MONDAY
4TH SEPTEMBER, 1989
10:08 A.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: The Legislative Assembly is in Session.

Business. Presentation of Papers. The Honourable Elected Member for Health and Social Services.

PRESENTATION OF PAPERS AND REPORTS

INTERIM REPORT OF THE COMMITTEE TO INVESTIGATE THE NEED AND PRACTICALITY OF ESTABLISHING AN OFFICE OF OMBUDSMAN IN THE CAYMAN ISLANDS

HON. D. EZZARD MILLER: Mr. President, in accordance with Standing Orders I wish to lay on the Table of this Honourable House the Interim Report of the Committee to investigate the need and practicality of establishing an office of Ombudsman in the Cayman Islands.

MR. PRESIDENT: So ordered.

HON. D. EZZARD MILLER: This Committee was established after the issue was raised and debated in the Legislative Assembly in May of this year as a result of a Private Member's Motion being moved by Mr. Roy Bodden, the First Elected Member for Bodden Town, and seconded by Mr. Franklin Smith, the Second Elected Member for Bodden Town. The Motion, which was passed on the 24th of May, reads:

> "WHEREAS Cayman is becoming an increasingly complex and complicated society;
>
> AND WHEREAS it is thought that a 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;
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> BE IT THEREFORE RESOLVED THAT the Government investigate the need and practicality of establishing an office of Ombudsman in the Cayman Islands.".

Mr. President, in taking up and considering the matter Government agreed that the subject should be examined by a Committee consisting of all Members of the Legislative Assembly. I was asked by Executive Council to chair this Committee and the quorum was set at seven Members. The Committee wishes to report to this Honourable House that in view of a Select Committee having been established by the Legislature to consider the Islands Immigration Legislation, it was agreed by the Select Committee that that Select Committee would take precedence over the matter of investigating the need and practicality of an Office of Ombudsman. The Committee is, therefore, set to reconvene its meetings upon the conclusion of that Select Committee's deliberation. This, therefore, is the Report of the Committee.

MR. PRESIDENT: We move to questions.

QUESTIONS TO HONOURABLE MEMBERS

MR. PRESIDENT: Question No. 58, 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. 58: Would the Honourable Member say what the progress to date is on the extension of the school leaving age?

ANSWER: The Portfolio and the Department of Education have agreed to a consultancy to review the entire education system and to make recommendations for a long term education development plan. The question of the extension of the school leaving age by one year has been made one item of the terms of reference of this consultancy.

SUPPLEMENTARIES

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

MR. ROY BODDEN: Thank you, Mr. President.
Can the Honourable Member say when such a study by these consultants is scheduled to begin?

HON. BENSON O. EBANKS: The first week in October, Mr. President.

MR. PRESIDENT: Supplementaries continuing.

MR. ROY BODDEN: Is the Honourable Member in a position to tell this House exactly by whom the study will be done? For example, is there any local expertise involved?

HON. BENSON O. EBANKS: Mr. President, the consultancy is being carried out under the auspices of the United Nations Development Programme and the initial visit takes place in October. It is possible that at that time local people may be added to the team.

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

MR. TRUMAN M. BODDEN: Mr. President has the Member set a specific time for the completion of the study?

HON. BENSON O. EBANKS: Mr. President, before the end of this year.

MR. PRESIDENT: If there are no more supplementaries, question number 59. The First Elected Member for Bodden Town please.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 59: Would the Honourable Member say whether Central Desal now produces enough water to meet the demands of its customers and the trucking companies?

ANSWER: Central Desal has only one customer and that is the Water Authority. At this point in time it is supplying the Water Authority with sufficient water to meet the demand of its pipeline customers and the trucking companies.

MR. PRESIDENT: I think the incorrect written reply is being circulated. I think the numbers have been transposed, 59 and 60. Would you just check?
So this question is number 59. Are there any supplementaries? [pause] The Second Elected Member for the Lesser Islands.

SUPPLEMENTARY

MR. GILBERT A. McLEAN: Mr. President, would the Member say if complaints from truckers that there is not sufficient water for their demands have been reported to him?

HON. LINFORD A. PIERSON: The answer, Mr. President, is yes. During the dry season we

had reports of a shortage of water. Recently, the supply is exceeding the demand.

MR. PRESIDENT: Question number 60, the First Elected Member for Bodden Town, please.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 60: Would the Honourable Member say how much water has the Government guaranteed to purchase from Central Desal each day?

ANSWER: The Government has guaranteed to purchase the following daily quantities of water from Central Desal:

First year of operation:	682 cub m/day (180,000 US gallons)
Second year:	1000 cub m/day (264,000 gallons)
Third year:	1250 cub m/day (330,000 gallons)
Fourth year:	1590 cub m/day (420,000 gallons)
Fifth to 15th year:	1727 cub m/day (456,000 gallons).

SUPPLEMENTARIES

MR. ROY BODDEN: Thank you, Mr. President.
Would the Honourable Member say whether Central Desal has been able to meet these requirements?

HON. LINFORD A. PIERSON: The answer, Mr. President, is: Yes, there have been occasions when they were not able to meet the demands

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

MR. ROY BODDEN: Thank you, Mr. President.
I would like to ask two questions. Firstly, are they meeting the demand now? Secondly, in those instances where they have been unable to meet the demand, was there a penalty levied against Central Desal?

HON. LINFORD A. PIERSON: In answer to the two supplementaries, Mr. President: Yes, they are meeting the demands now.

The answer to the second supplementary: In instances where they were unable to meet the demands, they had to pay the penalty for the shortage.

MR. ROY BODDEN: Further supplementary, Mr. President. What is the amount of this penalty? Secondly, is it a fact that there were some penalties levied from last year and what is the state of payment on those penalties to date?

HON. LINFORD A. PIERSON: The answer, Mr. President, is that the total amount of penalty imposed since the operation commenced in February 1988 is approximately CI$59,000 and yes, these amounts have been paid up.

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

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say what is the money equivalent of the 264,000 gallons or how much per gallon does the Water Authority pay Central Desal?

HON. LINFORD A. PIERSON: The payment from the Water Authority to Central Desal is $8.50 per thousand gallons.

MR. PRESIDENT: Question number 61. 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. 61: Would the Honourable Member say whether, under the recent major financial change resulting from the sale of Cayman Airways Limited's interest in its two 727-200 jets, the airline continues to have any financial guarantees from Government and whether any financial assistance or subsidy will again be sought from Government?

ANSWER: Under the new financial arrangements, financial guarantees previously issued by Government in the amount of fourteen million United States' dollars (US$14,000,000.00), in respect of the lease of the B727-200s will no longer be required.

No financial guarantees by Government are required in respect of the lease of the new B737-400s.

The financial guarantee by Government issued to the Royal Bank Of Canada, to cover an operations overdraft facility at that bank in the amount of two million Cayman Islands' dollars (CI$2,000,000.00) will still be required.

An annual subsidy will continue to be necessary from Government mainly to cover losses on the inter-Island service.

SUPPLEMENTARIES

MR. W. McKEEVA BUSH: Supplementary, Mr. President.

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

MR. W. McKEEVA BUSH: Is the Member saying that under new arrangements, the airline will not be a position to do without these Government guarantees?

HON. W. NORMAN BODDEN: That is exactly correct, Mr. President.

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

MR. GILBERT A. McLEAN: Thank you, Mr. President.
Would the Member confirm that the cost to Government - the subsidies from Government to Cayman Airways - is as a result of the cost of flying the inter-Island routes?

HON. W. NORMAN BODDEN: Mr. President, the losses on the inter-Islands service are such that a subsidy has been requested from Government. I cannot identify or equate the exact amount of the subsidy with an exact figure representing the losses on the inter-Island services. But it has normally been accepted in Cayman Airways that since this inter-Islands service has always operated at a loss, the subsidy has been requested to assist with that operation.

MR. GILBERT A. McLEAN: Mr. President, if I understand the Member correctly he is saying that, while there are no accurate figures regarding where monies are being lost by Cayman Airways, it is assumed that they have been lost because Cayman Airways flies the inter-Island route to Cayman Brac. Would he confirm that?

MR. W. NORMAN BODDEN: It is more than an assumption, Mr. President. At the present time, I have requested the company to keep the accounts of its international operation and the domestic operation separately so this could be clearly identified. From time to time there have been exercises run which indicate the inter-Island service is operating at a loss. The subsidy has generally been accepted to compensate for those losses.

MR. GILBERT A. McLEAN: Would the Member not say that it is a major shortcoming of management when a serious examination by an expert is required to show where money is being lost, and that the cause should not be presumed to be the flying of the inter-Island route?

HON. W. NORMAN BODDEN: Mr. President, in my opinion this would not require the services of any airline expert. It is a matter of your system of accounting, of tailoring and coding your accounts to be able to identify the difference between international and domestic services. This change is in process at the present time but certainly will not be in time for the 1989 Accounts. But, whenever the 1990 accounts are presented to this House the two services will be clearly identified.

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

MR. FRANKLIN R. SMITH: Thank you, Mr. President.
I wonder if the Honourable Member could say at this time when someone purchases a ticket to visit the Cayman Islands if a trip to Cayman Brac is included in that ticket, or if it is free?

HON. W. NORMAN BODDEN: Mr. President, in order to assist with tourism in the Lesser Islands Cayman Airways has for several years now common-rated the international fares with Grand Cayman, Cayman Brac and Little Cayman. If persons, when arranging their trip to the Cayman Islands from any international point, indicate that they would be travelling to Cayman Brac and Little Cayman as well as Grand Cayman, they will, in fact, fly from Grand Cayman to Cayman Brac and Little Cayman free of charge.

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

MR. GILBERT A. McLEAN: Thank you, Mr. President.
Would the Member say if it is correct that although there have been official statements to the contrary, Cayman Airways is not in a financial position to not need the guarantee by Government at the Royal Bank?

HON. W. NORMAN BODDEN: Mr. President, to my knowledge there have been no official statements made that Cayman Airways will not require the operations guarantee from the Royal Bank of Canada which was put in place in 1984 or 1985. What was referred to publicly was the guarantees provided by Government for the airline to be able to lease the 727 and the one which was requested to assist the company with its leasing arrangements of the 737. Those two guarantees, which total something like $20 million, will not be required by the airline.

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

MR. TRUMAN M. BODDEN: Mr. President, is the Member saying the international routes of Cayman Airways are now profitable?

HON. W. NORMAN BODDEN: No, Mr. President, I am not saying that it is now profitable but it certainly would not show the losses that are mainly attributable to the inter-Islands service. Some years the international operation could even be at a break-even point.

MR. TRUMAN M. BODDEN: Mr. President, is the Company using the $12 million cash they received for the purchase of the 727s to pay for (or subsidise) losses in the airlines?

HON. W. NORMAN BODDEN: Mr. President, from discussions with management regarding the $12.2 million, I understand that the company intends to use the larger portion of that (probably $7 million) to cover security deposits, spare packages, and other expenses. The other $5 million will be placed in a fixed deposit. That is my understanding of how the funds will be used.

MR. PRESIDENT: I think the Second Elected Member for the Lesser Islands is next.

MR. GILBERT A. McLEAN: Mr. President, since Cayman Airways does not have accurate figures nor the accounting system to show precisely where its losses are from, would the Member give an undertaking that Cayman Airways will cease to say that its losses are as a result of providing the service between Grand Cayman, Cayman Brac and Little Cayman?

HON. W. NORMAN BODDEN: I cannot give such an undertaking, Sir. Cayman Airways and Cayman Brac Airways have been operating the inter-Islands service since 1954 and the history of that service has always been and still remains that it is operating at a loss. The exact figure annually will be presented in due course. I do not believe that it comes as a surprise to the company or to anyone outside the company that the service cannot support itself.

MR. PRESIDENT: The First Elected Member for West Bay, who was trying to catch my eye a moment ago. Thank you. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, can the Honourable Member say when we will get the 1989 accounts to look at? What the status is?

HON. W. NORMAN BODDEN: Mr. President, those accounts will be tabled at the November meeting of this House.

MR. PRESIDENT: We move now to question number 62. The Second Elected Member for the Lesser Islands, please.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE

NO. 62: Would the Honourable Member say what is the date of delivery of Cayman Airways Limited's 727-200 jets to Alaska Airlines, and are there any penalties to Cayman Airways Limited, financial or otherwise, if the jets are not delivered on the date specified?

ANSWER: The first B727-200 will be delivered to Alaska Airlines on 12th September, 1989 and the second on or before 1st November, 1989.

There are no penalties to Cayman Airways Limited, financial or otherwise, for late delivery of the

B727 Aircraft to Alaska Airlines.

SUPPLEMENTARIES

MR. GILBERT A. McLEAN: Mr. President, seeing that Cayman Airways Limited will be without one 727 jet by the 12th of September, what provisions have been made to find another jet for Cayman Airways?

HON. W. NORMAN BODDEN: I believe that is the subject of the question that follows.

MR. GILBERT A. McLEAN: I agree, Mr. President, if you do.

MR. PRESIDENT: Are there any other supplementaries? The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, is the Member saying that Cayman Airways Limited will have no liability if it does not deliver the jets on time?

HON. W. NORMAN BODDEN: Yes, Mr. President, that is the information I have from the management of the company. There is no penalty involved.

MR. TRUMAN M. BODDEN: Would the Member say whether he has had a legal opinion on the contract as to non-delivery of the jet?

MR. PRESIDENT: I do not think that is a matter for the Member, that is a matter for the company.

HON. W. NORMAN BODDEN: I would like to answer it, though, Sir. Yes, the company has had a legal opinion and has been legally advised on that. It might be hard for the Third Elected Member for George Town to accept that but I think those arrangements are an indication of how well the Company negotiated the agreement with Alaska Airlines.

MR. PRESIDENT: Shall we take the next question? Number 63. 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. 63: Would the Honourable Member say whether the delivery of Cayman Airways Limited's two 727-200 jets to Alaska Airlines will be done simultaneously with the receipt of two leased 737-400 jets, and will the latter jets go immediately into service? If not, what arrangement has been made for an interim jet aircraft to fly Cayman Airways Limited's routes?

ANSWER: The delivery to Alaska Airlines of the two Boeing 727-200 aircraft and the receipt of the two B737-400 aircraft are not simultaneous. The B737-400 aircraft will be put into service as soon as possible after delivery to Cayman Airways Limited. As on previous occasions when scheduled maintenance was carried out on one of the two B727-200s, the airline will operate with one aircraft. Back-up arrangements will be in place for additional aircraft as necessary.

SUPPLEMENTARIES

MR. W. McKEEVA BUSH: Supplementary, Mr. President. Is the Member saying there will be no cost to Cayman Airways Limited at all?

MR. PRESIDENT: Could you please repeat that? I did not catch it.

MR. W. McKEEVA BUSH: Is the Member saying there would be no cost to Cayman Airways Limited at all?

HON. W. NORMAN BODDEN: Mr. President, to repeat what I said, it is planned that the Company's operation will be continued and conducted with only one 727 aircraft in service. If that aircraft has a maintenance problem then there are backup arrangements in place to substitute equipment or to lease additional aircraft to continue the operation.

MR. GILBERT A. McLEAN: Mr. President, would the Member clarify if he is saying that there will not be a second jet used from 12 September, after the 727 jets have been handed over to Alaska Airlines?

HON. W. NORMAN BODDEN: Yes, Mr. President, during the period of 12 September to 6

October the company's operation has been planned to continue with only one 727 aircraft, with backup arrangements as necessary.

MR. GILBERT A. McLEAN: Would the Member clarify what is meant by "backup arrangements as necessary" and state which company Cayman Airways has made a deal with for such backup?

HON. W. NORMAN BODDEN: Mr. President, the Company's operation will continue with one 727 aircraft which is not unusual. This is not the first time this has happened. Whenever one of the two 727 aircraft was placed in maintenance the Company had to plan its operation using only one aircraft. If the aircraft does run into a maintenance problem, or even if an additional flight is necessary during that slow period, the Company has made arrangements with Avensa Airlines and Lineas Aereas Boliviano (LAB) in Miami. In the past, those two companies have operated flights for Cayman Airways when there were problems with one or the other of the 727s.

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

MR. TRUMAN M. BODDEN: Mr. President, can the Member say why Cayman Airways did not take delivery of the new 737-400 jet before it delivered the 727-200, since the deal with Alaska Airlines was so good?

HON. W. NORMAN BODDEN: The deal with Alaska Airlines was "so good" from a financial point, Sir, not an aircraft placement point of view. To give the Member an idea of the aircraft, we have two aeroplanes that we are exchanging for two new aircraft. At some stage there has to be an overlap. The Company has planned quite effectively and wisely to deliver one 727 aircraft to Alaska Airlines on 12 September. The first 737 will be delivered on 6 October and it will be placed in service shortly thereafter. The second 727 will be delivered to Alaska Airlines on or before November 1st because the second 737 will be received on 26 October. So, actually, from 26 October through to 1 November - which is 5 days - the Company we will end up with the two new 737 aircraft and one 727 aircraft. These are the best arrangements that could be made in such a short period of time.

MR. GILBERT A. McLEAN: Mr. President, is the Member saying that the 737 jet will be received but will not be put into service immediately? Will there not be a cost to Cayman Airways for having the aircraft sitting on the tarmac instead of being in service?

HON. W. NORMAN BODDEN: Mr. President, the first 737 aircraft will be received on 6 October and will be put in service shortly after that. I cannot say if it will be one, two or three days. There are many things that will have to be done at this end before the aircraft is placed in service but it will not be sitting for days on any tarmac. That would cost the Company a lot of money. It will be placed in service shortly after it has been received by the Company.

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

MR. TRUMAN M. BODDEN: Mr. President, can the Member say what the total cost of the backup arrangement that he has referred to will be? Secondly, what type of equipment will be flown by Bolivian Airlines and the other one he mentioned?

HON. TRUMAN M. BODDEN: Mr. President, the equipment will be a 727 aircraft and the cost will be based on whether those companies operate any flights for the Company. The charges to Cayman Airways will be on a per flight basis.

MR. TRUMAN M. BODDEN: Can the Member say how much per flight and what are the number of flights the 727 would have delivered before?

MR. PRESIDENT: Would you like that question repeated?

HON. W. NORMAN BODDEN: I think the Member is asking a hypothetical question, Mr. President. How many flights the 727 would have flown during that period and what the cost would be?

MR. TRUMAN M. BODDEN: What I am asking is: what is going to be paid to Bolivian Airlines for each flight, and how many scheduled flights will they have to fly as a result of Cayman Airways not having the 727?

HON. W. NORMAN BODDEN: Mr. President, I have it now, Sir. No flights have been scheduled to be operated by Avensa or LAB. Only in the event that the one remaining 727 has a maintenance problem will one of those companies be leased to operate the flight which will be charged on a per flight basis.

MR. TRUMAN M. BODDEN: Is the Member saying that one 727 aircraft can run all of the routes for this one month period?

HON. W. NORMAN BODDEN: Mr. President, September and October are very, very slow months. The Company reduces its schedules substantially during that period and this plan was put in place to take

effect during this slow period. This is not the first time Cayman Airways has had to operate for a week or two with only one 727 aircraft, simply because the second aircraft was grounded due to maintenance.

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

CAPT. MABRY S. KIRKCONNELL: Mr. President, I wonder if the Honourable Member would confirm if my understanding is correct - when Cayman Airways did not contemplate an equipment change, it went ahead and scheduled at this slack period the D-Check on one of the jets. Had it not made an equipment change at this time, the schedule that is now going into operation would have been operated anyway even if Cayman Airways had kept the 727s?

HON. W. NORMAN BODDEN: That is correct, Mr. President. This schedule was programmed well in advance in the event that the D-Checks or the D-Maintenance checks had to be carried out during this slow period of the year. Only one 727 aircraft with backup arrangements which I have explained to the House this morning, would have been operating.

MR. PRESIDENT: I think we have nearly covered this subject, please.

MR. GILBERT A. McLEAN: Thank you, Mr. President. Although a reduction of flights on any given route being made during September and October is good in theory, is it not possible that there will be passengers who cannot or will not fly due to there being fewer flights by Cayman Airways? Has any consideration been given to speaking with other airlines which fly into the Cayman Islands, about picking up this slack, rather than having to charter or pay another airline to do so?

HON. W. NORMAN BODDEN: Mr. President, normal airline procedures dictate that there might be isolated cases and specific dates when flights on Cayman Airways would be fully booked. Whatever passenger load cannot be accommodated on the Cayman Airways' flights due to load factor will be transferred to the other carriers. This is normal airline practice, Sir.

MR. PRESIDENT: We move to the last question for today. Number 64. 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. 64: Would the Honourable Member say what were the number of students registered at the John Cumber Primary School for each year since 1984, including the term beginning September, 1989?

ANSWER: The total number of students enrolled at the John A Cumber Primary School in each successive year since 1984 is as follows:

YEAR	SEPTEMBER FIGURES
1984-85	259
1985-86	253
1986-87	255
1987-88	259
1988-89	300
1989-1990	Not yet established. However, so far we know that 43 left the school at the end of the academic year ending July 1989. Ninety-four new registrations have been recorded at the Education Department for the new school year. Seventy-six were added to the school roll on Friday, 1 September, but it is expected that more will be added today.

SUPPLEMENTARIES

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

MR. TRUMAN M. BODDEN: Mr. President, from the statistics given it seems there has been a substantial increase from 1989 to 1990. Again, it is expected to be another 50 students (94 - 43). What is the position on overcrowding at the school?

HON. BENSON O. EBANKS: Mr. President, obviously there will be some overcrowding at the school. As I pointed out, the exact figures cannot be determined until the registration process has been completed in two weeks time.

MR. W. McKEEVA BUSH: Mr. President, can the Member say what is being done about the overcrowding?

HON. BENSON O. EBANKS: Mr. President, two new classrooms have been planned for this school and it is hoped these will be ready for January.

MR. W. McKEEVA BUSH: Mr. President, my understanding was that those classrooms were planned from 1986. Can the Member say what has taken so long and why the classrooms are not yet built?

HON. BENSON O. EBANKS: Mr. President, I have no knowledge of those classrooms being on the schedule of buildings from 1986. They were put into the 1988/89 Estimates when it was seen how dramatic the increase in the September intake was last year.

MR. W. McKEEVA BUSH: There was another part to the question, Mr. President, which the Member has not answered. Why have the classrooms not been built since we have overcrowding now?

HON. BENSON O. EBANKS: Mr. President, I think I answered the question. The Member knows the increase took place after a change in staff last September. Following that, money was put into this year's Estimates, but it has not been possible for Public Works to build those classrooms as yet. Other classrooms at other schools took precedence.

MR. W. McKEEVA BUSH: The Member also knows that I know that 1986 was the year it was expected that changes would be made and that there was an expected influx of students. Can the Member say why it has taken so long for the classrooms to be built?

HON. BENSON O. EBANKS: I do not know what the Member knows, but I do know that the statistics do not bear out any increase in the 1986/87 or even the 1987/88 school year. They were still within a very comfortable margin at that time. It was 1988/89 that the increase took place.

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

MR. JOHN D. JEFFERSON, JR. Thank you, Mr. President.
Would the Member confirm whether or not construction has commenced on these new classrooms.?

HON. BENSON O. EBANKS: No, Mr. President.

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

MR. ROY BODDEN: Thank you, Mr. President.
Can the Member say whether there exists at this time any mechanism for the projections of numbers for school enrollment before actual enrollment dates?

HON. BENSON O. EBANKS: Mr. President, I am not sure how precise that mechanism is. It should be possible because under the Law all children are required to be registered. Whether people register them or not is another question. I doubt they do. For example, I mentioned that 94 new registrations were made at the Department, yet only 76 were added at the school on Friday, the day of registration. In fact, many of those were transfers from private schools not new students as such.

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

MR. GILBERT A. McLEAN: Mr. President, would the Member say: a) if anything is being done to see why the numbers registered do not correspond with the physical numbers at the school; and (b) if there is any concern that the overcrowding in the school might affect the ability of teachers to teach and the children to learn?

HON. BENSON O. EBANKS: Mr. President, I pointed out that it is likely that some of the remaining students will be registered today. I gave that as part of the original answer.
Certainly there is concern about overcrowding, and that is why money was quickly put in for the 1989 Estimates. But it should be remembered that no plans were drawn at that time. That is why the other projects which had been more adequately planned were able to take precedence.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Member undertake that the building of schoolrooms be given an absolute priority? If Public Works is not capable of carrying out the work within a few months of the problem of overcrowding arising, then would the Member put it out to public tender to get it done faster?

HON. BENSON O. EBANKS: Mr. President, I am afraid I cannot give that undertaking. I do not award contracts within Government. I will do all in my power to get Public Works to move the project forward.

MR. PRESIDENT: It appears the supplementaries are going on for a few minutes, we must move a suspension of Standing Orders.

SUSPENSION OF STANDING ORDER 23(7) & (8)

HON. THOMAS C. JEFFERSON: Mr. President, if the supplementaries are going to go on, I move under Standing Order 83, the suspension of Standing Order 23(7) and (8) to allow the supplementaries to be taken.

MR. PRESIDENT: The question is that Standing Order 23(7) and (8) be suspended to enable completion of this Question Time. I shall put the question.
Those in favour please say Aye, those against No. The Ayes have it.

AGREED. STANDING ORDER 23(7) & (8) SUSPENDED.

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

MR. W. McKEEVA BUSH: Mr. President, the Member has mentioned that other projects were more adequately planned. Can he say which projects were for John Cumber Primary School?

HON. BENSON O. EBANKS: I did not mean John Cumber Primary School, Mr. President. Other schools, for example, the Savannah School had two classrooms in the Estimates. There was a lot of building for the High School and other schools.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Member say how long it takes to obtain plans and to build one school room since this problem was known since 1988?

HON. BENSON O. EBANKS: Mr. President, I am afraid that I cannot give a precise answer. Maybe the Honourable Member and others should remember that the schools were badly affected by Hurricane Gilbert in September of last year. A lot of work which was not planned had to be done in order to get the schools back into functioning order.

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

MR. W. McKEEVA BUSH: Is the Member giving any priority now to West Bay?

HON. BENSON O. EBANKS: As I pointed out before, Mr. President, it is hoped that those classrooms will be ready for January.

MR. PRESIDENT: I think we will move on to Item 4.
[addressing the First Elected Member for West Bay] Go ahead.

MR. W. McKEEVA BUSH: One last question. If the Member said the classrooms will be ready for January, can he say when work will begin?

HON. BENSON O. EBANKS: Not precisely, Mr. President. I cannot say better than soon.

MR. PRESIDENT: We will move on to Item 4 of Government Business. Bills.
Could I just mention that we will take the First Readings of each Bill successively? This is so that the First Readings are out of the way and we can continue with the timetable with the Second Readings. Bills First Reading.

GOVERNMENT BUSINESS

BILLS

FIRST READING

THE MUSIC AND DANCING (AMENDMENT) BILL, 1989

CLERK: The Music and Dancing (Amendment) Bill, 1989.

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

THE LIQUOR LICENSING (AMENDMENT) BILL, 1989

CLERK: The Liquor Licensing (Amendment) Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Liquor Licensing (Amendment) Bill, 1989, is deemed to have been read a first time and is set down for Second Reading.

THE PENAL CODE (AMENDMENT) BILL, 1989

CLERK: The Penal Code (Amendment) Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Penal Code (Amendment) Bill, 1989, is deemed to have been read a first time and is set down for second reading.

THE COMPANIES (AMENDMENT) BILL, 1989

CLERK: The Companies (Amendment) Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Companies (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 MUSIC AND DANCING (AMENDMENT) BILL, 1989

CLERK: The Music and Dancing (Amendment) Bill, 1989.

MR. PRESIDENT: The Honourable Third Official Member.

HON. J. LEMUEL HURLSTON: I beg to move the Second Reading of a Bill entitled, A Bill for a Law to Amend The Music and Dancing (Control) Law, 1977. The Memorandum of Objects and Reasons states that this Bill seeks to confer on the Liquor Licensing Board the power to prescribe permitted hours and permitted days, for the purpose of this Law, by publication in the Gazette.

The background to this was that the Music and Dancing (Control) Law is administered as a sister piece of legislation by the Liquor Licensing Board. Licences granted under this Law are similar to licences granted under the Liquor Licensing Law. Traditionally, permitted days have been defined so as to exclude Good Fridays, Christmas Days, and Sundays. This has had the effect that on such days under no circumstances would music and dancing be permitted.

To give an example of one recent incident or occurrence, last New Year's Eve fell on a Saturday. In order to meet reasonable closing hours on that occasion the Liquor Licensing Board, in the exercise of its discretion under the Liquor Licensing Law, permitted an extension by 30 minutes beyond the normal closing hours for that special occasion only. However, it was not possible to permit music or dancing to continue for even one minute past midnight on that Saturday night because permitted days prohibited that. The definition of prohibited days, prohibited even a modest extension on such a special occasion. Representations were therefore made that it was only reasonable that on such special occasions the authority could be vested in the Board to prescribe special hours in such instances.

Therefore, Sir, this Bill is the result of that representation having been taken into consideration and it is felt that it is timely for the Board be empowered to prescribe permitted days. The mechanism for doing this is that at the September meeting of the Board each year, the Board will consider the circumstances of that particular year and will prescribe days and hours for the purpose of music and dancing.

If in future such special consideration is deemed appropriate, the Board can in advance of such a date prescribe the days and hours. The public and the tourism industry will then be able to plan agendas and programmes.

Clause 2 of the Bill, therefore proposes to insert a new definition to "permitted days" by saying permitted days means such days as prescribed as such by the Board in accordance with subsection (1) of section 9. That is the section that prescribes for the Board at the September meeting to order and publish in the Gazette such permitted hours and now permitted days.

The Amendment is therefore a straight forward one that simply adds permitted days to those items that the Board is already empowered to prescribe. The Board is now permitted to prescribe hours but not days. With this amendment the Board will be able to prescribe permitted days, in addition to permitted hours.

Therefore, I am pleased to recommend this Bill to the House, Sir.

MR. PRESIDENT: The question is that a Bill entitled, The Music and Dancing (Amendment) Bill, 1989, be given its Second Reading. The Motion is open for debate.

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I oppose this Bill in the form it is in. The present Law, as it stands, does not allow for music and dancing on Good Fridays, Christmas Days and Sundays as the Member has quite rightly stated. This Bill will allow the Board to give licences for music and dancing on those days if they so wish. This Honourable House has certain heavy responsibilities placed on it. I do not believe the House or the Government should take the easy way out on controversial matters and pass it on to a Board.

The Member has mentioned an example of New Year's Eve for an extension. While that is a simple situation, what we are doing here is giving the Board the right on other days, Sundays, Christmas Days and Good Fridays, to also permit music and dancing. Over the past few years they have put bars beside churches. Now it seems this amendment could also put dancing and music beside churches on Sundays. I take that as an example. If there are certain limits which the Board feels would be necessary, I do not understand why the Government was not more specific. To me, this Bill would allow a general removal of the restriction on permitted days.

I am not saying the Board is not responsible, but this is an important matter within the community and this Legislature should legislate specifically on it. I am not prepared at this stage to support this Law, and I would ask other Members to have sufficient responsibility themselves not to pass the buck, so to speak, not to pass the responsibility onto a Board and then when there are protests about the music and dancing on Sunday's or Good Friday, or whenever, we then say; 'Oh, it is the Member and his Board who have done it.'.

Here we are putting the responsibility on them and in this wide form, I am not prepared to support the Bill. I would hope that we will not see any further erosion of those permitted days of Good Fridays, Christmas Days and Sundays as a result.

Therefore, I oppose the Bill.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 11:17 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:40 A.M.

MR. PRESIDENT: Proceedings are resumed on the Second Reading of the Music and Dancing (Amendment) Bill. Do other Members wish to speak? The First Elected Member for Bodden Town.

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

This is a Bill which gives me some concern because I have always realised that the people of the Cayman Islands have been a God fearing society. Indeed, we like to boast about how sincere and deeply religious we are. It strikes me that what this Bill seeks to do is to provide discretionary powers to a Board so that they can, in their wisdom or otherwise, permit music and dancing on two days that are among the holiest and most respected in the Christian calendar, namely, Good Friday and Sundays.

I fully realise we are a society which is heavily dependent on tourism. I also realise others may not be as religiously disposed as we are. The bottom line is that this is our society. When all the tourists have come and gone, we have to live here. We, as legislators, also have to set the tone. I have some reluctance. I did not even have to think about it for many hours. I am not prepared to shirk my responsibility as a legislator and hand any hot potato over to a Statutory Board.

I cannot support this Bill, Sir.

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

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

I also rise to oppose the Bill entitled, A Bill for a Law to amend the Music and Dancing (Control) Law, 1977. Under the Law, "permitted days", as far a music and dancing, means every day except Christmas Day, Good Friday and Sunday. I feel these restrictions should remain. I do not support the idea of Government passing on its responsibilities for the establishment of policies to a Board because this is a very controversial issue and there are going to be some very strong reactions from churches. Politicians would then be in a position to say that the decision was not of ours, it was a decision by the Board.

The only intention of the amendment must be to allow the Board the discretion to permit music and dancing on the days which are now prohibited. What concerns me is the reckless abandonment of the principles on which our society was established: principles such as keeping Sundays and restricting all unnecessary activities on this particular day, along with Good Friday and Christmas Day.

I recognise we are a tourist destination. We must accommodate our visitors as much as possible, but I think there are some principles we must be prepared to stand by and I think to permit music and dancing on these particular restricted days would be a serious violation of our responsibilities to our community.

Mr. President, with those few words I am not prepared to support the Bill.

MR. PRESIDENT; The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I rise to oppose the Bill presently before the House - A Bill for a Law to amend the Music and Dancing (Control) Law, 1977. I feel we would be taking a

retrograde step to allow this Bill to be passed. I think it was in 1977 that this change was brought about. It was brought with our Christian principles and traditions in mind.

I cannot buy this about tourism. What we are saying is that because we are a tourist destination we are about to give up our Christian principles. I do not believe any tourist travelling to our shores would expect such a thing from us.

I took note of what was said by the Member who presented this Bill, with regard to New Year's Eve falling on a Saturday. This may be true, but I come back to what I said earlier - these are considered special days in these Islands: Christmas Day, Good Friday and Sunday, also New Year's Day. I can recall that in the community where I was raised, Sunday had to be treated as a religious day. I daresay many of us, because of pressures at work, have slipped away from certain traditions we grew up with. Why should we continue to do things which would corrupt the minds of our young people?

Mr. President, I find it impossible to stand and say that I could support this Bill. I am asking all other Members to take the same stand.

MR. PRESIDENT: The Honourable Member for Health.

HON. D. EZZARD MILLER: Mr. President, I rise to support the Bill for a Law to amend the Music and Dancing (Control) Law, 1977. In the debate so far we have heard charges of Members of the Legislative Assembly abrogating their responsibilities to a Board, and that they could not support a Board being given the latitude this Bill proposes to do. On the other hand, they are quite willing to have the Board decide who and what premises gets a licence. The Board has to make all of the other decisions under the Law concerning the granting or renewal of Licences. I do not believe this responsibility is any more serious than the decision as to who gets the licence, where and under what conditions those licences are granted. I do not see any 'reckless abandonment' of society's principles.

I believe I am as Christian as anyone who is here. I was certainly brought up in a Christian environment. I wonder how many of us leaves a dance before midnight on a Saturday night? How many of us, on a New Year's Eve that falls on a Saturday, religiously leave before midnight and go to church for the Watch-night Service? Or do most of us now stay a little longer than midnight on any Saturday night? If we are really in the party mood we do not even go home, we just move the party to someone's house? Sometimes parties go on until morning. I see the Bill as allowing the Board to use its discretion on certain special days in the calendar. This was the position which was put forward by the Chairman. I believe it is a reasonable position to take.

I support the Bill in its present form.

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

CAPT. MABRY S. KIRKCONNELL: Mr. President, I rise to debate this Bill. This Bill has given me a lot of concern. I have discussed it at length with my constituents. I would like to state very clearly to all that the Bill which gives my constituents great concern is the liquor licensing of establishments. What I want to establish from the presentation of this Bill today is that the Liquor Licensing Board in Cayman Brac and also Grand Cayman does have the right to use its own discretion in granting of licences also for music and dancing. I do not oppose the extension of licences. I would not stand in this House and agree that we should allow them to dance indiscriminately on Good Friday, Christmas Day and the prohibited days as now in the Law, but for short extension periods I have no objection.

What I am trying to get across is that I want it to be very clear to the people of my constituency that the Liquor Licensing Board of the Lesser Islands does have discretion. Most of the time they feel that they have the Law and they must follow it and that they have no power of discretion. I would like to hear from the Honourable Member of this House that indeed they do have discretion.

With these few words, Mr. President - provided this Bill will be just for extension of time and not a wider opening of music and dancing on any given day - I support the Bill.

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

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

I oppose the amendment to the Music and Dancing (Control) Law, 1977, which is before this House. I have listened attentively to the views put forward by the Member moving this Bill. I do understand the points he has made, however I see the matter as going beyond that to something deeply rooted in our culture. I am not speaking as anyone who is advocating an extreme position from a religious point of view, or anyone who is advocating from a position where I give full rein to indulging in dancing or drinking or whatever. My views are strictly based on the matter as I see it.

Culturally, these Islands have long recognised Good Friday, Sunday and Christmas Day as days which are to be set aside. They take on a special religious significance to the Caymanian society. In saying that, I would also note that at one time the Music and Dancing Law did permit dancing on Sundays because I can well recall instances when the DC3 from Grand Cayman used to be chartered and weekend trips were made to Cayman Brac. I recall occasions of dancing and so on, on a Sunday. That is one side of the coin. However I do know that generally speaking Sunday is looked upon as a religious day and that dancing should be excluded. Speaking from a religious point of view, I think we should not ignore the fact that not all religions in this society recognise Sunday as the day of worship or as a holy day some see Saturday as being so. In fairness to them their position should be acknowledged and recognised, and I wish to do so as I speak on this

Bill.

As a tourist destination I think we cater very much to the idea of leisure and pleasure. It goes with the trade. I can see no good cause why on a few days out of a year we cannot restrict dancing as we presently do. The Law states certain days on which it would not be permitted. I feel there should be an amendment to the Law to specify other days rather than to leave it at the discretion of a board if changes are to be made. I feel boards in this country are assuming more and more authority and, by their various decisions, are affecting the lives of the people of this country in ways I think only the Laws should. I do recognise that boards are one of the means by which members of society can participate in the Government process but I do have certain concerns about boards in the Cayman Islands. I have noted over the years that boards often have on them persons who are directly involved with matters which those very boards have to decide. That gives me cause for concern.

I do not believe in this particular instance that it would be the proper thing to deviate from the Law as it now exists, to hand to the Board the discretion of whether to allow a dance on Good Friday, Christmas Day or a Sunday. I believe the Members of the Legislature are the representatives of the people and on the matter of dancing, and the sale of alcoholic beverages, they have a duty to reflect the feelings of the society. I do not believe that to cater to any particular part of society such as the tourism industry we should allow the matter to be decided by a board.

Mr. President, with those words, I do not support this amendment.

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

MR. FRANKLIN R. SMITH: Thank you, Mr. President.

I rise to oppose A Bill for a Law to Amend the Music and Dancing Law on the grounds that I believe Sundays, Christmas Days and Good Fridays should remain as the present Law has them. I am not objecting to any extension on other days which the Board may want to approve. The main reason for objecting to this Bill is that I do not wish to see any extension given on those particular days regardless of what days they fall on.

If we could have an amendment to that particular section, then I would be happy to support the Bill.

Thank you.

MR. PRESIDENT: The Honourable Elected Member for Tourism.

HON. W. NORMAN BODDEN: Mr. President, I rise to support this Bill. Unlike some Members who have spoken before, I see this as a widening of the net rather than a narrowing of it. The present Law states three specific days. We cannot assume that the Board, which we entrust with many other responsible duties under the Law, if they are given the power to prescribe, will then throw wide open the three prohibited days. In fact, I think it gives them more flexibility and there might be other days, other than the three days prescribed under the Law, where they might see fit to prohibit dancing on.

With regard to tourism, I have no knowledge or information that this Bill has been prompted by any of our visitors. In fact, a recent survey which we conducted provided very valuable information to the Department of Tourism, but not once in it did any of them make any complaint about this. I do not think tourists notice it, and if they do they may appreciate it. It was not prompted by tourism to the best of my knowledge. It is not being done to facilitate our visitors.

I think mainly local people, some of whom do not even cater to tourists, might see this differently and have made representations to the Board. The Board then probably has had difficulties in the past because of last minute requests being made. I think this Bill, when passed, would give the Board the flexibility to be able to adjust hours as they see fit, to comply with specific requests as and when necessary. Surely, a responsible Board and the Member responsible for that Board will be placed in a much stronger position to protect the public's interests.

I do not think this can be seen as a retrograde step of removing any responsibilities and traditions we have. I think those will remain in place and could very well be extended to other areas and other days in accordance with this Bill.

So with those few words, Mr. President, I support the Bill.

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

MR. W. McKEEVA BUSH: Mr. President, music and dancing, indeed, entertainment in general, has been and still is a serious concern of mine - the lack of good entertainment, I should say, in our country. If this Bill was addressing that matter instead of shifting responsibilities I would then be more sympathetic, but it does not address what I think it should. Therefore I would have to cast my vote against the Bill unless the Member when winding up can assure me that it will do other than it says it will.

I have confidence in some Members on Boards of Government today. No one knows who we may have tomorrow. I believe that Government must set policies. That is what each and every one of us as Elected Members talks to the public about and gets their support and their vote on. We, the Government, set policy. Boards are appointed to carry out Government policies.

One Members said that Legislators are prepared to give the Board permission to say where and who should get a license. All of that is provided for in a Law, it is not a

discretion. Sometimes discretion is not a bad thing, but we have seen it work adversely in certain instances to our people. Sundays and Good Fridays are sacrosanct. I do not think we, as responsible people, should change that position.

The First Elected Member for the Lesser Islands said he would support the Bill, provided it did not give wide open permitted hours and days. Surely, that Member must understand that is the possibility. If he is concerned about wide open days and wide open hours, and he is not sitting on the Board here in Grand Cayman, then he should cast his vote with us, unless Government is prepared to change. There is that possibility, and I do not have any say on who goes on what Board. That was probably in the first couple of months of this year, but I understand now that the little say I had before might be taken away from me.

Therefore, Mr. President, since I am not having a say on who should have discretionary powers, I will leave the Law as it is. I believe that is what a good Legislator should do.

Thank you, Sir.

MR. PRESIDENT: If no other Member wishes to speak would the Mover wish to reply?

HON. J. LEMUEL HURLSTON: Mr. President, I would like to thank all Honourable Members for their contribution to the debate on this Second Reading, Sir. The matter was a little more controversial than I had first thought, but I certainly expected some opposition.

In moving the Second Reading the House will note I restricted my remarks to the fundamental question of prescribing permitted days only on very special and limited occasions. I confined my remarks to that because there was never any intention to stray to the broader issue of what would happen in the minds of Board members in relation to Good Friday, Christmas Day and so on.

