as long as Governors sit as Presiding Officers in this House and also as Chairman of Executive Council, manager of Portfolios and important Departments of the Civil Service, impartiality cannot and will not exist. This is our very strong argument.

In addition, you are going to find in this country the civil service questioning whether in fact the Governor is at all times in the place they want him to be. I think some Members should look at this aspect of it. These are the actions which can erode confidence placed in us by those who have keenly watched our progress and expect the high standards on which we have built our good reputation.

This Motion is then a referendum on whether we want and desire a competent Caymanian as Speaker. If we say yes, we would send a clear message to all Governors of the importance and independence of this Honourable House. If we say no, we will continue to erode. I look forward to the day when I can say, Mr. Speaker.

I do not think there is much more I can do. I am only sorry that you might have to cast a vote in this matter. I am only sorry we did not have enough Members to be able to decide this matter ourselves and to keep the Chair out of it. It is no wonder we cannot get anywhere with Caymanians. I am sorry some Members feel the way they feel.

I thank the House for their indulgence. I thank all those Members who debated in favour and gave such good, honest reasoning - no wishy-washy arguments about the impartiality and the conflict that exists.

Thank you.

MR. PRESIDENT: The question will now be put on Private Member's Motion No. 10/89. Those in favour please say Aye...Those against No.

AYES AND NOES

MR. PRESIDENT: I should like a division, please, Clerk.

CLERK:

DIVISION NO. 11/89

Private Member's Motion No. 10/89

AYES: 6	**NOES: 6**
Hon. D. Ezzard Miller	Hon. W. Norman Bodden
Hon. Linford Pierson	Hon. Benson O. Ebanks
Mr. W. McKeeva Bush	Mr. Truman M. Bodden
Mr. Gilbert A. McLean	Mr. John D. Jefferson Jr
Mr. Roy Bodden	Capt. Mabry Kirkconnell
Mr. Franklin Smith	Mr. John B. McLean

ABSTENTIONS: 3
Hon. Thomas C. Jefferson
Hon. Richard W. Ground
Hon. J. Lemuel Hurlston

UNDER S.O. 42(2) THE PRESIDENT EXERCISED HIS CASTING VOTE

MR. PRESIDENT: As I explained before the debate began on this Motion, the Chair exercises a casting vote and, in accordance with practice, exercises it against the Motion. I want to emphasise that it has nothing to do with my personal views or the views of the Governor. The Motion therefore fails.

PRIVATE MEMBER'S MOTION NO. 10/89 NEGATIVED.

MR. PRESIDENT: Other business continuing. Private Member's Motion No. 11/89. The Third Elected Member for George Town.

PRIVATE MEMBER'S MOTION NO. 11/89

REFERENDUM LAW

MR. TRUMAN M. BODDEN: Mr. President, I beg to move Private Member's Motion No. 11/89 which reads:

> "WHEREAS there is no law which enables a referendum to be held whereby the people of the Cayman Islands can give their views on important public issues;
>
> AND WHEREAS it is considered that the number of important issues affecting the country is increasing;
>
> AND WHEREAS it is considered that the people of these Islands should be able to give their views clearly to their representatives in this Assembly;
>
> BE IT THEREFORE RESOLVED THAT a Select Committee comprising all Elected Members and the Second Official Member be appointed to examine and to make recommendations on a referendum law which would give the people of the Cayman Islands the right to vote upon major national issues.".

CAPT. MABRY S. KIRKCONNELL: Mr. President, I beg to second the Motion.

MR. PRESIDENT: Private Member's Motion No. 11/89 has been duly moved and seconded. Would the Mover now wish to speak to it?

MR. TRUMAN M. BODDEN: Thank you, Mr. President.

We have just seen one of the best examples why the people of these Islands should be consulted on important issues. This House has just been divided equally among the Elected Members on an important issue.

What are the advantages of a Referendum Law? We, as Elected Members are put in this Legislature by the people. We represent the people, and we should never feel ourselves too big to go back to them on major national issues and ask for their guidance. If not, then in three and one half years time, when the people do have a right to deal with the guidance we could have sought in between, we may find it is too late.

We represent the people of the Islands generally, and there is no one in this House who can sit here and say on major national issues they can speak with total confidence as to what the people, the electorate of the Cayman Islands, actually feel and their views.

Therefore it is a Law for the humble because one does go back to the source that has put one in this House and one has to ask them what are your views on a major national issue. Believe me, that is one way of ensuring that big mistakes are not made in this country. Because if we get the guidance we need. It means as well that there has to be public debate, openly, some considerable time before the issue reaches this Honourable House and on several occasions here, I have once again felt the time may have been too short on some issues even though they may have fallen under the Standing Orders of this House.

There are issues that are so basic and important the guidance has to come from the people of these Islands. When we get too big to ask for that guidance and even worse, too big to take it, then we fail to represent.

I have been careful in drafting the definition of issue to refer to a major national issue. I mean it that way. There probably will not be many in the four years which a House sits, but some of them are so basic and so major, that I believe the people in each electoral district on the voters list should have the right to vote yes or no and to give the people in the Legislative Assembly the guidance they may need.

Conversely, it gives the Members of this House the feeling of knowing when they vote on a major issue they have the support of the people behind them. Let us not kid ourselves, to put something through his House which is not acceptable to the people, then 9 chances out of 10, it may not work. So it relieves Members of the Legislative Assembly of any uncertainty when the burden of a major national issue is upon this House.

I would not be moving this Motion to deal with anything that is frivolous or minor. That can be done through public meetings and through the press and other ways Members might communicate with their people. I believe that if an issue is national and major, I think the people have the right to be given the opportunity to express their opinion on that issue.

If they are given that right, and subsequently any problem arises and we have carried out the wishes of the people. I stress this, having given them publicly such guidance as we, Members of the Legislative Assembly can give them. I do not mean that it should just be a matter of a right to say yea or nay or yes or no on an issue.

I believe Members here will go back to the public and will see their views and guidance is properly put to them. Having been given that guidance, I think it is the duty of the people having assisted and directed the Members of this House to stand behind that decision.

I would say this: if some of the national major issue that has arisen had gone back to the public, we could have saved many, many of the problems that we have had in the past. I know, I have seen it both as a Member of this Honourable House and in my capacity prior to that time and I have actually seen where the public have forced the Elected Members to go back to the public with the issue involved. When it gets to that stage, is one in which it is not desirable either for the country or the people or the Members of the Legislative Assembly.

What I see as being the major part of this type of Legislation,

would be in a form of the machinery was in place and it would be set in motion, separately, by either a resolution of this House or by a substantial amount of persons who are on the voters list.

MR. PRESIDENT: Would it be convenient for you to break there?

MR. TRUMAN M. BODDEN: Yes, Sir.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this Honourable House until 10:00 A.M. tomorrow morning.

MR. PRESIDENT: The question is that the House do stand adjourned until 10:00 A.M. tomorrow morning. Would those in favour please say aye... Those against, No.

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned until tomorrow morning at 10.00.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. TUESDAY, 30TH MAY, 1989.