I cited an example to illustrate how infrequently the prescribing of any extension would be likely to occur. I also indicated that it would occur once a year by the Board at its meeting in September, sitting and looking at the calendar and rationalising what, if any, extensions or otherwise might be permitted during that particular forthcoming year.

I do not wish to prejudge the position of the Board in the matter, however I think Members will understand the Board acting in accordance with the provisions of the Law at the moment. The Board is chaired by either a Magistrate or a Justice of the Peace and, while I do have constitutional responsibility for licensing at the moment, it so happens that in my capacity as a Justice of the Peace, I also happen to be the sitting Chairman of the Board - but that could change. I think the Board under the Chairmanship of a Magistrate or Justice of the Peace has to be seen as a responsible authority. As such it will not indiscriminately or unworthily discharge its responsibilities or exercising any reckless abandonment of those.

It has to be recognised that the Board in the past - and should continue to be so in the future - has had an overriding responsibility to the community in general. I could cite two recent suspension of licences which occurred where the Board took public representation into account; noted disturbances in the community and responded by suspending the licence of those licensees who were found to be in contravention of the good spirit of being a responsible licence holder.

The objective of the Bill is to allow discretion to be exercised on those rare occasions when it might become necessary, in the wider interests of the public - visitors and residents alike - to offer short extensions to licensing hours in order to facilitate the broadening of entertainment on those special occasions. It is not envisaged that there will be any general licensing on those otherwise special days. Therefore, it is easy for me to offer the assurance called for by the First Elected Member for the Lesser Islands, that such extensions would be limited extensions in only exceptional circumstances.

However, as I said, I cannot prejudge the Board. It so happens I have the responsibility for the policies under the Constitution at the moment, and I, therefore, have a degree of control over any Board that is appointed to administer the policies for which I am responsible to Executive Council. Therefore, if there is at any future time a Board whose members would be minded to exercise discretion outside of the policy, it would have to be reviewed by Executive Council at that time.

The objective is to provide a mechanism whereby a Board may entertain the granting of extensions under certain special circumstances. I offer the assurance to Honourable Members and the public that discretion will be exercised judiciously, carefully and with a balanced thought of the overriding interest of the welfare, Christian principles and integrity of the Caymanian community. I, therefore, commend the Bill to the House and would ask those Members who feel able to change their minds to vote in favour of the amending Bill, Sir.

MR. PRESIDENT: The question will now be put. Will those in favour please say aye. Those against no.

AYES AND NOES.

MR. PRESIDENT: Could we have a division, please, Clerk?

DIVISION NO. 14/89

AYES: 8	NOES: 7
Hon. Thomas C. Jefferson	Mr. W. McKeeva Bush
Hon. Richard W. Ground	Mr. John D. Jefferson, Jr
Hon. J. Lemuel Hurlston	Mr. Truman M. Bodden
Hon. W. Norman Bodden	Mr. Roy Bodden
Hon. Benson O. Ebanks	Mr. Franklin R. Smith
Hon. D. Ezzard Miller	Mr. Gilbert A. McLean
Hon. Linford A. Pierson	Mr. John B. McLean
Capt. Mabry S. Kirkconnell	

MR. PRESIDENT: The result of the division is eight Ayes, seven Noes. The Bill has been given a Second Reading.

AGREED BY MAJORITY: THE MUSIC AND DANCING (AMENDMENT) BILL, 1989, GIVEN A SECOND READING.

MR. PRESIDENT: Bills, Second Reading.

THE LIQUOR LICENSING (AMENDMENT) BILL, 1989

CLERK: The Liquor Licensing (Amendment) Bill, 1989.

MR. PRESIDENT: The Honourable Third Official Member.

HON. J. LEMUEL HURLSTON: Mr. President, I beg to move the Second Reading of a Bill entitled, A Bill for a Law to Amend the Liquor Licensing Law, 1985. In moving the second reading debate of the previous Bill, Sir, I made reference to the fact that The Music and Dancing Law is the sister legislation to the Liquor Licensing Law and it is this part that is now being amended. The proposed amendments cover three principal areas: First, in Clause 2 it is proposed to insert a new definition dealing with the appointment of an Inspector of licensed premises. This would be a new appointment and the creation of a new office. It is envisaged that the person holding the appointment of Inspector of Licensed Premises could also act as the Executive Secretary of the Board. If a full time person were appointed, that person could act as the Executive Secretary of the Board and the Inspector. So what we would be looking at is a joint office of Executive Secretary and Inspector of Licensed Premises. This is because in the inception of the office, it would be evolving and developing and there would only be sufficient work, on a full-time basis, for one person.

In Clause 3, it is proposed to amend section 10 of the principal Law in a number of ways. First, it is proposed to substitute a new definition for the distributors' category of licence. The objective of the amendment is:

1. To replace in liters, the provision which currently exists in the Law in gallons. At the moment the distributors licence permits disposal in quantities of not less than six gallons in the case of beer; two gallons in the case of other intoxicating liquor. It is proposed to amend those quantities by substituting the equivalent in liters. The conversion is done on the basis of one United Kingdom gallon is equal to 4.54609 liters. Multiplying 6 gallons by that factor, you will arrive at 27.3 liters. Multiply 2 gallons by the same factor, you arrive at 9.1 liters.

2. To amend the distributor category by restricting sales to persons who are themselves licensees under the Law. Therefore, distributors will only be permitted to sell to persons who themselves have licences. The distributors licences will permit the export of liquor in such cases which are certified by the Collector of Customs as having been exported. They will regularise the position currently operating where vessels departing the Islands - for example, vessels trading between the Cayman Islands and Central and South America - do take on board cargo of alcohol. This practice will continue. Other than that, the distributors licences would tend to be more restricted, to sales to persons, in those quantities, who themselves are licensees under the Law.

3. The next category of the substantive legislation to be affected by this amendment is the category known as the Package Licence. It is proposed to amend that definition by inserting the words "but does not permit disposal to other licensee for the purpose of disposal by him under the terms of his licence", immediately after the word premises in the current Law. This is intended to prevent holders of Package Licences from trading in the area which is reserved for the distributors category. So a person with a Package Licence will not be permitted to sell to other licensees.

4. The next amendment affects the definition of the retail category of licence and the objective of this amendment is in two parts:

(a) First it is proposed to limit the sale by retail licensees to consumption on the premises only except where the quantity exceeds 6.82 liters; that is a case of beer or .75 liters or one 26 ounce

bottle of liquor. Where the person buys a bottle of liquor or a case of beer, the proposed amendment would permit those purchases to be carried for consumption off the premises. But customers would not be permitted to walk into a retail licensee, pick up a six-pack of beer, walk out the door, sit on the sidewalk and start consuming off the premises.

(b) The second part of the amendment to the retail licence category is similar to that being applied to the previous category, the package category, it will not permit a person holding a retail licence to sell to other licensees, which is the preferred territory for the distributors licences. Finally, in respect to hotel licences, a similar provision and restriction is being inserted. Hotel Licences will not permit the sale of liquor for consumption off their premises, except in quantities specified: a case of beer or a sealed bottle of liquor. Hotel licensees will not be permitted to trade with other licensees. They must trade with the public.

The next amendment is a minor one in Clause 4. It is proposed to amend section 14(2) of the principal Law by regularising what is in fact done in practise at the moment. Where notice of a meeting is being prescribed, the notice may be published in at least one newspaper, circulating in the Islands or in the official Gazette. What is happening now is that it is being published in a newspaper circulating in the Islands.

Finally, in Clause 5 there are general powers for the proposed Inspector to have the authority to enter licenced premises to inspect these premises at any time when they are open to the public for sale of intoxicating liquor for the purpose of detecting any breach of the provisions of this Law or any Licence or authorisation, and for the Inspector to report forthwith any such breach to the Board for Grand Cayman.

Here I should comment on the distinction being drawn between the Board for Grand Cayman and the Board for the Lesser Islands. It is envisaged that the Inspector will initially be required to confine his activities to Grand Cayman where there are approximately 130 licenced premises, and not to get himself overly concerned with inspecting the eight licenced premises on our Lesser Islands. The time may come when an inspection of a similar sort may have to be extended to those Islands, but for the time being it is envisaged that inspections will be confined for this purpose to Grand Cayman.

These are the Clauses, Mr. President. They have been in the pipeline for quite some time. They have been published first to come to this Assembly in May, and then, following some recommendations from the Private Sector, they were withdrawn and reexamined and have now come back in this final form. I am pleased to recommend them to Honourable Members.

MR. PRESIDENT: The question is that a Bill entitled, The Liquor Licensing Amendment Bill, 1989, be given a Second Reading. The Motion is open for debate.

The First Elected Member for Bodden Town.

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

The Honourable Member presenting the amendments can rest assured that I rise this time not to oppose these proposed amendments... but I do have a recommendation which I hope he may see fit and proper to entertain. It rises out of some observations I have made.

Would it be possible for the Inspector of these premises to be given the powers of a Constable? Because I am aware that at premises where package licences are distributed, whether by design or accident, I sometimes see people loitering around consuming the liquor on the premises. It strikes me that if the Inspector has such powers he could help keep better control of these kinds of situations.

Other than that, I can support the Amendment, Sir.

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

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

On this particular amendment I rise to support it because I think certain practices which have been explained by the Member moving it, occur regularly.

I share the view of the Member who spoke first, that is, if the power of the Inspector could be broadened where he did not have to go to report a breach of the Law to the Liquor Licensing Board, but could deal with it where he found that breach, it would be helpful. As it is now, if an Inspector did find a breach, he would have to leave the premises - unless there was a constable there to report the matter to. Otherwise he would have to report it to the Board who would deal with it at another time. I think it would be helpful if it could be amended to give the inspector similar powers to that of a constable. On this I certainly support the first Speaker. I would like the Member moving it to consider an amendment to do so or to state why that would not be possible if he wishes.

Mr. President, I think it would be useful too that if an Inspector should see persons below the legal age drinking in a licenced premises he could do something about it. I would also assume that an inspector would not necessarily be uniformed as a constable so he might have an easier chance of spotting breaches of the Law whereas a uniformed officer might cause certain practices to be quickly stopped for the length of time he spends on the scene.

With those remarks, I support this amendment.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I support the Bill before the House. I agree with this amendment because it is my understanding that at present there are many licenced premises which cater to the public that could do with a good inspection.

I join others with the view that the inspector, to be able to operate effectively, should be given greater powers. I believe one of the many things the inspector will come upon will be individuals who frequent licenced premises, who obtain alcoholic beverages and who have not yet attained the legal age for drinking. I believe it would be very effective for us to do a short amendment to the section dealing with the inspector and to make this Bill one that could work. I agree with the other amendments pointed out by the Mover. After hearing his explanation, I would say it all falls in line.

I have one concern about the section that deals with the power of the Inspector. I noted that we are dealing here, as the Mover has pointed out, with Grand Cayman. That should read: 'The Cayman Islands'. I am certain that in the Lesser Islands (although we are told there are only eight premises) we would find similar things to those being experienced in Grand Cayman. I believe the difference is that it has happened here, it is happening here, and perhaps we may be able to stop something from happening over there.

With these remarks, Sir, the Bill has my full support.

MR. PRESIDENT: I think we might suspend at that point. Proceedings are suspended until 2:15 P.M.

AT 12:45 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:20 P.M.

MR. PRESIDENT: Proceedings of the House are resumed.

Does any other Member wish to speak? [pause] Would the Member in charge of the Bill care to reply?

[Addressing the Third Elected Member for George Town] Are you catching my eye to speak? I was not quite sure. You are late, and I have called the Honourable Member to reply... But if he wishes to give way to you that is fine. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I will be brief. This is an amendment which I support, subject to one reservation. I opposed the previous Bill because I felt it was not good for my people and my country. This Bill I support because I feel that it is good. That is my position now and it has been my position in the past. What I will not do is to stand up and say I do not support the law then vote otherwise. That would affect my conscience.

The first part of the amending Bill deals with the tightening and cleaning up of certain irregular matters. It would have been good, since we are not yet into the metric system fully, if the system of ounces and gallons could have been put in it, but I am sure there will be some type of explanation in relation to that issued by the Member for the Portfolio.

With regard to the Inspector, we are establishing a post. His powers should be extended to those of Constable so when he finds offenders such as youths drinking illegally on premises, he should be able to do something a bit more than report back to the Board. I know he does have a right, as any other person, to report matters to the police. If his powers could be extended he would be more effective. I know the police have the duty to enforce the law, but the holder of this post is going to be the main specialised enforcer not only relating to the conditions of the Licensing Board, but dealing with any breach of the provision to the law.

One of the areas which does worry me (and I think it worries every society) is that of people under the age of 18 drinking. For whatever reason many times nothing is done about it. I know the First Elected Member for Bodden Town did request the voluntary identification. I would like to see this area tightened up considerably. People at that early age are far more likely to get involved with alcohol and drugs, which have, unfortunately, riddled this country. This, to me, is the most serious and the most important problem which exist in this country today. While an inspector would only be one person I think every little bit helps. If an Inspector goes on licenced premises and he has wider powers I think we would see a tightening of the law in that area.

This whole amending law seems to be good, it is a tightening up of certain areas of the law and the Board itself has done a good job over the years, a very difficult job and sometimes thankless, but it is something which has to be done by someone.

I do not agree that we should restrict the Inspector to Grand Cayman. I understand what the Member has said but I do not necessarily agree with his reasoning. Even if it is not possible in the near future for the inspector to go to the Lesser Islands, perhaps the time taken now rather than having another amending law in six months or one year may save the House some time. I do not see any objection to extending it to include the Lesser Islands and that would be left entirely to the Honourable Member if he wished to move that amendment during the Committee Stage of the Bill.

Finally, I would like to see considerable tightening under this law because it is dealing with the one problem area, other than drugs, that poses a serious threat to society. I would hope the Inspector would be a very active one and that he would go about his duties very forcefully and very fully. I will support the Amendment in the form it is in, with the hope that at Committee stage the Member may be persuaded to move on those two minor amendments.

Thank you.

MR. PRESIDENT: Would the Honourable Third Official Member now please reply?

HON. J. LEMUEL HURLSTON: Mr. President, I would like to first thank Honourable Members for their contribution and, in this instance, for the apparent overwhelming support that the Liquor Licencing (Amendment) Bill, 1989, is likely to receive.

On the two main points: First relating to the powers of the proposed Inspector, I did indicate that it was a developing service and concept and it was possible, rather than have two jobs combined and done by one person, that at some point in the future the two jobs would be separated and we would have a full time Inspector. But the intention is to commence the service by combining the job of Inspector with that of Executive Secretary to the Board. Therefore, the amount of time available will not be for full-time Inspectorate duties and not full-time Executive Secretary duties, but shared time.

We had also considered the powers of the Inspector in relation to his legal powers. We felt we should leave the enforcement with the Police. The Inspector would commence by insuring compliance with the general terms of the licences and working with licensees - not policing their operations, but working with them as an agent to persuade and encourage them into the merits of complying with the terms of their licences. If upon implementation it is found that the inspector is unable to perform his duties adequately without the powers of a constable, then that is something which could be considered and I would prefer to consider that at a later date rather than at the moment. The Inspector is acting as an agent for the Board and therefore I would like to commence the activity in that manner first.

As to the point of the jurisdiction of the Inspector regarding the Lesser Islands, again I think one should cross that bridge when one gets to it. I would not like the duties and responsibilities of the inspector to extend to such a jurisdiction that he is hampered by having to cover such a wide territory and thus reduce his overall effectiveness. We must not forget the overall economy of expenditure as well. My own view and that of the Board is that we ought to commence modestly and let the service evolve by giving additional powers and scope as and when necessary in the future.

I take the point made by the Third Elected Member from George Town about the inclusion of a double narration to indicate the British system of measuring the quantities as well as the metric system. Perhaps we could insert in brackets the other equivalency for purposes of convenience. I think that is something which could be done. The Customs Law at the moment, under which imports are measured, is done in the form of liters. Therefore, the persons working with the Legislation will have no difficulty whatsoever in dealing with these quantities. They are now dealing with them in terms of liters. So this amendment would bring it in step with the Customs Law and current practices.

On the observations and concerns expressed about the sale of alcohol to minors, I think we are all aware of this area of abuse. I think there are a number of licensees who would be anxious to find ways and means of dealing with the problem. The problem is one mainly of proper identification. We look forward to the day when the proposed voluntary I.D. system will assist with this. In the meantime there are persons who would welcome helpful hints and ideas. One of the jobs of the Inspector when visiting premises will be precisely that: to sit with the managers of premises and to advise them on proper ways and means of complying with the provisions and the legal limit for the sale of alcohol.

Therefore, I thank Members for their helpful suggestions and contributions and I commend the Bill to this Honourable House.

MR. PRESIDENT: I shall now put the question on the Second Reading of this Bill. Those in favour please say Aye, those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE LIQUOR LICENSING (AMENDMENT) BILL, 1989, GIVEN A SECOND READING.

THE PENAL CODE (AMENDMENT) BILL, 1989

CLERK: The Penal Code (Amendment) Bill, 1989.

MR. PRESIDENT: The Honourable Member for Health.

HON. D. EZZARD MILLER: Mr. President, I beg to move the Second Reading of a Bill for a Law to Amend the Penal Code.

Clause 2 of this Bill adds two new subsections into section 129 to provide that is shall not be an offence if the act is done to save the life of the mother and to provide further, 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.

Clause 3 seeks to add two new subsections into section 186, similar to those which have been added to section 129.

Mr. President, this Bill is the result of a Report of a Select Committee on the issue which has been through extensive public consultation and debate. I ask Members to

support the Bill.

MR. PRESIDENT: The question is that a Bill entitled, The Penal Code (Amendment) Bill, 1989, be given a Second Reading. The Motion is open for debate.
The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I rise in support of the amending Bill. I believe this Bill will help in the instances of pregnancies which are terminated because of certain sicknesses. This Bill is not the Bill which was envisioned at the time of the resolution. This Bill is a whole lot different. At the time of the resolution to bring this to the Committee Members (including myself) had quite a different view. But it shows that when we do have an issue Members are sometimes forced to change their minds under public pressure. This matter was one that drew much controversy.

While it is not the Bill that was espoused by Government at the time of the resolution, I believe we have done the right thing and I support it.

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

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

I rise to support this amending Bill. In doing so I would like to say that the Honourable Member who piloted this Bill to the Select Committee deserves the congratulations of this House. There is a lesson for all Members in the workings of that Select Committee. In light of the recent past I hope the lesson does not escape us.

The lesson is that when we as mature men sit down and conscientiously and intelligently sift through the ramifications, we can arrive at a sensible position, however seemingly opposed our points of view and directions were at the very beginning. Much has been said in arriving at the position where we are today. I am not going to rehash any of that, only to say that I believe the general public, especially those people who were "anti" about instituting these procedures in our country, can now feel satisfied that their representatives have dealt responsibly with the controversial issue. They have arrived at a sensible conclusion which does not liberalise or open our facilities to any undue concerns they may have had about our medical facilities being butcher shops. I believe all Members, including those who opposed the position, were genuine.

In closing may I offer my congratulations to the Member. May I say to the rest of us that this should serve as an example of cooperation - when we really conscientiously and seriously decide to work together, we can arrive at a position where we and the general public can look back with some satisfaction on our accomplishments.

Thank you, Sir.

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

MR. FRANKLIN R. SMITH: Thank you, Mr. President.

I rise to support the Penal Code (Amendment) Bill, 1989. I will be very brief, Sir, because I believe the amendment which we have reached at this stage is what the general public were looking for in the first place. I too would like to congratulate the Honourable Member for the steps he took towards achieving it.

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 a Bill for a Law to amend the Penal Code. As other Members have said, this Bill, termed 'Medical Termination of Pregnancy', went before a Select Committee which had many meetings and called many representatives of the public. People from all different sections were represented. I, too, would like to compliment the Honourable Member for Health and Social Services for the way this was handled. I think each and every one who wanted to have a word or put in their suggestions had that opportunity. I hasten today to say that we are not creating an Abortion Law in the Cayman Islands of which we were accused in the earlier stages. As my opening remarks stated, we are amending the Penal Code and I feel it is important that this is understood.

I feel, as I said in Committee, we owe this to the person who finds herself with her life in jeopardy. Medical services and personnel which the Government so adequately provides in this country are able to perform the duties which they are capable of doing. Women do not have to leave this territory to get the type of medical aid required because not all of our women are financially able to seek that type of service overseas.

I have only one concern (I mentioned this in the Select Committee) and I would ask the Honourable Member if he would speak to this in his closing remarks. In my district of Cayman Brac and Little Cayman, there is no registered obstetrician or gynecologist in residency. This Law says: ".... first certified in writing by two such registered health practitioners, acting in good faith, at least one of whom is registered by the Health Practitioners Board as an obstetrician or a gynecologist." I would ask for some provision to be made whereby, if there was an acute emergency and these professional individuals were not available in Cayman Brac that the operation could be performed, the life could be saved and it could be certified in another

manner.

I too, would like to compliment all Members of the House. Although we had different views to begin with, we came out with a majority supporting this amendment which I feel is very necessary to our Penal Code.

Thank you, Mr. President.

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

MR. TRUMAN M. BODDEN: Mr. President, I support this Law, even though I will have comments on one area of it. One lesson we have learned, which other Members have voiced, is that it is good, healthy and democratic to take important matters back to the public and to all Members of the House. That is a lesson which this Bill bears out very clearly.

This Motion in the second recital said: "WHEREAS on 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;". The debate, mentioned earlier, was very wide and in my view, showed a majority of this House leaned towards a much wider Law. One thing we always have to remember and that is that we represent the people. At the end of the day, it was what the people of this country want that we, as representatives, should represent forcefully in this House. It was Professor Wade, one of the authorities on Constitutional Law, who said that the politician must always keep his ear to the ground to detect the rumblings of the electorate. Here is a very clear example of that statement on Constitutional Law.

The Committee sat on many, many occasions as the report has shown and it called many witnesses. What we have today is the input of the vast majority of the public and its views are reflected.

The amendment is one which states that it is not a criminal offence unless it is proved that the act alleged to constitute the offence, in this case abortion, was not done in good faith for the purpose of preserving the life of the mother only. In effect, this clears up the ambiguity around the Law as it presently stood in that subsection and it extends in both subsections of it: the procedure of certification by an obstetrician, gynecologist, a Government Medical Officer, or practitioner, two practitioners in relation to whether it was necessary to preserve the life of the mother.

More time was spent on this Committee than was spent on all other Committees of this House since the inception. While this matter and Law are important, I believe, as one of the two Members, the Third Elected Member for West Bay being the other Member, who set out in our Minority Report our dissenting statement we felt in paragraph number 3 that the Committee's time could have been much better spent dealing with providing facilities for those unfortunate children who needed it. This was recently seen by the 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. I stay with that feeling, Sir. We have more pressing and more important problems in this country and we must in the future put more and more time on matters such as drugs, crime, education and immigration.

The Minutes on this and the evidence taken from the witnesses shows the amount of time that was spent dealing with the matter. In support of the Member, he and the Committee did permit anyone who wished to make statements before that Committee to do so. I think it was good it was dealt with in that way. It goes to show that sometimes we stay in this House and we have certain beliefs and feelings that may not represent what the public wishes. Here is where, as I said earlier, the procedure of going to the public and informing Backbenchers on matters which have been the subject of so much controversy recently could be avoided if this democratic process is followed.

The Law itself is one which will clear up the ambiguities. It will give some certainty and security to doctors who have to perform that type of unfortunate operation. I think it puts society in a much more certain state. But areas such as what will be done to assist those children who come into the world not perfect has still been left open and has to be addressed.

In opposing this (I actually opposed it going to Committee) the Third Elected Member for West Bay and I...

MR. PRESIDENT: I hesitate to interrupt you, but I think you are getting very close to going over a matter which the House has already decided upon, namely, the Select Committee.

MR. TRUMAN M. BODDEN: I will steer clear of that, Sir, thank you.

In the Dissenting Statement we pointed out that we felt the education of parents and the urging of health checks before marriage was good and should be developed. My view and the basis of the Dissenting Statement which was tabled is that prevention is better than the obvious cure of killing. The other aspect we dealt with, and there were four broad aspects, and this Law preserved that feeling, was the right to life, not the quality of life. A life cannot be valued in dollars. When we deal with matters such as this which are morally and spiritually important to the community, we have to weigh these matters carefully. I would like to repeat again, in fairness to the Member who chaired this Committee, that he did permit the public to come in and have their say. Believe me, have their say they did. We are substantially right back to square one as far as this amending Law now goes.

In the future we could avoid making mistakes. We do represent the people, and if this democratic process of giving the public the right to have their say, and the right of Members to study topics such as this in depth was followed, Members would ultimately come back to this House with what is really acceptable; and regardless of time, the views of the majority of Caymanians in Cayman would prevail.

Thank you.

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

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

I rise to offer my contribution on a Bill for a Law to amend the Penal Code, which specifically deals with the issue of abortion. What I find very gratifying (after the Third Elected Member for George Town and myself stood in this House when the Motion was brought by the Honourable Member for Health and Social Services, and took a pounding, I mean a real pounding, from the Member) is to have gotten the type of public reaction opposing this type of legislation, especially from the churches in these Islands. I am also proud of the fact that the amendment that is proposed today is basically what I stated in my initial debate - that I would be prepared to support the idea of an abortion only in the circumstances where the life of the mother was at stake; not widespread abortion as I feel was intended by the original Motion under the disguise of abortion for medically desirable reasons.

I feel we have been successful in protecting the rights of the unborn child here in the Cayman Islands, also the future generations of Caymanians. I would like to assure the churches that their voices were loudly heard and noted in this issue. I personally feel that Government in the future will think twice about bringing forward controversial issues which they know will be opposed by the churches and the general public.

From the deliberations and presentations which took place in the Select Committee on this issue I was even more convinced that the status quo should be maintained. The question was specifically put to certain practitioners. One in particular comes to mind who was not only a qualified doctor but a Caymanian doctor and, what I feel is very, very important, a Christian doctor. He had no problem whatsoever with the Law as it was stated. From the presentation I agreed to be a party to the Dissenting Statement which was signed by the Third Elected Member for George Town and myself. I voted that a status quo on this issue be maintained.

What is also very gratifying is the fact that this issue is a clear indication that a member of the Backbench - and we have heard a lot about them recently - with the support from the general public can have a substantial impact on major legislation facing this country. I am proud of the stand I took on the original Motion. My position has not changed. I still oppose any amendment whatsoever to allow abortions to be done in these Islands.

Thank you, Mr. President.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I believe this amendment is as close to the wishes of the majority of the people as could be. In most cases during the Committee stages on this the representation which was received, be it from the churches or individuals, was that something should be on the books to allow the saving of the life of a mother. I feel certain this will only be used for this purpose, and with the procedure laid down in this amending Bill I cannot see otherwise.

I am happy to know that after much study and listening to the public's input we now have an amendment which I believe will give the mother who falls into this category a right, and it will protect the doctors who may be faced with this problem. As I said, I am pleased to see it. I offer my full support to the amending Bill.

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

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

I rise to support the Amendment to the Penal Code which deals with the medical termination of pregnancy in instances were the mother's life is in jeopardy. The arrival at this Amendment has taken some time, and I am grateful for the time it took. This amendment embodies, as best as could be done, the wishes of as large a number of the public who wanted to participate. During the time of the Select Committee there was a host of various representations from individuals - religious leaders, petitions, and all of those went together to determine what was the general feeling on the matter.

In the first instance it appeared to some (and I daresay, to myself) that the Motion provided the opportunity for the legislation to be wider than what we have arrived at today. It is my opinion that from all the representations I heard, including what was said in my own district about it, the public (and this included the women who could at some time be faced with a situation where a pregnancy might have to be terminated) felt our Law should only include legislation to cover termination of pregnancy in instances where the mother's life was in jeopardy.

I am also happy to know that the doctors on whom one must depend for doing whatever is necessary in such cases, will not be found guilty of an offence if the action they have undertaken is done in good faith; and that the operation has to be certified by two doctors beforehand. I think this goes to show that Members of this Honourable House are capable of dealing with matters satisfactorily, although none of us may be qualified in a particular matter. I believe the way this amendment has been arrived at followed the democratic process where people for and against had the right to voice their opinions and for their opinions to be heard and registered. Where there is deviation from this particular type of process, the democratic process comes under some serious questions.

Mr. President, I think this Amendment is a quick and easy

summation of what the public and this Legislature wish to have done based on the views of all concerned and in the proper democratic manner. I will vote for this when the vote is taken, Sir.

MR. PRESIDENT: Would the Member in charge wish to reply?

HON. D. EZZARD MILLER: Yes, Mr. President.

I would like to thank Members for their support, but a few matters need to be cleared up. It has been inferred that Government brought this Bill for reasons of open door abortion. I do not have what I said in transcript form, however, if my memory serves me right in moving the Motion I made it quite clear that the concern of Government was a medical concern. We were concerned about it because it limited medical procedure and the types and quality of care available to women in need of that type of care. That was the reason for bringing the Motion at that time. I believe I also made it quite clear that Government was taking no predisposed position as to what form the Law would take. We were prepared to let the democratic process dictate what that position would be. Otherwise, as the Member (had I and Government had a predisposed position to the issue) I would simply have brought a Bill and not a Motion for public discussion.

One Member went into great detail about the time spent on this Committee, and then he gave great accolades to the democratic process. You cannot on the one hand purport to enjoy the democratic process and then complain about the time that is spent on that democratic process. That is what this was all about. I think the fact that the National Drug Plan for Treatment and Prevention will be laid on the table of this Honourable House tomorrow morning is a clear indication that neither I, as Chairman of the Committee, Government nor my Portfolio, was letting other areas that needed attention suffer while we were dealing with the democratic process relating to this Bill. It is interesting to note that in May I sent that Member a report. In August I sent him another report asking for input because I was drafting the National Drug Plan, and he could not find the time to report or to give any input to me whatsoever on that Drug Plan.

As far as services to children are concerned, again in defense of my Portfolio, no time was wasted nor were other areas neglected. In fact, I expect to have on my desk this week (and take to Executive Council at its next meeting) the report of the Caring Homes Review Committee which was established at the same time that this Committee was established to review the services provided for the youth and children in this community, in particular in the two caring homes.

Another Member patted himself very heavily on the back, that this Bill was what he advocated and what he was prepared to support from the onset. In his Dissenting Statement, it is quite clear, and I quote: "Mr. John D. Jefferson, Jr. recommends that the Law not be changed at all." You cannot on one hand say this Bill is your position, but sign a Dissenting Statement opposing any changes whatsoever; because this Bill, if passed today, does make some changes in the Legislation.

I believe the Bill has gone through the due democratic process. I thank Members for their support. I believe the public and the medical fraternity on the Islands are much happier with this Bill and the changes it proposes to the Law. I understand the peculiarities it causes for Little Cayman and Cayman Brac and we intend to address those through the Health Practitioners Law and make these services available over there. Mr. President, I commend this Bill to Members of this Honourable House.

MR. PRESIDENT: I shall put the question on the Second Reading of this Bill. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED: THE PENAL CODE (AMENDMENT) BILL, 1989 GIVEN A SECOND READING.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 3:20 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:57 P.M.

MR. PRESIDENT: Bills, Second Readings continued. Clerk, please.

THE COMPANIES (AMENDMENT) BILL, 1989

CLERK: The Companies (Amendment) 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 Amend the Companies Law (Cap. 22). The Companies Law at present has a volume of amendments already made to it. In most recent years the Company Law Revision Committee has made a number of recommendations to us and we have seen in this morning's *Caymanian Compass* the article on the amendments presently before the House. These Amendments have not only been considered by the Committee comprised of private sector practitioners but also have reviewed by members of the Consultative Committee which is a broader

group of people practising in the private sector.

There are 26 clauses putting forward amendments to the Companies Law. Quite a number of these clauses deal in some way with no par value shares, especially clauses 5, 7, 8, 11, 12 and 14, either to confirm and clarify the use of no par value shares, or amending section 12 so the existing provisions with respect to the alterations of share capital take account of no par value shares.

I believe there are additional amendments which are rather consequential, but going through them we looked at clause 10 which seeks to amend section 30(a) by deleting the existing subsection (2), and added two new sections to make provisions for the proper disposal of land held by a company which is in breach of section 30(a).

In clause 11 it seeks to amend section 32 by substituting two new sections, 1 and 2, to extend the purpose for which the share premium account may be applied and to provide that the consideration received on the issue of no par value shares shall be capital.

Clause 12 amends section 33 to remove the requirements for the issue of shares at a discount to be approved in general meeting and to clarify that such issue does not apply to no par value shares.

In section 13 we seek to add a new section 33(a) to confirm that a company has power to pay commissions in respect of subscription of shares. This is taken from the English Companies Act of 1985 although the amendment is shortened to suit the Cayman Islands position.

Clause 14 seeks to amend section 34(a) of the Law to correct certain errors and to provide that the section does not apply to no par value shares.

Clause 15 seeks to amend section 57 to permit the Articles of Association to provide for a greater majority for the passing of special resolutions than that set out in the section and to allow such resolutions to be adopted by unanimous written consent instead of at a general meeting. This is as a result of some business that attempted to come to the Cayman Islands but, as a result of the Law it is presently worded not allowing for a greater majority than two-thirds, the business did not come.

Clause 16 seeks to amend section 64 to remove the requirement that a resolution to define to whom inspectors report should be passed at a general meeting.

Clause 17 seeks to replace and repeal section 70, thus extending the record keeping requirement to resolutions adopted by unanimous written consent, as well as those adopted at general meetings or meetings of the directors.

Clause 18 embodies a freebie. It seeks to amend section 77 to remove the requirement for an association not for profit to pay the annual companies fees.

Clause 19 seeks to repeal and replace section 81 of the Law in order to specify more clearly the provisions relating to the common seal of the Company and the maintenance of duplicates thereof.

Clause 20 seeks to amend section 84(4) to permit the transfer of property to a company abroad upon a reconstruction or amalgamation with approval of the Court.

Clause 21 seeks to amend section 129 to remove the requirement for a general meeting to approve the winding up of a company in the circumstances mentioned in paragraph 8 thereof.

Clause 22 deals with the appointment of a liquidator and it seeks to amend section 133, to remove the requirements of a general meeting for the appointment of such persons.

Clause 23 seeks to amend section 184 to reinstate a reference to section 191, inadvertently deleted by the Companies Amendment Law, 1987.

Clause 24 also deals with the replacement of section 190 in order to reinstate words omitted inadvertently by the Companies Amendment Law, 1987.

Clause 25 seeks to repeal and replace section 196, in order to provide a mechanism for the compulsory divestment of land held in the Cayman Islands by an alien company in contravention of the Law.

Clause 26 seeks to insert a new part 11 to the Law, containing new sections 210 and 218. These new sections will make provisions for companies incorporating and qualifying jurisdictions elsewhere, to be registered by way of continuation as exempted companies in the Islands, provided such conditions are met and provided the Law of the Country from which they are transferring permits this. Similarly, provisions are made for exempted companies to be de-registered here upon being registered by way of continuation in another qualifying jurisdiction provided certain conditions are met and provided the de-registration and movement out is bona fide and not to defraud.

We know many of the off-shore jurisdictions, as well as some of the popular places for incorporation of companies have within their legislation the permission for companies to move from one jurisdiction to another namely, the British Virgin Islands, Delaware, Nova Scotia, Turks and Caicos, Australia, New Brunswick, and I understand even a draft Bill is being put together in Bermuda. So it is only an attempt to retain our attractiveness as an off-shore jurisdiction for the incorporation of Companies.

I commend the Bill to this Honourable House.

MR. PRESIDENT: The question is that a Bill entitled, The Companies (Amendment) Bill, 1989, be given a Second Reading. The Motion is open for debate accordingly. [pause] The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I support this Bill. It is, as was quite clearly put forward by the Honourable First Official Member, a very long and comprehensive Bill, and one in a series of

amendments to the Companies Law. I think it is very important that we do get our Companies Law amended and, further, that we have it revised and the many amendments put into it.

A large part of this country's revenue comes from the off-shore industry. Companies legislation, like the Trust for which another Law will be coming, has to be constantly updated. We have to keep up with other jurisdictions which may now be coming in and taking a part of the business which in the past, to a large extent, was monopolised by a few of the countries such as Cayman and the Bahamas.

The Bill has run through the process of a Committee which included among others, lawyers and bankers and those in the private sector. It has been looked at in depth there. I believe it is one of the best sounding boards that Government could have in areas of this type of legislation. It is, of necessity, complex. The provisions, especially those that deal with transfer by way of continuation of companies from one jurisdiction to another are detailed and quite new to many of the jurisdictions but are very important in continuing to build the financial industry.

We should never lose sight of the fact that it is a very competitive field within the last few years. We have seen other good jurisdictions coming in and becoming competitive, bringing in new ideas and legislation and unfortunately for us, lower fees. This is where competition forces us to be the best, which I believe we are, and will continue to be. To do that there must be the constant updating, the constant competitive edge which Government has to recognise and does recognise in this area.

I have only one request. I understand there will be more amendments coming in due course, but if it is necessary for the First Official Member to spend a bit of money to make a lot more money and we could more quickly get assistance into the Committee which is dealing with this. All members are practitioners and we are all busy. The time the practitioners take could be shortened considerably if they had some assistance, which I understand may even be found locally. If not then some money should be spent in that area to get the balance of the amendments completed and then to have a good look at the Trust Law. I think that the First Official Member in his other capacity as Financial Secretary will find this very rewarding in the near future. I am appreciative of the time the Committee has spent. I am not criticising them, I am merely saying that I feel they could be given a bit of help to move quicker and try to finalise and update this Law and the other Laws as early as possible.

The complexity of it has been dealt with by the Honourable First Official Member in his opening remarks and I am not going to seek to attempt to look at the specific areas. I would say there are times like this when perhaps areas of retrospective legislation are necessary and I do support it. I support the provisions in here. I know they have been looked at carefully by several people. I look forward to the day when the Companies Law comes out in one nice neat volume without too many amendments to it.

Also, when we come to the end of the many amendments on this and the Trust Law, I look forward to a bright, happy, profitable future in the financial sector and in the Islands generally because the money does flow to everybody from there. Especially at times like this I believe it is very prudent for us to modernise and move on.

I support the Bill, Sir, as a good forward-looking Bill, and one that will assist the Islands generally.

Thank you.

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

MR. JOHN D. JEFFERSON, JR.: Mr. President, I rise to offer my support for a Bill for a Law to amend the Companies Law. I think the proposed amendments are good and that they keep us in a competitive position with other jurisdictions who are also vying for the corporate business.

I like the flexibility that is being proposed. Under Part 11, entitled 'Transfer by way of Continuation', I think this is very good in that it allows a company from a foreign jurisdiction who holds property to apply here for registration. This is done without requiring another local company to be incorporated, which title to property they might hold could be transferred to. I think these amendments will put us in the position where we will catch some of the business moving from other jurisdictions or banking centres who are now experiencing problems or will be faced with some problems in the future.

The reverse has also been proposed where an exempt company registered or incorporated locally can also apply for de-registration allowing it to move to another desired jurisdiction without the necessity to transfer title to property and other assets to another entity in another jurisdiction.

The whole idea of these amendments is to provide a flexible, attractive, competitive position. I feel as a financial centre we must remain alert as to services which are being offered by our competitors. We must be in a position to react to, to match or surpass the attractiveness of other jurisdictions. As a premier financial centre, we have to remain out front of our competition and continue to make the Cayman Islands a place where everyone would prefer to conduct their business. As I understand it, the contents of the amendments have be widely circulated among those entities and persons whom they will effect. The amendments do take into consideration the views of these particular parties.

I feel this is a move in the right direction because the Cayman Islands have long been known as a banking centre and a large percentage of our revenue each year is derived from the licensing of banks here and also the incorporation of companies. We must do everything on our power to retain this attractiveness.

I support this Bill.

MR. PRESIDENT: Does any other Member wish to speak? [pause] In that case,

would the Honourable First Official Member wish to reply?

HON. THOMAS C. JEFFERSON: Thank you, Mr. President.
It is appropriate and proper to say thank you to the Members who have supported the amendment put forward in The Companies (Amendment) Bill, 1989. I hope we will shortly see the fruits of this attraction.

MR. PRESIDENT: The question will now be put on the Second Reading of this Bill. Would those in favour please say aye? Those against no?

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE COMPANIES (AMENDMENT) BILL, 1989, GIVEN A SECOND READING.

MR. PRESIDENT: We would now normally go into Committee on our agenda. Do Honourable Members consider it worth going into Committee for five minutes or would you prefer to go early?

ADJOURNMENT

HON. THOMAS C. JEFFERSON: I believe the Members would wish to take the break, Sir. Following that thought, I move the adjournment of this Honourable House until 10:00 A.M. tomorrow.

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 10:00 o'clock.

AT 4:25 P.M. THE HOUSE ADJOURNED UNTIL 10:00 A.M. TUESDAY, 5TH SEPTEMBER, 1989.

TUESDAY
5TH SEPTEMBER, 1989
10:08 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: The proceedings of the Legislative Assembly are resumed. Papers, the Honourable Elected Member for Health and Social Services.

PRESENTATION OF PAPERS AND REPORTS

NATIONAL DRUG PLAN TREATMENT AND PREVENTION

HON. D. EZZARD MILLER: Mr. President, I beg to lay on the Table of this honourable House the National Drug Plan Treatment and Prevention.

MR. PRESIDENT: So ordered.

HON. D. EZZARD MILLER: Mr. President, one of the top priorities, if not the top priority as decided by myself and the staff in my Portfolio after I took office in November, was the development of a National Drug Plan for Treatment and Prevention.

At this time, I would like to thank in particular the staff of the Portfolio for the time and effort they have put into organising and finalising this Plan. It has been nine months in the making. Many hours have been spent on it and I think they can be justly proud of their accomplishment. I would like to thank the Government Information Services for the splendid job they did in producing the Plan.

We started off gathering information on this Plan by first asking the Drug Advisory Council, which, as we all know, was set up under Law last year, and the first Council was appointed in January of this year. Their first task was a report on all that was being done on the drug prevention and treatment interdiction front in this country. The Chairman and the members of that Council spent many hours of their valuable time interviewing people. They met every week on the average of three hours for two months. I gave them a very stiff timetable as a challenge - they had to have the report ready by the 30th of April. I am happy to say that they met the challenge. The report was delivered on time and it is a very comprehensive one. For that, the Portfolio and I are extremely grateful.

During the time the Drug Council was preparing the report, the Portfolio got in contact with Hazelden Rehabilitation Services. We engaged the research section of that organisation to assist us with gathering additional information with the specific purpose of assisting us with the expertise necessary to develop and design this Plan. A representative from Hazelden came down. They interviewed a number of individuals who played leading roles in various areas of the drug prevention and rehab attack. They used extensively the information provided by the Drug Advisory Council, and Hazelden also produced a report on the national needs and assessments for drugs and alcohol. This information was then collated into the Plan which is now before this honourable House. The Plan is envisaged as a five year plan - that is, we hope to

have all of the services provided within that five year time frame.

I will deal briefly with some of the specifics in the Plan, and I will quote from the introduction of the Plan:

> "The Government of the Cayman Islands recognises that abuse of drugs in a national problem. In response, the Portfolio of Health and Social Services has prepared a National Drug Abuse Prevention and Treatment Plan.
>
> The National Plan embodies the following concepts as its philosophical base:...".

Here, I might interject that this Plan does not deal with interdiction, and there is a specific reason for that. We believe interdiction in itself is a front that must be separate and apart from the rehab and treatment side, because rehab and treatment connote a certain amount of sympathy for the user who has a disease. I think I am safe in saying the Government has no sympathy on the interdiction front for those people who use, abuse, and, in particular, those people who distribute and promote the abuse and misuse of drugs. Further, I would add that the Government has spared nothing in putting in place what I believe is an adequate legislative framework to deal with interdiction.

I think the police are doing a good job with the resources they have in trying to counteract drugs on the interdiction front. We all know that is a very difficult process, if we look around at countries who have spent much larger resources on interdiction with very little success. We believe that this Plan, because it is going to reduce the demand through education, will assist on the interdiction front. So the Plan recognises that drug abuse is a disease and that is the whole philosophical approach on which the Plan is based.

> "The Plan recognises that chemical dependency [and that is dependency on any chemicals, alcohol or any of the mood altering substances, nicotine or any other substance] is a primary disease.".

That is, it is not caused by anything other than the chemical dependency. It is chronic, there is very little or no cure for chemical dependency. The most we can do is equip the individual to live and manage his life-style recognising that he has a chronic problem, a progressive illness, that is, it gets worse with time if it is not treated. The second philosophical base of the Plan is that chemically dependent individuals should be treated with respect and dignity; and the third philosophical base is that these services must be provided on a confidential basis.

Having accepted those three areas as the philosophy behind the Plan, the problem was then addressed in three major areas; "Preventive programmes and community education; Comprehensive treatment services; and Employer/Employee programmes". Each of these areas was then developed in detail. Here I might say that the Portfolio, recognising Government is doing all it can (and a good job) on interdiction, also recognises that the Education Department and the Portfolio responsible for Education and the education that we will provide about drugs as part of the curriculum, is well in hand by that Portfolio. Therefore, this Plan does not address either of those two areas but sticks to the treatment of the disease, as it were.

I should also point out that any place where the term "drug" is used in the Plan it refers to all mood-altering substances, including alcohol.

> "The Plan is intended to be a cooperative effort of Government and the private sector. The Government recognises the contributions of all the existing organisations and intends, through this Plan, to develop a comprehensive framework, in which we hope all of these valuable resources can be most effectively and efficiently utilized.".

The Plan and the implementation of the Plan are going to be the responsibility of the Medical Officer for Health who has responsibility for primary and preventive health care under the Department. The structure of the Plan is such that it deals with each of the three areas, that is, Prevention/Education, Treatment, Employees' Work place, by breaking each down into four separate headings: Goals, Objectives and Methods and Evaluation.

In the prevention and education side the goal of the Plan is that "the front line of defense against drug abuse is prevention through education. This pro-active approach is based on the tenet that reinforcing the individual's sense of self-responsibility and capacity to exercise sound personal choices, along with creating an awareness of consequences for those choices, will effectively insulate the individual against drug abuse" or chemical dependency. "This approach is consequently non-punitive in nature and has an underlying goal of changing public attitudes through education towards viewing chemical dependency as an illness with the potential to affect anyone." It is said that chemical dependency is an equal opportunity employer - anybody who asks it for a job will get one. "In achieving this goal it is hoped to raise awareness of the extent of the problem and its impact on individuals, families and communities. The Plan is, therefore, designed to reach the widest possible audience - not only those deemed to be at risk, but the healthy majority with the objective of reinforcing positive attitudes.".

The methods which we will use in the prevention/education front are basically to "provide community-based education on topics such as achieving good health, the adverse effects of alcohol and drug abuse, risk of drug use, etcetera.". We hope to "promote involvement in community educational efforts and activities by the following: community leaders, employers, churches, P.T.A.s, civic groups,

entertainers, recovering individuals and those is the hospitality industry." We will "develop educational material and a speakers bureau, develop messages and programmes for radio and the print media.". We also believe we have a responsibility for education of professionals involved in treating these diseases. We intend to do this through providing continued educational workshops for members of the clergy, health personnel, educators and the judicial system.

The fourth area of each topic is evaluation. We regard this as a very important section of the Plan, because we have to be constantly assured that the Plan is reaching its objectives. The only way to do that is through an ongoing evaluation process. It is envisaged that the "Plan will be monitored on a quarterly basis", so we can determine whether we are, in fact, reaching the objectives we set out in the Plan.

Under treatment the goals are: "The treatment of drug abuse is a process involving early intervention, assessment, detoxification, outpatient and/or inpatient services and after care." I would add that "particular emphasis will be placed on increasing the outreach to the districts and to the Lesser Islands, and on developing special services for youth." No doubt Members will be happy to hear that the youth are not being left out.

"Throughout the community a range of professionals will be trained in early detection, assessment and referral. Particular emphasis will be placed on the promotion of inter-agency cooperation, related to case management." We intend to formalise, improve and enhance the detoxification services at George Town Hospital. "The outpatient services for drug abuse will be developed into a community counselling centre, staffed with two additional counsellors [who were added this year], and there will be considerable development of the administrative procedures and systems to allow for reliable record keeping which we believe will be an important ingredient, if we are going to have an effective evaluation process.".

"Experience elsewhere in the world has indicated that 80 to 85 per cent of all cases of drug abuse can be successfully treated on an outpatient basis. It is therefore not envisaged that it would be economically feasible to enter, at present, into the type of major capital programme that construction and maintenance of a residential facility would require.". Rather, the Government and Portfolio have taken an informed decision that it is more economical, and the people will receive better treatment, if we select an institution which has a good track record of inpatient treatment services. This we have done in selecting Hazelden Services, Inc. They are celebrating their 40th year in the drug and alcohol rehab treatment services.

Following that rehabilitation decision, we looked at the problem we are now facing in aftercare. We had a problem where when we sent people off to Hazelden (and some go voluntarily to other private institutions) and they come back, there is no formalised programme of aftercare for which they can become a part. These people need continued support.

We decided early on in the Plan that the disease is chronic, so we looked at the possibility of providing, or investing funds in the aftercare area. In this light the Plan envisages "the establishment of half-way houses here in the Cayman Islands as a means of assisting recovering persons to become reestablished in the community. These facilities will provide support and therapy, while pursuing the major goal of assisting persons in finding jobs and once again becoming independent, fully functioning persons." It is envisaged these two half-way houses will take separate forms because we are not, at this point, absolutely sure what the specific need is. We can rely on other peoples' experiences but we do have to allow for a Caymanianisation of the experience. In that light, we intend to conduct two pilot projects: one in West Bay, where a 10 bed residential facility is envisaged. It will have a structured half-way house programme similar to that which is provided in other countries and areas for half-way houses.

At the same time we intend to conduct a half-way house approach in Bodden Town, but with a little different emphasis. We intend to use that one as more of a drop-in centre and hope we can get people into the system for counselling or to help with the problem before they reach the stage where they need rehab and detoxification. We believe that from those two experiences, we will be able to develop a tailor-made project and plan which will be entirely suitable to the needs of the Cayman Islands. Of course, we intend to promote the self-help groups, such as Alcoholics Anonymous and Narcotics Anonymous in order to facilitate continuing support and therapy for recovering persons through rehabilitation.

One of the other problems we have with individuals who have been rehabilitated is their unfortunate inability to get employment once they have been rehabilitated. This is a problem we have to overcome through the education of the community and, if the person has rehabilitated himself, we have to give him the benefit of the doubt. We are spending a substantial amount of resources to rehabilitate these people and that is another reason we have included in the Plan the Employee Assistance Programmes (EAP), in which we hope to conduct a lot of employer education.

I think it is fair to say that if an employer has people who are currently dependent on some chemical substance who are still at work and have not been convicted of any offence, they are losing a lot of valuable, productive time. The person who has admitted he has a problem, who has sought rehabilitation and who has successfully rehabilitated himself is as capable, or better, at delivering an improved productivity than the person who is still chemically dependent and is still within the organisation. I believe that can be overcome. I believe the employers are prepared to listen and I think we can get cooperation.

Now, if I could deal a little bit with the Employee Assistance Programme. One of the problems with chemical dependency (which is drug abuse) is that we have to get at the underlying cause as to why people turn to mood-altering substances. We believe part of that process is getting involved in an Employee Assistance Programme - a joint educational effort between Government and the private sector in the education of employees and employers on what to look for and what help to offer to these people before they have the need or desire to turn to these mood-altering substances. The EAP is designed to do exactly that. It will equip employers, their middle management people, the supervisors and frontline managers with basic

skills which will allow them to detect that there is something not right with an individual which does not apply to the lack of technical knowledge or ability, as it were; that there is something slowing the person down at work, such as attitude changes and similar things. We believe if we can offer an opportunity at that early stage for the employee to voluntarily seek assistance or to be encouraged by the EAP person to go and talk to someone before they turn to cocaine or alcohol, we can have greater success and the effect will be greater in the society.

We have had extensive discussions with the Chamber of Commerce and they are prepared to be ready to fund and to support this programme. In fact, since the drafting of the Plan the Portfolio has gone as far as to set up a work shop which is scheduled for 18 October, when we are going to bring down the EAP experts and have them make a presentation to as wide as possible a group of employers, middle managers, people in the society, as to what the whole programme is about so that we can get support for the programme. That workshop is going to be a joint effort between the Portfolio and the Chamber of Commerce. We hope it will be successful. We have no reason at this time to doubt that it will be.

The Plan also carries an addendum which we feel is important. It deals with urinalysis drug screening. I will read what it says:

> "The National Plan recognises that under the Misuse of Drugs Law (Law 13 of 1973), urinalysis has an important role to play as a tool in interdiction when used by police officers "on suspicion" of drug abuse.".

The plan fully realises and fully supports the punitive action prescribed by Law under those circumstances and has no sympathy for people who are punished under those circumstances. However, "The Plan also recognises that any employer may require drug screening as part of the company policy.". The frequency of that is to be determined by the employer and whether it is before or during employment, that is a decision which we feel each employer has the right to make.

"In the context of this Plan" - and I must emphasise that this plan is dealing with treatment and rehab of individuals who have an illness - "the intent of drug screening is to aid in the identification and possible of treatment of existing problems or to monitor compliance with an established drug treatment strategy." In other words, if an individual goes to a drug counsellor and lays out his problems but continues to insist that his problem is only that his wife does not give him breakfast at 6:30 instead of 7:00; and it is fairly obvious to the drug counsellor that there is a little more to it and that from his professional judgment he feels there is some chemical dependency or disease which is at the root of his problem, he could say to the individual; 'If you are sure there is no chemical dependency, let's just confirm it. Let's do a urinalysis and see.' So it will be used in that context to identify problems and treatments. It could be used again if the person has a very serious problem... and abstinence is the cure for this disease. The drug counsellor, or the professional who is treating the individual, might ask the person to agree to a weekly, monthly or bimonthly drug screening just to make sure that abstinence is being complied with.

Those are the two areas in which drug screening is envisaged to be used under the Plan. When screening is used under those two circumstances, it will have no punitive action. When screening is used in those circumstances, the National Plan recommends the following parameters in applying the procedure; "It must be medically supervised; confidentiality must be assured; and it should result in further evaluation where indicated.".

The plan also carries as an appendix a sample drug policy. It also gives a sample of an Employee Assistance Programme and Policy Statement and a bar graph showing how it is envisaged it will be used in the Cayman area. There are some employers who have enough employees who could justify the hiring of a counsellor or the appointment of an EAP assessment and referral person, but we believe it would be much more effective, in our particular situation where most of the employers are small companies, if we offered one individual (or two or three as the need might demand) who can do this assessment and then refer the person to the particular service they would need, whether it is alcohol or drug counselling, mental health, legal, family counselling or just financial planning assistance.

We believe the plan is adequate. The Portfolio and the Department responsible for the implementation are very enthusiastic about it. We hope to have it started in January of next year. Some of it is already ongoing. We hope to make the necessary improvements as time goes along. We are optimistic that the approach as outlined in this Plan will have a positive effect in reducing the demand for mood-altering substances in the Cayman Islands through information about the effects of the mood-altering substances, and also about the consequences of making the wrong choices when it comes to the use of mood-altering substances.

Mr. President, I take great pride and pleasure in laying this National Drug Plan on the Table of this honourable House. I think, as far as time is concerned, we are one step ahead of Mr. Bush because he is not doing his until 8:00 P.M. tonight.

Thank you.

MR. PRESIDENT: I think you meant President Bush, not Mr. Bush.

MR. W. McKEEVA BUSH: There is only one Bush in this House, Mr. President.

HON. D. EZZARD MILLER: Which we are trying to claim. [laughter]

MR. PRESIDENT: Right. We now move to Item 3 on the Business Paper. Questions. Question No. 65, the Second Elected Member for the Lesser Islands please.

QUESTIONS TO HONOURABLE MEMBERS

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 65: Would the Honourable Member say what are the educational requirements for entry to the Royal Cayman Islands Police Force and how is selection decided?

ANSWER: I attach an extract from Appendix 'B' of the Commissioners Annual Report which sets out minimum standards for entry to the Royal Cayman Islands' Police.

Whereas no precise educational standard is laid down, e.g. a specific number of GCSE passes, applicants are required to sit and pass an entrance examination consisting of question papers on English language (essay writing, word usage and comprehension), and arithmetic. Candidates with a satisfactory academic record may be exempted from the entrance examination.

Selection thereafter is by way of interview following vetting for previous convictions and/or an adverse background. The applicant is also required to pass a medical examination and a physical fitness test.

APPENDIX B

MINIMUM STANDARDS FOR APPOINTMENT AND GENERAL CONDITIONS OF SERVICE

1. The following standard is required for enrolment of recruits into the Royal Cayman Islands' Police:-

a) preferably (but not necessarily) Caymanian or Caymanian Status;
b) entry age between 18 and 30 years;
c) of reasonable height;
d) eyesight should be normal, without spectacles;
e) must satisfy the Government Medical Officer regarding physical fitness;
f) must satisfy the Commissioner of Police regarding general standard of education.

2. All recruits are required to serve a probationary period of two years before being confirmed in their appointments, which will either be permanent and pensionable or of two years local contract.

3. Promotion to the rank of sergeant is by competitive examination and selection; before promotion to a constable must have completed two years service.

4. Promotion to the rank of inspector is by competitive examination and selection. Promotion above these ranks is by selection.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

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

I note in the answer that there are no specific number of GCSE passes or whatever set. In recent times there have been advertisements on the radio by, I assume, the Police Department inviting applicants to join the Force stating that there should be a "reasonable level of education". Could the Member say what is envisaged or what is hoped for by that statement?

HON. J. LEMUEL HURLSTON: Mr. President, what is hoped for by that call is to invite persons who consider themselves reasonably literate - having the ability to write and comprehend the English language and minimum academic skills.

The reason it is not more specific than that is because we do not want to run the risk of ruling out suitable candidates or good officers by setting a standard which might eliminate them. Therefore, it is left to the individual to assess his own abilities and to decide whether or not in his opinion his standard of education is reasonable for what he perceives the function of a police officer to be.

It is also true to say that persons who are in doubt are invited to visit at the training division of the police headquarters to discuss their particular standards with the recruiting branch and to determine from that discussion whether or not they should pursue the matter further.

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

MR. ROY BODDEN: Can the Honourable Member say if in the opinion of the authorities, there is a problem in recruiting young Caymanians to the Force?

The second, if you will permit it, is...

MR. PRESIDENT: Perhaps we can take them one at a time?

HON. J. LEMUEL HURLSTON: Yes, I can confirm that it is becoming increasingly difficult to attract young, qualified Caymanians for service in the Royal Cayman Islands Police Force.

MR. ROY BODDEN: The next and logical question to ask is: What are the authorities doing to make the Force attractive to more young, suitably qualified Caymanians? And I emphasise the word 'Caymanian'.

MR. J. LEMUEL HURLSTON: The Commissioner of Police is constantly evaluating this position and puts proposals to the Government for consideration. Some proposals are due to be presented in the Budget Session in the next meeting of the Assembly. If passed, some of those proposals will have the effect of improving the attractiveness of the Force.

MR. GILBERT A. McLEAN: In looking at the answer, it states that the entrance examination requires questions on the English language, essay writing, word usage and comprehension and so on. This would appear to me at the level of high school education. Would it not be more appropriate if in advertising for recruits to the Police Force it was said that the Force was looking for persons of high school level education or the equivalent, and stated that the applicant would have to sit an examination where necessary? Would the Member comment on that?

HON. J. LEMUEL HURLSTON: That is a matter of opinion. I believe what the Force has been attempting to do is to leave the net as wide as it possibly can in the hope that anyone who is interested in joining the force would come forward, notwithstanding the level of education. When stating that one must have that as a minimum, or the equivalent, the equivalency part of it is open to opinion and interpretation. So what the Force has decided to do is to leave that as a general statement and for the candidates to come forward, sit the examination and proceed from there.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, a supplementary.
I wonder if the Member could say whether both Caymanians and foreigners alike do the same exams for entry into the Royal Cayman Islands Police Force?

HON. J. LEMUEL HURLSTON: Yes, Mr. President, I can confirm that.

MR. JOHN B. McLEAN: A further supplementary, Sir.
I wonder if the Member could say whether it is correct that most foreign applicants have years of experience and perhaps, in some cases, a college education thus having an advantage over the locals who may apply?

HON. J. LEMUEL HURLSTON: That is possible, Mr. President. Yes.

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

MR. GILBERT A. McLEAN: Mr. President, would the Member say if it is true that police officers are required to have quite a good command of English since a considerable amount of their time while on duties is keeping notes and records of what they see, hear, or whatever the case may be? Is there anything wrong with attempting to find, not just anyone who might have a level of education, but someone precisely qualified as the need arises for police officers?

MR. J. LEMUEL HURLSTON: Mr. President, I agree that the ability to write well is an ingredient, but it is not the sole criteria, and it is certainly not the major function of a constable. This is why an examination and selection process is so vital, because in the selection mechanism, the strengths and weaknesses of candidates can be identified. Those who are in all other respects suitable, but need some assistance in brushing up and sharpening of their skills in a particular area could be recruited and given some help and encouragement in those weak areas. This, in fact, is often done.

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

MR. ROY BODDEN: Thank you, Mr. President.
Can the Honourable Member say if the entrance examination has been waived for any recruits?

HON. J. LEMUEL HURLSTON: Yes, Mr. President, in the answer I read earlier it says, "candidates with a satisfactory academic record may be exempted from the entrance examination.".

MR. ROY BODDEN: Thank you, Mr. President.
I wonder if the Honourable Member is in a position to let us

know exactly the nationalities of those candidates, Sir?

MR. J. LEMUEL HURLSTON: No, Sir, I am not in a position to do that.

MR. ROY BODDEN: Can the Honourable Member give this House an undertaking to provide the answer to the question, Sir?

HON. J. LEMUEL HURLSTON: If the Member would give me the range of dates that he is referring to, I could consider giving such an undertaking.

MR. ROY BODDEN: I respectfully request that my supplementary was based on the Member's statement at any time. But I will be reasonable and say in the recent past. Let us say for the last six years.

MR. PRESIDENT: I think we might have one or two more supplementaries. This question has had a good pounding. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, would the Member tell us who are on the panel that sets and corrects the examination, and also who are on the selection panel?

HON. J. LEMUEL HURLSTON: The panel that does the examination is made up of Officers in the training unit. The persons on the selection panel are persons from the training, administration and central branches of the police organisation. So you have different groups involved at different stages of the selection process.

SUSPENSION OF STANDING ORDER 23(7) AND (8)

HON. THOMAS C. JEFFERSON: Mr. President, If the supplementaries are going to go on, and the other questions are going to be taken, I think the hour of 11:00 A.M. is upon us. If it is the wish of Members I would move the suspension of Standing Order 23(7) and (8) in order for the further questions and supplementaries to be taken.

MR. PRESIDENT: The question is that Standing Orders 23(7) and (8) be suspended to enable the completion of the questions on the Order Paper.

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

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED: STANDING ORDER 23 (7)&(8) SUSPENDED.

MR. PRESIDENT: We move to question No. 66. The Second Elected Member for the Lesser Islands.

MR. W. McKEEVA BUSH: I do not think supplementaries were finished on that last question. We are still awaiting the response from the Third Official Member for the undertaking.

MR. PRESIDENT: I thought that had been given. I had assumed it had been given so the records show that the undertaking is given. I do think we have to put a certain limit to the number of supplementaries to each question. I think that one has had a good airing. So we will go to Question No. 66. The Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 66: Would the Honourable Member say what has been determined as the total number of policemen required in the Cayman Islands and what will be the ratio of police to citizen when this is accomplished?

ANSWER: The current establishment of the Royal Cayman Islands' Police stands at 203.

The Commissioner has recommended an increase in establishment of 22 for 1990. If this increase in establishment were granted, the ratio of police officers to citizens would be 1:116, assuming a population of 26,000.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, in the response the ratio given is 1:116. That is highly unusual in this society. Could the Member say why such a ratio is considered necessary?

HON. J. LEMUEL HURLSTON: Mr. President, first of all I cannot accept the ratio is unusual. The Force operates on a shift system, so it does not necessarily mean that there is at all times one police officer on duty for every 116 citizens. That ratio includes every police officer deployed for 365 days. When you break down the number of officers available on a particular shift, and divide that shift total by the population at that time, you would get a more realistic idea of ratio of police officers on duty to population.

I might add, Mr. President, that I have not produced those figures myself. If the Member is trying to arrive at the number of police officers on duty at any one time in relation to the population, then that should have been the sort of parliamentary question put down.

MR. GILBERT A. McLEAN: Mr. President, I am trying to determine what is the number of police officers to the number of citizens in this country as the question asked, and as to the question, that was not unusual. Would the Member say if 225 police officers would be what is considered the maximum number of officers required, or is that only for the year 1990?

HON. J. LEMUEL HURLSTON: That is the minimum number required in respect of and up to the year 1990.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, a supplementary.

I wonder if the Member could say whether this increase will take into consideration the outer stations giving a 24-hour service?

HON. J. LEMUEL HURLSTON: Mr. President, I can confirm that it takes the districts into consideration. I cannot comment in any more detail beyond that.

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

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

I wonder if the Honourable Member is in a position to say whether the increase in numbers of persons in the force is based on some specific formula or is it something which is arbitrarily arrived at?

MR. J. LEMUEL HURLSTON: Mr. President, first I can assure the Members it is not arbitrarily arrived at. It is arrived at by taking into account every foot that hits the deck and every area of service that is required to be delivered. Therefore, it is the minimum number of officers required to fulfill the duties and obligations of the Force.

MR. PRESIDENT: Question No. 67, 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 INTERNAL AND EXTERNAL AFFAIRS

NO. 67: Would the Honourable Member say what is the policy regarding announcements of political meetings on Radio Cayman?

ANSWER: The general policy is: a) Radio Cayman does not accept paid political announcements; and b) Announcements of political meetings are usually handled on the Bulletin Board. If time does not permit to give the meeting adequate exposure on the Bulletin Board, Public Service Announcements (PSA) are broadcast so as to ensure adequate exposure.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

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

Recently there were announcements of political meetings on Radio Cayman about every half hour when the Executive Council was going from district to district holding meetings. Were they paid for or were they free? Could such a thing be extended to any other Members of this Legislative Assembly?

HON. J. LEMUEL HURLSTON: Mr. President, based on my answer they could not have been paid for. They would have had to be either Bulletin Board notices or Public Service Announcements.

MR. GILBERT A. McLEAN: Mr. President, there was a second part to my question. I

wonder if the Member could say whether Public Service Announcements could be used by other Members of the Legislative Assembly, or are they confined only to the Government Executive?

HON. J. LEMUEL HURLSTON: The station has no policy or practice of discrimination in that regard. Any Member of the Legislative Assembly has the same facility extended to him.

MR. GILBERT A. McLEAN: Mr. President, I can assure the Member that I have tried to pay for ads on Radio Cayman at various intervals during the day. I have also asked if they would put on announcements during the day and neither was granted in the past. I am wondering if there is a conflict somewhere between what happens at the Radio Station and what is expected by the Portfolio. Would the Member comment?

HON. J. LEMUEL HURLSTON: Mr. President, from time to time the station advises the public of the polices in relation to the use of the Bulletin Board. It requires notices to be submitted no less than 72 hours prior to the intended first broadcast.

If, in the opinion of the Radio Station, it is in the public interest to be informed of an event due to special circumstances (a public meeting which for various reasons it may not have been convenient or possible to have the 72 hours advance notice) it is entirely up to the Radio Station to decide whether in those circumstances public service announcements ought to be made.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Member say whether there have been any extra spot announcements for persons other than the Elected Members of Executive Council recently?

HON. J. LEMUEL HURLSTON: Yes, Mr. President, there have been.

MR. GILBERT A. McLEAN: Mr. President, I must say that I listen to the radio very frequently and I have not heard them for anyone else.

MR. PRESIDENT: You really must put it in the form of a question.

MR. GILBERT A. McLEAN: Yes, Mr. President, I am bringing a question. Could the Member say why Radio Cayman does not allow a person to pay for an advertisement simply to announce a meeting at a certain time and place?

HON. J. LEMUEL HURLSTON: Mr. President, that question goes back to the very early days of the operation of the station when it was decided that as a means of avoiding any argument about political involvement or bias on the part of the radio station, the station should operate as a public service and that paid political announcements ought not to be entertained. However, over the years that policy has been under review. Whereas, paid political announcements in those strict terms are banned, there are opportunities for the public to be informed of developments of a political nature where, for example, shows like Open Line - interviews with candidates prior to General Elections, and so on, have been entertained. But strict paid political advertisements continue to not be accepted.

MR. GILBERT A. McLEAN: Mr. President, because paid political advertisements would bring revenue to the radio station would the Honourable Member give an undertaking that the policy restricting the use of the radio to announce political meetings be examined with a view of changing it so that this could be done?

HON. J. LEMUEL HURLSTON: I can give an undertaking that the matter will be re-examined. The outcome will be subject to that re-examination.

MR. PRESIDENT: Next Question please. Number 68, the First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 68: In February of 1987, Private Member's Motion No. 3/87 entitled House Numbering was passed by the Legislature. Can the Honourable Member say what has been done to start the work?

DEFERRAL OF QUESTION NO. 68

HON. LINFORD A. PIERSON: Mr. President, with your permission, I wish to defer the answer to this question as the answer is not yet available.

MR. PRESIDENT: Thank you.
Question number 69. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Before we get to question 69, is the Member giving the

undertaking to answer in writing or answer to the House?

MR. PRESIDENT: My understanding is that it will appear on a subsequent Order Paper.

MR. W. McKEEVA BUSH: Thank you, Mr. President.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 69: Would the Honourable Member say whose property it is intended to purchase for the half-way house in West Bay, and how far negotiations have reached?

ANSWER: The development of a residential half-way house in West Bay is one feature on the Five Year National Plan For The Prevention And Treatment Of Drug Abuse to be tabled in this honourable House during the present sitting. The Portfolio intends to begin implementing the plan in January 1990. No property has as yet been identified for the proposed West Bay half-way house, and no negotiations have started.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. W. McKEEVA BUSH: Mr. President, did the Honourable Member say that the Property Committee is not looking at a piece of land in West Bay for this half-way house or looking at a property which could include a home already built?

HON. D. EZZARD MILLER: The answer is no.

MR. W. McKEEVA BUSH: Mr. President, can the Honourable Member say whether we were told informally that there was such an investigation going on?

HON. D. EZZARD MILLER: No.

MR. W. McKEEVA BUSH: Mr. President, the Member is completely wrong, but...

HON. D EZZARD MILLER: I would ask that that statement be withdrawn, unless he has evidence to substantiate it, Sir. I do not tell lies in this House.

MR. W. McKEEVA BUSH: I am not withdrawing it, Mr. President. The whole House knows about it.

MR. PRESIDENT: This is Question Time. If you want to raise a substantive Motion on that you can - separately. But I take note that the Member referred to has refuted the statement.
Supplementaries continuing.

MR. W. McKEEVA BUSH: Mr. President, I do not know if any undertaking will make sense but will the Honourable Member give an undertaking that the two Members of the district not on Executive Council will be kept up to date and informed on whose property, location and expected time of commencement of programmes for that district?

HON. D. EZZARD MILLER: Yes, Mr. President.

MR. PRESIDENT: No more supplementaries? Question No. 70, please. The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 70: Would the Honourable Member state when he plans to introduce the incineration plant for waste disposal, what is the estimated cost and which company is being considered to build and/or operate it?

ANSWER: When the question of incineration was first raised in June 1989, it was viewed as the most suitable technique to prolong the life of the present land-fill (garbage dump). Since that time the Master Ground Transportation Plan has been unveiled and certain aspects of its implementation have led us to conclude that a new garbage dump at an alternative site might shortly become necessary and desirable.

New plans will not necessarily include incineration since it is anticipated that more land will be available and that the site would be properly designed and constructed. We intend to tender for a consultant to advise us on an appropriate location and other environmental issues, including the feasibility of incineration versus land fill. If we are advised to go for incineration, I am of the opinion that this service should be put out to tender and subsequently contracted to private enterprise.

I am reliably informed that an incineration plant suitable for our needs would cost between $8 million to $10 million. This is the chief reason why Government should contract out the service if incineration is the desired course of action. Since no final decision has been taken on incineration, no company is being considered to build or operate an incineration plant.

SUPPLEMENTARIES:

MR. W. McKEEVA BUSH: Supplementary, Mr. President.
Can the Honourable Member say whether the Government has been approached by any company?

HON. D. EZZARD MILLER: Yes, Mr. President. After the newspaper announcement by my Portfolio we have, in fact, received a proposal from one company, but no consideration has been given to granting them a contract or anything else.

MR. W. McKEEVA BUSH: Can the Member say which company that is, and who the principals are Mr. President?

HON. D. EZZARD MILLER: All of the principals are not known to me because it was just a proposal. As my memory serves me, the company itself was not registered and structured. It was a proposal which was delivered to my office by Mr. Ernest Foster. I believe it involves some people from Atlanta. An indication was also given that some of the local truckers of water would be contacted for investment in the water plant as a by-product of the incineration process.

MR. W. McKEEVA BUSH: Would the Honourable Member say what is the name of the company, Mr. President?

HON. D. EZZARD MILLER: I do not recall at this time because I read the proposal in June and have not read it since. But I would undertake to provide it to all Members in writing.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say whether a franchise will be given out in relation to this if it does come about in due course?

HON. D. EZZARD MILLER: I would think anybody who was interested in bidding would want a franchise. I would think a franchise for such a service would be in order considering the capital investment involved.

MR. PRESIDENT: I think it was a hypothetical question, but you got an answer. Do you want to continue? Please do.

MR. TRUMAN M. BODDEN: On the detail of any franchise agreement that may be entered into, would the Honourable Member undertake to provide details to Finance Committee or the House?

HON. D. EZZARD MILLER: I do not have any problem with that, Sir, but I would reiterate that no decision has been made as to whether it would even go to tender. I am not sure whether I can give the undertaking to provide information, but I could not preempt the procedure of the Public Tenders Committee as is laid down in the Public Auditor Finance Law, which would be handling any franchise tendering process of this, not my Portfolio.

MR. PRESIDENT: Which I think illustrates the problem in answering a hypothetical question.

MR. W. McKEEVA BUSH: For the sake of clarity, Mr. President, did the Member say he was not sure it would go to tender? Could he clarify that?

HON. D. EZZARD MILLER: Yes, I think the original answer indicates that no final decision has been made as to whether incineration is going to be an alternative or not, so obviously no decision can be made as to whether it will go to tender because there might be nothing to tender.

MR. W. McKEEVA BUSH: Mr. President, does the Member of Government have a policy then on it?

MR. PRESIDENT: I think this is going far beyond the scope of the question which was purely hypothetical. The original answer stated that no decision had been taken on the matter.

Question No. 71, please. The Elected Member for East End.

THE ELECTED MEMBER FOR EAST END TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 71: Will the Honourable Member say whether Government would consider providing an ambulance for the eastern districts, to be operated partly by voluntary help, in an effort to reduce operational cost to Government and at the same time to provide a much needed service to the people of those constituencies?

ANSWER: I do not support the view that a voluntary ambulance service will provide the quality of care that the Portfolio of Health and Social Services is committed to ensuring. However, the services provided to other districts by the satellite clinics, and the George Town Hospital, are currently under review as a part of the health consultancy. Findings and recommendations will be presented by 31st December, 1989 at which time the question of an ambulance service specifically for the eastern districts will be considered.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. JOHN B. McLEAN: Mr. President, just to ask the Member if it is possible for me to be kept abreast of whatever happens with this?

HON. D. EZZARD MILLER: Yes, Mr. President.

MR. PRESIDENT: Question 72, the Elected Member for East End, please.

THE ELECTED MEMBER FOR EAST END TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 72: Would the Honourable Member say when work on channels in East End will be completed and properly marked?

DEFERRAL OF QUESTION NO. 72

HON. LINFORD A. PIERSON: Again, Mr. President, with your permission I wish to defer answering this question until a later date because the answer is not now available.

MR. PRESIDENT: Thank you. And the final Question, Number 73. The Elected Member for East End.

THE ELECTED MEMBER FOR EAST END TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 73: Would the Honourable Member state how much water has been extracted from the East End water lens during this year to date?

ANSWER: The amount of water abstracted by the Water Authority from the East End lens is as follows:

Jan	8,478 cub m	2,238,192 US Gallons
Feb	10,756 cub m	2,839,584 US Gallons
Mar	8,651 cub m	2,283,864 US Gallons
Apr	12,420 cub m	3,278,880 US Gallons
May	4,300 cub m	1,135,200 US Gallons
June	1,671 cub m	441,144 US Gallons
July	3,900 cub m	1,029,600 US Gallons
Total:	50,177 cub m	13,246,464 US Gallons

Monthly Average - 1,892,352 US Gallons
Daily Average - 63,078 US Gallons

Abstraction Licences have been issued to two agricultural operations on the lens and the maximum abstraction allowed by these licences amount to 58,000 US gallons per day.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. JOHN B. McLEAN: Mr. President, a supplementary.
Can the Member say if the lens has been constantly monitored to assure such large extractions are not, in any way, deteriorating the quality of water in East End?

HON. LINFORD A. PIERSON: The answer, Mr. President: Detailed hydrogeological investigations have been carried out by consultants in the Water Authority. The conclusions of the consultant, which has been confirmed by the Authority's work, is that the East End lens will safely yield in the region of 780,000 U.S. gallons per day. This figure assumes that average annual rainfall will continue at the historical levels. The Water Authority continually monitors the ground water lenses in East End both by measuring the quality of water being extracted from the wells and the quality of water existing at different depths in the formation.

MR. JOHN B. McLEAN: A further supplementary, Sir.
I wonder if the Honourable Member could say whether Government will discontinue the pumping of such large amounts of water from the lens once Central Desal is providing sufficient water?

HON. LINFORD A. PIERSON: The answer, Mr. President: Because we have enough water available now through Central Desal and the Water Company it should not be necessary to pump that same quantity of water in the future. Hopefully.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say how much water has been extracted by the two agricultural operations that are licensed?

HON. LINFORD A. PIERSON: The licenses allow 58,000. But, I do not have the exact figure on the exact amount that was abstracted from the lenses. I would be prepared to provide the answer in writing.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 11:37 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 12:00 NOON

MR. PRESIDENT: Proceedings of the House are resumed. According to the Order Paper - Item 4, we go to Committee Stage on Bills, so the House will go into Committee to study a Bill entitled, The Music and Dancing (Control) (Amendment) Bill, 1989, and other bills.

GOVERNMENT BUSINESS

BILLS

HOUSE IN COMMITTEE

MR. CHAIRMAN: The House is now in Committee. As the leader of the House may I assume, as is usual, that we should authorise the Honourable Second Official Member to correct minor printing errors and such like in these Bills? Thank you.
Would the Clerk now state the Bills in order and read their clauses? We will proceed as we have been doing. The Clerk will read through the clauses fairly slowly and any Member who wishes to speak, please catch my eye.

THE MUSIC AND DANCING (CONTROL) (AMENDMENT) BILL, 1989

CLERK: The Music and Dancing (Control) (Amendment) Bill, 1989.
Clause 1: Short Title.
Clause 2: Amendment of section 2 of Law 10 of 1977.
Clause 3: Amendment of section 9.

MR. CHAIRMAN: Does any Member wish to speak?

HON. RICHARD W. GROUND: May I just say, Mr. Chairman, on a matter of layout, that at Paragraph 2, when we do come to print the Bill, we are going to have to put a paragraph starting after the word "therefore".

MR. W. McKEEVA BUSH: Mr. Chairman, I just want to reiterate in Committee what I said in the House. I do not see any reason why we should be giving discretionary powers to the Board, seeing that the prescribed days are Good Friday, Sundays and Christmas Day. If Government has no intention of allowing dancing on those days after the prescribed hours, then there is no need to change the Law. If Government is moving from what has been the norm, then there has to be an ulterior motive.

I am still not in sympathy with this Bill, even with the undertaking given by the Third Official Member in his winding up debate. That does not help the situation. Executive Council will not sit with the Board. The Board sits by itself and Executive Council would have nothing to do with choices made at that time.

HON. J. LEMUEL HURLSTON: Mr. Chairman, I am sorry I am unable to help the Member any further. I did give the assurance that if the Board stepped out of line with Government's policy and thinking on the matter, then the Board would be called up because the Executive Council does have control over the policies. Therefore, the ultimate responsibility for those policies rests with the Executive Council.

MR. W. McKEEVA BUSH: Will the Member repeat the reasons for going in this direction, for clarity?

HON. J. LEMUEL HURLSTON: The reason is simply that on special occasions, such as the one I cited, the Law as presently framed provides no discretion and the Board has felt the need on such special occasions to exercise a degree of discretion. There is nothing more to it than that.

MR. W. McKEEVA BUSH: But we are dealing with three days are we not?

HON. J. LEMUEL HURLSTON: That is correct.

MR. W. McKEEVA BUSH: So, what are the reasons for moving it for those three days? If we do not dance on Sunday or on Christmas Day until a given period, and we do not dance on Good Friday, what then is the reason for Government going in this direction? Right now the Law says that there is to be no music or dancing. Why are we giving the discretion, and for what?

HON. J. LEMUEL HURLSTON: This is the way the amendment is drafted for the purpose of giving the Board the discretion, and it is done because permitted days, as presently defined, covers three categories of days. It was felt those categories should not be separated but left together, and simply have the discretion given to the Board to exercise.

MR. W. McKEEVA BUSH: The discretion to allow dancing on those days?

HON. J. LEMUEL HURLSTON: The discretion is for the Board to determine and to prescribe by publication in the Gazette.

MR. W. McKEEVA BUSH: What are they going to prescribe? That they do a jig?

HON. J. LEMUEL HURLSTON: Mr. Chairman, I did say I would not be in a position to prejudge the decision of the Board but I could give an undertaking that if the Board does stray away from what Government intends to bring in the amendment, then the Board will have to be called to notice.

MR. W. McKEEVA BUSH: Mr. Chairman, could we not make an exception if there are days that the Board has to have discretion with, like New Year's Eve? Could we not make an exception for Sunday, Christmas Day and Good Friday? Could there not be an amendment to that effect?

MR. CHAIRMAN: No amendments have actually been proposed. I think we are in danger of repeating the discussion on the Second Reading, and that is not the function of the Committee. You are entitled to state your objections, but you have stated them already in the Second Reading and you have now stated them again. I think I will call another Member.

MR. TRUMAN M. BODDEN: If I may just ask a follow up to the last Member, would Government not narrow the discretion rather than leaving a total absolute discretion for any time on any of the three days? I think this is what the Member is asking. In other words, if you only wish to extend it two hours beyond midnight for New Year's Eve, would there be any inclination for Government to restrict the extension period rather than leaving it unlimited as it is?

HON. J. LEMUEL HURLSTON: I can only state what the objective is. I am not in a position, nor am I qualified to speak on the framing of the actual amendment; I can only speak to the intent of the policy. I have given the assurance of what the intention is, and that is the position.

MR. CHAIRMAN: I would think also that the debate on the Second Reading, as well as this Committee's proceedings, must have made it clear or will make it clear to the Board, what the feelings of Members of the House are.

MR. JOHN D. JEFFERSON, JR.: Mr. Chairman, I appreciate your comments but I am still concerned that the Board is given this type of discretion in regard to prohibited days. Based on the arguments put forward by the Member moving this particular amendment, it appears to me that what should have been considered is discretion with regard to the flexibility of extending hours, not prohibited days. I have already received some very heavy negative reaction to what we proposed by passing the amendment yesterday.

MR. FRANKLIN R. SMITH: Mr. Chairman, I was wondering if the Honourable Member could say again what pertains to Saturday. He gave an example of Saturday being Christmas Day and the next being Sunday, what would happen then?

HON. J. LEMUEL HURLSTON: Mr. Chairman, as an example of a special occasion, last New Year's Eve fell on a Saturday. The Liquor Licensing Board extended the liquor licensing hours by 30 minutes beyond midnight, but had no discretion in extending the hours in respect of music and dancing. That was the example I gave.

MR. FRANKLIN R. SMITH: We are dealing with music and dancing now. If the music and dancing is extended, for say two hours, then does it mean that the Liquor Licence could also be extended for two hours in the future?

HON. J. LEMUEL HURLSTON: That is correct.

MR. FRANKLIN R. SMITH: That is not reasonable. I am not against the Liquor Licensing Board extending the liquor licensing hours or music and dancing on days except Sunday, Good Friday and Christmas Day, regardless of what days those days fall on except for Good Friday, Sundays and Christmas Day.

MR. CHAIRMAN: I think I should now put the Question on these clauses, because we have now covered the ground again. The Question then is that clauses 1 - 3 do stand part of this Bill? Would those in favour please say aye? Those against no?

AYES AND NOES.

MR. CHAIRMAN: I think we will have a division.

CLERK:

DIVISION NO. 15/89

AYES: 8	NOES: 7
Hon. Thomas C. Jefferson	Mr. W. McKeeva Bush
Hon. Richard W. Ground	Mr. John D. Jefferson, Jr
Hon. J. Lemuel Hurlston	Mr. Truman M. Bodden
Hon. W. Norman Bodden	Mr. Gilbert A. McLean
Hon. Benson O. Ebanks	Mr. Roy Bodden
Hon. D. Ezzard Miller	Mr. Franklin R. Smith
Hon. Linford Pierson	Mr. John B. McLean
Capt. Mabry Kirkconnell	

CLAUSES 1 THROUGH 3 PASSED BY MAJORITY.

CLERK: A Bill for a Law to Amend the Music and Dancing (Control) Law, 1977.

MR. CHAIRMAN: The question is that the title do stand part of the Bill? Would those in favour please say Aye? Those against no?

AYES.

MR. CHAIRMAN: The ayes have it.

AGREED: TITLE PASSED.

THE LIQUOR LICENSING (AMENDMENT) BILL, 1989

CLERK: The Liquor Licensing (Amendment) Bill, 1989.
Clause 1: Short title.
Clause 2: Amendment of section 2 of the principal Law.
Clause 3: Amendment of section 10 of the principal Law.
Clause 4: Amendment of section 14 of the principal Law.

Clause 5: Insertion of new section 30(a) in the principal Law.

MR. CHAIRMAN: If there is no debate I will put the question on clauses 1 to 5.

MR. TRUMAN M. BODDEN: I was just wondering whether any other Members would be prepared to look at putting in extending the powers of the Inspector or whether it is something no one has considered.

MR. CHAIRMAN: I think that matter was discussed in the debate on the Second Reading and I do not have any amendment before me.

MR. TRUMAN M. BODDEN: I guess that is always the problem of conditional votes.

HON. J. LEMUEL HURLSTON: I had indicated in the winding up of the Second Reading debate that it was felt it was too premature to extend and widen the powers of the Inspector too much in the initial commencement of the service and that we should have it remain as it is until such time as it proves appropriate to widen the powers.

MR. CHAIRMAN: In that case, I will put the question, which is that clauses 1 to 5 do stand part of the Bill. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. CLAUSES 1 THROUGH 5 PASSED.

CLERK: A Bill for A Law to Amend the Liquor Licensing Law, 1985.

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

AYES.

MR. CHAIRMAN: That was almost consent by silence. I heard some ayes, but I do not think I heard any noes. So I think the ayes have it.

AGREED. TITLE PASSED.

THE PENAL CODE (AMENDMENT) BILL, 1989

CLERK: The Penal Code (Amendment) Bill, 1989.
Clause 1: Citation.
Clause 2: Amendment of section 129 of the principal Law.Clause 3: Amendment of section 186 of the principal Law.

MR. CHAIRMAN: If no Member wishes to speak, I will put the question on clauses 1 to 3, that they do stand part of the Bill. Those in favour please say Aye...Those against No.

AYES AND NO.

MR. CHAIRMAN: The Ayes have it.

AGREED: CLAUSES 1 THROUGH 3 PASSED BY MAJORITY.

MR. JOHN D. JEFFERSON, JR.: Mr. Chairman, can I ask for a Division?

MR. CHAIRMAN: By all means. Alternatively, you may care to have it recorded that you voted against it. That would save us a few seconds.

MR. JOHN D. JEFFERSON, JR: That is fine, Sir.

CLERK: A Bill for a Law to amend the Penal Code.

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

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED: TITLE PASSED.

THE COMPANIES (AMENDMENT) BILL, 1989

CLERK:

Clause 1: Short title.
Clause 2: Interpretation.
Clause 3: Amendment of section 2 of the principal Law.
Clause 4: Amendment of section 6(4) of the principal Law.
Clause 5: Repeal and replacement of section 7 of the principal Law.
Clause 6: Amendment of section 9 of the principal Law.
Clause 7: Amendment of section 12 of the principal Law.
Clause 8: Amendment of section 26 of the principal Law.
Clause 9: Amendment of section 27 of the principal Law.
Clause 10: Amendment of section 30(a) of the principal Law.
Clause 11: Amendment of section 32 of the principal Law.
Clause 12: Amendment of section 33 of the principal Law.
Clause 13: Amendment of the principal Law by the addition of a new section 33(a).
Clause 14: Amendment of section 34 of the principal Law.
Clause 15: Amendment of section 57 of the principal Law.
Clause 16: Amendment of section 64 of the principal Law.
Clause 17: Repeal and replacement of section 70 of the principal Law.
Clause 18: Amendment of section 77 of the principal Law.
Clause 19: Repeal and replacement of section 81 of the principal Law.
Clause 20: Amendment of section 84 of the principal Law.
Clause 21: Amendment of section 129 of the principal Law.
Clause 22: Amendment of section 133 of the principal Law.
Clause 23: Amendment of section 184 of the principal Law.
Clause 24: Repeal and replacement of section 190 of the principal Law.
Clause 25: Repeal and replacement of section 196 of the principal Law.
Clause 26: Amendment of principal Law by the addition of a Part XI.

HON. RICHARD W. GROUND: Mr. Chairman, may I mention just one typographical error which may be significant, so Members ought to know it is going to be changed? It is in the new section 210, and it is clause 2 sub-paragraph (d). The second line of that where the word "Registrant" appears with a capital R, should be "Registrar". It is a small error, but I should mention it to Members because if left un-corrected it could have some significance.

MR. CHAIRMAN: There is no such creature as registrant with a capital "R", is there?

HON. RICHARD W. GROUND: It certainly could cause confusion. I should say I did not spot this myself. It was pointed out to me by a Member.

MR. CHAIRMAN: In that case I will put the question then. Those in favour please say Aye...Those against No.

AYES.

MR. CHAIRMAN: The Ayes have it.

AGREED. CLAUSES 1 THROUGH 26 PASSED.

CLERK: A Bill for a Law to Amend the Companies Law, (Cap) 22.

MR. PRESIDENT: 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 our proceedings in Committee on a Bill entitled, The Music and Dancing (Control) Law, 1989, and other Bills. The House will now resume.

HOUSE RESUMED

MR. PRESIDENT: The House has resumed. Please be seated. Bills, Reports.

REPORT ON BILLS

THE MUSIC AND DANCING (CONTROL) (AMENDMENT) BILL, 1989

CLERK: The Music and Dancing (Control) (Amendment) Bill, 1989.

HON. J. LEMUEL HURLSTON: I am to report that a Bill entitled, The Music and Dancing (Control) (Amendment) 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 LIQUOR LICENSING (AMENDMENT) BILL, 1989

CLERK: The Liquor Licensing (Amendment) Bill, 1989.

HON J. LEMUEL HURLSTON: Mr. President, I am to report that a Bill entitled, The Liquor Licensing (Amendment) 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 PENAL CODE (AMENDMENT) BILL, 1989

CLERK: The Penal Code (Amendment) Bill, 1989.

HON. D. EZZARD MILLER: Mr. President, I am to report that a Bill entitled, A Bill for a Law to amend the Penal Code, 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 COMPANIES (AMENDMENT) BILL, 1989

CLERK: The Companies (Amendment) Bill, 1989.

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

MR. PRESIDENT: It is accordingly set down for Third Reading.

THIRD READINGS

THE MUSIC AND DANCING (CONTROL) (AMENDMENT) BILL, 1989

CLERK: The Music and Dancing (Control) (Amendment) Bill, 1989.

HON. J. LEMUEL HURLSTON: I beg to move that a Bill for a Law to amend the Music and Dancing (Control) Law be given a Third Reading and passed.

MR. W. McKEEVA BUSH: Be thrown away.

MR. PRESIDENT: I thought we had to suspend Standing Orders to take the Third Reading.... No? Not necessary? I beg your pardon.
I shall put the question. Those in favour please say Aye...

MR. W. McKEEVA BUSH: The Government is not too sure what they want to do, Sir. Could we have the Noes?

MR. PRESIDENT: Hold on. And those against? I think we will have a division. The volume of voices was not easy.

AYES AND NOES:

DIVISION NO. 16/89

AYES: 8	NOES: 7
Hon. Thomas C. Jefferson	Mr. W. McKeeva Bush
Hon. Richard W. Ground	Mr. John D. Jefferson, Jr
Hon. J. Lemuel Hurlston	Mr. Truman M. Bodden
Hon. W. Norman Bodden	Mr. Gilbert A. McLean
Hon. Benson O. Ebanks	Mr. Roy Bodden
Hon. D. Ezzard Miller	Mr. Franklin R. Smith
Hon. Linford Pierson	Mr. John B. McLean
Capt. Mabry Kirkconnell	

AGREED BY MAJORITY: THE MUSIC AND DANCING (CONTROL) (AMENDMENT) BILL, 1989, PASSED.

MR. PRESIDENT: Bills, Third Reading continuing.

THE LIQUOR LICENSING (AMENDMENT) BILL, 1989

CLERK: The Liquor Licensing (Amendment) Bill, 1989.

HON. J. LEMUEL HURLSTON: Mr. President, I beg to move that a Bill entitled, The Liquor Licensing (Amendment) Bill, 1989, be given its Third Reading and passed.

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

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE LIQUOR LICENSING (AMENDMENT) BILL, 1989, PASSED.

THE PENAL CODE (AMENDMENT) BILL, 1989

CLERK: The Penal Code (Amendment) Bill, 1989.

HON. D. EZZARD MILLER: Mr. President, I beg to move that a Bill entitled, A Bill to Amend the Penal Code, be given a Third Reading and passed.

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

AYES AND NOES.

MR. PRESIDENT: The Ayes have it.

MR. JOHN D. JEFFERSON, JR: Mr. Chairman, could I ask for a division?

MR. PRESIDENT: Clerk, a Division please.

CLERK:

DIVISION NO. 17/89

AYES: 14	NOES: 1
Hon. Thomas C. Jefferson	Mr. John D. Jefferson, Jr.
Hon. Richard W. Ground	
Hon. J. Lemuel Hurlston	
Hon. W. Norman Bodden	
Mr. Gilbert A. McLean	
Hon. Benson O. Ebanks	
Hon. D. Ezzard Miller	
Hon. Linford Pierson	
Mr. W. McKeeva Bush	
Mr. Truman M. Bodden	

Capt. Mabry Kirkconnell
Mr. Roy Bodden
Mr. Franklin R. Smith
Mr. John B. McLean

AGREED BY MAJORITY. THE PENAL CODE (AMENDMENT) BILL, 1989, PASSED.

MR. PRESIDENT: Bills, Third Readings continuing.

THE COMPANIES (AMENDMENT) BILL, 1989

CLERK: The Companies (Amendment) Bill, 1989.

HON. THOMAS C. JEFFERSON: Mr. President, I beg to move that a Bill shortly entitled, The Companies (Amendment) Bill, 1989, be given a Third Reading and passed.

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

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. THE COMPANIES (AMENDMENT) BILL, 1989, PASSED.

MR. PRESIDENT: We move now to Item 5, Other Business, on the Order Paper, Private Members' Motions. Private Member's Motion No. 13/89, The First Elected Member for Bodden Town.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 13/89

APPOINTMENT OF A SELECT COMMITTEE TO FORMULATE A BILL, CHARTER OF RIGHTS AND FREEDOMS

MR. ROY BODDEN: Thank you, Mr. President.
Mr. President, I respectfully beg to move Private Member's Motion number 13/89, standing in my name, which reads:

> "WHEREAS in many countries of the world a Charter or Bill of Rights complements the written constitution;
>
> AND WHEREAS as a rapidly growing country with many diverse groups, interests and concerns, the Cayman Islands' population continues to expand;
>
> BE IT THEREFORE RESOLVED THAT this Honourable House do appoint a Select Committee of the whole House to assess the need and feasibility of formulating a Bill or Charter of rights and freedoms to ensure the fullest exercise of all human rights and freedoms and to protect against all forms of discrimination exploitation and harassment in the Cayman Islands.".

MR. FRANKLIN R. SMITH: Mr. President, I beg to second the Motion.

MR. PRESIDENT: Private Member's Motion number 13/89 has been duly moved and seconded. Would the Mover wish to speak to it?

MR. ROY BODDEN: Thank you, Mr. President.
I would like to begin my debate on this Motion by relating an anecdote. A Zen story tells of Nanin, a Japanese master, who was visited by a professor. The professor came to enquire about Zen. Being the gracious host he was, Nanin served tea. He poured the professor's cup full and kept on pouring until the cup overflowed and the professor could no longer stand it. "It is full! The cup is overflowing!" He cried. To which Nanin replied, "Like this cup, you are full of your own ideas and prejudices. How can I show you Zen unless you remove these prejudices and ideas from yourself?" Our cups, like the professor's, are full of our own ideas and prejudices. I relay that anecdote only to say that the sociologist in me (as does my sixth sense) tells me there are those in some circles who would frown on a Motion such as this. Indeed, they will ask; "Why do we need that in the Cayman Islands? Why is it necessary to have such a charter or such a bill entrenched on our

Constitution? We are already covered." I could say more but I will leave that for a more appropriate time.

Pericles, on democracy; Thomas Paine, on *The Rights of Man*; Jefferson and Benjamin Franklin, on the Declaration of Independence; and Jean Jacques Rousseau, on *Du contract social*, all saw fit to lay down in their political documents preventative measures which were designed to ensure and guarantee that the fundamental rights and freedoms of man would not be infringed upon. These documents serve to show us to this day that it is necessary and essential to have these preventative measures. If my historical sense serves me correctly the great United States (and I have to admit I am an ardent admirer of its Constitution and its accompanying Bill of Rights and its founding fathers) saw fit to entrench a Bill of Rights to complement their Constitution from as early as 1791. I believe I am correct in saying it is one of the premier democracies in the world today. So, to those detractors who may think Roy Bodden is up to his old tricks again, need I say more?

Never before in the history of this country have we been growing at such a rapid rate, with such diverse numbers and different groups of peoples in our society. We have been deluged - or I might say submerged - by this influx. I only want to ensure that we are protected: 'we' being Caymanians, 'we' being those foreign nationals whom we accept in our society, 'we' being those visitors, be they from North America or wherever, who visit our shores. Some people may lay the parallel and say, "But they have a Bill of Rights and a Charter of Rights in Colombia, Guatemala, El Salvador, Lebanon, and what good is it?" To that I would say, this is the Cayman Islands - we are not Colombia, we are not Guatemala, we are not El Salvador, we are not Lebanon. As the French would say *'c'est la difference'*, that is the difference. There is nothing to fear but fear itself.

I like to think of this not as a politician's motion, but as a statesman's motion. In thinking in that light, it brings to mind one of the people in history whom I admire, no less a personality than the eminent great politician Edmund Burke, who said; "All that is necessary for the triumph of evil is for men of goodwill to do nothing." I have been well prepared. The history of my brief tenure here shows that I have brought no nonsensical motions to this honourable House. I cannot be classed as a time waster. When I rise to give a debate, I can hold my own with the best. It is not often that I sound arrogant, and I am not making excuses because sometimes it is necessary to be a little arrogant. I have learned that too.

I want to say that I think this Motion is timely. Just a short while ago I had the good fortune and the good coincidence of meeting one of my mentors who was in New York delivering an address to the New York Academy of Sciences. We spent about 10 minutes together, and one of the questions he asked me was how I was doing? After I had given him a brief answer, he reminded me of something he told me when I was his student. He said; "The difference between a mediocre mind and a great mind is that the mediocre mind can only deal with the obvious; the great mind has the ability to perceive...", and, especially, Mr. President, to perceive down the line. I am a visionary. This is the Motion of a visionary and maybe one of these days it will be categorised as a motion of a statesman.

I would like to see the society continue as it is now, where we can all live in harmony. But I am not so naive as to believe there are not certain strains, stresses and forces that will threaten. Great Britain has such a Motion from as far back as 1215, when the barons saw fit to wrest the power from King John, and they established the Magna Carta. What is the difference? What are we afraid of? What is wrong with having a document entrenched in our development which complements our Constitution, which guarantees the rights and freedoms of every citizen? Tell me! Let me know! Convince me! What is wrong with tailoring a document specifically to suit our unique needs? We already have the beginnings, such as, *The Basic Documents in International Law*, by Ian Brownline, Editor; *The European Convention of Human Rights; The United Nations Declaration of International Human Rights; The United States Bill of Rights.* If it were so dangerous for us to have a Charter or Bill of Rights, would we have all of these? What are we fearing? Are we saying the citizens of this country do not deserve our consideration?

In closing this section I would like to bring to the attention of Honourable Members that the Motion reads: "BE IT THEREFORE RESOLVED THAT this honourable House do appoint a Select Committee of the whole House to *assess*...". It does not say to *appoint* a Committee to establish or formulate, but to *assess* - assess being the operative word. I commend this Motion to all Members, and would hope they may see fit to give it their support. I think this is something which the time of this honourable House would be worthily spent considering. We may not need to refer to it for the next decade, or maybe not at all, but it will give us consolation to know we have it as a companion document to our Constitution to protect our citizens from infringement of their rights, while guaranteeing that our citizens have access to education, position, and due process of law.

I will not take up any more of the time of this honourable House in this introduction, except to ask again that Members consider favourably the arguments that have been made.

Thank you, Sir.

MR. PRESIDENT: I think we could conveniently suspend. Proceedings are suspended until 2:15 P.M.

AT 12:45 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:20 P.M.

MR. PRESIDENT: Proceedings of the House are resumed. Private Member's Motion No. 13/89. The Honourable Second Official Member.

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

In replying to this Motion on behalf of Government, may I begin by complimenting the Member who moved it, both on the power of his presentation and the obvious depth of feeling and sincerity behind it. Human rights and the protection of them is very much a live issue internationally in the world of the late 1980s. This is particularly so because of the horrific abuse of basic human rights which we see happening in so many nations around us. I think there can be no doubt that all right-thinking people wholeheartedly embrace the protection, and cherish the ideals, of basic human rights.

Having said that I rise now, on behalf of Government, I daresay, to speak against the Motion. Perhaps it would be better at this stage to indicate that the Government would not be supporting it - it would be wrong to say I am speaking against it, because the ideals which are embodied in it are those which nobody would oppose. As a practical means of protecting and enforcing those ideals a Bill of Rights in Cayman, at this present time, may not be the way to go about it. It is on that basis that I intend to approach the Member's suggestion.

I think I could break down the grounds on which I am going to speak against the suggestion into three broad heads. The first is that here in Cayman we already have the basic human rights provided for and guaranteed under the system of Law that we have inherited from the United Kingdom, and that is enforced and put into operation through our judiciary which is made by this Assembly. Secondly, even if we did not have that, there are powerful international conventions which deal in broad terms with these basic human rights to which the Cayman Islands are a party. I will be expanding on all of these grounds as I go on. I will, particularly when I come to them, expand upon those international conventions. The third ground is that in fact the adoption of internal legislation in practice (as history tells us), has rarely worked to protect the human rights that it purports to enshrine.

Let me then begin by expanding upon the statement that we have those basic human rights already. It is a basic tenet of British Constitutional Law that every man is born free, and lives free under the Law. I would like to underline and put in capitals and stress that expression - "UNDER THE LAW, WE ARE ALL FREE". But, in the interests of the community and of the Commonwealth of the Nation, certain limitations are put on our natural freedom of our birthright. Each of us, if he wishes to belong to the body of society, accepts those.

For instance, we have freedom of expression and opinion. We can say and think what we like, subject to certain rules which are instituted to make sure that our saying what we like does not hurt and damage other people. Thus, we can say what we like but we cannot slander or libel our neighbour; we cannot go around telling untruths on him. If we know of truths which are derogatory to him and can prove it, then it is our right to state them, and, if challenged, it is our right through the Courts to make good those allegations. All of us have the right to life. That right is protected in our legal system by the offence of murder. If somebody takes your life away from you, then he is guilty of murder and he, himself, then faces the highest penalties. I will not go on, but through the network and the web of our laws, those enshrined in the Statutory Law and those which complement and supplement them in the Common Law, the whole list of basic rights are protected and enshrined.

When I say protected, there are two aspects to that. First of all, you have to be allowed to exercise certain rights. Secondly, there have to be sanctions against people who seek to infringe upon those rights. The twin guardians in any Westminster model Constitution of the basic human rights are a freely elected legislature with an independent judiciary. I am happy to say that in Cayman at the moment we have both of those twin guardians operating fully.

Let me move on from that basic tenet of Constitutional Law, and turn now to International Conventions. The decade since the last war has seen a great blossoming of international conventions designed to formulate and then protect what are recognised as basic human rights. The importance of the international movement has been that the only way the community of nations can rein in or bring pressure to bear upon a nation which demonstrates itself determined to ignore those rights, is by stating them and then joining together to seek to bring that nation back within the fold. Those fine words, of course, are difficult to enforce in practice. Much of the international politics of the years since the war, have been concerned with that.

Those conventions apply to Cayman. They have been extended to us through the United Kingdom's ratification of them. In my view (and, I am sure, in the view of all the Members of this House) Cayman does not fall into that category of aberrant nation which needs to be reined in by international opinion. Nevertheless, the bodies who administer these conventions do require, through the United Kingdom, that the Cayman Islands report to them on anything which it might do that would move away or derogate from those conventions.

There are two I would like to mention in particular. The first is the United Nations Universal Declaration of Human Rights which was adopted and proclaimed by the General Assembly in 1948. This is a general statement of basic rights that I think each of us would recognise. I am going to read through them very quickly so that Members can see what rights are established and what rights the Cayman Islands observe in respect of the moment. It is going to take me a few minutes to read through them. In doing so I may be pouring into the cup which is overflowing. I may say to the Member that I enjoyed his opening Zen anecdote. The points about Zen, as I understand it, are to invite us to approach every issue and problem with a totally open mind. So I hope he will forgive me if I take the teapot from his hand and start to pour into the cup which he is holding.

The first article of the International Universal Declaration states:

> "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience. They should act towards one another in the spirit of brotherhood. Everyone is entitled to all the rights and freedoms set forth in this

> Declaration without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national-social origin, property, birth or others status.".

I should say that the United Kingdom (and through them Cayman) has entered a reservation in respect to national or social origin so we can enforce Immigration laws, and laws such as the Caymanian Protection Law which, in the peculiar situation of a small Islands, are perceived as necessary to protect the local people.

It goes on to say: "Everyone has the right to life, liberty and security of person. No one shall be held in slavery or servitude...", I will pause there. There are other more specific conventions that work out these general statements. There is, for instance, the convention against slavery; no one should be subjected to torture or to cruel inhuman or degrading treatment or punishment. There is a separate convention which spells out torture and prohibits it, which has recently been extended to Cayman. This is so because it was only formulated in about 1984. When its extension was mooted, I was asked to advise whether our laws fit into it or whether we needed any change in our law. I was able, with good conscience and certainty to advise that our law (through its banning of assault and causing grievous bodily harm and so on) provided adequate criminal and civil remedies against torture. So we conformed to that convention without the need to enact any express declaration against it.

The Convention goes on:

> "Everyone has the right to recognition everywhere as a person before the Law. All are equal before the Law and are entitled without any discrimination to equal protection of the Law.
>
> Everyone has the right to an effective remedy by competent national tribunals for acts of violating fundamental rights. No one should be subjected to arbitrary arrest, detention or exile.
>
> Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of their rights and obligations and of any criminal charge against him.
>
> Everyone charged with a penal offence has the right to be presumed innocent until proven guilty, according to the Law in a public trial at which he has had all the guarantees necessary for his defense.
>
> No one shall be held guilty of any penal offence on the count of any act or omission which did not constitute a penal offence when he committed it.
>
> No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor attacks upon his honour and reputation.
>
> Everyone has the right to protection of the Law against such interference or attacks.".

I am just pausing there. Freedom from attack on reputation is as much a basic human right as freedom of speech, so it will be readily apparent to Members that one has to constantly do a juggling act between competing rights.

> "Everyone has the right to freedom of movement and residence within the borders of each state.
>
> Everyone has the right to leave any country including his own and to return to it.
>
> Everyone has the right to seek and enjoy in other countries asylum from persecution.
>
> Everyone has the right to a nationality. No one shall be arbitrarily deprived of that nationality.
>
> Men and women of full age without any limitation due to race nationality or religion, have the right to marry and to found a family. Marriage shall be entered into only with a free and full consent of the spouses. Family is the natural and fundamental group unit of society. It is entitled to protection by the society and the state.
>
> Everyone has the right to own property, alone as well as in association with others. No one shall be arbitrarily deprived of that property.
>
> Everyone has the right to freedom of thought, conscience and religion. This right

includes the freedom to change his religion or belief. Freedom either alone or in community with others and in public or private to manifest his religion or belief in teaching, practice, worship and observance.

Everyone has the right to freedom of opinion and expression. This right includes freedom to hold opinions without interference and to seek, receive, or impart information and ideas through any media, regardless of frontiers.

Everyone has the right freedom of peaceful assembly and association. No one may be compelled to belong to any association.

Everyone has the right to take part in the government of his country, directing or through freely chosen representatives.

Everyone has the right to equal access to the public service in his country.

The will of the people shall be the basis of the authority of Government. This shall be expressed in periodic, genuine elections, which shall be by universal and equal suffrage. They shall be held by secret vote or by the equivalent.

Everyone is a member of society and has the right to social security. They are entitled to realisation through national effort and international cooperation in accordance with the organisation and resources of each state, the economic, social and cultural rights, indispensable for his dignity in the free development of his personality.

Everyone has the right work. To free choice of employment. To just and favourable conditions of work.

Everyone without any discrimination has the right to equal pay for equal work.

Everyone who works has the right to just and favourable remuneration.

Everyone has the right to form and to join trade unions.

Everyone has the right to rest at leisure.

Everyone has the right to a standard of living, adequate for his health and well being.

Everyone has the right to education. [It goes on so long I am not reading all these articles now.]

Everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and share in scientific advancement and its benefits.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realised.

Everyone has duties to the communities in which alone, the free and full development of his personality is possible.".

That is the United Nations Declaration of Basic Human Rights. That binds us. Those rights are our rights. Those rights are your rights. Those rights are the rights of Caymanians. They do not need laws to enact them because our legal system as currently framed conforms with that, and the United Kingdom is able to say to the Committee that administers this convention that our rights conform to that.

I can tell Members that that Committee asks questions about declarations and requires signatory members to justify any such statements that they make. Certainly, the Cayman Islands, as much as any other signatory or nation to which this extends, has to justify before that Committee that it's legal system does not conflict with or fall short of these broad statements of rights. I had to perform that function only the other day. I am happy to say that it gave me no difficulty when looking at the Cayman Islands legal system to say it does not fall short of those universal declarations.

There is another and more detailed group of internationally recognised standards and principles which apply to the Cayman Islands, that is, the European Convention on Human Rights. It is a longer document. It takes those same rights and expands and deals with them. The United Kingdom, of course, is a signatory of the treaty which established the European Community and it accepts the European Covenant on Human Rights, as extending to it and it extends it to us. So we are looking over both shoulders when we enact legislation here. We are looking over our left to the United Nations and over our right to Europe. Both of those supernational bodies are astute to ensure we do not fall short of their standards. I think I

may have poured enough tea into that cup for the time being.

Those international conventions do not just exist in some sort of non-legal limbo out there, they are also treaty obligations. Those conventions themselves amount to treaty obligations of Her Majesty's Government and they cannot be breached lightly. That has important considerations for a dependent territory.

Those considerations are manifested in two ways. If, for instance, this Assembly sought to pass a law which was fundamentally different from those basic rights, then His Excellency the Governor, under the Royal Instructions, cannot assent to that law without expressly referring it to a Secretary of State. All laws which contravene treaty obligations with Her Majesty's Government have to be referred to a Secretary of State. Should the time ever arise (and I do not foresee it arising, and hope that it never will) when this Assembly seeks to abrogate a treaty obligation that relates to basic human rights, that would have to go to Her Majesty's Government for consideration before that could be done - an effective way of entrenching in our system those rights.

I use the expression entrenching. It is important that I expand on that a little. Most nations that institute Bills of Rights, or seek in their Constitution to spell out basic human rights are independent nations. They face the enormous problem where under the Westminster System an independent parliament cannot be feted by its predecessor. No matter what it may pass as a Bill of Rights one year, it can repeal it the next unless it is in some way entrenched in its Constitution. So most independent commonwealth countries - usually on the eve of their independence - have entrenched in their Constitution Bills of Rights which would protect those basic fundamental human rights for the future. Now, again, that entrenchment at our present stage of development is not necessary because those basic rights will be protected through the power of disallowance if the Assembly seeks to trespass upon them.

I mentioned if the Assembly seeks to trespass upon them because I think it is right that Members realise that Bills of Rights are not directed at the actions of individuals, they are directed at the actions of states and states' bodies and parliaments, and are intended to keep, not just governments, but legislatures on the right track. The actual individuals are governed by the law that those bodies make. So it does not matter what you put in a Bill of Rights, it is not in there to curb individuals, it is there to guide the nation in its constitutional development.

I now want to go on and perhaps join issue with the Member on whether these Bills of Rights, or statements in constitutions in fact work. I think the truth is (and history bears it out) that if a nation wants them to work, they will; the moment an independent nation, in anyway, does not want them to work, they go out the window. We only have to look around the world today to see many countries that began with wonderful constitutions that have been not necessarily thrown over (they will still be there), but are honoured more in the breach than in the observance.

Specific statements of rights are also open to interpretation. The founding fathers of the United States, for instance, gladly stood up and put their hands on their hearts and said that all men are created free and equal. But it was another 60 or so years before they managed to get around to applying that very fine statement of principle to all the slaves that they all owned. They managed to do that by a bit of a double think - they did not regard them as men or human beings. The point of that is that it does not matter what you enact in your laws unless the right spirit is brought to it; it is not written on paper, but may as well be written on sand or leaves which can be blown away by the wind.

That brings me to another (and final) problem, that if you are going to avoid that difficulty of how people interpret them, tie them down and make the statements of Rights absolute so they cannot be subverted. You then have to start to build in all sorts of qualifications to deal with necessary abrogations from those that are necessary simply for the functioning of the community and the commonwealth. When I say the Commonwealth I mean the commonwealth of the individuals within a community.

If in a law or constitution we are going to say that everybody has freedom of speech, you then have to take a deep breath and say, except that freedom shall not apply: (a) anywhere it will influence or prejudice the fair trial of an individual; or (b) where it damages an individual's reputation; (c) where the security of the state is at risk; (d) where the private affairs of another individual are at risk... and you could go on and on.

Let me give you an example of that. Let me pick up the teapot and the cup again and start to pour. The United Nations Convention says that everybody shall have the right of freedom of person and freedom of movement. When that gets embodied in a constitution it comes out looking something like this - I am reading from the Bermudian Constitution because Bermuda, though it is a dependent territory, has gone to the lengths of embodying in its constitution certain basic rights. I think after I read this Members are going to have some difficulty in determining what right is being embodied. Let me begin by reading the wonderful statement of right:

> "Except with his consent, no person shall be hindered in the enjoyment of his freedom of movement [that is to say, the right to move freely throughout Bermuda], the right to reside in any part thereof; the right to enter Bermuda and immunity from expulsion therefrom.".

I have no qualms with that as a general statement. To make that work in legislation, this is what they then have to do.

> "Nothing contained in or done under the authority of any Law shall be held to be inconsistent with or in contravention of this section, to the extent that the law in

question makes provision:-

(a) for the imposition or restrictions on the movement of residence in Bermuda or the right to leave Bermuda, a person generally or any class of persons that are reasonably required.

(1) in the interest of defence, public safety, public order, public morality, or public health; or

(2) for the purpose of protecting the rights and freedoms from other persons, except so far that provision or as the case may be, the thing done under the authority thereof, is shown not be reasonably justifiable in a democratic society.".

[Tell me what that means in the Law.]

(b) for the removal of a person from Bermuda to be tried or punished in some other country for a criminal offence under the Laws of that country or to under go imprisonment in some other country in execution of the sentence of a Court in respect of a criminal offence under the Law of Bermuda which he has been convicted;

(c) for the imposition or restrictions on the movement of residents within Bermuda of the right to leave Bermuda of public offices that are reasonably required for the purpose of ensuring the proper performance of their duties;

(d) The imposition of restriction on the movement of residents within Bermuda of any person who does not belong to Bermuda or the exclusion or expulsion therefrom, of any such person;

(e) the imposition of restriction on the acquisition or use by any person of land or property in Bermuda;

(f) for the imposition of restriction by order of a Court on the movements of residents within Bermuda, of any person or any persons rights to leave Bermuda either, in consequence of having been found guilty of a criminal offence under the Law of Bermuda or for the purpose of ensuring that he appears before Court or has a later date for trial for such a criminal offense or for proceedings preliminary to trial or for proceedings relating to his extradition or his removal from Bermuda, or

(g) for the imposition of restrictions on the right of any person to leave Bermuda which are reasonably required in order to secure the fulfillment of any obligation imposed by Law except so far as the provision or as the case may be done under the authority thereof is shown not to be reasonably justifiable in a democratic society.".

I do not know if Members are still with me. I lost that about half way through. When one comes to the expression "except as is shown to be reasonably justifiable in a democratic society", that is so broad and so vague, I do not know why they even bother to have a law at all. In case Members think I picked a particularly bad example, all the provisions in that Constitution are like that.

What it comes down to is this: Is it worth it to go to that extent to spell out all your exceptions - the this's and the that's - when you already have a system of law which recognises the basic tenet that everybody has freedom of movement, and in it may contain some legal restrictions? For example, if you are arrested you are going to appear in Court. Of course, one does not have to think for very long to imagine how onerous, convoluted and difficult the drafting process that arrives at that sort of section which deals with just one right. The United Nations Convention lists something like 30 rights. I have not got the number, but there are a lot. You have to go through that process for every single one spelling out the exceptions.

The question is: Is it, in truth, worth it at this stage in the development of these Islands, given the other pressing issues upon the time of Members of this honourable House, and on Select Committees? Do we need to sit down and go to enormous lengths through all that sort of qualification? The trouble is if you do not go through all the qualifications and yet enact a Bill of Rights, the thing is either so vague as to be unworkable, or it falls foul of so many other laws that you do not know where you stand and people would have to go to the courts constantly to ask what are their rights in this situation? How does the Constitution or the Bill of Rights (call it what you may) fit in with the fact that I was arrested by a police officer last night just because I had some drugs in my pocket and he kept me in the cell overnight and I have now gone before a magistrate? The court is going to have to sit there and ponder that. The danger of Constitutions or Bills of Rights that attempt to do this sort of thing is that they either become immensely convoluted or they spawn endless

litigation, or, worst of all, they do both.

In finishing, Mr. President, because I think I have gone on long enough and poured enough tea into these various cups, the Member posed the rhetorical question: 'What is Government afraid of', or 'what are they afraid of?' Nothing! There is no fear here. There is a perception that it is not necessary at this time or place in the development of the Cayman Islands. The Member then said, "I am looking down the road. It may not be recognised immediately but 10 or 20 years ahead it may become necessary.". I was tempted to be glib and say, 'if it ain't broken, don't fix it', but I will not be glib. I will pick a quote from Jeremy Bentham. Jeremy Bentham observed that those who attempt to draft this sort of Bill of Rights are, in fact, attempting to be wiser than posterity, and that in trying to do it now with a view to the future, what you are really doing is fettering the discretion of some freely elected Member of an Assembly in the future, and some freely elected Member who will be there at the time facing the problems of the day who can bring his own judgment to bear on the situation. Perhaps they have more wisdom than we, with all our foresight, with all our sincerity, with all our honesty, and all our attempts to do well, can do.

Thank you, Mr. President.

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

MR. W. McKEEVA BUSH: Mr. President, I rise in support of the resolution before the House to establish a Select Committee to consider whether a Bill of Rights, a Charter of Rights and Freedoms, is needed in this country. If we check the *Hansards*, Members will find that such a resolution was read into the Minutes of this House sometime back by myself. At that time I said that there was discrimination, and we needed a Bill of Rights entrenched in our Constitution so that all the world could see that these Islands are the free islands we say we are.

I believe a Bill of Rights, a Charter of Rights and Freedoms, has a place in our Constitution. James Madison wrote a long time ago that a Bill of Rights is what the people are entitled to against any Government. What is this Charter of Rights and Freedoms? This catalogue of Rights and Freedoms is, most of all, based on the Universal Declaration of Human Rights which was adopted by the United Nations in 1948.

Long before the Universal Declaration of Human rights, English Common Law, which is and has been for all time a part of the law of these Islands, had developed a body of rules and procedures designed to protect, and therefore recognise and keep in existence, all those rights and freedoms we read of in the United Nations Universal Declaration of Human Rights. English Common Law has its foundation in Case Law, precedence of cases over the years. Much of the responsibility for English Common Law rests on the Magna Carta. That great Charter was the keystone of the arch comprising English Common Law; from that come those simple sounding principles which are the very essence of freedom under the Law. No free man shall be imprisoned save by the judgment of his peers or the law of the land. To no one will we sell, deny or delay the right of justice. Certainly, we have to bear those things in mind.

It would also seem that English Common Law, which we are to adhere to, ensures that any person charged with an offence is held to be innocent until he has been proven guilty beyond any reasonable doubt. The police are obliged to tell any person whom they arrest the reasons for the arrest. This must be done promptly, clearly and sufficiently. Such a person has the right to consult a lawyer without delay and to challenge the lawfulness of his detention by a writ of *habeas corpus* (I hope my Latin is correct). He must be brought before a Court as soon as possible and is entitled to bail unless there is just cause for its refusal. He must be tried in public by an independent and impartial tribunal, and the hearing, of course, must be fair. All of this may be protected by English Common Law or some other law which could, perhaps, forbid any legislature from making any law which in any way infringes or denies any of the recognised rights and freedoms or any of the rules and procedures set out in a Bill or Charter of Rights.

This is English Common Law and we are supposed to adhere to it. But is that the case at all times in this country? This Motion deals with the important subject - the fundamental rights and freedoms.

In these Islands we supposedly enjoy all the fundamental rights and freedoms which are found in independent Constitutions or Charters in our hemisphere and elsewhere. We enjoy and accept as part of the air we breathe a system of law in which the rule of law prevails. We enjoy the right to have our life and liberty protected, not to be deprived of that life or liberty except in forms of the law; to have our normal coming and goings as a citizen protected from arbitrary interference and to stand on an equal footing before the law with all the people in the land. As I said, these rights are so familiar to us that we are not even conscious of the fact that they exist, until someone dares to infringe upon them.

I hope the time will never come in this country when we will not be able to preserve those rights for ourselves. But, it could happen. I say we enjoy these rights as a matter of course and the climate of the land is such that we are hardly conscious of it, no one would like to think those rights could ever be lost. We must remind ourselves (and it should never be doubted) that it is not constitutions or laws that preserve those rights - it is the spirit of the people, it is the vigilance of the people; it is the public opinion and the constant awareness of itself. Most of all, it is (or should be) the quality of leadership which exists.

Anywhere in the world, time and time again, megalomaniacs have emerged who have been able to destroy all human liberty as we understand it and, what is more, destroy those liberties without due regard of the forms of law. You make a law and then you make another law (no matter how good that first law was) to undo it. I do not wish to refer to any given debate or specific point, I want to speak broadly. It is one of the characteristics of some of these leaders that they do everything according to law until the destruction of every normal thing. So, when you put these things into the constitution, let none of us imagine we

have secured our future forever.

It is said that England would never write into her Constitution fundamental human rights, but it has become the practice for many modern countries to write this declaration in their constitutions. I believe the Attorney General said that independent countries always seek to embed in their Constitutions the Charter of Fundamental Rights and Freedoms. But, as he later explained, dependent territories of Great Britain have these Charter of Rights and Freedoms. Anguilla and Bermuda, for example - and the latter even had the Charter of Rights and Freedoms before they moved to an upgrading to their present Constitution.

There is nothing to be afraid of, but modern countries have taken that stand I suppose for two reasons: One, because they stand before the world as a country which has stated in the strongest possible term that those principles are governing their society. In that sense it may be a very good thing to stand up and be counted in respect to an affirmation of human rights, and to embody in permanent and visible form the rights themselves. That ensures that it becomes more easy to detect when anything is done with the purpose of breaching those rights.

That is one of the reasons why I would like these rights and freedoms enshrined by statute in these Islands. There is a third fact, and that is that they preserve against all forms of minor encroachment, because there are always the courts when there is an deliberate attempt to subvert the system. There is a standing Charter of Rights, and behind the Charter stands the courts ready to enforce those rights when they are infringed upon.

They could form a framework within which (if our intentions are good) we must work and, outside of which we may not stray. For all those reasons many people most sincerely believe it is good to write these things into constitutions or otherwise, either by way of Declaration of Intention or clauses actually applied in the constitution, with the force of the law.

Let none of us believe it is an easy system. As the Attorney General has pointed out, there are no rights without an exception. We all know the moment you start to explore the rights, you find no country can live unless those rights are modified by a variety of exceptions. It would probably be difficult to be sure we have included all the exceptions. It may be that by the time we have written all the exceptions, it is difficult to say what would have happened to the rights. All these clauses which appear in the different Charters of Human Rights have only been devised by years and years of the most patient study. I believe that in some of the modern constitutions, when they were being made they had an army of lawyers working month after month. I would bet every time they come up for examination and are studied afresh, we would be likely to discover something which could have been overlooked. There are many Constitutions...

MR. PRESIDENT: Would it be convenient to break there for you? Yes? I am asked by the Honourable First Official Member to remind Members that they are asked to meet during the break on a matter to do with the Traffic Amendment Law.

Proceedings are suspended for 15 minutes.

AT 3:18 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 4:03 P.M.

MR. PRESIDENT: Proceedings are resumed. Private Member's Motion No. 13/89. The First Elected Member for West Bay continuing.

MR. W. McKEEVA BUSH: Mr. President, when we took the break, I was dealing with the different constitutions in various countries that carry these Declarations of Rights. I was making the point that there are many exceptions to the rights. I was about to point out some of these Declarations and constitutions. First of all, there is the United Nations Charter of Human Rights, the European Declaration of Human rights (worked out after years of study), the Bond Constitution and the Canadian Bill of Rights Act. There are also the Constitutions of Bermuda and some of the other countries not yet independent. As I said, in all of these charters and constitutions these rights have been elaborately studied and worked out, yet the fact could be that when we come to write them here we would find more than one thing which we think is essential to modify.

We might, perhaps, think it has been an oversight when looking at these declarations and charters. I make that point because when we examine them, for instance, we find the clauses that says: "No person can be deprived of his life intentionally, save in the execution of a sentence of court following conviction of a crime for which the penalty is provided by law...", then, the exceptions will come. That is reasonable defence from a person of violence, or in the defence of your property. So it depends how far we can take life in defence of property.

I would not like anyone to think that what we are proposing is a charter of liberty of self-defense, or to effect lawful arrest or to prevent the escape of a person lawfully detained, or to prevent conviction of another person of a criminal offence. Those are all exceptions we refer to. In a way they might be dangerous because they would appear to create a right to take life for those purposes when, in many cases, no such right exists at all. In fact, laws, charters and constitutions themselves sometimes very narrowly define these.

There are textbooks on the subject that set out cases in which a person's life may be taken other than the result of a sentence of the court. I believe is a very good illustration of how very difficult it is to write a thing like that into constitutions or separate laws. When you come to depriving a person of a personal liberty, it would seem even more difficult. There are something like 10 or 12 different exceptions. One could go through all of these things - the protection of the freedom of movement, from slavery

and from forced labour (this is a very good example). Again a lot of difficulties can arise.

This section says: "1. No person can be held in slavery, or servitude. 2. No one shall be required to perform forced or compulsory labour. For the purpose of this section, forced labour does not include labour required in consequence of a sentence or order of the court. Labour required of a person while he is lawfully detained, where it is reasonably necessary in the interest of hygiene or for the maintenance of the place of where he is detained or labour required in a defense force or from a person in public emergencies.". Hopefully, we will go into Committee to study these matters and there is nothing wrong with that. But we would have to be careful when looking at these matters.

For example, in respect of work that might be required from a youth who is part of a programme doing community, or similar, types of work as part of a sentence. We would have to be careful because we may write ourselves out of the right to do many things which are useful and good for the community. As I said, that is why we advocate a Select Committee to go into the matter.

There is another part of any constitutions or charter which is more controversial than any other, that is, the question of the compulsory acquisition of property and a person's right to property. People think property rights are quite distinct from human rights. They say property is an artificial acquisition dependent in itself upon the law. Without law, the concept of property does not exist. Human rights are something which are much more fundamental. Your right to life and your right to liberty are fundamental things. They say property itself, is a completely artificial and legal concept.

There are countries which do not have this concept of property at all. Many people sincerely think it is not in a Charter of Human Rights. The United Nations Charter of Human Rights has nothing at all in it about property. Some people think it is much more important to write into their constitution a Declaration of Intention, the right to life and the pursuit of happiness, and to write into a constitution a right of private property. But as social policy changes, so do concepts change as to how far property should be organised and managed for the benefit of a country.

As we have said, in British Common Law there are sections which provide that property may not be, in effect, arbitrarily acquired. Property is protected and can only be taken under a law which has been passed and when so taken, it must be taken in accordance with the terms of that law. What the law provides as compensation, you must get. What the law provides for as the interest that may be compensated, you must have the right to go to court to determine those rights.

We have passed a similar law here. I think we might take note of some possible implications. Of course, it is of the highest importance for a country like Cayman to let the world know that we are a people who honour our bonds and that people can come here to invest in this country fully protected by the laws of the land; that we are not committed to any extreme policies, that property would be fully protected. If we decide to write into the Constitution the clauses I have mentioned, the other question that I see a Committee would have to consider is whether they should be entrenched, that is, to say whether they should be made very much more difficult to change than any other part of the Constitution.

Since it appears that a good number of persons in Cayman (and possibly a considerable number of persons abroad) may have more confidence in their own future, and this country's future if these things were entrenched, and since nobody ever thought this country would depart from the principle of these rights (whether they were in the Constitution or not), and since we should all regard it as disastrous if these principles were departed from, it should not be difficult to agree to entrench them in our Constitution. I hope we will agree to that.

There are some arguments about whether we should omit the provisions relating to human rights and fundamental freedoms from the Constitution. These arguments are that the Courts cannot be relied upon to decide whether the provisions of any law are not reasonably justifiable for the purpose of dealing with an existing emergency or in a society with a proper respect for the rights and freedoms of individuals. Such questions have to do with policy and not with law. In any event, judges are prone to look backwards for precedence as they do in English Common Law, rather than forward to new thinking. They say that court is also very expensive.

We heard that in England the same Common Law which is enforced in these Islands has been proven sufficient, so why should it not be sufficient for these Islands? Those of us who are in favour of making some provisions in the Constitution, or if not the Constitution some other statute dealing with human rights and fundamental freedoms, we can put forward some arguments of our own. We could say that minority groups do not and cannot feel secure unless the rights and freedoms are embodied and entrenched in the Constitution or otherwise. That is the reason it has become the practice to include a Charter on Human Rights and Freedoms in the constitutions of different countries. Even in some of the older countries, like Canada (which did not have a Charter in their Constitution) they thought it fitting to introduce legislation to protect those rights and freedoms.

It is fine to say follow the United Nations with its Declaration of Human Rights, to remind Government and governed alike by the rights and freedoms which must be observed. In this way we could say Government will hesitate to override those rights and public opinion can more easily be aroused to protect them. We could say that no one needs to doubt the ability of the independence of the courts to decide fairly and competently any question which may come before them.

There are many arguments for and against a Charter of Human Rights. I hope Members are applying their minds to whether they wish to have a Charter. Hopefully they will then try to make up their minds whether they want it as it is, or if they want it in some altered form.

Some people prefer the rights being defined in greater detail. Some people ask, for example, what is meant by the right to life, liberty, security of the person and the enjoyment of property? Does it mean people cannot be sentenced to death or imprisonment or that property cannot be

compulsorily acquired upon payment of compensation? As it is set out in most instances, there would be qualifications that the right can be taken away by due process of law. What does that mean? Does it mean people cannot be stopped from leaving the country? What is meant by freedom of movement? Does it mean people can march whenever and wherever they like? What is meant by freedom of expression, of association, of assembly, of the press? As I said, in most constitutions containing a human rights chapter, the rights and freedoms have been listed first and then followed by a long number of exceptions, setting out in detail what is permitted to be done in spite of these freedoms, as we heard from the Honourable Second Official Member.

In a Committee we will have a good opportunity by attending meetings to deliberate sensibly all these issues. There is nothing wrong with us doing that. As I said in opening, while English Common Law is the practice here, it certainly cannot hurt the country to embed a catalogue of rights and freedoms in our Constitution or set them down in law otherwise. While we have looked at all these exceptions, I still believe we are doing the right thing in view of the fact that our country is developing and developing at such a rapid pace.

There are many claims of infringement of certain rights and privileges and none of us should bury our head in the sand like ostriches. We know of them, we hear of them, so let us not hide behind any curtain of goodness and believe that we are so good these things cannot happen. I think we have reached that time when such a catalogue of rights and freedoms is needed. It might not be an easy thing to administrate these rights and freedoms because of the exceptions, but those issues, those problems or matters are not the ordinary run-of-the-mill problems and would not need administering every day. So no one can use the excuse that we are doing something which is going to drive us backwards. It is forward thinking why this resolution is before the House.

The Honourable Second Official Member said that Government has no fear of these fundamental rights and freedoms being instituted or imbedded in our Constitution or otherwise. He said they have a perception it is not necessary. They have their perception. We, on this side, have ours. We believe it is necessary, we believe it is forward to think of such a thing as a Bill of Fundamental Rights and Freedoms. We would not be changing our system of law, as we are now adhering to. I do not see why Government cannot support the resolution. I cannot see what then is their perception of 'unnecessary'.

Government has spent time on bills covering such things as abortion. Every day we meet in Committee to study some new thing, or to hear from some group. Why can we not sit down in Committee and look at what is good for all and sundry? They do not have one ghost of a good excuse. Let us all go to the Committee and seriously deliberate on these matters. It would be good for posterity if we set them down in principles backed by law.

Thank you, Mr. President.

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 this honourable House do now adjourn. 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 Wednesday morning at 10 o'clock.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., WEDNESDAY, 6TH SEPTEMBER, 1989.

WEDNESDAY
6TH SEPTEMBER, 1989
10:05 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: The proceedings of the Assembly are resumed. Questions. Number 68, the First Elected Member for West Bay.

QUESTIONS TO HONOURABLE MEMBERS

(Deferred from 5th September, 1989 Sitting)

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 68: In February of 1987, Private Member's Motion No. 3/87 entitled House Numbering was passed by the legislature. Can the Honourable Member say what has been done to start the work?

ANSWER: A Street Naming and Numbering Committee was established in early 1989 to examine various street naming and property numbering systems for the Cayman Islands.

SUPPLEMENTARIES:

MR. W. McKEEVA BUSH: Mr. President, can the Member say when in 1985 this Committee started its work, and could he elaborate a little bit more on it?

HON. LINFORD A. PIERSON: The answer was not 1985, Mr. President. It was 1989.

MR. W. McKEEVA BUSH: Whichever year.

HON. LINFORD A. PIERSON: If I understand the question properly, I think the Member was trying to solicit an answer to the progress of this. Since the passing of the Private Member's Motion back in 1987 very little was done until early this year when a Committee was set up under chairmanship of my Principal Secretary. The Committee consists of the Principal Secretary together with the Director of Planning, the Chief Surveyor and the Chief Engineer.

We are now looking at various systems, three systems in particular: the quadrant system, the neighbourhood unit system and the coordinate or linesman system, and it is hoped that a report will be available by the end of this year and tabled shortly thereafter in this House.

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

MR. TRUMAN M. BODDEN: Would the Member consider doing these in a preliminary way,

publishing them and giving people in the neighbourhood a right to have some say as to what names are put on roads in the neighbourhood?

HON. LINFORD A. PIERSON: I think this is a very good suggestion, Mr. President, which we would be happy to consider.

MR. PRESIDENT: Question No. 72, the Elected Member for East End.

(Deferred from 5th September, 1989 Sitting)

THE ELECTED MEMBER FOR EAST END TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS WORKS AND NATURAL RESOURCES

NO. 72: Would the Honourable Member say when work on channels in East End will be completed and properly marked?

ANSWER: Work on four (4) designated channels, namely, Colliers Channel, Eastern Channel, Fragiles Flat Channel and South Channel, was carried out in 1987 and early 1988. Parallel navigational markers were placed inside the Sound from Eastern Channel to Fragiles Flat Channel. Colliers and Eastern Channels have been marked and lighted. Fragiles Flat Channel has been cleared and marked. South Channel will be marked as soon as a work boat can be obtained to do this work. Safehaven has been approached for this purpose, however, no date has been set to do the work.

SUPPLEMENTARIES:

MR. PRESIDENT: I might just explain for Honourable Members, normally with questions I look to the Member putting the question for the first supplementary. This may explain why I do not seem to notice or catch you to be called sometimes. Supplementaries.

MR. JOHN B. McLEAN: Supplementary, Mr. President.
I wonder if the Honourable Member could say if the same type of markers and/or lights will be used to replace those that have been damaged or destroyed?

HON. LINFORD A. PIERSON: The answer is yes, Mr. President.

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

MR. TRUMAN M. BODDEN: Mr. President, if the Honourable Member is able to answer this, were there any plans for work on any of the other channels around the Island?

HON. LINFORD A. PIERSON: Yes, Mr. President, plans are now being considered for clearing channels in Bodden Town, Frank Sound and Spotts. Work is now currently underway in the West End channel in Cayman Brac. This should be completed by the end of October and improvements, that is clearing and widening, of the South Sound channel is also being considered at this time.

MR. PRESIDENT: Now, I allowed that supplementary, but it really went outside the original question. Could we go back to the original question with further supplementaries. The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, from the answer given with regard to Fragile Flat (which I am agreeing with) I would like to ask the Member if work will be done on the inside of the Flat once the barge is out there, to try and get some deeper water to it?

HON. LINFORD A. PIERSON: The answer, Mr. President, is yes. Work will be done on the inside of the Flat.

MR. PRESIDENT: We will move to the next question. Number 74. The Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 74: Would the Honourable Member say what is Government's policy with regards to regulating the number of Gainful Occupation Licences issued in the Cayman Islands?

ANSWER: The Government's policy is as reflected in the directives to the Caymanian Protection Board in accordance with the provisions of section 27(1) and 71(3) of the Caymanian Protection Law, 1984;

which directions are published as supplements to the Official Gazette. Each application for a Gainful Occupation Licence is considered on its merits and there is no quota or formula for regulating the total number of such licences.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Thank you, Mr. President.
Is the Member in his reply then saying that any number of work permits can be issued in the Cayman Islands without any restrictions, whatsoever?

HON. J. LEMUEL HURLSTON: Mr. President, the question asked was what was the Government's policy and the answer says that the policy is as reflected in the directions, which directions are published, and in those directions there are certain methods when considering applications. But those methods do not, in themselves, address the question of limiting the maximum total number that may be issued in the Islands.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Member just mention what this formula is and whether it does impose a total number on specific categories under the formula or not?

HON. J. LEMUEL HURLSTON: Mr. President, I think I just said in the answer that there is no quota or formula for regulating the total number of permits that may be issued. There is a formula for regulating permits issued to nationals of certain geographical areas but that does not have the effect of limiting the total number of permits to be issued in the Cayman Islands.

MR. GILBERT A. McLEAN: Mr. President, would the Member say if any thought at all is being given to restricting the number of work permits in the Cayman Islands?

HON. J. LEMUEL HURLSTON: I can confirm the matter is now currently under review by a Select Committee of the whole House and the answer to that question will come as a result of the completion of that review.

MR. PRESIDENT: Question number 75. The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 75: Would the Honourable Member give an update of the position of the proposed Pension scheme?

ANSWER: The answer, Mr. President. In December 1988, shortly after my election to Executive Council, I wrote to the Chamber of Commerce and set up a meeting to reopen discussions on the proposed pension plan. Several meetings followed so that by February 1989, I felt that the Chamber and myself had reached some common ground and could proceed with the Pension Plan that would be supported by the majority of employers in this country. In the meantime, Government decided that a second opinion was needed on the findings put forward by Mr. F. Gordon Smith. When British Executive Services Overseas was unable to help us, with the help of the Chamber of Commerce, we put out feelers to see which of the actuarial consulting firms might be interested in the follow-up study. We received proposals from four actuarial consulting firms and several individuals. After due consideration, the contract was awarded to the firm of Towers, Perrin, Forster and Crosby (TPF&C) in May, 1989. The terms of reference are that TPF&C will give us an actuarial evaluation of the current Civil Service scheme (the underlying annual cost of this plan as a per cent of payroll), and a more decisive projection of current and future plan cost on the proposed scheme. The interim report of TPF&C was presented to Executive Council on September 1st, 1989. Additionally, it is my intention to enlist the services of TPF&C to advise on the implementation and administration of the plan once the enabling legislation has been passed. The final report of the consulting actuaries is expected in mid October, and I hope to bring the appropriate legislation to this Honourable House during the November 1989 sitting.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. W. McKEEVA BUSH: Just an undertaking, if the Honourable Member will give it, to get the enabling legislation to Members early, as it must be a heavy piece of legislation?

HON. D. EZZARD MILLER: I will give the undertaking to get the legislation as early as possible, but it certainly will be done in terms of Standing Orders.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say whether any draft legislation has been circulated to anyone else?

HON. D. EZZARD MILLER: No Sir, I would not describe it as draft legislation but drafting instructions have been under discussion with the Chamber of Commerce Committee on the Pension Plan.

MR. W. McKEEVA BUSH: Supplementary, Mr. President.
If the Honourable Member saying that drafting instructions or some instructions are on paper, can we as a legislature not be brought up-to-date on this? I note that the Member has said that he would certainly give it to us in the required time of Standing Orders. That is only 14 days. I understand that this legislation is a heavy piece, since it carries an amount of regulations also. I would like the undertaking from the Honourable Member (if he would be so kind) to assist us in this matter by giving us more time than the 14 days.

HON. D. EZZARD MILLER: Mr. President, I think I gave that undertaking earlier, but I did say that if one looks at the time frame presented in the original answer, it is a very tight time frame. If it is available I will let Members have it; if it is not available and not completed I think it is pointless to give them a document that is not complete.

MR. W. McKEEVA BUSH: Can the Honourable Member not give us what he gave the Chamber of Commerce?

HON. D. EZZARD MILLER: Yes, I could, but I think that it is a discussion paper which was circulated to them and I do not think it would be effective to give it to Members until we have at least decided what the drafting instructions were going to be as a result of the meetings between my Portfolio and the employers who have to support the plan.

MR. W. McKEEVA BUSH: Mr. President, Members of the House will have to vote on it to come into Law. I think that we are just as important as any employer. Can the Member clarify whether he said there was no legislation drawn up on this matter?

HON. D. EZZARD MILLER: Yes, I said that there is no legislation presently drafted for this matter. What is under review is drafting instructions which are being modified in several significant areas. These were prepared by the previous consultant.

MR. W. McKEEVA BUSH: Is the Honourable Member saying, Mr. President, that the previous Member did not have legislation drawn up with regulations?

HON. D. EZZARD MILLER: Yes, Sir, I think I am saying that. I am saying that in my estimation what was drawn up by the previous consultant was drafting instructions for both the law and the regulations to be handed over to the Honourable Attorney General and the legal draftsman to be put in proper draft legislation form. They are not now in draft legislation form.

MR. W. McKEEVA BUSH: Mr. President, you know, I am really getting tired of the contempt for this Honourable House, and I think that - I know that, I am not thinking now here, Sir. I know...

MR. PRESIDENT: Frame it as a question.

MR. W. McKEEVA BUSH: Yes, if you will give me the chance to get to the question. Mr. President, I know that there was legislation drawn up and if the Honourable Member cannot give that undertaking, I will bring it to the House and lay it on the Table tomorrow morning.

HON. D. EZZARD MILLER: Mr. President, I invite him to lay it on the Table now and not to wait until tomorrow morning because I am satisfied that no legislation was drafted by this Government. What I have seen I interpret, and that is my interpretation. I cannot give anybody else's interpretation of it, as drafting instructions by the consultant. I have no fear. He can lay it on the Table anytime. I think the Legal Department will confirm that the draftsmen there have drawn no legislation. Legislation for this Bill is usually drafted by the Legal Department's draftsmen.

MR. W. McKEEVA BUSH: All right.

MR. PRESIDENT: If there are no more supplementaries. The First Elected Member for West Bay, Question No. 76.

MR. W. McKEEVA BUSH: I hope there is no draft legislation for this one, Mr. President.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE.

NO. 76: Can the Honourable Member say what were the losses incurred by Cayman Airways Limited from its inception to the end of financial year 1984, and from the period 1984 to the present, giving a breakdown in figures for each year?

ANSWER: Financial losses incurred by Cayman Airways Limited is as follows:

(a) From inception to the end of financial year 1984 (30th June, 1985), the sum of US$17,639,977; and

(b) From 1st July, 1985 to 30th June, 1988, the sum of US$3,045,218, broken down as follows: 1st July, 1985 to 30th June, 1986 - US$1,132,124; 1st July, 1986 to 30th June, 1987 - US$835,826; 1st July, 1987 to 30th June, 1988 - US$1,077,268

SUPPLEMENTARIES:

MR. PRESIDENT: There appear to be no supplementaries. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, would the Member please say what subsidies Government paid to Cayman Airways in 1986, 1987 and 1988?

MR. PRESIDENT: I think that falls outside the ambit of the original question which was to do with losses.

MR. TRUMAN M. BODDEN: Mr. President, because those subsidies went into the Profit and Loss account and made the losses less...

MR. PRESIDENT: If the Member cares to answer fine, but in my...

MR. W. NORMAN BODDEN: Maybe for the benefit of the House, Mr. President: In 1986, 1987 and 1988, the same amount of subsidy that is currently being paid (which is about CI$1,000,000 per annum) was paid. However, I should point out that prior to 1986 Government's financial assistance to Cayman Airways from the time the 727s were leased in 1982 was not termed subsidy but was put in the form of loans and other financial assistance to the company. So much so, that $14,000,000 had to be converted to Share Capital to settle loans; monies that were loaned to the company which it could not afford to repay.

MR. TRUMAN M. BODDEN: Mr. President, my question is whether the amount mentioned from 1982 was dealt with through capital account or whether it was dealt through profit and loss accounts? My point being that it does not reflect in the $17,000,000 loss that you mentioned.

MR. W. NORMAN BODDEN: It was treated as capital at some stage in the accounts, Mr. President. The point that I am making is that while Government's financial assistance for those five years was not called a subsidy nor done on an annual basis, during those years loans were made to the company at various times and finally converted to share capital at the end of the day.

MR. TRUMAN M. BODDEN: Mr. President, just one last question on this point to the Honourable Member. Is it then not a fact that if the bookkeeping had taken the loans off the $17,000,000 it would have been substantially less because in the three years, from 1985 to 1987, the money that Government has put in has reduced the loss? Whatever the amount you gave did not come off the $17,000,000. You are showing pure losses with the loan. I just want to make this clear. If the loan had been deducted the loss of $17,000,000 would have been substantially less.

MR. W. NORMAN BODDEN: Mr. President, I am not really an accountant and the accounts have been tabled in this House up to the financial year ending June 1988, but the $17,000,000 represents accumulated losses from the inception of the company to this financial year ending June, 1985. The manner in which Government's assistance was treated as far as the accounts of the company stand, was handled on the balance sheet through conversion to capital, so it is not included in the $17,000,000. It is true, if there were deductions, if it was handled in another fashion it might have been deducted and would have reduced the losses. But, that is not the manner in which it was handled.

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

MR. ROY BODDEN: Thank you Mr. President. I wonder if the Honourable Member could explain the significance of the dip in the losses between the 1st of July, 1986, and the 30th of June, 1987, in comparison to the other two years given?

MR. W. NORMAN BODDEN: Mr. President, I think the difference would be accounted for in that particular year to probably less maintenance costs involved and in other areas, so that the company actually had a better financial year. I think he is referring to the $135,826,000 compared to the other two years. It was just that the company was fortunate enough to have a good financial year that particular year where revenue was high and there were reductions in expenditure probably in the maintenance area.

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

MR. FRANKLIN R. SMITH: Mr. President, I wonder if the Honourable Member could say whether the 1988 figures would have been less had Cayman Airways not had an accident in Miami with the planes, and is this still unsettled?

MR. W. NORMAN BODDEN: That is correct, Mr. President. There was an accident in Miami. A ground accident involving the towing of the aircraft in Miami which adversely affected the companies operations that particular year. To the best of my knowledge that claim is still unsettled.

MR. PRESIDENT: Question No. 77, please. The Elected Member for East End.

THE ELECTED MEMBER FOR EAST END TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS AND NATURAL RESOURCES

NO. 77: Could the Honourable Member say what is Government's policy with regard to the lease or sale of Government lands?

ANSWER: Government does not have a general policy for the lease or sale of Government lands. Any proposal concerning Government land is considered on its own merits.

SUPPLEMENTARIES:

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

MR. GILBERT A. McLEAN: Mr. President, would the Member say if it is not desirable to have a policy to guide Government in respect it leasing of its lands, generally?

HON. LINFORD A. PIERSON: To date no such policy has been put in place, but to answer the Member, I would agree that perhaps it would be a good idea to have such a policy in place.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Supplementary, Mr. President.
I wonder if the Member could say how does one make arrangements to lease Government land and what are Government's requirements?

HON. LINFORD A. PIERSON: Mr. President, a request is usually made to the Portfolio for the lease of the required property.

MR. PRESIDENT: The next question please, number 78. The Second Elected Member for Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE Honourable MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE.

NO. 78: Would the Honourable Member say whether the cockpit instrumentation of the two 737-400 aircraft which Cayman Airways Ltd. is leasing digital or analog?

ANSWER: The cockpit instrumentation of the two being leased by Cayman Airways is digital.

SUPPLEMENTARIES:

MR. GILBERT A McLEAN: Could the Member confirm that is the same type of instrumentation that has been reported on the plane, the 737 that crashed onto the highway in the United Kingdom?

HON. W. NORMAN BODDEN: Mr. President, I imagine it was the same instrumentation. I cannot confirm that fully but I would assume that it is the same.

MR. GILBERT A. McLEAN: Mr. President, would the Member say whether one of the

reasons Cayman Airways could get the two 737-400 jets was that it had digital cockpit instrumentation and it was less desirable by other airlines?

HON. W. NORMAN BODDEN: Absolutely not, Mr. President. I cannot say that. I have no knowledge of that. To the best of my knowledge Sir, the cockpit instrumentation on the Boeing 737-400 is a state-of-the-art instrumentation. It is a system called the EFIS system which, I am told, stands for Electronic Flight Instrumentation System. I am sure this is standard and the aircraft that Cayman Airways is leasing from Guinness Peat Aviation was not leased because the price was better because of any inferior quality whatsoever.

It is my understanding that the Cayman Airways crew who have been taken to Seattle for training, have come back with glowing reports and are very impressed with the quality of aircraft that Cayman Airways will be operating.

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

MR. TRUMAN M. BODDEN: Mr. President, could the Member say whether the 737-400s which are in the United States have the analog and those in Europe have the digital?

HON. W. NORMAN BODDEN: I could not say, Mr. President whether that is so or not. I really do not know.

MR. PRESIDENT: Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Mr. President, I wonder if the Honourable Member could say whether he has any knowledge that there is any difference between the 737-400 and the Airbus of Europe in the digital cockpit?

MR. PRESIDENT: These questions are beginning to get beyond possible bounds.

HON. W. NORMAN BODDEN: I think it is a bit technical, Mr. President. I think there is a substantial difference between the cockpit instrumentation for the Airbus and the 737-400. In fact, in the study which was conducted by the Cayman Airways Study Team, this was one of the reasons why a decision was taken not pursue any further study on the Airbus. The attention was then switched to the 737-400. That is my information.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Supplementary, Mr. President. I wonder if the Member could say whether it is possible to say in case of problems with the digital system, is it possible to control and operate with other instruments on the 737-400?

MR. PRESIDENT: I think that is a hypothetical question. It must depend on the nature of the circumstances. I do not really see how the Member can answer that.

MR. JOHN B. McLEAN: In other words, what I am trying to find out Sir, is that if there was a problem with the digital system, can the plane be controlled manually?

HON. W. NORMAN BODDEN: I am pretty sure that is so, Mr. President. I do not think the digital system would have any effect on a switch into manual control, as necessary. I think a point that I should make is that the Civil Aviation Authority and the Federal Aviation Authority which must certify these aircraft for public transport, I am sure that those agencies must be fully satisfied that every possible safety aspect has been built into those aircraft.

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

MR. GILBERT A. McLEAN: Mr. President, is the Member aware that in a recent report in the United Kingdom from a study done there (this report has also been published in the local papers), it has been found that the high sophistication of the digital computer system creates quite a bit of stress and inability in moments of great tension in the cockpit for the pilots to take back into control the plane?

HON. W. NORMAN BODDEN: Mr. President, I saw the article in the local newspaper, which I think presented maybe their findings because the report was not printed in its entirety. I think excerpts of comments were made by psychologists in the United Kingdom when considering the crash of the 373-400 over in that country. The various excerpts were repeated in that article. To answer it quite simply, I think being a pilot, copilot or a flight engineer in the cockpit of any aircraft is stressful, especially for landings and takeoffs. However, I do not believe that there is any concrete evidence or that any proof has been produced which would state or establish that due to the advanced technology in the 737 cockpit, that it would be stressful to the point that the safety of the crew and its passengers would be at risk, or that crew who are trained and certified to that type of aircraft cannot function as normally as they would in any other cockpit and under any normal pressure.

MR. PRESIDENT: Next question please. No. 79.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 79: Would the Honourable Member say:

(a) How many flight attendants have been recruited by Cayman Airways Limited since 1st June, 1989;

(b) What are their nationalities; and

(c) What positions do they hold?

ANSWER: (a) Fifteen new flight attendants have been recruited by Cayman Airways since June, 1989;

(b) Their nationalities are as follows: 10 Caymanians; 1 Jamaican; 2 Canadians; 1 United States citizen; 1 United Kingdom citizen. To date seven Caymanians remain in training. Three are no longer being trained because one was injured in a motor car accident, and two others withdrew from training for personal reasons;

(c) The positions held by the new recruits are trainee flight attendant.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, would the Member say whether that is an increase in the number of flight attendants or is it replacements for those who have left?

HON. W. NORMAN BODDEN: Mr. President, I do not have the exact figure, but I think it would be a combination of both. Some replacement and some new.

MR. PRESIDENT: Question No. 80 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. 80: Would the Honourable Member say how many students are in the Primary, Middle and High Schools respectively in each of the Government and Private Schools?

ANSWER: The number of students in each of the Government Schools is as follows:

Cayman Islands High School	1029
Cayman Islands Middle School	737
Cayman Brac High School	60
Cayman Brac Middle School	70
West Bay Primary	303
George Town Primary	500
Savannah Primary	159
Bodden Town Primary	107
North Side Primary	59
East End Primary	46
Creek Primary	55
Spot Bay Primary	37
West End Primary	55
Lighthouse School	39
Sunrise Centre	14

The number of students in each of the private schools is as follows:

Cayman Preparatory School	Primary	173
	Middle	72
	Total:	245

Our Lady of Perpetual

Help Preparatory School	Primary	351
Edmar Academy	Primary	74
Truth for Youth School	Primary	141
	Middle	60
	High	40
	Total:	245
Triple 'C'	Primary	115
	Middle	60
	High	73
	Total:	248
Wesleyan Christian Academy	Primary	50
	Middle	23
	High	15
	Total:	88

SUPPLEMENTARIES:

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

MR. ROY BODDEN: Thank you, Mr. President.
I wonder if the Honourable Member could say if in the Government system how many schools have an enrolment which exceeds the complement for which they were built? And could he give us the names of those Schools please?

HON. BENSON O. EBANKS: Mr. President, speaking from memory, the one school is West Bay Primary, which has 303 and I think it was built for 300. I also seem to recall that the Middle School has somewhat more than it was originally designed for.

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

MR. W. McKEEVA BUSH: Can the Honourable Member say how current are these statistics?

HON. BENSON O. EBANKS: Mr. President, these are the most current available to the Department. I think these would have been the numbers at the close of the last school year. The registration, as I explained yesterday, is not complete for this term yet.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say if he has these numbers, that the total students in the Government schools are 3,270 and in the private schools 1,251, or approximately a bit of one third of students are in private schools?

HON. BENSON O. EBANKS: I would agree with that, Mr. President.

MR. PRESIDENT: The final question on today's Order Paper, Number 81. 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. 81: Would the Honourable Member say what is the total cost and cost per student:

(a) for the recurrent expenditure in each of the Government Primary, Middle and High Schools; and

(b) based on a present valuation of the school buildings and equipment in the Government's Primary, Middle and High Schools?

ANSWER: (a) The total recurrent cost for operating the schools is as follows:

Cayman Islands High School	$2,351,184.00
Cayman Islands Middle School	1,549,534.00
Cayman Brac High/Middle Schools	528,868.00
Primary Schools - Grand Cayman	1,758,677.00
Primary Schools - Cayman Brac	320,296.00
Lighthouse School	282,906.00
Sunrise Centre	140,246.00

The cost per student is as follows:

Cayman Islands High School	$2,284.92
Cayman Islands Middle School	2,102.48
Cayman Brac High/Middle Schools	4,068.21
Primary Schools - Grand Cayman	1,498.02
Primary Schools - Cayman Brac	2,178.88
Lighthouse School	7,254.00
Sunrise Centre	10,017.57

(b) The present valuation of school buildings in the Government's Primary, Middle and High Schools is as follows:

Primary Schools - Cayman Brac	$1,444,000.00
Cayman Brac High/Middle Schools	1,795,000.00
Special Schools: Lighthouse School	477,000.00
Sunrise Centre	103,000.00
Primary Schools - Grand Cayman	3,691,500.00
Cayman Islands Middle School	4,078,000.00
Cayman Islands High School	7,057,000.00

The total cost per student based on present valuation of school buildings is as follows:

Cayman Islands High School	$6,858.11
Cayman Islands Middle School	5,533.24
Cayman Brac High/Middle Schools	13,807.69
Bodden Town Primary	5,366.33
North Side Primary	9,618.18
George Town Primary	1,311.00
Savannah Primary	4,225.80
West Bay Primary	2,911.18
East End Primary	10,608.69
Lighthouse School	12,230.76
Sunrise Centre	7,357.14
Creek Primary	8,236.36
Spot Bay Primary	11,394.73
West End Primary	8,550.00

The cost of equipment in the Islands' schools is not reflected in the valuation figures presented because it is not the normal policy of the Government to insure equipment. The reason being that overall it is more economical to replace equipment rather than to pay insurance premiums.

SUPPLEMENTARIES:

MR. PRESIDENT: Supplementaries.

MR. TRUMAN M. BODDEN: May I just have a minute to read this, please?

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

MR. ROY BODDEN: Thank you, Mr. President.
I wonder (concerning section "a" of question No. 81) if the Honourable Member would give an undertaking to seek the cost in those cases where the private sector operate schools, for example, as a primary and middle level, if he would undertake to provide us with the cost per student of students in the private schools, so we would be able to make a comparison?

HON. BENSON O. EBANKS: Mr. President, I could not give the undertaking to give the figures. What I could do is to give an undertaking to attempt to get the figures, and if I am given those figures by the respective schools I would certainly make them available to all Members.

MR. PRESIDENT: I think we can finish the questions in progress. I think we can do that without having to move the suspension. I meant, flexible interpretation.

HON. THOMAS C. JEFFERSON: That is fine, Mr. President. I was just worrying about 23(8).

MR. PRESIDENT: Supplementaries.

SUPPLEMENTARIES:

MR. TRUMAN M. BODDEN: Mr. President, my first supplementary. Is it not a fact, using the figures for the Primary Schools of approximately 905 students in the private schools, Government's annual cost for 905 students is approximately $1.35 million per annum, recurrent?

HON. BENSON O. EBANKS: Mr. President, I think the Member asked for time to work that figure out, I did not know what he was working out so I could not confirm nor deny what he is suggesting.

MR. PRESIDENT: I think you have elicited information which is the purpose of the original question. Any more supplementaries?

MR. TRUMAN M. BODDEN: Mr. President, in light of the obvious savings which are made by private schools educating students under our compulsory system of education, would the Honourable Member consider looking at increases towards grants to these schools.

HON. BENSON O. EBANKS: Mr. President, I can confirm that the Budget which is now being prepared includes a substantial increase for grants to private schools, as did this year's over last year's.

MR. PRESIDENT: Thank you. Before we proceed to Item 3, I have been asked by the Clerk to draw Members' attention to a circular about a meeting to be held following the adjournment, and to say that the day and the date should be Thursday, the 7th of September. Not Wednesday. This is a notice dated the 4th of September.

THE PRESIDENT: Item 3, Government Business. Bills, First Readings.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

THE FRAUDULENT DISPOSITIONS BILL, 1989

CLERK: The Fraudulent Dispositions Bill, 1989.

MR. PRESIDENT: A Bill entitled, The Fraudulent Dispositions Bill, 1989 is deemed to have been read a first time and is set down for second reading. Bills, second reading.

SECOND READING

THE FRAUDULENT DISPOSITIONS BILL, 1989

CLERK: The Fraudulent Dispositions Bill, 1989.

MR. PRESIDENT: The Honourable Second Official Member. I beg your pardon, the First Official Member.

HON. THOMAS C. JEFFERSON: Quick demotion, Mr. President.

I beg to move the second reading of a Bill for a Law to amend the Law relating to disposition made with the Intent to Defraud.

The real purpose of the Bill is to ensure (and it basically has seven or eight clauses) the facilities in the Cayman Islands are not utilised by someone who owes a particular sum of money to a creditor and in the scheme of avoiding payment to the creditor, establishes a trust and sets aside a great portion of his wealth in that trust hoping that the Creditor does not discover that he has done so. Even if he does discover it at the present time, there is a division of legal opinion as to whether the creditor will be successful in getting the Trust set aside.

It is a technical piece of legislation. I do not propose to talk in terms of the technical details of this Bill, but to speak to the principle for which it is being established and say to Members that as we have moved legislation and made other necessary arrangements in order to preserve the credibility and the image of the Cayman Islands, this piece of legislation is put forward with the same view. I happily recommend it for the Members' approval.

MR. PRESIDENT: The question is that a Bill entitled, The Fraudulent Disposition Bill, 1989, be given a second reading and the Motion is open for debate. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I support this Bill. The Honourable First Official Member has set out the reasons behind this. It is one that will promote the off-shore industry and it is one which will clear up any doubts that may have existed in the minds of persons in relation to transfers of property into trusts in the Islands.

I would merely ask other pieces of legislation which go partly hand-in-hand with this be looked at at the same time. One of those is the Bankruptcy Law, which does have similar provisions dealing with 10 years and two years. However, this is separate from that legislation. It would be good if the Government could have a look at that and perhaps in due course revise it. It also is a very old law. This deals with the statute of Elizabeth I, a statute which is many, many centuries old. Obviously many doubts needed to be cleared. It does have some retroactivity to it, but that is justified. The law in the form it is, being complex and somewhat novel, I believe is good for the country and I support it.

I think this sitting has seen (with the very heavy provisions in the Companies Law amendment and now these provisions) an obvious move by the Honourable First Official Member to keep the Government up-to-date or ahead of many jurisdictions. I compliment him on this. I support this and say I look forward to other good amendments or pieces of legislation to further the off-shore industry.

MR. PRESIDENT: If no other Member wishes to speak, I will put the question, which is that this Bill, the Fraudulent Dispositions Bill, 1989, be given a second reading. I am sorry I did not invite the mover to reply. Would he wish to?

HON. THOMAS C. JEFFERSON: Thank you, Mr. President.
Like you, I do not think it is necessary.

MR. PRESIDENT: So, I am putting the question, then, that this Bill be given its second reading. Would those in favour please say aye? Those against no?

AYES.

MR. PRESIDENT: The ayes have it. The Bill stands referred to Committee. Perhaps we should take the Committee stage now, it may not take very long.

AGREED. THE FRAUDULENT DISPOSITIONS BILL, 1989, GIVEN A SECOND READING.

MR. PRESIDENT: The House will go into Committee accordingly.

HOUSE IN COMMITTEE

MR. CHAIRMAN: The House is now in Committee.
As the Leader of the House, may I assume, as is usual, we authorise the Honourable Second Official Member to correct any minor printing errors and such like in this Bill?
Would the Clerk now state the Bill and read the clauses?

THE FRAUDULENT DISPOSITIONS BILL, 1989

CLERK: The Fraudulent Dispositions Bill, 1989.
Clause 1: Citation and Commencement.
Clause 2: Interpretation.
Clause 3: Application.
Clause 4: Avoidance of fraudulent disposition.
Clause 5: Stating of certain rights.
Clause 6: Extent of avoidance of relevant disposition.
Clause 7: Law not to validate certain dispositions.
Clause 8: Relationship with Law 17, of 1987.

MR. CHAIRMAN: If there is no debate, I shall put the question, which is that clauses 1 to 8 do stand part of the Bill.

Those is favour please say aye? Those against no?

AYES.

MR. CHAIRMAN: The ayes have it.

AGREED. CLAUSES 1 THROUGH 8 PASSED.

CLERK: A Bill for a Law to amend the Law relating to dispositions made

with an intent to defraud.

MR. CHAIRMAN: The question is that the title do stand as part of the Bill. Would those in favour please say Aye? Those against no?

AYES.

MR. CHAIRMAN: The ayes have it.

AGREED: THE TITLE PASSED.

MR. CHAIRMAN: That concludes proceedings in Committee on a Bill to Amend the Law relating to Dispositions made with the intent to Defraud. The House will now resume.

HOUSE RESUMED

MR. PRESIDENT: I do apologise earlier on for omitting to invite the First Official Member to reply. A note was put in front of me which diverted my attention.

Proceedings are suspended for 15 minutes.

AT 11:17 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:47 A.M.

MR. PRESIDENT: Proceedings are resumed. The House had reached the stage of reports on the Fraudulent Dispositions Bill, 1989. The Honourable First Official Member.

REPORT OF BILL

THE FRAUDULENT DISPOSITIONS BILL, 1989

HON. THOMAS C. JEFFERSON: Mr. President, I have to report that a Bill shortly entitled, The Fraudulent Dispositions 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.

Item 4 on today's Order Paper. Private Members' Motions. Private Member's Motion number 13/89, debate continuing. The Second Elected Member for the Lesser Islands.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 13/89

APPOINTMENT OF A SELECT COMMITTEE TO FORMULATE A BILL, CHARTER OF RIGHTS AND FREEDOMS

(Debate continues thereon)

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

I rise to support Private Member's Motion number 13/89, appointment of a Select Committee to formulate a Bill, Charter of Rights and Freedoms which in its recitals states:

> "WHEREAS in many countries of the world a Charter or Bill of Rights complements the written constitution;
>
> AND WHEREAS as a rapidly growing country with many diverse groups, interests and concerns, the Cayman Islands' population continues to expand;"
>
> "BE IT THEREFORE RESOLVED THAT this Honourable House do appoint a Select Committee of the whole House to assess the need and feasibility of formulating a Bill or Charter of rights and freedoms, to ensure the fullest exercise of all human rights and freedoms and to protect against all forms of discrimination, exploitation and harassment in the Cayman Islands.".

Mr. President, I support this Motion because it touches a matter that is absolutely fundamental to the human race in the world of today. Virtually every country adopting a formal Constitution since 1867 has seen fit to incorporate the Bill of Rights document into its constitutional framework.

Since we have inherited a constitutional framework similar in principle to that of the United Kingdom, our constitutional roots lie firmly enmeshed in those conventions, customs and usages which have been developed and adopted. We need to ensure that these constitutional rights come into play in all parliamentary circumstances.

Over a hundred years of parliamentary democracy in the Cayman Islands has been accompanied by concern for the maintenance of fundamental rights of men and women. The principles of rights and freedoms contained in such documents as the Magna Carta, the Petition of Rights 1628, Habeas Corpus Act 1679, The Bill of Rights 1689, thoroughly pervades the English Constitution providing the framework within which the Government must have regards to the rights and liberties of a citizen. Our Constitution does not implicitly embody these principles of English constitutional history which looked to the protection of fundamental rights, that is why as a British Crown Colony we wish to look at the formulation of legally guaranteeing these rights and having them written into a Law; taking into account our cultural, religious, educational development and the rights of our people within the context of the Cayman Islands. I do not suggest that the Courts do not give certain protection, as pointed out by the Second Official Member, but it should not be left to totally rely on the judges of the Court to see to this business when representatives of the people in Parliament can pass specific legislation to provide for rights and freedoms.

Yesterday, when the Second Official Member spoke on behalf of the Government, I think he stated there could be no doubt that all right-thinking people wholeheartedly embrace the protection, and cherish the ideals of basic human rights. It seems that Government is clearly acknowledging the position of human rights and freedoms; but yet, it is not prepared to support a Bill which would embody and clearly set down these rights. In fact, Government does not seem prepared even to accept the position of forming a Select Committee to assess the needs for it, for this is indeed what the resolution part of the Motion is asking for.

The Member who spoke on behalf of the Government pointed out various reasons why the Cayman Islands do not need a Bill of Rights. I am not really surprised that the Government of the day would take that position. Certainly, in my opinion it makes a very clear statement about what it thinks of rights and freedoms. It is one thing to know that there are certain provisions which protect rights and freedoms in law, but there is no specific law which sets down a catalogue of rights and freedoms as has been done in International Law by the United Nations Legislation on Human Rights or the European convention on Human Rights; notwithstanding, that the Government side has pointed out that by extension we have availability to that coverage.

It was also stated that if the Legislature attempted to pass legislation which was in contravention of it, it would have to pass by a Secretary of State who could disallow it. I do not believe that we in the Cayman Islands (perhaps about 2,000 miles away from the office of that person in Her Majesty's Government) when a question comes up or a matter to be decided should have to revert to that. We could have a situation easier at hand where our Law clearly specified, and our legal system could be put into action, and our Courts could decide on a matter.

I personally had occasion in 1985 to pass a petition to the Governor asking for the intervention of the Honourable Secretary of State when an amendment was being brought to the Misuse of Drugs Law. There were 2,066 signatures (and there was no duplication on it) from persons from every district of these Islands. I personally went to each of them. I held meetings, and people who agreed expressed their concerns and signed that petition. It was based on the fact that the petition argued that the presumption of guilt was against the European Convention on Human Rights of which we were a part by extension from the United Kingdom. But that petition did not receive a favourable response. In fact, the reply which I received was largely constituted by a legal opinion which was done in our own Legal Department by the Attorney General at the time. I am not arguing about that position, because I totally agree with our legal department looking after our legal affairs. The point is that today we do have in our Misuse of Drugs Law a provision in section 7, which says in section 7(1)(e):

> "Without prejudice to any other provision of this Law-
>
> (e) where is proved beyond reasonable doubt that a person had in his possession or custody or under his control a dock warrant, warehouse warrant or order, baggage receipt or baggage claim, airway-bill, bill of lading or other similar document relating to anything containing a controlled drug, it shall be presumed, until the contrary is proved, that such person was in possession of such drug.".

At the time when this matter was put forward, it was based on the argument that International Human Rights Legislation says that a person is presumed innocent until proven guilty. But this legislation which is in our Law, the Laws of the Cayman Islands, has shifted that onus, in a sense, to a position of guilt where the person has to prove he is innocent. In section 7(2) it says:

> "The presumptions provided by this section shall not:
>
> (a) be rebutted by proof that a person never had physical possession of the controlled drug;...".

Mr. President, over generations some of the greatest thinkers in the world have determined that people need to be protected from the state. That is where the whole concept

evolved for a Bill of Rights which protects the freedom of individuals. Of course, that same Bill of Rights precludes the parliaments of those countries from making legislation which contravenes that.

I must express admiration for the way the American system works where everything tends to be more explicitly set down - what shall be done and shall not be done. In its political development, from the time it was a colony of Great Britain to the time it became a republic, they also found it necessary to pass a Bill of Rights. I believe that nation is very proud of it. On various occasions I have been asked by Americans about our Constitution, whether we have a Bill of Rights. I am not able to say yes, because we do not have such a Bill of Rights as we could have and has been asked for in this Motion.

At this time in the Cayman Islands, with an influx of all sundry, rising expectation, greed... and it appears to be that we have a condition here that is growing with certain individuals who are not necessarily representatives of the people, but they have acquired wealth over recent years; they espouse to know various things about everything. They find themselves in positions of influence in this society. While they do have money, they do not have depth of thinking, and they do not necessarily perceive the fundamental rights and wisdom embodied in the whole concept of rights and freedoms. Sometimes I believe these people see rights and freedoms as something very particular to themselves - once they are comfortable in the particular position they are taking, extension of that position does not go to the rest of the society.

There are also some interest groups in this country which I believe exert considerable influence directly and indirectly on the Government machinery and the policy making process of the country, which does not necessarily include thoughts of the greater welfare of the society, but it is reduced more to their own interest. It is in such instances that a Bill of Rights is very necessary.

If I think of the matter of discrimination by race, religion or by whatever is the case, I have felt we do have discrimination here. At least we have discrimination by nationality. If I could read from the Discrimination by Employment:

> "The I.L.O. Convention concerning discrimination in respect of employment and occupation. It defines discrimination to include any distinction, exclusion, or preface made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing the equality of opportunity or treatment of employment or occupation.".

I believe we have such discrimination in another of our laws. I refer to the Caymanian Protection Law, which clearly sets down which countries we think are fit and proper, and which excludes all others. The persons we consider eligible are British citizens or citizens of the Republic of Ireland, any British dependent territory citizen, any citizen of Australia, Bahamas, Barbados, Belize, Canada, Jamaica, New Zealand or Trinidad and Tobago and the United States. That is the group the people who legislated this law saw as eligible people. Obviously, it is set down in our law.

I also believe in my country we further discriminate by places of national origin and (again, it is set down in directives to the Caymanian Protection Board) that we have the direct preference for persons in the country to come from the United States, United Kingdom, Ireland and elsewhere. We are excluding to a specific degree people from the West Indies - of which we are a part. The reasoning given for that is that we are trying to balance our society. That might be the reason given, but it is certainly discriminatory in my opinion. I believe it could be legally argued.

So, having cited those examples, I think they are very outstanding, I think they are very glaring; they are affecting the lives of people in the Cayman Islands. A clear example would be the case of a Caymanian man married to a Nicaraguan woman (who is a dear and cherished wife), he can live here indefinitely and cannot have extended to her the nationality which he enjoys - meaning, in this case, Caymanian Status - unless she goes through the routine of getting permanent residence. Permanent residence is largely extended to those persons who have $150,000 investment or more, who can show proof they do not need to work here and all the rest of it. Although there are also sections which allow persons with close family connections to have permanent residence, in the case of his wife this would not be the case. Once they have received that they go to the next stage of applying for British Nationality or British Dependent Territory Citizenship, and then from there they would go on to a situation of getting Caymanian Status - which is not automatic. It is vested in the opinion of one of the many boards which we have in this country. Those things are affecting the lives of Caymanians in this country. It is affecting families, husbands and wives. These are the types of conditions which fall under the broad umbrella of rights and freedoms.

The European Trade block which is being set up now (and we are told will be the largest trading block in the world, and it is physically) is taking certain measures where their various countries subscribe to similarities in human rights and freedoms. They are setting up courts that will hear the cases collectively. Cayman should not have any less.

There is such a thing as physical integrity, the right to life, which should not be taken lightly; nor should life be taken from someone unless it is some sentence of death before a court duly constituted and properly administered.

There is need for us to be concerned about liberty and security - that we are free from arbitrary arrest and detention. I am not suggesting people are being grabbed in the streets and put in prison and kept there and beaten with water hoses, as we hear happening on other countries of the world. What is wrong with us specifically setting that down in a law? I do not think there is anything wrong with that.

There is a need and concern within the area of physical integrity - persons should be free from torture and ill treatment. Every now and then we hear of instances where people

suffer some bad bruises and the like in the process of being arrested. While some may be exaggerated, some might not even be so. The law of averages says that sometimes that is the case and there are laws here where a person could bring a case against those concerned. But is it really set down specifically in any law?

The matter of rights and freedoms also involves our standard of living. It is an inherent right of people in any democratic society to have a standard of living which their Government should provide which makes that standard of living as good as possible for them. There is the question of health. Again, I am not saying this Government is not working towards improvement of health standards. In fact, I said that I thought the present Member for Health has made some very straight-forward and positive steps in arriving at facts and data, not administering from an ad hoc position in these Islands. But is there anything wrong with us writing down what we feel about our standards of health which would, if anything, authorise any Member now or in the future as to how to proceed and by what yardstick they should measure?

There is the question of the family. In this country there are many cases where there are children who are not born in wedlock (and I certainly do not attach to any child born on this earth the unholy reference as is provided for in law - a bastard child). I think we are all born through the process set down by nature and mothers and children... for that matter, even the unmarried fathers have a duty and a right to the child and everyone equally should receive the respect due. There are instances here in our society where we cannot refer to any law or Bill of Rights referring to the family because there is none. There are children born on this Island who, because they have the nationality of their mother (who may not be a Caymanian), must go otherwise and the family unit can be separated that way. A Bill of Rights and Freedoms, in keeping with the other International Conventions, certainly looks into that area of it as well.

Work too, a right to work. The fact that people should not be allowed to sit around and not work, as happens so often here in Cayman. Every day you can see persons leaning against the Bank of Nova Scotia with enough gold hanging around their necks to hang themselves. They do not work. I often wonder where their wealth comes from. I do have ideas about it, but I will not express them here. But, certainly, the right to work; for the Government of any country is responsible to provide enough work for its citizens. We have an unfortunate situation where we have 60 times as much work as our citizens need. That, in itself, is a problem. Rights and freedoms entail concepts governing the idea of pay and conditions of work. Persons should be paid what the job is worth, and there should be proper conditions for the person to work in which are not hazardous to their health. The conditions should be such that the work place is not conducive to causing accidents.

There is also rest and leisure. Also the fact that there should not be forced labour. I do not think we have that problem here, although I hear of some employers who in my own way of thinking would like it that way. They demand everything while trying to give as little as possible. For example, they try to run rings around the Labour Law. They take sections of it and bend and twist it to get around it. They work it through some of the interest groups in this country. You hear that so-and-so is doing it and they decided at a meeting that such-and-such could be done. We do not have a law which we can refer back to and say you really cannot do that in keeping with our Bill of Rights, as the case may be. Then again, I am not saying we have not taken some steps by producing a Labour Law. Some amendments were coming to this Honourable House this session but were withdrawn. I think if some of those come back, the majority, in fact, I think would do much to stop some of what I am aware is happening in the labour force. All of these things are involved in the concept for a Bill of Rights and Freedoms.

I support the idea of social security. When such a bill comes to this House, if it is at all in the best interests of the country (and I imagine that will be the grounds which it will be brought), I will support that because I believe in it. Why I believe in it is because I know that in my country, the Cayman Islands, the family unit has broken up so much that many of our older citizens are facing in their twilight years a lot of loneliness and sadness. They are not acquiring as much care as they should have. I see it here in Grand Cayman, I see it the constituency I represent, Cayman Brac, where Government statistics have proven it is becoming an ageing society. Government does not, up to this point in time, have in place a social security system which is an integral part of the society which allows someone the dignity of putting in so they can get out when they are no longer able to put in.

I would like to read a brief paragraph from what is here in the Convention on Social Security Assistance and Welfare. It reads:

> "Everyone as a member of society has the right to social security and is entitled to realization through national effort and international cooperation and in accordance with the organization and resources of each state of the economic, social, and cultural rights, indispensable for his dignity and the free development of his personality.
>
> Everyone has the right to a standard of living adequate for the health and well being of himself and his family, including food, clothing, housing, and medical care and necessary social services and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.".

Mr. President, a Bill of Rights recognises social security assistance and welfare.

Certainly not least is education and training. No society can progress in a manner which is desirable without education. Education can produce better development because it enhances the mental ability of its citizens. We have an educational system and we hear that a new review is coming

about. The Government is full of reports.

I worked in Government for 17.5 years as a civil servant (resigning at the level of a Principal Secretary) and I have seen in that time dozens of reports - good reports, but reports which are there for the sake of reporting - not implemented by the popular will of the political directorate. The political directorate does not exert enough pressure or set down and prioritise its objectives, so things get done, as the report says, maybe bits and pieces. These are the things which could be entrenched in a Bill of Rights and Freedoms.

Training... and I speak of training distinctly from education because it is often necessary to become educated before you can be trained - they are two distinct things. We have a need for dozens if not hundreds of people who can deal with matters of electricity, air conditioning, fixing appliances. We have a situation where if a toaster goes down - in other countries you can get it fixed - we simply throw it away and buy a new one. In all of the areas of skilled training we have need. Secretarial typing is now seen as skilled training. I would make that point to say while there are person who always decry trade unionism, and the international labour organisations, most of these people are totally unaware that what goes on in those organisations is not sitting down, figuring out how you are going to strike on the employer, but these organisations advocate training as a means of improving the skills of its members, and employment being available for its members and industry putting out more than it could with having skilled training. Thus, it grows and grows, they are working for labour. All of that comes under this large umbrella.

Legal integrity, nationality. We have what is called British Dependent Territory Citizenship given to us by the United Kingdom, which is the Colonial administering power. I salute those persons who were in this Legislature before I was who conceived of something that would give us some sort of uniqueness in ourselves - that we are somebody - when they came up with something called Caymanian Status. Having a nationality is part of it. I believe we need to seriously look into our situation so we can determine who we are, because from day to day I am convinced that the process which is in place in the Cayman Islands is having an adverse affect by causing us as a people to see ourselves for less than what we are, and constantly developing a sense that we are not good enough, we are not capable. On the other hand it is espoused to the contrary.

I believe we have the basic framework of people being recognised before the Law in the community. We are looked at equally under the Law, generally speaking. Not that I would stand here and say that I believe everyone is treated equally. I know of many instances where persons not too economically well off are not treated too kindly, verbally and otherwise. I think we have in place the system of fair trial, and I do not believe we have miscarriages of justice. Where it is felt there are grounds for appeal in any decision of a court, it is appealed and the process goes on. However, I believe we are at a point in time when it is wise and prudent for us to set down precisely what we expect in instances of our legal integrity.

Of course, there is also mental and moral integrity, the right to privacy and the right to one's own religious beliefs, be it however strange, including the Rastafarians who say they believe in someone called "Jah". They have a right. These rights should be respected. On the matter of privacy, I do not know whether there is any law in this country that prohibits anyone from bugging one's telephone, or bugging somebody's office and using that information however they may to the detriment of someone. Certainly a Bill of Rights would clearly set that down. Quite often I am hearing suggestions that telephones are being tapped and bugged. I am not saying this might not be necessary for the state to do, where there are questions of security and the appropriate authority in Government goes to court and gets permission to do so. I am accepting all of that. I am speaking about instances in this society where we have certain jokers who see themselves as experts in electronic surveillance, who, it is alleged, get kicks out of fooling around with peoples' phones, and so on. Should this society not have a law that forbids that? I think so. I do not think at this time it does.

HON. RICHARD W. GROUND: Mr. President, if the Member would accept a point of information on that.

MR. GILBERT A. McLEAN: Certainly, Sir.

POINT OF INFORMATION

HON. RICHARD C. GROUND: I believe the Telephones Law does make interfering with telephones an offense without lawful authority, and the joker, or whoever interferes with telephones, to whom the Member is referring, I am sure is not doing it with lawful authority. If he is caught it is therefore an offence.

MR. GILBERT A. McLEAN: I thank the Member for his intervention, Mr. President. I am glad to know there is some type of law here which would seem to cover that type of activity, but I would personally like to know there were some here which said a person's privacy cannot be invaded whether through telephone bugs or whatever else.

A Bill of Rights would also take into account joint activities, associations in which it would be clearly set out that associations can be formed where there is the right to assembly and it would not be considered a conspiracy. People have the right to join trade unions - although I know the very word here conjures up fire-breathing dragons devouring people. There are interest groups and persons who constantly talk about the evils of trade and labour unions. The days when labour unions were organisations that were constantly in a conflictual situation with management are long past. Nowadays, trade unions or organisations that collectively look after the health insurance and education of its members' children and improvements in the work place, not in detriment to the industry, but in assistance thereto.

MR. W. McKEEVA BUSH: Hear, hear!

MR. GILBERT. A. McLEAN: I would not, of course, say or for one moment try to preclude that they should resort to a strike or withdrawal of work or whatever may be necessary, as is done in any democratic society when a fair agreement cannot be reached.

Politics and democracy are also covered under a Bill of Rights. They are covered in that the people have the right to have differing political views or political parties and there is the right for Opposition to disagree with Government in the strongest possible terms, and both the Government and the Opposition recognise there is a process and system which is democratic and not the people who make it that way.

In the Cayman Islands, in our political arena there are persons who would posture to bear the weight of all three of these lovely Islands on their shoulders without any assistance whatsoever from anyone other than themselves.

MR. PRESIDENT: Would it be convenient to break there for you?

MR. GILBERT A. McLEAN: Yes, Sir, it is.

MR. PRESIDENT: Proceedings are suspended until 2:15 P.M.

AT 12:40 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:17 P.M.

MR. PRESIDENT: Proceedings are resumed on Private Member's Motion number 13/89. The Second Elected Member for the Lesser Islands continuing.

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

Just before we broke for lunch I had referred to politics and democracy being part of the large parameter of rights and freedoms. I believe this is the area where one needs to ensure there is the widest possible interpretation and involvement of rights and freedoms in the arena of politics and to guarantee that democracy in its true sense is based on the majority and popular will of the people.

The Universal Declaration of Human Rights on the question of politics and democracy states:

> "Everyone has the right to take part in the Government of his country directly or through freely chosen representatives.
>
> Everyone has the right of equal access to public service in his country.
>
> The will of the people shall be the basis of the authority of Government. This will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage, shall be held by secret vote or by equivalent voting procedure.".

Mr. President, I think we have that type of condition in the Cayman Islands. I can see no reason whatsoever why that position, why those words cannot be enshrined in a law. Democracy is rule by the majority in free and democratic elections. I was making the point that neither democracy nor stability of a country is vested in any one individual. Certainly, taken from the point of view of the elected representatives of a people in any country, it is vested in all of them. No one in the Cayman Islands should lose sight of this fact.

The democratic process is just that - a process. It is a system. It is not changing the way something is done to the appeasement of anyone who might take office from time to time. Democracy can clearly be laid down in a system as with any computer programme. For example, the process in this Parliament is laid down in its Standing Orders by reference to *Erskine May*. But if any successive Members to this Assembly or any Government follows a particular procedure as is laid down, then each time it will be done in the right and proper manner. So I believe it is very vital that politics and the democratic process be set down in a bill.

I acknowledge without hesitation the point made by the honourable gentleman, the Second Official Member. There are exceptions in all of these Rules or Bills or Catalogues of Rights and Freedoms. Certainly, from the time I can remember I have heard there are exceptions to every rule. So I see nothing wrong in setting the rules down in writing and what the exceptions to them are.

There are collective rights in societies. There is the right to liberty and equality in society, the right of each person in the society to use their wealth or resources to their benefit as long as it is within a prescribed way. Certainly, every country has the right to development, and individuals within it should have the right to develop whatever might be their resources in a way which is beneficial to them. Of course, a country should provide the right social environment for its people. That being the case, it also takes into account any minorities which might be in it. We do have some minorities in the Cayman Islands who speak other languages, who come from another culture and their's should be the right to speak that language, to have their culture; but they should also collectively live and abide within the prescribed parameters of the rights and freedoms of the Caymanian society.

If I may interject something here which refers to what I said about the question of privacy and the bugging of telephones and so on. I referred to the Telephone Law, 1966, to which the Honourable Second Official Member referred to. It is in section 13, The disclosure of communications and obstructions of service. I would just like to clarify that if I may. It says:

> "Any person who without authority intercepts any telephone communication not intended for the general public and with intent to prejudice the rights or interests of others deliberately discloses the contents or existence of such communication or any person who unlawfully or maliciously in any manner whatsoever prevents or obstructs the sending, conveying or delivery of any communication by telephone shall be guilty of an offence and on summary conviction thereof shall be liable to a fine of fifty pounds and in default of payment or in lieu of such fine to imprisonment for six months.".

As I said, I am grateful that was brought to my attention. Fifty pounds is a hundred dollars and nowadays the type of equipment used, some of the small pieces I am told are as expensive as $4,000. So I think it would be well to look at that law, to increase the penalties, but I personally still favour a situation where no one can trespass on anyone's privacy through such acts.

What I have had to say on the matter of the Motion before this Assembly is based on what I believe to be right and true and on what is prescribed in International Law as Human Rights and Freedoms which does not preclude the Cayman Islands from legislating its own specific to its own environment and needs, with whatever exceptions there may be considered necessary.

I think the question of human rights is one of the biggest issues in the world today. Poland, a Communist country for years, has broken through the barriers of oppression, repression, suppression, and they are now getting into a world of rights and freedoms. I can see no reason whatsoever why the Government of the day in the Cayman Islands should even think of refusing to agree to the formation of a Select Committee to assess the needs as has been done.

I have noted that only one Member from the Government bench has spoken, and I do hope there will be others from the Executive Council who would be minded to express their views on this very important matter. If it goes to a vote and it is shown that with all that is said about democracy and stability in this country, and yet the Government refuses to even consider the question of a Bill of Rights, I am not certain how the Government expects the international world to look upon that. Certainly, a United States investor might have some very pointed ideas.

I do not know what has been done, but on this question (as has happened here in the past as with the Speaker of the House Motion) I would hope the Members of the Executive Council might be freed to vote their conscience on this particular issue. I believe it is of that great a magnitude.

Most countries of the world, as pointed out by the Second Official Member, have entrenched in their Constitutions a Bill of Rights. In the Caribbean: St. Christopher, Nevis, Anguilla, Bermuda (good for them!) saw fit, most countries of the world see fit. There are some countries that have rights and freedoms prescribed in their constitutions and they may be shooting down people in the streets. It is good to know that it is there because as generations pass and new ones come into power, they have a guideline to refer to in their legislation. We hope they would get back to where they respect their rights and freedoms and themselves.

I have quoted to quite an extent today from a book called, *The International Law of Human Rights*, by Paul Sicard, who has practiced for many years at the English bar and who is now an international arbitrator and consultant; Chairman of the Executive Committee of Justice, the British section of the International Commission of Jurists; a Trustee of the European Human Rights Foundation; a Governor in the British Institute of Human Rights and an Advisor on human rights to Catholic Bishops of England and Wales. He said in his book:

> "It is humbly dedicated to the millions of individuals who have needlessly suffered and perished over many centuries and in many cultures, through the denial of their human rights and fundamental freedoms and to the countless more who will be unjustly deprived and oppressed and persecuted before the rule of International Law of Human Rights can become fully established.".

Mr. President, I think the Cayman Islands are fortunate in many ways, including the ways of recognition of basic human rights and freedoms. But there is always present the opportunity, the occasion, the chance that persons, other than those who are tied to the country and who take steps to do other than is now done, may be hindered if we had a Law clearly prescribing what is the wishes of the people in respect of rights and freedoms. I do hope all persons in this Legislative Assembly will take the opportunity to debate this important Motion, including the Government bench, and that they may vote as I feel they should, individually.

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 offer my support to Private Member's Motion number

13/89, entitled, Appointment of Select Committee to formulate a Bill or Charter of Rights and Freedoms.

First of all, I would like to congratulate the Mover, the First Elected Member for Bodden Town, for his excellent and convincing presentation of the subject. I feel the Motion is not only timely, but necessary. As leaders it is important for us to have vision and to put in place certain policies and legislation that will prove to be in the best interests of the people here in the Cayman Islands, rather than continuing the approach of crisis management, that is, reacting to situations after they happen.

What concerns me is that it appears everyone has rights and needs except our Caymanian people. What is wrong with us as Legislators sitting down in a Select Committee and looking at the possibility of creating a document or piece of legislation as all other prudent jurisdiction have done, which spells out in detail our individual freedoms and rights? Freedoms such as freedom of speech, freedom of worship, and other rights which are sacred and basic to our human existence. Also to provide the recourse if those freedoms and rights are abused or violated.

At the present time we have our own Constitution. My Question is: Why can we not also have our own Bill of Rights which will complement the provisions of this Constitution? The Second Official Member went to great lengths in an attempt to convince Members that we do have a Bill of Rights under the umbrella of the United Kingdom. I am not disputing that. I am one Member who is not convinced that we cannot and should not have our own Bill of Rights for our own identity. I do not feel we can do too much to ensure beyond any shadow of a doubt that the rights and freedoms of our people are protected. I am aware of these Conventions which were mentioned which ensures basic human rights, but I think it would only be good common sense for Government to offer our people their own legislation.

I do not intend to be as long or as detailed as my predecessors, by that I refer to the other Members of the Backbench who have spoken on this matter. One thing that I am proud of is that our Backbench is well prepared. The presentations have been very convincing and I think I can assure the First Elected Member for Bodden Town that when the vote is taken this Motion will carry.

I can assure the Mover he has my support for this Motion. Thank you, Sir.

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

MR. FRANKLIN R. SMITH: Thank you, Mr. President.

I rise to support Private Member's Motion number 13/89, entitled, Appointment of a Select Committee to formulate a Bill or Charter of Rights and Freedoms.

I will not be long because, as the seconder of this Motion, if I did not believe in it, I would not have seconded it. But as the Motion reads:

> "BE IT THEREFORE RESOLVED THAT this Honourable House do appoint a Select Committee of the whole House to assess the need and feasibility of formulating a Bill or Charter of Rights and Freedoms to ensure the fullest exercise of all human rights and freedoms and to protect against all forms of discrimination, exploitation and harassment in the Cayman Islands.".

There have been some arguments from the Government side in particular and from the Backbench side, but as I see it, it is only asking for a Select Committee of the whole House. I feel if a Select Committee is allowed, and if after the Select Committee has considered the Motion it is deemed unnecessary, it will fall by the way. I, personally, support it and I would rather wait until we get into a Select Committee and debate it there. If it is not feasible for us to do this, then we can throw it out afterwards.

Thank you, Sir.

MR. PRESIDENT: The Honourable Member for Health.

HON. D. EZZARD MILLER: Mr. President, as was said by the Honourable Second Official Member in his contribution to the debate, I do not rise in opposition to anyone's having those rights. I rise in opposition to the Motion because I am not entirely convinced it is needed at this stage of our development at this time. While I believe (like other Members) very strongly in the rights of individuals which are set out in the United States Bill of Rights, and the Magna Carta, I think one has to take into consideration the state of events in those countries at the time when the Bill of Rights and the Magna Carta were drafted. Certainly, they could in no way compare to the present modern developed society of the Cayman Islands.

I believe that most of the rights of individuals which are normally laid down in a Bill of Rights are well entrenched in enabling legislation in this country already. A Bill of Rights would not necessarily have any greater effect in protecting those rights of those individuals at this time. If one feels that a right, such as was raised by one Member against forced labour, is not adequately covered by the fact it is prohibited under the Penal Code of this country, then we could address that.

I believe our time could be better spent in addressing the enabling legislation for all of these rights rather than spending time drafting a Bill of Rights, which as I understand it would in itself have no legal enabling status, other than what is in the laws which were written about these areas and would reflect what the position was in the Bill of Rights. I believe it is safe to say in the Cayman Islands today most, if not all, of what is considered the rights of individuals are well documented and well protected in our legislation.

I believe the International Conventions to which all our

legislation are subservient have ensured by virtue of their extension to the Cayman Islands through the United Kingdom, that the Laws have that position. I do not see a Bill of Rights as it appears to be seen by some speakers - that in itself it will be a very cumbersome piece of legislation which would carry with it all of these details of enabling, and what the punishments would be and all the exceptions and all the conditions under which it would be done. But the enabling legislation which we have on our books already does in this country, and that is the basis which I oppose the resolve section of the Motion.

I listened to most speakers, and I would like to congratulate the Mover on his very eloquent and emotional presentations of the subject. I believe speakers after him have widened the area of his presentation and may have strayed into areas he had not intended to go. If we could take a few examples, I think the Second Elected Member for the Lesser Islands mentioned we have no Social Services Rights under the Law and then went on to quote it is provided in accordance with the resources available in the country.

I believe it is fair to say the people of the Cayman Islands have a framework under which most of those rights are, in fact, presently protected and any shortcoming in those rights are being met through various agencies and Departments of Government. We have added an additional wrinkle, where in the Social Services Department we do apply what we call a means test to determine who is deserving. It is all provided for, as I see it, in accordance to the capability and the resources which the country has.

As I said, I fully support the rights of all these International Conventions for individuals. I support their rights as laid down under the Magna Carta. I am left to be convinced that even one of those rights, at this time, is not provided for in the Cayman Islands, to the best of this country's capabilities. I have listened to speakers and no one has identified any specific right under any of those charters which is presently absent from the Cayman Islands. Even it there was one, my preferential approach would be to address it directly through enabling legislation, rather than through a very long, cumbersome (and what I think in some instances is going to be a difficult) exercise which would probably take two or three years to complete if we have to go through all our enabling legislation and come up with a Bill of Rights which reflects that.

The other thing where I differ with some speakers is where some speakers have voiced a concern that they do not believe it should be left to the judges to decide. If you look at the great United States, it is the judges there who decided whether any legislation passed by the House or Congress does, in fact, conform to the Bill of Rights. I believe the body, which is the Supreme Court which exercises that authority (and I am not saying it to disdain them) is not a politically or democratically elected body, but a body which is appointed by the Executive of Government and there is usually only two of them (the President and the Vice President) of the Executive branch who are elected by the people.

In listening to the debate, I am not sure that people realise that if a Bill of Rights were written here it would make any legislation passed in this Honourable House subservient and in some instances subject to be overturned and refused to be implemented by the judges in this country rather than by parliamentarians who are duly elected to make legislative decisions and to provide laws.

While I fully respect the rights of all individuals, it is my opinion that all those rights are presently provided in this country to the maximum capability of our resources under various enabling legislation which deals specifically with all of those rights. Therefore, I cannot support the Motion as it reads. Thank you, Sir.

MR. PRESIDENT: Does any Member wish to speak? The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I rise to support this very, very important Motion. In listening to the Government's argument against this their rejection of this Motion does leave me very surprised and, to say the least, somewhat worried. That worry is based on the fact that it seems to me the Government is saying these rights are important and necessary, but they are not prepared to go into a Select Committee and discuss them or make a constructive move towards defining them more fully.

The Cayman Islands, when looked at in the light of the many other democratic countries of the free world, is the exception rather then the rule. Indeed, the rights which have evolved, beginning with the Magna Carta and stretching through the many versions which culminated in the international and area domestic rights after World War II, go to show this expression of rights, freedoms and fundamental rights and privileges the most important ingredient in ensuring democracy continues in a country.

The Honourable Member for Health said that because we had a position where these rights were in here there should be no move at this stage because everything was well, and there was no need to restate them. That is a fallacy. We never wait until we have a crisis to attempt to correct the situation. We ward it off. In fact, this House today legislated on a matter which has not been found by any court to even be applicable to these Islands. Why did we do it? We did it because good common sense tells us it is better in times of stability and times such as this to guarantee that what we cherish will not be taken away because we are waiting to deal with crisis management.

Those rights are so important that the Constitutions in which they are set out in many instances begin their Constitutions with those fundamental rights. The Bermuda Constitution, for example, is one which begins with them in Section one which sets out fundamental rights and freedoms of an individual and it goes on from there. Those other constitutions I could get a statutory instrument for, the Anguillan one begins with the fundamental rights and freedoms. In fact even the older 1968 Bermuda Constitution began with the fundamental rights and freedoms. So we should not brush a Bill of Rights aside as being something to take lightly.

I commend the First Elected Member for Bodden Town in his move to bring this Motion here. The Motion is a very simple one. It is one which says, as was read by the Second

Elected Member for Bodden Town:

> "BE IT THEREFORE RESOLVED THAT this Honourable House do appoint a Select Committee of the whole House to assess the need and feasibility of formulating a Bill or Charter of Rights and Freedoms to ensure the fullest exercise of all human rights and freedoms and to protect against all forms of discrimination, exploitation and harassment in the Cayman Islands.".

A very good, short and concise Motion.

At this stage, I would like to read from *The International Law on Human Rights*, by Sicard, just a short passage. It has this to say:

> "Two common fallacies should perhaps be mentioned here. First layman who have not themselves examined the text of the instruments are apt to dismiss the entire concept of human rights as a piece of unrealistic idealism, or in the words of Ben Thumb's famous stricture upon natural law, nonsense upon stilts, on the ground that all such rights are far too wide and vague ever to be realized in practice. Only a detailed study of the treated text themselves, will show they have in fact been drafted with all the legal precision necessary to apply them to real situations and the restrictions of limitation clauses outline clear and sufficient boundaries for all those rights and freedoms for which that is necessary in order to ensure the orderly conduct of a human society.
>
> Another superficial glance at those clauses of restriction and limitation often evokes another fallacy. Namely that they are so wide as to take away for all practical purposes the rights which they qualify.
>
> In coming to that conclusion the layman is necessarily unaware of fundamental rule of construction of any legal text enshrined for centuries reflected in the basic principal of international Law that treaty obligations must be performed in good faith.".

I would commend that to the layman Elected Members of Government. I do not think we should fall into the fallacy that these rights are not important and that they should not be looked at very seriously.

Indeed, the seriousness of those rights were quite rightly expressed by the Second Official Member. In fact, his opening statement made it very clear of that importance. He said:

> "May I begin by complimenting the Member who moved it, both on the power of his presentation and the obvious depth of feeling and sincerity behind it. Human rights and the protection of them are a very much a live issue internationally in world of the late 1980s. This is particularly so because of the horrific abuse of basic human rights we see happening in so many nations around us. I think there could be no doubt that all right-thinking people wholeheartedly embrace protection and cherish the ideals of basic human rights.".

MR. PRESIDENT: I am sorry. Is that a quotation?

MR. TRUMAN M. BODDEN: I was quoting the Attorney General, the Honourable Second Official Member. What I am saying, Sir, down to that stage he and I fully agree on this Motion, and he went on to say:

> "Having said that, I rise now, on behalf of Government I daresay, to speak against the Motion. Perhaps it would be better at this stage to indicate that the Government will not be supporting it....".

Mr. President, I fully understand the difficulty of the Honourable Second Official Member in presenting that case because he is a brilliant lawyer, and I think it is obvious when we begin with basics that are agreed on and we get into the difficult stage of saying we agree on certain basic things, but then, perhaps as lawyers following along the legal principles that we have been trained in, we can then put our case as high as possible. But a bad case is a bad case. No matter how well the case is put, the merits have to be weighed very carefully.

The opening and the quotation that he gave I agree with fully. Where perhaps the Government and the Backbenchers differ is in the course to take. If something is good, if something is important, then you vote for it. It is an accepted fact that Bills of Rights have been put in laws. They have been the subject in Constitutions. They have been in Constitutions within the Commonwealth, not just in independent countries. As mentioned earlier, and as read by the Second Official Member, countries near to us, such as Bermuda, have put these in their Constitution. Others, such as Canada I understand, originally had it in the form of a law. The important thing is all of them have come right out and said that we are going to guarantee the

fundamental rights of human beings.

The position on these Bill of Rights has been dealt with in texts ranging back many hundreds of years ago, when the Magna Carta was brought in, down through the years through the revolution, after the revolutions of 200 or 300 years ago when we saw countries such as France and the United States of American bringing these in. It is true some of these Bills of Rights have risen after atrocities in the world. Most of them arose after the World War II atrocities. Many of them do, in fact the majority of them have been adopted by countries who have no infringements of these fundamental rights, because I think it is good common sense to guarantee these early rather than waiting until we have a crisis.

If I may read just one paragraph supporting this from *Hood-Philips, on Administrative and Constitutional Law*, one of the leading English authorities, they say:

> "Many modern constitutions incorporate certain fundamental rights, such as personal freedom, equality before the Law, freedom of property, free elections, freedom of speech, freedom of conscience and worship, freedom of contract, the right of assembly, the right of association and family rights.
>
> They are always restricted expressly or implied, by some such concepts as public order or due process of Law and the courts may or may not have jurisdiction to review legislation that infringes such rights.".

I do not think anyone can say these rights are not something that have been dealt with in times when countries are peaceful and adhering to the basic rights.

In fact, the same author goes on to say:

> "Declarations of Rights in various forms have been incorporated into a number of constitutions of Commonwealth countries in recent years, including Canada, India, The Federation of Malaysia, Malta, Nigeria and other African countries.".

We know it has also been included in other West Indian constitutions as well.

I take the point that we do have many of these rights in our laws today. I also take the point in relation to the fact the respective declarations which were made shortly after World War II do apply to us. These were dealt with some 30 odd years ago, and there have been improvements on these since to the extent we have seen what could be called fundamental rights which could be applied to areas. For example the fundamental rights applying to the American States; they are fundamental rights which have been adopted specifically in relation to certain American states. I think what is being sought here is for this Honourable House to appoint a Select Committee to assess the need and feasibility of formulating the Bill or Charter. That is what is asked for. The position which is somewhat worrying is that especially on the North American continent the Bill of Rights is about as sacrosanct as the American Constitution. Indeed, states within the United States have their own specific Bills for their own domestic uses and sanctions.

I do not understand why, since we have on past occasions (and will in future, I am sure) had Committees to deal with much less important matters than this, the Government is not prepared to discuss a look at this matter. The rights, internationally, while they are good have shown over a period of time they have been eroded somewhat. To that effect, in support of that argument, I would like to show some areas where the erosion has come about. Here I would just read very briefly from Hood-Phillips, when he had this to say:

> "The European Convention is nearly 30 years old and is defective first in the selection of rights. For example, it does not mention property and succession or compensation for compulsory acquisitions except for peaceful enjoyment of possessions, in the first protocol, or freedom not to join a trade union, a short coming made good by judicial interpretation.".

They quote a case there.

> "And secondly in their formulation, especially their wide limitations and exceptions, such as necessary in a democratic society, which is hardly justiciable.
>
> Further its juris prudence is not static so account would need to be taken of decisions of the Strasburg Court and opinions of the Human Rights Commissions.".

While that may appear to conflict somewhat with what I read a bit earlier about dealing lightly with this matter, it does show (and has been shown with the reading of the Bermuda Fundamental Rights) that these have been approved upon over the years.

Some of the arguments which have been raised on this Motion seem to me to not really touch the fundamental and important fact that if we have these rights, if the Government says they are all here, and at present they feel these rights are sufficient, then why not sit down and set them out in a concise form and look at the other areas, where there may be deficiencies. A good hard look has to be taken at this important subject.

MR. PRESIDENT: Would you care to break there?

MR. TRUMAN M. BODDEN: Yes, Sir.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 3:17 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 3:47 P.M.

MR. PRESIDENT: Proceedings of the House are resumed. The Third Elected Member for George Town continuing.

MR. TRUMAN M. BODDEN: Mr. President, the rejection of this Motion in my view is going to be looked at seriously in the international community. The argument I was developing earlier is that most countries who use the Cayman Islands - the United States, United Kingdom, Canada and many of the people there, especially in the North American continent - have become used to having countries with Bills of Right. It seems to me that in the form which the Motion has been put, that is, for a Select Committee to study it, I cannot see why, if these rights are so important, so good and necessary for democracy, as everybody who has spoken in this House so far seems to agree, we do not give it some time. Let us sit down and have a good hard look at them in the peaceful time this country is now in.

Looking at it from another aspect, we changed the currency from pounds to dollars to induce U.S. tourists and investment to this country. Many of the policies in tourism and in Cayman Airways, and, indeed, in the financial community, are geared towards the countries which are near to us which provide in many ways the income and services which are important to the community. Here we have one of the basic (and to me, one of the most important) documents on human rights one can find in the free world and we are finding excuses not to deal with it.

I do not believe, if countries such as Bermuda, Jamaica and others, have been able to put together the documents necessary in their country as a Bill of Rights that it cannot be done here. I know it can be done. We must accept that nothing good is easy. In many instances to get any good document a lot of time and effort must go into the drafting. It has to be looked at very carefully. For example, look at the detail and the size of the Companies (Amendment) Law, which we have just passed. It is probably three or four times the size of any Bill of Rights we would attempt to draft.

I believe our arguments have to be channelled to the fact (using the words, once again, of Sir Kenneth Roberts-Wray, in his book on *Commonwealth and Colonial Law,* he says:) "Fundamental rights are intended to safeguard the individual", as was mentioned by the Second Official Member, many times was aimed towards the legislative bodies. But we are looking here at safeguards which if we brush them aside lightly at this stage, when we do wish to deal with them, the time may not be opportune to do so, because a country in crisis rarely can produce a sensible and detailed document. Time is needed and the possibility of conflict in those times are much more apt to bring about the position of not do it right. Strengthening this in my last quotation, because I have had to do a considerable amount of research over a short period, to really come to grips with this, is a very short statement from *The British Government and Constitution,* by Turpin, and he said this:

> "The Common Law is no longer (and this was in dealing with the Constitution in the U.K.) the strong, independent ally, but the servant of parliament. This perhaps did not matter quite so much so long as the Constitution of Parliament itself contained effective restraints upon the will of a bare majority in one House.".

Mr. President, it becomes even more important in times when the House (as we have seen in the last few days in times of conflict) has a bare majority; where you get sides so closely balanced; where you are looking at one vote at a time, making important decisions that we ensure where we agree on very important and basic matter, that those are settled and we do not have to deal with them on that basis. Indeed, if a document, regardless of what form, could be produced from that Select Committee, whether it is just a Statement of Rights, it would have the effect (knowing the Members of this House are Honourable) if Members have agreed on specific rights and specific things they will be bound by it. To that effect I would seriously commend them to look very carefully at this Motion.

Finally, in summary, it seems to me that the position of the Backbench and the Government on the importance of Fundamental Rights and on the protections that are necessary to cherish the ideals of basic human rights, we all seem to be saying in this House that this is very important. I do not understand, I think it is very difficult for Government to try to distinguish (I use the word distinguish) their position on the basic basis they are not going to speak against the importance and the necessity of these rights, but, on the other hand, they are going to vote against the Motion. In my opinion that is a strange position because I have always believed that if I think something is good then I should say so and I should be man enough to stand behind it and support it. Therefore, I congratulate the Mover of this Motion. I believe this is one of the most important Motions this House is going to see and as seen for many years. I think it should be looked at with the importance and the seriousness that the fundamental rights of human beings carries with it.

We have at present no local Bill of Rights. While many of these rights are in place, I think it is good and good timing to look carefully at this matter now and deal with it at a time

when the Government and the country is not in any state of crisis or pressure, so when the day comes, if it comes, which God forbid it should, the test finally comes on the guarantee of the fundamental rights and freedoms we can safely say we have done our work. We have put in place what is needed to preserve the future of the Cayman Islands and we have voted for what we have believed in.

Thank you.

MR. PRESIDENT: The Honourable Member for Education.

HON. BENSON O. EBANKS: Mr. President, I have listened with interest to the various contributions on this Motion and while some have been well delivered and researched, I must say I have not heard anything to change my mind that we need to go into a Committee to study whether we need a Bill of Rights and Freedoms at this time.

I have heard no one advance any evidence that anyone in Cayman is deprived of his rights and freedoms. Unlike what some Members would have us believe, a Bill of Rights does not of itself ensure rights and freedoms to the people of a country. In fact, some of the most oppressed people in the world are countries that have a Bill of Rights in their Constitutions. I would like to enquire what is wrong with the Constitution of the Cayman Islands, which has served us well, that has brought us this far along the road to prosperity? Why, all a sudden, should we legislate a Bill of Rights?

The example which is held out as the torch is the United States Bill of Rights. I believe more time is spent in the United States courts trying to untangle what, in fact, is the rights of their citizens, than on any other issue. So the Bill of Rights alone does not solve problems. I believe the test of any issue should be how the country works. I have not heard, either outside of this House or during this debate, any instances where rights and freedoms are being trampled.

It has been said, quite rightly, that we do have indirectly our Bill of Rights in that the United Kingdom has extended to us the Universal Declaration on Human Rights and the European Convention on Human Rights. The argument has been put forward that because Bermuda and Anguilla have Human Rights enshrined in their Constitution and they are still dependent territories, we should follow suit. But, I would like to point out that Bermuda does have some peculiar problems. We all know that Anguilla unilaterally seceded from the St. Kitts/Nevis/Anguilla entity, so it was not unreasonable when that constitution was being written to find a Bill of Rights. There is no denying the fact that most constitutions which have Bills of Right enshrined in them, came about at the time of independence.

Therein, as far as I am concerned, lies the crux of this matter. I believe the people in Cayman have confidence in their legal system. I do not believe any of their rights and privileges and freedoms have been taken from them. That there is discrimination and harassment. I would say we have a peaceful and happy society. I do not believe any minority rights are trampled.

One Member mentioned the provisions under Cayman Protection Law, whereby certain people were excluded or certain nationalities were excluded. I would have thought the last speaker might have touched on that, because I think it was during his time in office that Bill was legislated. Be that as it may, the position is certainly according to the Universal Declaration of Human Rights, any country has the right to say who comes into its borders and remains there. The freedom of movement exists within a persons own territory. But any country can, by its own legislation, control and regulate persons who come and stay in the country, so there is nothing unconstitutional or undemocratic about that aspect.

The last speaker wondered how Government could say we were not against rights and freedoms but we are going to vote against the Motion. I think all of us who have spoken have, quite rightly, declared our fundamental belief in human rights and freedoms and we do not subscribe to discrimination or exploitation or harassment. Nevertheless, we believe that position is so well established in Cayman, that we do not need another Committee to examine that at this time. Mr. President, this House has established a large number of Committees during its life, including the one established at the last sitting to study the need for an Ombudsman, which to me seems almost identical, in many respects, because the Ombudsman is the person who would look after the breaches of laws and privileges against the individual. With the Committee on the Ombudsman and the long-standing Committee on the Caymanian Protection Law, I believe we have enough work to keep this House busy for a long time. We have heard Members who claim to be speaking for this Bill point out where a Bill of Rights have been drafted, they have had bodies of lawyers writing the Bill of Rights, yet they have left out guarantees. That is exactly the case.

I have no knowledge of any issue coming before our Courts that could not be adequately addressed by the laws which are there at the moment or certainly, that are amended from time to time as necessity indicates.

Mr. President, it has been suggested that we look at drafting a Bill of Rights at a time when everything is peaceful. I believe the vast majority of people in this country accept our local laws and the reserve responsibility of the United Kingdom guarantee to the people of the Cayman Islands protection against abuse. I also have sufficient confidence in the United Kingdom that if and when the day should arrive that the Cayman Islands would be going independent, they will not cut us loose without a properly drafted Constitution, including a Bill of rights to protect the people against excesses which they, in their wisdom, could have protected us from during the time we were under their rule.

With that, I end my contribution to this debate. To sum it up, I see, as I said, no reason for a Committee at this time. We have guaranteed rights as far as I am concerned. Secondly, a Bill of Rights does not of itself ensure rights and freedoms. It is a system of Government which enforces those rights that matters. Lastly, is the fact, in my opinion, there are a large number of Committees already at work and there are probably others to be established during this session by other Motions which, to me,

are more necessary than this one.

Thank you.

MR. PRESIDENT: Does any other Member wish to speak? The First Elected Member for the Lesser Islands.

CAPT. MABRY S. KIRKCONNELL: Mr. President, I have listened very carefully to all of the debate. I compliment the Mover on his introduction and the deep research which has been done by the other Members in their presentations, but I also realise that we are a fortunate country - we have a good Government, a peaceful population and I think enjoying the very best in human rights.

Our guarantees under the United Nations and the European Convention, I think, ensure us of the best possible government at the present time. As previous speakers have said, this Legislature has a heavy work load of Select Committees of very important pieces of legislation which the Community is crying we get on with and I feel we owe it to the community, particularly in the case of the Protection Law, the Trade and Business License Law, the Company (Control) Law, the Election Law, to name just a few and that we get on with that business as fast as possible. We also, in the not to distant future, will be facing a Budget Session. I do not see today the urgent need for us, as legislators, to be dealing with this.

I cherish my human rights as everyone does, but I also feel, Mr. President, that it would be far more appropriate when we do decide to deal with a Bill of Rights, that the Bill of Rights would come to us in a draft form. This could literally take years of us, as we only have one lawyer as a Member of the Legislature, other than the Honourable Second Official Member, and it would be a very long and time consuming process for us to make sure we incorporated all the human rights we needed and also, all the enabling legislations were in place.

This is not, in my opinion, a job that I feel capable of taking on. I feel, as I said, when we deem it necessary and it comes to us in the form of a Bill or however the Legal Department, in their wisdom, feels it should be brought, I would be more than happy to give it my very serious consideration. I do not, at this time, believe that we suffer from discrimination or exploitation or harassment within our country. I have not have any complaint from the public of these circumstances. I realise we have immigration controls, but the largest and most developed countries in the world have immigration controls. I think they are going to have to continue to keep them.

Referring to a Bill of Rights... China has a Bill of Rights and in recent months I do not think there has been a more blatant attack on the human rights of people than was within China. So that Bill of Rights was of no avail to the thousands of students who were mowed down by heavy military equipment.

What will enable us to be a prospering country, to continue to be a law abiding society is good Government with good loyal Backbenchers. When I say loyal Backbenchers (I hear them laughing) I am not saying they must agree with the Government, but I feel it is incumbent upon us that we support legislation that is in the best interest of the Cayman Islands. Whenever that is brought to this House, I feel we are duty bound to our constituents to support good Government. Mr. President, I cannot support this Motion as it is. Thank you, Sir.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, I do not have any problems supporting this Motion. The Motion before us is very important and I, too, would like to congratulate the Member who has moved it, on his very able presentation.

The Motion is asking that the matter be taken to a Select Committee of the whole House, and I can see nothing wrong with that. Other equally important matters have been referred to Select Committees in the past and I can see no reason why we should frown on this most important matter. In some cases, come up with all sorts of excuses to keep it from being past. Contrary to what has been said by one Government Member about not needing such a Law at this time, I would say never in the history of these Islands have our people needed a Bill of Rights and Freedoms more than they do today.

These Islands are looked upon as examples in the Caribbean. Yet, I must say we are very much backward when it comes right down to certain Laws and privileges which our people should enjoy. As we take the Constitutions of various other territories, we will find first and foremost embedded in that Constitution a Bill of Rights and Freedoms. We are, indeed, rapidly growing. It is my opinion that the time is right to study this matter and to prepare a Bill or Charter of Rights and Freedoms for these Islands.

I would like to say it is my opinion that the arguments given by the Government Bench, honestly, has no merit. We have heard they agree with the idea but the objects of the Motion in its present draft they cannot agree with.

Mr. President, I believe the Member who has piloted this Motion would have been prepared to discuss this with the Government, had he been approached. I believe he would have done whatever possible to have a happy medium between himself and Government, in an effort to get this very important Motion passed. I believe if the Government would agree for us to take this to a Select Committee, after doing some research and coming up with the true importance of this, they would see that what we are trying to do here today is very, very important. I believe when we are dealing with the rights and freedoms of our people we should not take it lightly. Again, I am appealing to all those who have said to the contrary, they cannot support this, that they take a second thought about this and let us pass this Motion as it is, go into Committee and study this and as one Member suggested, if we are not satisfied at the end of the Committee meetings, vote and there will not be a

Law. I believe the matter is important enough that we should, at least, refer the matter to Committee and put some in-put into it. Thank you, Sir.

MR. PRESIDENT: If no other Member wishes to speak, would the Mover of the Motion wish to exercise his right of reply?

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

I have listened to the presentations and I would like to congratulate all Members who offered their observations on the Motion. I would especially thank those who saw fit to support the Motion.

I am rather befuddled by the position of the Government Members. The only thing it reminds me of is an old geography mistress we had in college, Miss Duncan. I have to say the Government did a 'Miss Duncan' on me, because when the students were one or two or three marks short of passing, she would take them in her office and pray with them, she would read the Bible to them, but she would not give them those couple of marks to help them pass. So the Government said my Motion was a good Motion, it was ably presented and they were impressed - but they will not support it. They did a 'Miss Duncan' on me again.

Anyway, I have done my duty. I do not feel badly. I brought it to the floor of this House. I suspect that my tenure here, however brief, I will get more defeats than that. But I would like them to know that the judge of this will not be Roy Bodden, but rather posterity and the Caymanians who are on the outside listening and looking.

Mr. President, I believe the Motion is of such magnitude that I would respectfully request that free them from their collective responsibilities and let them be dictated to by their conscience and then let us see what veil they will try to hide behind. Because, I believe it is that important.

I listened to the arguments that we have currently before us. Much work. Many Committees set up and we need to get on with those. That I pose the obvious, seemingly important question. What are the duties of us, as Legislators? Is it not to do the peoples business. How can we then say how what are we getting paid for? And a handsome salary at that. Take it to the Select Committee and then, like my colleague says, if there is no justification for it to go further, let it die there. But I do not buy the excuse that we have much work to do. The only work we should be doing, when it is necessary to do it, is what we are doing now - the peoples' business. For the record, let them know that Roy Bodden has made a mental note of that and it may come back to haunt them.

The obligation of the Government, and, indeed, the Legislature, on a Motion such as this is to look at the Motion without disdain and sarcasm, without excuse. I am going to cite cases where there have been breakdowns, including an obvious one very recently where a Member of a Third World band had occasion to bring us a little embarrassment when he came to our airport because we do not cater to people of his professed religious life-style. Because he was a dreadlock, he was disdainfully treated. For the record, let me state that I am not pro-Rastafarian, and I am not a supporter of Rastafarianism, but the sociologist in me tell me those people who want to wear their hair style differently from the way I wear mine, who want to profess different religious beliefs from the ones I have, are not any less important. That does not mean I have to treat them disrespectfully.

I could go on, and I will go on to name other specific cases. When I am finished if I am not close to convincing them, I believe that I can feel satisfied, along with the other Members on this side of the House who supported the Motion, that we have done our best. Some references were made concerning the necessity at this time of addressing these kinds of rights and charters. Those references are sufficiently important that I would like to discuss a few punitive counter examples.

In the automobile business (and I am very familiar with that) we have a principle which we call preventative maintenance - we do not wait for a vehicle to break down before we bring it into the shop. We recommend that after every 3,000 miles the vehicle be a serviced. This negates the argument that if it works do not fix it, we believe in fixing it before it breaks down. I believe this is the time to look about that. If we wait until a crisis arises, chances are the solution we come up with will be an ad hoc one, necessitated by the exigency of the moment and it will cause us to overlook some important points. I have to say again, this is why I like the great United States Constitution and their approach to this whole notion of rights and freedoms and laws - because they amend and delete as and when necessary, and many times long before a crisis occurs. We will be seeking a head start. We will be able to have a near perfect document.

I would like to say something else, Sir. In this part of the world we are already a model country - a model tax haven, a model banking nation, we are rapidly becoming a model in the tourism business. We can be models in other spheres. Twenty-six thousand people, but we are growing rapidly - diverse groups with diverse interests; diverse individuals. Now is the time. I would like to stress something else. There is no connection between the establishment of a Bill of Rights or a Charter of Rights and Freedoms and an advancement in the Constitution. That is not necessary because some people are good at insinuations. My nose is long and I can smell a skunk in many things, so I want to nip that in the bud, here and now. The suggestion is for the application for a development for such a Charter because as a growing country, I believe, it will prove itself that it will be necessary in the future.

MR. PRESIDENT: It is after 4:30, could you indicate how long you might need to finish your reply, whether the House would wish to go on?

MR. ROY BODDEN: I do not plan to finish in a little while, Sir.

MR. PRESIDENT: In that case I think we should adjourn.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this Honourable House until 10:00 o'clock tomorrow morning.

MR. PRESIDENT: The question is that the House do stand adjourned until 10:00 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 4:34 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. THURSDAY, 7TH SEPTEMBER, 1989.

THURSDAY
7TH SEPTEMBER, 1989
10:26 A.M.

MR. PRESIDENT: Prayers by the Honourable Member responsible for Health and Social Services.

PRAYERS

HON. D. EZZARD MILLER: 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. Questions. Question number 82. The Second Elected Member for the Lesser Islands.

QUESTIONS TO HONOURABLE MEMBERS

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE

NO. 82: Would the Honourable Member say what is the monthly rent paid by Government for the offices occupied by the Cayman Islands' Government Representative, the Department of Tourism and Cayman Airways Limited in the United Kingdom?

ANSWER: The monthly rent paid for the offices in the United Kingdom is four thousand, one hundred and twenty five pounds sterling.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, is the Member satisfied that the rent paid, which would equate to around $8,000 in our money, is in keeping with the results of the services housed in that office?

HON. W. NORMAN BODDEN: Mr. President, the equivalent amount is CI$5,544, and I am satisfied that the results of the operation of the offices in London are well worth what we pay for those offices.

MR. PRESIDENT: If there are no more supplementaries. Question number 83, 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. 83: Would the Honourable Member say whether any concessions and/or discounts are given to the employees of Flowers Airline Dispatch Service by Cayman Airways Limited?

ANSWER: The details of the contract for services between Cayman Airways Limited and Flowers Airline

considered, an increase in taxes on gasoline and motor vehicles is one of the methods being considered?

HON. LINFORD A. PIERSON: Mr. President, I am glad that the Member has finally got to the crux of this question. The answer to that is no; we are still examining ways and means of raising revenue.

MR. PRESIDENT: Perhaps one more supplementary. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, with respect, I asked two things. Are there more Phases, and how much will the extra Phases cost? I am asking the Member if he can answer it. Please answer me on it, I have asked that several times.

MR. PRESIDENT: The Member has referred to a document in the possession of Members, therefore it is permissible for him to make the reply on that basis, if indeed, that is the case.

MR. TRUMAN M. BODDEN: Mr. President, that is not a public document as I understand it.

MR. PRESIDENT: But it is a document in your possession.
[addressing the Hon. Member for Communication, Works and Natural Resources] May I ask a question? Is it a document that is in any way restricted?

HON. LINFORD A. PIERSON: Mr. President, it was made available to all Members of the Legislative Assembly.

MR. PRESIDENT: We are getting into rather complicated issues. Am I to understand from the Honourable Member's reply that he does not wish to make public this information at this point? Am I to understand that at this moment you do not wish this information to be made public?

HON. LINFORD A. PIERSON: No, Sir. The document was, in fact, tabled in the House.

MR. PRESIDENT: In that case it is a public document. Thank you.
Shall we go to the last question, number 88?

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

No. 88: Will the Honourable Member say what is the average number of applications dealt with by the Caymanian Protection Board each week; the average number of telephone calls that are received on Fridays in relation to applications before the Board and what is the system and the number of staff who deal with incoming enquiries in relation to applications to the board?

Answer: The average number of applications dealt with by the Board each week is 246.

The average number of telephone calls received on Fridays is approximately 1,500, of which approximately 550 are in relation to applications before the Board.

The system employed in handling calls in relation to applications before the Board requires the receptionist to channel the calls to either the Secretary of the Caymanian Protection Board or her assistant.

The Secretary and her assistant are assisted by two clerical officers, bringing the total number of staff dealing with these enquiries to five.

SUPPLEMENTARIES:

MR. TRUMAN M. BODDEN: Does the Member realise that there are delays? The thrust of this question is: can you tell us what may be needed to avoid these delays? More staff, or whatever?

HON. J. LEMUEL HURLSTON: Mr. President, I interpreted the thrust of the question to deal with an indication of the volume, and as a consequence of heavy volumes some delay is inevitable. However, the introduction of one day per week for receiving telephone inquiries was instituted as a means of improving the handling of the matter in trying to minimise the delays. Indeed, it appears that it has had some effect, inasmuch as applications are now being turned around a little more speedily, and further speed in turning decisions around is anticipated.

MR. TRUMAN M. BODDEN: Would the Member consider more telephone lines and more staff, because this is an extremely large number of calls coming in on one day through one operator?

HON. J. LEMUEL HURLSTON: Both of those points have been considered, Sir. Additional staff can only be put in place when additional office accommodation facilities have been completed. Renovations have started and, hopefully, upon completion of those expanded facilities, improved telephone communications will be possible. Hopefully more staff will be employed as well.

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

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

In light of the unusual delays in dealing with applications before the Board, would the Member say whether or not any consideration has been given to holding meetings more frequently than once a week?

HON. J. LEMUEL HURLSTON: Yes. Indeed, when necessary meetings are held more frequently than once per week.

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

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

Would the Member say what number out of this 246 average per week represents new work permit approvals?

HON. J. LEMUEL HURLSTON: I am sorry, Mr. President. I do not have an indication, nor the precise details, and I would not wish to hazard a guess.

MR. TRUMAN M. BODDEN: Could the Member say when he would expect the renovations and the new premises to be completed and the extra telephones and staff in place, Sir?

HON. J. LEMUEL HURLSTON: By the middle of next year, Mr. President.

MR. TRUMAN M. BODDEN: Due to that length of time, would the Member consider whether anything could be done temporarily prior to the middle of next year, Sir? Would he undertake to go into it to see if something could be done?

HON. J. LEMUEL HURLSTON: Certainly, Mr. President. Anything at all that can be done in the interim will be done.

MR. PRESIDENT: That appears to complete questions. I have notice from a Member of the Government that under Standing Order 30 he would wish to make a statement. The Honourable Third Official Member.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

THE MICHAEL COOPER INCIDENT AT THE AIRPORT

HON. J. LEMUEL HURLSTON: Mr. President, for the clarification of a matter referred to by a Member in the House yesterday, I wish to make the following statement:

The person concerned did not seek permission to land. He was merely in transit. He was searched by a customs officer on the basis of long experience with persons wearing dreadlocks and similar styles of hair, and the frequency with which illegal drug use or drug possession has been found to be connected with such persons.

I emphasise that there was no question of any abuse of human rights: no victimisation, no discrimination, no unpleasantness; simply a search by customs officers carrying out their normal duties in regard to the control of illegal drugs.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 11:15 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:42 A.M.

MR. PRESIDENT: Proceedings are resumed.

I do apologise for keeping the House waiting, the reason will become clear immediately. I have been advised by a Member that he wishes to raise a matter which he believes affects the Privileges of the House and, Under Standing Order 28, he has to inform me of the matter. I therefore call the First Elected Member for West Bay.

MATTERS OF PRIVILEGE
Standing Order 28

MR. W. McKEEVA BUSH: Mr. President, I rise on a matter which in my opinion constitutes a breach of the privilege of this Honourable House.

On Tuesday, last, I asked a question of the Member for Health and Social Services concerning the purchase of property in West Bay for the proposed half-way house. The Member replied that no property had as yet been identified for the half-way house, and that no negotiations had started. I asked, for the sake of clarity, whether the Property Committee was now looking at a piece of property in West Bay for this half-way house, or looking at a property which could include a home already built on it. The Member replied, very emphatically, that the answer was no. I asked again: *"Can the Member say whether we were told informally that there was such an investigation going on."* The Member again replied, very emphatically, "no.".

Now, Mr. President, as I said then, the Member in my opinion is wrong. I do not know for what reason he sought to take that route. We were informed that such an investigation was going on. When I say we, I mean the Elected Members - we were informed when the Member brought the team from Hazelden to the Committee Room to talk briefly with us on their work here. It was at that briefing (because there was mention of two half-way houses, one being for West Bay) that I asked about half-way houses, and the Bennett's place was identified. The Member at that point replied that one property had been identified. He said it was across from the West Bay playing field. Then I made the observation that the two Members not on Executive Council should be kept abreast of such a matter. The Member at that time did not answer. That was on August the 23rd. Now, Sir, I asked the question for the records of the House, and to get an undertaking that the two Members from West Bay not on Council would be kept up-to-date on the matter.

After the sitting on Tuesday last, I wanted to give the Member due courtesy and get some clarification from him on the matter, so I approached him. But, for whatever reason, he would not even stop to talk. I informed him then that I was going to take these steps. All that has taken place on this matter constitutes, in my opinion, a grave contempt for this Honourable House. It is very much a breach of privilege, and I would hope that the Presiding Officer would take the necessary steps to have that breach of privilege corrected.

Thank you, Sir.

MR. PRESIDENT: I think I would like a few minutes to consider this, so proceedings of the House are suspended. I will say for a few minutes, I cannot say for how many.

AT 11:47 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:58 A.M.

PRESIDENT'S RULING STANDING ORDER 28
BREACH OF PRIVILEGE

MR. PRESIDENT: For obvious reasons I should prefer not to resume until the Member who raised the matter of privilege is here. I think it might be appropriate if I said a few words about how I see the role of the Presiding Officer in a matter of privilege.

Standing Order No. 28 refers. So far, the Member who wished to raise the matter of privilege has made the statement under Standing Order 28(2). It is now the duty of the Presiding Officer under subsection (3) to state whether, in his opinion, the matter may or may not affect the privileges of the House. I want to make it clear that this is not the Presiding Officer deciding whether or not there has been a breach of privilege simply on the statement made whether there may have been a breach of privilege. It is the business of the House to decide, if a Motion is put, whether there has been a breach of privilege.

I understand the Member's complaint of breach of privilege to be that the Honourable Member for Health made a statement in this House at variance with a statement made previously outside the House; therefore, what he said in this House was not true and misled the House. On that basis I find under Standing Order 28 that, if true, this may constitute a breach of privilege. The Member also complained about the subsequent exchange between himself and the Honourable Member for Health outside this House. This is not a matter capable of affecting the privileges of the House.

MOTION TO DEBATE MATTER OF PRIVILEGE
STANDING ORDER 28 (4)

HON. D. EZZARD MILLER: Mr. President, I wish to move a Motion that the Honourable House debate, consider, and decide whether the allegations made by the First Elected Member for West Bay do fall under a breach of privilege.

MR. PRESIDENT: The Standing Orders say that any Member may move a Motion relating to the matter of privilege.

MR. W. McKEEVA BUSH: Mr. President, since I was the Member that raised the matter... I do not know what you are going to do, but I certainly have one to move myself.

MR. PRESIDENT: I must be bound by Standing Orders and, curious as they may seem, they do say any Member may then move a Motion. I think the substance of this Motion is perhaps similar to that which you would have moved. Is that the case?

MR. W. McKEEVA BUSH: I cannot recall what his Motion is, but I could read mine for you.

MR. PRESIDENT: I think it would interest the House to hear your Motion, but I think that the previous speaker has got his Motion in under Standing Orders. I want to be flexible about this because we do not have a very detailed procedure, so I propose to be flexible. Would you care to read your proposed Motion?

MR. W. McKEEVA BUSH: Thank you, Mr. President.

> "WHEREAS it is considered that the Honourable Member for Health and Social Services has misled the House on Question No. 69, asked of him on the 5th of September, 1989;
>
> BE IT NOW THEREFORE RESOLVED that the Honourable Member correct forthwith his statement;
>
> AND BE IT NOW FURTHER RESOLVED that the Honourable Member make the necessary apology to this Honourable House forthwith.".

MR. PRESIDENT: The only substantial difference appears to be in the resolution. I think that can be dealt with after the Motion has been debated, because if the House finds it in breach of privilege - I say if the House so finds - I think it is a question of withdrawal and apology. I think essentially this will deal with the matter. That appears to be acceptable.

In that case would the Clerk please obtain a typed copy of the Motion moved by the Member for Health a moment ago, and circulate it to all Members?

Again, Standing Orders are silent as to whether a seconder is required. They do not say that a seconder is required. I think under normal practice we would refer to that set of rules or Orders on Motions, which say seconders are required normally. Would the Attorney General care to advise?

HON. RICHARD W. GROUND: I would have advised those normal rules apply. I think as a Member of Government, the Mover of the Motion (who got in first) does not require a seconder.

MR. PRESIDENT: Thank you.

HON. D. EZZARD MILLER: Mr. President, if I could have the indulgence of the House, the Motion is in my handwriting and it would take the staff some time to decipher it. May I respectfully suggest that you suspend proceedings until it is typed?

MR. PRESIDENT: Proceedings are suspended until the Clerk advises me that these copies of the Motion are available.

AT 12:05 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 12:42 P.M.

MR. PRESIDENT: Proceedings are resumed. While we were suspended, some Members asked for additional pieces of transcript from proceedings. I think these are now being provided. I also thought it might be helpful if you had a copy of my conclusion on the statement made by the First Elected Member for West Bay. That is being prepared.

I suggest we should suspend for lunch while those documents are being put together and begin after lunch again. Proceedings are suspended until 2:15 P.M.

AT 12:45 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:20 P.M.

MR. PRESIDENT: Proceedings of the House are resumed.

Before the Honourable Member for Health moves his Motion I felt the House would wish to be informed that, in regard to the matter of collective responsibility upon the Members of Executive Council, I have advised them (since this is a matter of privilege, which affects all Members of the House individually) that I do not regard them as bound by collective responsibility. Thank you.

The Honourable Member for Health.

MOTION
STANDING ORDER 28 BREACH OF PRIVILEGE

HON. D. EZZARD MILLER: Mr. President, the Motion before the House reads;

"WHEREAS it is has been alleged by the First Elected Member for West Bay that the Honourable Member for Health and Social Services has misinformed the House on a matter related to Halfway House in West Bay;

AND WHEREAS the Honourable Member so charged, denies these allegations;

BE IT NOW THEREFORE RESOLVED THAT this Honourable House find there has not been such a breach of privilege.".

MR. PRESIDENT: A Motion has been duly moved. Would the Mover wish to speak to it?

HON. D. EZZARD MILLER: Yes, Mr. President.

I believe the charges made against me by the First Elected Member of West Bay to be very serious charges. I have been a duly Elected Member of this Honourable House since November 1984 representing the constituency of North Side, and I have never been called to order by the Chair. I regard my service in this Honourable House as an honour and privilege and have always respected the rules, regulations and procedures of this Honourable House whether they were for me or against me on any one subject.

Now, as to the allegation that I lied about whether Government had identified and intended to purchase a specific piece of property in West Bay, and that negotiations were in progress for it to be used as a halfway house, I must make it emphatically clear that I deny such an allegation. Mr. President, I invited Members to an informal meeting to be held in the Legislative Assembly on Wednesday, 23rd August, 1989. The purpose of that meeting was to discuss the proposed drug plan (which at that time was in draft form) prepared by the consultants and members of my Portfolio and department staff, because we were interested in having Members' input before the plan was finalised at a meeting to be held that night, starting at 8:00 P.M., in the hospital conference room.

After a short presentation by myself and the presentation of each of the three consultants involved in developing the Plan in their special areas, the only concern of the Elected Member for West Bay was which house was going to be bought in West Bay as the half-way house. I must repeat that this was an informal meeting with Members, and although the consultants, myself and the Principal Secretary made notes of Members' questions and concerns, no recordings of the proceedings were made. It is, therefore, committed to the memory of people at that meeting as to what was said. My recollection of what I said, while I do not claim myself that they are the exact words, is that there was a house opposite the Town Hall (in West Bay, that is) which had been under review for other purposes which might be suitable.

Further discussions ensued about the concern of the First Elected Member for West Bay over the proximity to the school. But at no time did I indicate that there was any investigation or negotiation taking place concerning the purchase of any particular house in West Bay for the use of a halfway house.

Since the allegation is based on the answer to question No. 69, I would like to refresh people's memories as to the question, the answer and the supplementaries and their answers. Question No. 69 reads:

"Would the Honourable Member say who's property it is intended to purchase for the Halfway House in West Bay and how far have negotiations have reached?"

"Hon. D. Ezzard Miller: The answer, Mr. President, the development of a residential Halfway House in West Bay is one feature of the 5 year National Plan for the prevention and treatment of Drug Abuse, tabled in this Honourable House this morning. The Portfolio intends to begin implementing the Plan in 1990. No property has, as yet, been identified for the proposed Halfway House and no negotiations have started."

"Supplementaries", and I am quoting Sir;

"MR. W. McKEEVA BUSH: Mr. President, did the Member say that the Property Committee, I believe, is not looking at a piece of land in West Bay for this Halfway House or looking at a property which could include a home already built?"

"HON. D. EZZARD MILLER: The answer is, no."

"MR. W. McKEEVA BUSH: Mr. President, can the Member say whether we were told informally that there was such an investigation going on?"

"HON. D. EZZARD MILLER: No.".

Mr. President, that seems to be the basis on which I am accused of lying.

I maintain that I did not tell the Committee that any Property Committee in Government was conducting any negotiations, nor investigating any property in West Bay for a half-way house. To confirm that position, I have asked the Chairman of the Land Purchasing Committee to confirm or deny in writing to myself whether there were any such negotiations going on so that Honourable Members will have the facts clearly before this House as to what is and what is not going on.

This letter is dated September 7th, 1989. It is addressed to the Honourable Ezzard Miller, Portfolio of Health and Social Services, Government Administration Building, Grand Cayman. It reads:

> "Dear Sir;
>
> Re: Purchase of land for Half-way House in the district of West Bay,
>
> This is to confirm that no request has been made by your Portfolio for the purchase of land in the district of West Bay for use as a half-way House or otherwise. A request, along with justification, has been received from your Principal Secretary for the purchase of land in the district of Bodden Town, adjacent to a Clinic for a half-way House.
>
> In the event you wish the Land Purchasing Committee to enter into negotiations for the purchase of land in West Bay for a half-way House, I invite your attention to section 3, (a) and (b) of the Land Purchasing or Sale procedure guidelines. A copy of which is attached for your ease of reference.".

This is signed by Mr. Kearney Gomez, Principal Secretary, Communications, Works and Natural Resources, Chairman of the Land Purchasing Committee.

I have given what my recollection is of what was said in that informal meeting. I maintain that I have not lied or given misinformation to any Member of this Honourable House. I have not been in contempt with, nor disrespectful to the Chair or any Member of this Honourable House at any time and, with God's guidance, I shall never be in the future. Mr. President, I therefore ask Honourable Members to find there has been no such breach of privilege.

Thank you, Sir.

MR. PRESIDENT: Does any other Member wish to speak? The Second Elected Member for Bodden Town.

MR. FRANKLIN R. SMITH: Thank you, Mr. President.

I would like to say that as far as my recollections of what took place at the meeting regarding the Drug Advisory Meeting with the Hazelden officers was that property in West Bay, perhaps near or opposite the school playing field might be in consideration for other purposes, and it may suit this particular purpose of a half-way house also.

But, I would just like to quote from a poem which is entitled "Be Careful of Stones That You Throw", for all Honourable Members of this House:

> "A tongue can accuse and carry the news,
> A seagull when in distress will fall,
> But unless you have made no mistakes in your life,
> Be careful of stones that you throw.".

Thank you, Sir.

MR. PRESIDENT: Does any other Member wish to speak? The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I should first of all say that this is a very strange situation for me as the Member who raised the matter of privilege to have to speak to a resolution moved by the Member accused of breaching that privilege in his own defence, which asks the House to find him not guilty. Convention should dictate... although our Standing Orders are clear (and I believe the Presiding Officer did what he was supposed to do) that a Member standing so accused should not even vote, much less move a resolution in the manner which it was moved.

I will not take the time of the House to reply to their side about my concern in that Committee. This country knows my concern, and my record is good in this Honourable House when it comes to voting on matters dealing with drugs and helping our people. My record is as good as any other Member.

Now, Mr. President, I do not know why he chose to move this resolution, because, of course, he has not done anything to clear up the matter. Maybe the resolution was moved

so that he would have the last say. That remains to be seen. But my submission to the House this morning is the exact position of the matter. Let us put it into the record.

On Tuesday of this week I asked a question of the Member for Health concerning the purchase of property in West Bay. The Member replied that no property had as yet been identified for the half-way house and that no negotiations had started. I asked for the sake of clarity whether the Property Committee was considering a piece of property in West Bay for the half-way house, or looking at a piece of property which would include a home already built. The Member replied emphatically that the answer was no. I asked again: "Can the Member say whether we were told informally that there was such an investigation going on?" The Member replied emphatically, "no."

Now the position at the meeting with the Hazelden team... they were the ones that talked about two half-way houses, one in Bodden Town and one in West Bay. It was at that point that this Member tried to get a little bit more information. It was at that point the Member for Health and Social Services replied that one property had been looked at across from the West Bay playing field. My concern was that the West Bay playing field has four sides. It could have been any way - there is another house to the north and two to the south.

At that point I made the observation that the two Members from West Bay should be kept up-to-date on such a matter. The Member did not answer. The Member did not answer, and it was then that I posed the question which was drafted and put to the House - to get an undertaking that the two Members from West Bay would be kept up-to-date on whatever went on with the two half-way houses, especially the half-way house in West Bay.

But to go further than that, after the asking of that question that day and the Member's refusal to answer... Let me make the question clear to the House. I am reading from a copy of the *Hansard*. The supplementary:

> "MR. W. McKEEVA BUSH: Mr. President, did the Honourable Member say that the Property Committee, I believe, is not looking at a piece of land in West Bay for this half-way house, or looking at a property which could include a home already built?"
>
> "HON. D. EZZARD MILLER: The answer is no."

I went on to ask him:

> "MR. W. McKEEVA BUSH: Mr. President, can the Honourable Member say whether we were told informally that there was such an investigation going on?"
>
> "HON. D. EZZARD MILLER: No.".

Tell me, what is an investigation? If the Member or any department of Government on his instructions or on the instructions of his Portfolio was looking at a property, it must be some sort of investigation to see if the property is fit or unfit.

I believe that what the Member did that morning in his arrogance was a breach of privilege. But even after that meeting that day, right here in this Chamber the Member was talking to the Second Elected Member for Bodden Town. I heard him from my seat and I said to him: "Can you not clarify this situation?", because I wanted to get the matter cleared up. I wanted to know what was going on in my constituency - and that is a right that I have. We should not be taken round and round like geeks. It is our duty - and I wanted to give the Member the leeway and the courtesy due to him, and the Member would not even say "perhaps".

It was then that I said: "Well, I have to take the necessary steps." Mr. President, there can be no more to this case. The questions are there for one and all. The Second Elected Member for Bodden Town was there. He knew we asked the Member responsible for Health and Social Services those questions. The First Elected Member was there. The two Elected Members for the Lesser Islands, the Elected Members for George Town with, I think it was the Honourable Member for Communications arriving late; the Member for East End and the three Members for West Bay. The House was there, and no one can deny it or get up and shift this thing about to say any other thing. The matter is that we asked him about that property. He told us there were investigations going on and he would not give the undertaking required at that meeting and I put the question to him in the full House and, as far as I am concerned, a grave contempt has taken place. The Member furthered that contempt by raising the matter himself and raising it in the fashion he did.

Democracy must work. It cannot work by the attitude of being arrogant. If the Elected Members of Executive Council want us to cooperate, let them cooperate with us. I am here to do my duty - and I might not have a college education, and I might not have all those other things, but one thing I have is good common sense. My English might not be perfect either, but I have represented West Bay properly. That is why I am still here today. I aim to carry out my duties regardless of this House voting for his resolution. I intend to move that as a resolution. I have done my duty and I hope all Members here will tell the truth and will vote the truth today on the resolution moved by the Member. That resolution should not have been moved by him.

Thank you, Mr. President.

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

MR. ROY BODDEN: Mr. President, I have listened to the arguments and there is

much force to the contention. I crave the indulgence of the House because it seems to me that it is necessary for someone to pour a little oil on what is rapidly becoming troubled waters. Before I do that, I want to say that if my memory serves me correctly, the First Elected Member for West Bay is accurate in his recount of the incident, because when the answer was given to him he made a comment concerning the property which I will not repeat here because I do not think it will do justice to repeat it. Suffice it to say, however, that in making that comment he substantiated the claim that he is making - that the Honourable Member gave him such an answer.

I do not want to fan the flame, so I will not carry that any further. I am only asking the Members, because in light of the agreement which eight of us made, and the pledge we said we were going to try to abide by (which is not to say we are not going to have differences and which is not to say that this difference is in any way out of order)... I understand the principle behind it and I believe that if I were in the position I would demand the pound of flesh that the Member for West Bay is demanding, to put it figuratively. What is important, however, is that we find an amicable way of settling it lest we convey again to the public the wrong impressions. Having said that, Sir, I reiterate that, as far as I am concerned, the First Elected Member's (for West Bay) account is accurate. I would hope that we can find a way to settle the matter quickly, because I am a little selfish too, and I would like to close out my Motion this afternoon.

Thank you, Sir.

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

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

I rise to briefly speak on the Motion which has been moved by the Honourable Member for Health to say that as I recall from the informal meeting to which he has referred there did arise in that meeting the question of half-way houses: one was suggested for Bodden Town, one was suggested for West Bay. On a question from the First Elected Member for West Bay the Honourable Member for Health did indicate that there was an offer of a property. The property, as I recall, was described as the house opposite the West Bay playing field. I took it to be the house on the left hand side of the road, going to Club Inferno. I do not know if there are one or two there or whatever, but that was my recollection of it.

It was my distinct impression on Tuesday (I think it was) when the First Elected Member for West Bay followed up with supplementary questions, that he was trying to elicit from the Member for Health a similar statement which he had given in the informal meeting with the Elected Members of this House. Generally speaking, I think the First Elected Member for West Bay has quite accurately stated what transpired that day in that meeting.

I, too, would like to say to this Honourable House that I believe the things happening here in recent times are happening not as a result of Members who are being labeled troublemakers with suggestions of breaking down and tearing down the Government, but as a result of bad attitudes between Members on the Government side and the Opposition side. I believe much can be accomplished if simple, straightforward, professional courtesies, which are due - and in Parliament, clearly prescribed - could come into play and be abided by, by the Government Members, Elected Members on the Government Bench as well as Opposition Members.

I thank you very much, Sir.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Mr. President, it is not my intention to prolong this matter, which I honestly wish had not come before the floor of this House, but I would say this is probably the best way to have it settled.

I have to agree with what has been said by the First Elected Member for West Bay. To the best of my knowledge and recollection of what was said in the Committee Meeting, he is pretty well accurate in what he has said here on the floor of the House.

I, too, would like to join others in encouraging legislators to endeavour to work together more than we have in the past. I would just remind them - and perhaps some people might not want to hear this, because it starts off with the word 'unity', but regardless of what can be said about the Government which was named the Unity Team, history will prove that through unity much was achieved. I would just close with these words: Unity is strength. Together we stand, divided we fall.

MR. PRESIDENT: The Honourable Member for Education.

HON. BENSON O. EBANKS: Mr. president, I believe that the issue before the House is one caused by a grave misunderstanding.

As I recall the incident on the 23rd of August, when the informal meeting was held, the presentation had reached the point of the provision of two half-way houses, one in West Bay and one in Bodden Town, when the question was asked whether a specific property in West Bay had been identified for the half-way house. The Member for Health, who was the Chairman of that informal Committee, said that property in West Bay had been looked at by Government for other purposes and it was possible it would be suitable for the half-way house. On further questioning, it was identified as a house opposite the playing field in West Bay.

I think where the misunderstanding is coming in here (and the First Elected Member for West Bay mentioned it in his submission, but in my opinion he did not take it far enough or, in fact, apply it to the question which he asked) is when he said that if property was being looked at by the

Member's instigation, or by a member of his staff, then it was an investigation. But this is precisely the point, as I understand it. The property was not being looked at, or has never been looked at, by the Member's instigation. He has read confirmation of this from the Chairman of the Property Committee. The Property Committee is the entity mentioned in the question which was asked in this Honourable House: "Did the Member say that the Property Committee, I believe, is not looking at a piece of land in West Bay for this half-way House?" I believe therein lies the whole misunderstanding and confusion over this issue. I can understand how the misunderstanding arose. But, in strictly technical terms the Member for Health has given an honest answer to what took place.

As I understand it, and as confirmed by the Principal Secretary for Communications and Works (the Chairman of the Land Purchasing Committee), he has not been asked to evaluate or investigate any property in West Bay on behalf of the Member or his Portfolio for a half-way house. Therefore, in my opinion, the answer is truthful and honest. As Members before have said, it is a pity this matter has gone this far because I honestly believe that it is one big misunderstanding. Having said that, the Member for Health, as my memory serves me, indicated the property had been looked at, not at his instigation or by anyone in his Portfolio, he merely expressed the view that perhaps that property might be suitable for the half-way house in West Bay.

That is what was said, and it appears to me that the answer given in the House substantiates that, and the letter from the Chairman of the Land Purchasing Committee seems to substantiate what the Member has said.

Thank you, Mr. President.

MR. PRESIDENT: The Honourable Member for Tourism.

HON. W. NORMAN BODDEN: Mr. President, like some speakers before me, I feel this development today is unfortunate and unpleasant. They tell me that this is politics. I know this is not the first time this has happened, and I am sure it will not be the last. Perhaps it is good that certain provisions are made for matters of this nature to be brought to the forefront.

I believe, as other speakers have said, that we are bound to have differences. This is democracy at work. I believe that what would be conducive to a good, close working relationship and the continuation of us discharging our responsibilities to this country is the manner in which we choose to settle those differences. Be that as it may, I have always believed that in the final analysis, regardless of what claims are made, the truth must always prevail.

To state my understanding of what transpired in the informal meeting referred to, where the question of a half-way house for West Bay was raised by the First Elected Member for West Bay, the Honourable Member for Health and Social Services replied that no formal negotiations had actually commenced.

I, too, share the view with the Honourable Member for Education that what has developed is a misunderstanding. I feel the Member's position in referring to formal negotiations was simply that he had issued no instructions, and that no definite actions or decision had been taken, as far as his Portfolio was concerned. If we read the substantive question and the supplementaries, the words "negotiation" and "investigation", and the meaning applied to each term, I believe therein lies the difference.

Therefore, I cannot agree that the Member for Health has mislead this Honourable House and, therefore, I support the Motion that now stands before us.

Thank you, Sir.

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

MR. TRUMAN M. BODDEN: Mr. President, I have listened very carefully to what all Members have had to say on this matter. It seems to me that ultimately what will have to be decided is substantially a question of fact as to whether the statement of the Executive Council Member was one which was deliberately misleading.

I would like to find out whether what I have written here (because I wrote it fairly quickly) is correct, and if not would the Member for Health say so, because I would not like to base what I am going to say on my notes, unless I am certain that I have it written down correctly.

I think what you said you stated in the meeting was that there was a house opposite the Town Hall which was under review and which might be suitable.

MR. PRESIDENT: Sorry, I missed the last three words of that.

MR. TRUMAN M. BODDEN: There was a house opposite the Town Hall which was under review and which might be suitable. In fairness, I think the words are very important here. Could he say whether that...

MR. PRESIDENT: I do not think we can get into the position of conducting a sort of cross-examination. I think the way for you to do it is for you to say, I understood the Member to say such and such and if he wishes to rise on a point of clarification then...

MR. TRUMAN M. BODDEN: All right, Sir. Because of the nature of this, I guess I am being overly cautious. That is what I understood him to say. From what I can see here, if that statement was made, and he is saying that there was a house and it was under review and it may be suitable, it appears to me that the last

part of the answer where he says: "no property has, as yet, been identified for the proposed West Bay half-way house" - if a house is under review and it is being checked by someone as to the suitability, it would definitely have had to have been identified.

It also seems to me in looking at (and I am speaking for myself here, naturally) the question of whether an answer or any statement does mislead, one has to look at the words which are said. Also, the impression those words convey and the understanding that one gets from it. It seems to me that the Member for Health is trying to draw a distinction between the Property Committee looking at a house, which is in the supplementaries, and saying that it was not looking at a house. On the other hand, someone, presumably in his Portfolio, was reviewing a house as to its suitability for the half-way house.

What would have been so simple was when the Member for Health was being pressed on these questions, for example, when the First Elected Member for West Bay asked: "Mr. President, can the Honourable Member say whether we were told informally there was such an investigation going on?", if he had taken the approach of saying, yes the Committee is not investigating it but somebody else has...

MR. PRESIDENT: Sorry, I think I have to interrupt you. It is not a matter now as to whether he might have expressed himself in some other way. What the House is to consider is what has been said. That is what we have to stick to.

MR. TRUMAN M. BODDEN: I appreciate that, Sir. I was merely hoping that what might result out of this is in the future we may not have any repetition of these proceedings. But I abide by your ruling there, Sir.

My recollection of what went on in the Committee is substantially the same as the First Elected Member for West Bay. I would like to mention as well that these situations are unfortunate. However in this House it is a two-way street - respect begets respect. I think it has to be shown from both sides. When there is a genuine opportunity to do what the First Elected Member for Bodden Town mentioned, of pouring oil on the water, I think it has to be something that comes from both sides. It is not something that can be done unilaterally.

I, too, hope that this would not arise again. The House has a lot of work before it. Unfortunately, when a standoff or difference comes it is for your ruling initially, and, ultimately, for this Honourable House to rule, I have to look at it overall. It seems to me that the statement which was made at the informal Committee does conflict. In fact, when looking at the written text (which I have) it does mislead from the point that in the Member's statement there was a house opposite the Town Hall which was under review which may be suitable, then what he has said, specifically here - it seems to me that if he is reviewing a house for suitability, he has identified it. Presumably, the only way you can find out the suitability is to investigate the house itself to see what is in it and whether it is suitable.

Therefore, I am in the unfortunate position of having listened carefully to what has been said and also being present at the meeting, I support the statement from the First Elected Member for West Bay, and I feel, subject to what might subsequently be said, that the answers given to the substantive and supplementaries to it were, in fact, misleading.

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

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

I am saddened that we are, today, debating a Motion on a breach of privilege between two of my colleagues who sat very closely to me as Backbenchers in the previous House for four years. It is regrettable, and I hasten to say that maybe because of having been in this Honourable House for nine years, and not experiencing anything like this, it came as rather a surprise.

I, for one, have learned to appreciate informal meetings by the Members of the Executive Council to keep us informed. I thank the consultants from the Hazelden Institution for their presentation. It was enlightening and I thought the Honourable Member deserved much credit and thanks for providing us with the opportunity to meet with them.

Now, to get to the meat of this Motion which is before us. Having been a representative here for several years, who has the concern of his people at heart, I am somewhat familiar with what has been going on within the Portfolio and the former Portfolio of Health. I know the concerns that I have shared with the former Member and the Chief Medical Officer and others, of the need for facilities for the mentally ill and discussing the needs of our people from Cayman Brac and Little Cayman who really do not need to be hospitalised, but need mental health treatment. When they are brought from Cayman Brac to Grand Cayman, the only place available for them is Northward Prison. Of course, very limited medical facilities are provided there. I was very pleased when I knew provisions were being made and property was being reviewed in the West Bay area, with the possibility that Mental Health treatment could be provided.

I also knew that this property was adjacent to the playing field near the Town Hall. Therefore, when the Honourable Member mentioned the property that was under review I took for granted at that time that he was speaking of this previous review and not necessarily of something which was being done. He did not, in my recollection, say they were negotiating with anyone to purchase the property. He said it was under review.

What I am trying to say is that instead of us attempting to discredit the Honourable Member here today, I think we should be most grateful to him for the efforts he has made in trying to improve health in all aspects with the studies that are now under way. Let us remember that the Cayman Islands is a progressive territory, a financial centre. But unless we as legislators decide that we are going

to support the Members, then all of these studies we talk about, but do not give them an opportunity to perform and put into operation after the study has been completed, will not become a reality.

Mr. President, with these words I cannot see where the Member can be held responsible, and I would like to close my remarks by thanking him for what he has done since he has assumed the Portfolio. Where it says: "Be it resolved that this Honourable House find there has not been a Breach of Privilege", that is my finding, Mr. President.

MR. PRESIDENT: The Honourable Member for Communications and Works.

HON. LINFORD A. PIERSON: Mr. President, first of all, I wish to congratulate you, Sir, for the democratic procedure which has taken place here today in allowing this Motion to be fully debated. As has been previously mentioned by Members, I was not present when these matters were alleged to have been brought up and the purpose of this debate today is to allow various Members of this Honourable House to assess for themselves, from the statements made, what the true position is.

I would like to support the view taken by the First Elected Member for Bodden Town when he stated we should endeavour to pour oil on troubled waters. Also, the point he made that we must attempt to honour the commitment we made, as eight Members, to work together. Just to comment briefly on that, a commitment must work both ways. I believe it is in the interest of both sides of this House to work as closely together as possible. It is most unfortunate that we should be, as it were, trying a Member, a colleague, of this Honourable House on a matter such as this. The Constitution and the Standing Orders do provide for this democratic procedure and there is nothing that is incorrect in doing this today. What is unfortunate is that this was felt to be necessary.

As representatives of our people it is in our best interests to endeavour to work together regardless of our political or partisan leanings. What I see developing is a move away from the true issues which face this country, with too much time being spent on personal vendettas and trying to get even with the other person. This type of attitude is not good for this country. We, as politicians and representatives of our people, must learn to agree to disagree; but we will not always agree with the views expressed by our colleagues. We should leave that at the political level and we should not allow it to cloud our minds to the extent where we start exacting a pound of flesh.

The Third Elected Member for George Town mentioned that his recollection was that the statement made by the Honourable Member for Health and Social Services was that a house opposite the Town Hall was under review and was suitable. From the discussion I have heard thus far, there was one very important section of what was said that the Member, perhaps inadvertently, omitted - that the house opposite the Town Hall was under review for <u>other</u> <u>purposes</u> and may be suitable for a half-way house. That "other purposes" is most important.

The first supplementary question which was brought by the First Elected Member for West Bay was:

> "Did the Member say whether that the Property Committee, I believe, is not looking at a piece of land in West Bay for this half-way House, or looking at a property which could include a home already built.".

The operative section of this supplementary question, in my opinion, is "did the Member say the Property Committee was looking at a piece of property." From the letter which the Honourable Member was able to obtain from the Principal Secretary for Communications, Works and Natural Resources (who is also the Chairman of the Land Purchasing Committee) I do not believe there is any doubt at all that the Property Committee or the Land Purchasing Committee had any part to play in either the negotiations or the proposed purchasing of any such piece of property. So, I believe this letter from the Principal Secretary of Communications, Works and Natural Resources, who is also Chairman of the Land Purchasing Committee, puts this particular point to rest.

On the question of the second supplementary question which read: "Can the Member say whether we were told informally that there was such an investigation going on?" Again, from the debate I have heard here thus far, it would seem to me that the Honourable Member did not act in a manner which would constitute a breach of privilege.

In closing, I would like to remind Members that we are working toward the same common goal. Many times we do not agree with each other, we may not even agree with the Chair. But, ultimately, we should understand the purpose for our being here is to represent our people.

I have had occasion not to agree with other Members of this House, and I have had occasion to not agree with the Chair. But we must understand that when we leave this Honourable House we should leave it with the feeling that our purpose here is in representing our constituents and in representing the interests of this country and the people of the Cayman Islands - not to exact personal vendettas, not to get square with another Member because we may not like that Member. Let us try to keep our deliberations and actions at the very highest level, that is, to offer our people the best representation possible.

Thank you, Mr. President.

MR. PRESIDENT: Members will have noticed it is past the tea break, but I think that in the interest of continuity, and having the content of the debate in your minds, we should continue. Would you accept that?

Would any other Member wish to speak? (pause) In that case would the Mover wish to reply?

HON. D. EZZARD MILLER: Yes, Mr. President.

It has been questioned why I moved the Motion and why I raised the matter. There is a simple reason for that - I have nothing to hide.

I have been accused of arrogance, not wanting to deal with other Members. I believe it is fair to say that I can stand on my track record as to dealing with other Members of this Honourable House, as to what is on-going in my Portfolio, as to my passing on to them as soon as possible interim reports, final reports, what decisions are being taken, even matters which are under consideration. However, I will say that I believe I have been taught a tough lesson this day. I have been told that respect begets respect. I agree with that, I live by that. This is a tough accusation on my part. But, let me remind Members of what I have been accused of and, while Members have said that they agreed with the First Elected Member's (for West Bay) recollection of that meeting, I have not denied that we discussed the house opposite the Town Hall. I have not denied that that house was under review for other purposes and it might be suitable for a half-way house. I have denied none of that. What I am accused of is lying on Tuesday. This is what the transcript of what happens in this Honourable House says, and I repeat that the question asked by Mr. W. McKeeva Bush says:

> "Mr. President, did the Member say that the Property Committee, I believe, is not looking at piece of land in West Bay for this half-way House, or looking at a property which could include a home already built.".

The answer is no. The question does not...

POINT OF ORDER

MR. W. McKEEVA BUSH: On a point of order, Mr. President....

HON. D. EZZARD MILLER: ...I am not giving way. Will the Member abide by the rules of the House and stop conducting himself in his usual manner of interrupting people? He has had his say! I am entitled to mine. I am quoting from the *Hansard* of the House. He has a copy of it.

MR. PRESIDENT: Is the Member attempting to rise on a point of order? I want to establish that.

MR. W. McKEEVA BUSH: Yes, Mr. President.

MR. PRESIDENT: It is a point of order?

MR. W. McKEEVA BUSH: Yes!

MR. PRESIDENT: Please state it.

MR. W. McKEEVA BUSH: Standing Order 34(b).

MR. PRESIDENT: Yes, fine. I was inviting you to state your point of order. Sorry, I am not quite clear...

MR. W. McKEEVA BUSH: Standing Order 34(b), Mr. President, which allows to elucidate. But the Member has refused to give way, so I cannot elucidate, and I sat back down.

MR. PRESIDENT: Thank you.

HON. D. EZZARD MILLER: Thank you, Mr. President.

The accusation is that I lied about the Property Committee investigating a house in West Bay. My answer to that on Tuesday, as a supplementary to question no. 69 was, no. It is still no. I have read from a letter, which I am now prepared to table, from the Portfolio of Communications and Natural Resources, signed by the Principal Secretary, which supports that position. Those are the cold, hard facts of the matter.

POINT OF ORDER

MR. W. McKEEVA BUSH: On a point of order, Mr. President, I rise again under Standing Order 34(b).

MR. PRESIDENT: Just a moment. No, this is not a point of order, this is a point of elucidation. I put out a memorandum in November 1987, I think, explaining this.

MR. W. McKEEVA BUSH: Standing Order 34, Mr. President. I am rising under Standing Order 34 which allows me to rise under 34(b).

MR. PRESIDENT: Standing Order 34(b) says, quite clearly, that you can rise on it,

but if the Member speaking is willing to give way, resumes his seat and if the Member is then called by the Presiding Officer, so it is a question whether the Member will give way. Thank you.

HON. D. EZZARD MILLER: No Sir, I am not giving way.

MR. W. McKEEVA BUSH: The whole question...

HON. D. EZZARD MILLER: Mr. President, I read the whole question and the answer already during this debate.

MR. W. McKEEVA BUSH: Read it again.

HON. D. EZZARD MEMBER: The other supplementary says, and here again I quote from the records of this Honourable House, not my interpretation, but verbatim:

> "MR. W. McKEEVA BUSH: Mr. President, can the Member say whether we were told informally that such an investigation was going on?"

That investigation refers to the supplementary before that by the Property Committee. My answer to that was no. I stand by that. I therefore submit that I have not lied to this House and I have not breached privilege.
Thank you, Sir.

MR. PRESIDENT: The question will now be put on this Motion. Those in favour please say Aye...Those against No.

AYES & NOES.

MR. PRESIDENT: Madam Clerk, please take a division.

CLERK:

DIVISION NO. 18/89

NOES: 6	AYES: 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. Roy Bodden	Hon. Benson O. Ebanks
Mr. John B. McLean	Hon. Linford A. Pierson
	Capt. Mabry S. Kirkconnell

ABSTENTIONS: 2
Hon. D. Ezzard Miller
Mr. Franklin R. Smith

MR. PRESIDENT: The result of the Division is seven Ayes, six Noes and two Abstentions. The Motion is therefore carried. Proceedings are suspended for 15 minutes.

MOTION PASSED BY MAJORITY.

AT 3:43 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 4:07 P.M.

MR. PRESIDENT: Proceedings of the House are resumed. We move on to item 3 of the Order Paper, Bills, third reading.

GOVERNMENT BUSINESS

BILLS

THIRD READING

THE FRAUDULENT DISPOSITIONS BILL, 1989

CLERK: The Fraudulent Dispositions Bill, 1989.

HON. THOMAS C. JEFFERSON: Mr. President, I move that a Bill shortly entitled, The Fraudulent Dispositions Bill, 1989, be given a third reading and passed.

MR. PRESIDENT: The question is that a Bill entitled, the Fraudulent Dispositions Bill, 1989, be given a third reading and do pass. Would those in favour say aye? Those against no?

AYES.

MR. PRESIDENT: The ayes have it.

AGREED. THE FRAUDULENT DISPOSITIONS BILL, 1989, PASSED.

MR. PRESIDENT: We now move to item 4, Other Business. Private Members' Motions. Private Member's Motion No. 13/89. The First Elected Member for Bodden Town, continuing.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 13/89

APPOINTMENT OF A SELECT COMMITTEE TO FORMULATE A BILL, CHARTER OF RIGHTS AND FREEDOMS

(Continuation of debate thereon)

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

It seems like such a long time since I was last at this, I hope I have not forgotten what I intended to say. When we recessed yesterday afternoon, I was mentioning that it is the obligation of the Government to look at such a Motion without disdain and to judge it on its merits, particularly bearing in mind its efficacy and the influence, both real and perceived, it could have on our development. I would like to embark now a little more fully into addressing some of the specific comments which were made by the Government Members in their contributions. I would like to begin by addressing two comments made by the Honourable Second Official Member, and I crave the indulgence of the Chair in reading two brief passages from a transcript of the contribution by that Honourable Member. I quote:

> "The first is [here he is giving the reasons why the Government could not support the Motion] that here in Cayman we already have the basic human rights provided for and guaranteed under the system of law that we have inherited from the U.K. and that is enforced and put into operation through our judiciary and which is made by this Assembly."

Later on he goes on, in what I see as a corollary, to say;

> "The twin guardians in any Westminster model Constitution of the basic human rights are a freely elected legislature and an independent Judiciary. I am happy to say in Cayman, at the moment, we have both of those two guardians operating fully.".

Mr. President, I am not taking issue with the fact that what he is saying about those two guardians is incorrect. I agree with that. The point that I wish to make, and I think it is a poignant and significant one, is that the judiciary cannot render the state benign to ensure and perpetuate its own independence, any more than the proverbial man can lift himself up by his boot straps. So, I pose the question: When the Motion calls for the establishment of a Charter or Bill of Rights, who does the Motion want to protect us from? The state, of course, because even in cases where the judiciary and the legislature function as they should (as in our case) there have been break downs and differences in interpretations at times.

I quite vividly remember a celebrated case some years ago in Canada, a case which I think was documented in the *Hansards* and Legal Documents called the Dry Bones case. I do not know how appropriate it is to cite this because the precedent had to do with the right of an Indian man, namely, Dry Bones, to consume intoxicating liquor, in public. It was a celebrated case which reached Parliament Hill in Ottawa. I remember the Chief, old John Diefenbaker standing up. At that time the Canadian Constitution was not repatriated from Britain so their Bill of Rights was separate and apart from the Constitution - it was, what I would call, a quasi-legal document because it was not, by virtue of the fact that their Constitution had not been repatriated... the Bill of rights which they had and which was, to a large extent, drafted by John Diefenbaker, was used only as an incidental references. To make a long story short, Sir, Diefenbaker took the matter to Parliament and proved that the denial of this man's right to consume liquor was, indeed, an infringement on his human rights.

I say that because sometimes, however well-meaning we may be, and however efficient and effective a judiciary and legislature we may have, does not, in itself, guarantee what some people perceive as a human right, moral right, or plain common right. Even in the Dry Bones case, a right to

self-destruct is not necessarily infringed upon.

I see this Motion as being of utmost importance. I say that the only way in which we can fully guarantee that democracy is not subverted is exactly by providing a legal and Constitutionally binding document which spells out these rights and freedoms. The real and historic significance of this Motion lies not so much in what currently exists in the tradition of British Law and the British Constitution, but rather lies in the portents that it will provide for the achievements of the future.

The Government's refusal to support this Motion raises troubling, ethical and political questions. I would respectfully reiterate and implore the Chair, because I believe it might lessen the seemingly heavy obligation to Government Members, if at all possible, to be relieved of their collective responsibility. I am emphasising that we may not need such a document tomorrow or the day after, but I would like to see that whenever the necessity arises we have such a document we can lay our hands on and say it is covered in this document; rather than when the situation arises, we will have to scramble and hastily assemble to draft something up and then run the risk of omitting some important and significant clauses. If we find ourselves in that position, posterity will not be a kind judge to us.

In his reply yesterday afternoon, the First Elected Member for the Lesser Islands said that they have a Human Rights Charter in China. I would like to correct that Member and say that none exists. A Human Rights Charter is largely absent in many of the so-called communist countries, and I researched it. I would also like to mention that some years ago there was some problem which stemmed from the Charter 77, and some Helsinki or Stockholm Accords. Some social activist tried to establish a Charter of Rights, and Human Rights groups in countries like Czechoslovakia, Hungary and Poland. They were persecuted and it is only in Poland, largely through the doggedness and perseverance of the Solidarity Movement, that any of these exist. Indeed, the pundits argue that the reason why such a movement and such a rights agitation survived in Poland was because the Catholic Church was so staunchly and strongly embedded in Poland that even though those people are communists they are also good Catholics. So that example and analogy is nullified by that argument.

I would like to reiterate that such a Charter and a Bill of Rights in most of the democratic countries is viewed as a complement to the Constitution. I would also like to say that the drafting and the establishment of such Bills of Rights have nothing to do with the political or constitutional status of the country, because we find them in countries which are independent just as frequently as we find them in countries whose status is exactly like ours.

What I want to ensure is that we do not box ourselves into a position where our status lulls us into a false sense of security, and when someone is screaming foul, we say there is no foul because we are covered by all these conventions. That is merely my intention. It is merely a good one, and I stand here before this Honourable House this afternoon to say I am sure that in the final analysis history will prove me, and all those people who support this Motion now, right.

I am reminded of the famous poem by Robert Southey, called *The Inchcape Rock* about the Inchcape Rock off Scotland. Treacherous waters, indeed. The holy Abbot of the town saw fit to put a bell on this rock which would warn all mariners who strayed near these waters in treacherous times that they had to navigate the rock. A miserable, wicked sea captain saw the good work and when he was caught in a storm he praised the Abbot for his farsightedness. This captain went away for many years plying the West Indies and preying on other ships, and he returned to what he would have hoped was his retirement. He found the bell still on the Inchcape Rock. In a moment of wickedness he decided he was going to remove the bell because he did not wish for it to serve its purpose of warning mariners any longer. Little did he know his fortunes would fall to such a low ebb that he would have to sail again to earn a living. So he went out to sea, and, as fate would have it, when he was returning from his successful journey a storm came and caught him in the vicinity of the Inchcape Rock - but there was no bell. There was no bell.

This Motion, which calls for the assessment of the feasibility and the need to establish such a Bill or Charter could be the bell on Inchcape Rock. I hope when the storm breaks we may have it. I am going to wind up and say that the great unresolved issue for this Honourable House is whether human rights can play a fundamental role as the building of moral, social, legal and political developments in the Cayman Islands; or whether they cannot because their status is secondary and derived as being not as important as the Government seems to think.

Mr. President, you will pardon me Sir, but I suppose this comes from the school teacher in me. I am going to wind up by reciting a poem, a rather famous poem, attributed to a man named Martin Niemoeller. It has to do with the Nazi atrocities. He said:

> "In Germany they came first for the Communists, and I didn't speak up because I wasn't a Communist. Then they came for the Jews, and I didn't speak up because I wasn't a Jew. Then they came for the trade unionists, and I didn't speak up because I wasn't a trade unionist. Then they came for the Catholics, and I didn't speak up because I was a Protestant. Then they came for me, and by that time no one was left to speak up.".

Mr. President, I have spoken. Thank you.

MR. PRESIDENT: Before we take the vote, I do seem to be intervening in an awful lot of proceedings today, and I do apologise, but the question of collective responsibility has again been raised. I think it might be useful if I do say something on this particular issue.

This particular Motion deals with laws of human rights and the

proper protection of human rights. This is the responsibility of the Government of the day. The Motion raises the question of whether human rights are being adequately protected, whether the laws are adequate and whether they are being enforced adequately. As I said, that is the responsibility of the Government. The majority view of the Executive Council was that the laws are being adequately enforced and that human rights are adequately protected. It is not a matter of conscience, or of religion, and, as some Members did point out during the debate, it is not a matter which would require Constitutional amendment; therefore it is a matter of collective responsibility.

I shall now put the question on Private Member's Motion No. 13/89. Would those in favour please say aye? Those against no?

AYES AND NOES.

MR. ROY BODDEN: Can we have a division, Mr. President?

MR. PRESIDENT: A division, please.

CLERK:

DIVISION NO. 19/89

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
Mr. Gilbert A. McLean	Hon. W. Norman Bodden
Mr. Roy Bodden	Hon. Benson O. Ebanks
Mr. Franklin R. Smith	Hon. D. Ezzard Miller
Mr. John B. McLean	Hon. Linford A. Pierson
	Capt. Mabry S. Kirkconnell

MR. PRESIDENT: The result of the division is seven Ayes and eight Noes. The Motion fails.

PRIVATE MEMBER'S MOTION NO. 13/89 NEGATIVED.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, if the business is finished I move the adjournment of this Honourable House until 10:00 tomorrow morning.

MR. PRESIDENT: The question is that the House do stand adjourned until 10:00 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 10:00 tomorrow morning.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., FRIDAY, 8TH SEPTEMBER, 1989.

FRIDAY
8TH SEPTEMBER, 1989
10:13 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.

Questions. Number 89, 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 COMMUNICATIONS, WORKS AND NATURAL RESOURCES

No. 89: Will the Honourable Member say what the monetary value of the plans approved by the Central Planning Authority was for the year 1988 and also the value of the projects approved which have actually started to be built?

Answer: The monetary value of the plans approved by the Central Planning Authority for the year 1988 is $131,335,724.00. The following are the totals by category:

1988 STATISTICS

Development Category	No. of Applications (full approval)	Value (CI$)
Residential	333	31,919,842
Commercial	66	14,689,639
Apts/Condos	74	42,302,614
Hotel	4	28,050,000
Industrial	12	1,475,000
Governmental	15	11,421,000
Other	44	1,477,629
TOTAL	548	131,335,724

The information regarding the second part of the question is not readily available. However, I would be prepared to provide this information in writing whenever it becomes available.

SUPPLEMENTARIES:

MR. TRUMAN M. BODDEN: This is really just to ask if the Honourable Member does get it before the House is finished sitting, if he would give it orally. If not, he could write to me.

HON. LINFORD A. PIERSON: Certainly, Mr. President.

MR. PRESIDENT: The Elected Member for East End.

MR. JOHN B. McLEAN: Supplementary, Mr. President.
I wonder if the Member would say how these figures compare to 1987?

HON. LINFORD A. PIERSON: Mr. President, there were in fact fewer applications but with larger monetary values. So it is in excess of the value for 1987.

MR. PRESIDENT: The next question, please.

THE THIRD ELECTED MEMBER FOR GEORGE TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS AND NATURAL RESOURCES

No. 90: Would the Honourable Member please say what is being done to preserve the physical attractions in the area known as Hell and what is being done about the destruction of rock and other physical features in that area?

Answer: It is proposed to acquire the area known as "Hell" in order to preserve it as a national landmark. A valuation report is currently being undertaken and a topographic map is being prepared highlighting the physical features of this unique rock formation. As a major portion of Hell is privately owned, it is quite difficult to implement protective measures.

SUPPLEMENTARIES:

MR. PRESIDENT: Normally the Member who asks the question gets the first supplementary.

MR. TRUMAN M. BODDEN: Mr. President, would the Member say whether in the interim he could take measures to protect Government's part of the area known as "Hell"?

HON. LINFORD A. PIERSON: Mr. President, yes, measures are now being taken to protect Government's portion of "Hell".

MR. TRUMAN M. BODDEN: One other supplementary, Sir.
Would the Member please check the wooden walkway because I understand that it may be in need of repair?

HON. LINFORD A. PIERSON: Mr. President, it is my understanding that this was recently repaired but I will certainly check this out.

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

MR. JOHN D. JEFFERSON JR.: Thank you, Mr. President.
Would the Member say what the purchase price of the property is?

HON. LINFORD A. PIERSON: Mr. President, as stated in the answer, an evaluation report is currently being undertaken, so we are not quite sure yet of the full evaluation.

MR. PRESIDENT: There appear to be no further supplementaries.
Question number 91, 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. 91: Would the Honourable Member say if the non-Caymanian pilots and flight attendants of Cayman Airways Ltd., on both local and international flights, hold Gainful Occupation Licences? If the reply is in the negative, why not?

Answer: Due to an oversight on the part of Cayman Airways Limited, no application was made for Gainful Occupation Licences for pilots employed full time on their inter-Island service. This oversight has now been corrected and five applications are being processed. All other non-Caymanian pilots and flight attendants on the international routes and those not full-time on the inter-Island route do not require Gainful Occupation Licences in accordance with the Caymanian Protection Law.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, would the Member say why the pilots and flight attendants on international flights do not need work permits?

HON. W. NORMAN BODDEN: Mr. President, the amendment to the Caymanian Protection Law (which I think was done in June last year), Section 23 of the Law requires permits for those crew operating full-time in the Cayman Islands.

MR. GILBERT A. McLEAN: Mr. President, would the Member say if is not true that pilots who fly Cayman Airways every day (into, and out of, this Port) are not working full-time for Cayman Airways or in the country?

HON. W. NORMAN BODDEN: I would say they are, Mr. President. But they are not, in accordance with my interpretation of that section of the Caymanian Protection Law, employed full-time as crew members within the Cayman Islands.

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

MR. TRUMAN M. BODDEN: Do these staff members without the permits work the same hours and have the same conditions as the members who have the work permits locally?

MR. PRESIDENT: Sorry, I do not think that is sufficiently related to the original question.

MR. TRUMAN M. BODDEN: May I ask a further one on that, Sir?

MR. PRESIDENT: As long as it is related to the original question. Fine.

MR. TRUMAN M. BODDEN: Can the Member say whether the oversight of not getting permits for the pilots is because Cayman Airways has been regarded as a Government Corporation?

HON. W. NORMAN BODDEN: No, Mr. President. It is necessary for Cayman Airways to obtain work permits for other persons in other categories who are non-Caymanian. Prior to the amendment to the Caymanian Protection Law which I referred to, all crew were exempt from the work permit requirement. Prior to this amendment crew were stated as an exemption under the Caymanian Protection Law and when this amendment came about, it was my understanding that it was aimed at making it a requirement for crew members operating within the Cayman Islands to require a Gainful Occupation License, which applied not only to Cayman Airways crew but to the crew of vessels operating purely and totally within the Cayman Islands.

MR. PRESIDENT: Next question please. Number 92, the Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

No. 92: Would the Honourable Member say if any consideration has been given by Cayman Airways Ltd. to request Government to place the Cessna 404 Twin Engine N6764, recently seized by the Court, into Cayman Airways Limited's fleet for use between Cayman Brac and Little Cayman?

Answer: Such a proposal has been given consideration, but it is much too early to predict the outcome since it is my understanding that the matter of the seized aircraft is still sub judice.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, does it mean then that the report that the plane

has been seized by the Court and is now in the possession of the Cayman Islands Government incorrect?

MR. PRESIDENT: Perhaps the Second Official Member might answer this one.

HON. RICHARD W. GROUND: Might I just intervene, because I have charge of Court proceedings. The plane was forfeited by the Court but under the Misuse of Drugs Law (under which that forfeiture was operated). Anyone with an interest in the plane has a right to apply to the Court for it to be restored to them, but they would have to show that they have no knowledge of the carriage of drugs and so on. Such an application has been made by the owner of the plane and has not yet been determined.

MR. GILBERT A. McLEAN: Mr. President, would the Member say, if it is determined by the Court that the Cayman Islands Government continues to retain possession of that plane, that application will be made for the use of this ideally suited small aircraft to fly the route between Cayman Brac and Little Cayman?

HON. W. NORMAN BODDEN: Mr. President, the matter would be kept under review and serious consideration would be given to placing this aircraft into service between Grand Cayman, Cayman Brac and Little Cayman if Cayman Airways were to be able to take ownership and operate this aircraft. There are certain things the company would have to do, naturally. Crew and mechanics would have to be trained and qualified to fly and to maintain this aircraft. Spares would have to be acquired and put in place, so there are certain steps that would have to be taken.

I can say it would be seriously considered by the company but I do not know if the company would, in fact, share the view of the Member that it is ideally suited.

MR. GILBERT A. McLEAN: Mr. President, I am aware that certain parts would be necessary and persons would be needed to fly the aircraft. What I am interested in knowing is if the Portfolio of Tourism would indicate to our legal authorities that we should look and get it before the Court that Cayman also has a reasonable claim for retaining that plane, rather than selling it off by auction which, as has been reported, is being considered in the papers?

MR. PRESIDENT: I think that maybe the Second Official Member should explain the legal situation in regard to that plane, if it becomes a Government asset.

HON. RICHARD W. GROUND: If it remains forfeited and becomes a Government asset then it is for the Government to dispose of. Often forfeited assets are disposed of by auction because they have minimal use (damaged boats and so on). It would be entirely for Government to decide what to do, once it has it. It is not a matter for the Court and it would be quite wrong on the hearing of the application to restore the aircraft to the owner for this sort of consideration to be put before the Court and may well be ammunition on the behalf of the owner to support their claim.

MR. GILBERT A. McLEAN: Mr. President, perhaps the Second Official Member might be able to speak to this. Is it wrong for the Court determining this matter to take into account reasons why the country would want to retain the plane versus why the other party is claiming they should have it back?

HON. RICHARD W. GROUND: I am going to answer that, but I do not want to go too far into this because it is sub judice. The court, in determining whether or not to restore the plane to an owner, is concerned with issues of facts relating to that owner's knowledge - whether or not they knew the plane was being used for the nefarious purpose that led to its forfeiture. The wishes of the Government or anybody else to get their hands on the asset has got nothing to do with the determination of those facts, but I must say, it is going to place my office in a very difficult position if the owner comes forward and says a Member in the House has indicated that Government may want it.

MR. GILBERT A. McLEAN: Mr. President, the response from the Second Official Member has been most informative. I am sure the country has benefitted, like I have, from the explanation. What I would like to ask the Member for Tourism is whether that small plane is not the similar type of aircraft which is, or has been, flown by Executive Air, which ideally suits the landings between Little Cayman and Cayman Brac?

HON. W. NORMAN BODDEN: Obviously, Mr. President, this aircraft could be used as a backup for Cayman Airways inter-Island aircraft or to provide additional services. I would go so far as to say that if this situation develops to the stage where the aircraft is being auctioned off, I am sure that between the Portfolio and discussions with the company, Cayman Airways could certainly place itself in the position to bid on the aircraft when it reaches that stage.

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

MR. FRANKLIN R. SMITH: Thank you, Mr. President.

I do not know whether this could be termed as supplementary or not, Sir, but I would like to add a word of caution: Someone could come to the Islands posing as a tourist and (with this plane going into service for Cayman Airways) it could possibly be hi-jacked and taken to some other place. For that reason, I would have caution there, Sir.

MR. PRESIDENT: Could you phrase it as a question? The way I would phrase if for you is: Are you satisfied with the security provided for the airplane at present? Is that the thrust of your question?

I think I should point out that the airplane is not, in fact, in the Member's custody, it is in the custody of the Court.

MR. FRANKLIN SMITH: Yes, Sir.

HON. W. NORMAN BODDEN: I would say that the question of security could be one of the concerns of the company which they would have to take into consideration before coming further involved.

MR. W. McKEEVA BUSH: Mr. President, I am wondering how much further we can go into this question, seeing as it is before the Courts.

MR. PRESIDENT: I think we have been advised by the Second Official Member on that.

No more supplementaries? The last question on today's Order Paper. Number 93, the Second Elected 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: 93: Would the Honourable Member say whether Government has entered into any contractual agreement with a second party for the use of its property at High Rock, Block 67a, Parcel 5? If so, with whom and for what purpose?

Answer: Approval has been given in principle to the granting of a lease to Mr. Arden McLean for part of Block 67a, Parcel 5, comprising 60 acres, for a term of five years with an option to renew for a further five years.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, would the Member say for what purpose is the property being considered for lease, as part of the original question?

HON. LINFORD A. PIERSON: The answer, Mr. President, is for a quarry.

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

MR. W. McKEEVA BUSH: Mr. President, can the Member say what kind of compensation Government is to derive from this contract?

HON. LINFORD A. PIERSON: Mr. President, it might be of interest if I read the conditions associated with the agreement which include the compensation. This might answer some of the questions. The conditions are that Mr. McLean obtain Planning permission for the proposed use and comply with any conditions set by the Water Authority.

The second condition: the area to be quarried for the first five years to be surveyed and the boundaries be demarcated. Number three: The rent for the first year to be based on 50 cents per ton, subject to negotiation and thereafter reviewable annually. Number four: The option for the new lease to be on an area not exceeding 60 acres and at a royalty to be negotiated. Number five: The property developed during the first five years of the lease to be vacated upon taking up the option.

MR. GILBERT A. McLEAN: Mr. President, could the Member say if this property is very near to the area where there is already a quarry? The High Rock area.

HON. LINFORD A. PIERSON: Yes, Mr. President, the property is adjacent to the present quarry up there, in the High Rock area.

MR. GILBERT A. McLEAN: Mr. President, could the Member say if this was the property for which approval was sought to lease it for farming purposes of raising poultry?

HON. LINFORD A. PIERSON: I am informed, Mr. President, that this is the same location. A portion was being requested for poultry. Not the same location but the same parcel of land.

MR. GILBERT A. McLEAN: Mr. President, would the Member say considering that once the rock is quarried that the land is destroyed indefinitely, if there will be any usefulness to that property to Government after the quarry has been established?

HON. LINFORD A. PIERSON: Mr. President, the land will not be destroyed by the quarrying of products there. It will be used after the quarrying has been completed, as I said, in the conditions attached to the substantive question. That area will be demarcated and will be used for other purposes.

MR. W. McKEEVA BUSH: Supplementary, Mr. President.
Can the Member say what the reason was for turning down the request for the poultry farm?

HON. LINFORD W. PIERSON: Mr. President, I will answer that, but with your permission, Sir, it hardly rises from the substantive question. That was done by the previous administration.

MR. W. McKEEVA BUSH: Mr. President, there must be a record of the reasons? The Member himself raised the matter. That is why I asked the supplementary. If he cannot give it to me orally, could he do it in writing?

HON. LINFORD A. PIERSON: With respect to the Member, Mr. President, I did not raise the question. I commented on it. But I would be prepared to provide whatever information I can get on this to the Member.

MR. GILBERT A. McLEAN: Last question, Mr. President. Would the Member say if this land is not demarcated and would the cost of survey be born by the person seeking to lease it?

HON. LINFORD A. PIERSON: The Member is correct, Mr. President.

MR. PRESIDENT: We move to item 3, Other Business. Private Members' Motions. Private Member's Motion number 15/89, the Second Elected Member for Bodden Town.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 15/89

ESTABLISHMENT OF A NATIONAL TRAINING AND EDUCATION FUND

MR. FRANKLIN R. SMITH: Thank you, Mr. President.
Mr. President, I beg to move Private Member's Motion number 15/89, standing in my name, entitled, Establishment of a National Training and Education Fund.

> "WHEREAS an increasing number of persons are being employed on Gainful Occupation Licences;
>
> AND WHEREAS it is considered that employers have a duty to train Caymanians for jobs now being advertised for or held by persons on Gainful Occupation Licences;
>
> AND WHEREAS it is considered desirable for the Cayman Islands and its people that a training and education fund be established to train and educate Caymanians to fill such jobs;
>
> BE IT NOW THEREFORE RESOLVED THAT the Government, in consultation with the private sector, give consideration to establish a National Training and Education Fund, and that such Fund be administered by a body to be appointed by Government;
>
> AND BE IT NOW THEREFORE FURTHER RESOLVED THAT such Fund, if established, shall be made available to persons who wish to pursue technical and vocational training, not necessarily at the degree level, in addition to other educational fields.".

MR. W. McKEEVA BUSH: Mr. President, I second the Resolution.

MR. PRESIDENT: Private Member's Motion number 15/89 as been duly moved and seconded. Would the Mover wish to speak to it?

MR. FRANKLIN R. SMITH; Yes, Sir, thank you.
Mr. President, I now rise to give the objects and reasons for its

introduction. I must admit that I am a bit nervous and the reason for that is this is the first Motion I have raised during the 10 months I have been in this House.

As the Motion says, there is an increasing number of persons being employed on Gainful Occupation Licenses. According to the statistics from the Protection Board we are being told that an increasing number of applications are being submitted weekly and approved. I wish to make it abundantly clear - and I do not want this to be misconstrued, I am not trying to stop anyone from getting a work permit, nor I am not singling out foreign nationals. I am not against them - but I have the firm belief that we will always have this problem throughout the years to come, if we do not take the necessary steps to help train our own Caymanians, so these jobs which are being held by foreign nationals now can be filled one day by Caymanians.

Back in 1964 I left this Island to sail the seas on an oil tanker. I started out as a galley-man and in four short years I had reached the top of the ladder in that department - Chief Steward. When I reached that position I was told that because it was a British Flag ship I would not be able to take a permanent position, I would have to go to school and train to obtain a British certificate in order to be put in a permanent position. I would like to state we must not feel we have been placed in that position, requiring certification just because we are Caymanians. Yet, I believe there are capable Caymanians willing to work in those positions, who are doing the work now, yet when the businesses advertise they require you have so many years experience and a certificate. This is the reason why I am saying if we do not take the steps to train those Caymanians to gain those certificates, we will continue through the years being plagued with the same problems we are faced with today - having a vast number of children leaving school every year without training. We have to take this problem in hand and do something about it now.

I feel that money provided and placed in a National Training and Education Fund would encourage the workers and school leavers to go to a training institution on this Island (or elsewhere if it requires them to go abroad). I would strongly recommend that the Community College and the International College of the Cayman Islands be given first choice. I would not like to see (if this Motion is passed and money is raised) it limited to only this Island if it is necessary for someone to get their training abroad.

I will move on. I would like to say that it is my personal opinion (and I am not going to try to put the blame on anyone else if the proposal is accepted by this honourable House, that is why I have put in the clause; "Be it now therefore resolved that Government in consultation with the private sector"), that there are a number of businesses in the private sector that are already playing an important role in the training of Caymanians. I would not like for these businesses which are already contributing to have further burdens placed on them. I believe after consultation with them we could come to a compromise. As I said, I do not wish to penalise those companies that already have training programmes in progress.

I would like to see businesses that give training to persons who do not have Caymanian status or parental or marital ties to the Islands and are here only on work permit, having to notify either the Community College or Government of their intentions. I would like it to become mandatory for Caymanians working in that institution to be given a chance to say whether they had the option to be trained and refused first. What I am saying may have to be instilled in the Protection Law itself. There are a number of businesses, and I think in Government also, where training is given to work permit holders in preference to Caymanians.

You know, Mr. President, after businesses or Government trained a foreign national and they feel like leaving this country and using their expertise in another country, they can do it. Caymanians are still no further ahead. I would like to see where businesses are going to send work permit holders on a training course, they would have to notify the Community College or Government, whatever, of their intentions.

I have had complaints from the public about people on work permits having been trained over and above Caymanians who were never even offered the chance to be trained. Unless steps are taken to stop this, it will continue.

I am proposing that there are a large number of work permit holders in this country. I would like to see a fee equal to the amount the work permit holder is paying now to Government or to the Protection Board, whatever, and the equal amount be collected by Government and placed in this National Training and Education Fund.

Back in the early 1980s the Government of the day saw fit to change the procedure that was in practice of one's having to sign a bond. It has worked well and I have no objections to that. Government has been able to use that money for something else, because I know they are not obligated to pay that money back every year.

Recently, the directives have been to the Protection Board and the work permit holders that they are required to pay, when they are getting a two year work permit, the two year fee, up front. I am saying those people, including myself, who put in for work permits are not arguing about having to pay that fee. They only want to know they can get the work permits. Persons who get a work permit in this country are getting the benefit of this country and it is now time we be prepared to give something back to this country. If we do not take the necessary steps now, to make available funds that can help to train Caymanians, we will always be having the work permit situation. I am not denying and I am not saying that we will not ever have work permits, but we can cut them down considerably.

You know, after a Caymanian has been trained at either at the Community College or the International College, and is qualified for that position, the fees can be paid from that National Training and Education fund to go to these institutions and perhaps this will help to a great extent because many cannot afford to pay the fee so they get discouraged, even if they had the intention to train.

I would like to see (and I know it will happen) that one day, when a Caymanian is qualified to take the position of a work permit holder, the person who is paying that work

permit and that additional fee to this fund, will be discharged of his duties. He will not be required any longer to pay that fee. so in the long run he will be saving. Now, Mr. President, I am suggesting if we want to see Caymanians trained in the future we have to be prepared to help them in the right way.

If this fund is created and put in place, after Government has had consultation with the private sector, we could then say to the public; we have done our part, it is up to you to do your part. I feel people here on work permits should be prepared to give something back for what they are getting from this country.

I would like to say that in proposing to see work permit fees raised I would like to make it clear that I would not want to see domestic helpers charged extra fees. I would propose that farmers be given a break here too, but for my part I am prepared to pay my fee. I have the desire in my mind that one day I want to see a Caymanian Chief Agriculture and Veterinary Officer holding the position that Government now has a foreign national hired to hold. Also, an agronomist, a horticulturist. Because I want to see those positions filled with Caymanians one day.

We could not help to fill those positions if we do not help to train people, Sir. Over the years very little has been done in these fields. When I debated the Throne Speech, in February or March, I also attended the Chamber of Commerce forum for candidates in 1988, one of the main subjects which I spoke on was to see Government either have to apply for a work permits and even if Government does not have to apply for work permits now, I would like to see them have to make the necessary arrangements for the same amount of money the private sector is paying for their permits, that Government also channel that equivalent amount of money, for their foreign national workers, to this fund so Caymanians can be trained and Government would have a commitment to help train someone to take the positions that are being held by foreign nationals in the Government sector.

The argument may be that they already provide money for that training, and I have heard if Government was to increase the work permit fee, they might raise something in the region of 2 to 3 million dollars a year for work permits. If they were to raise that amount each year from work permits and put it in the National Training and Education Fund, that would be a start. I do not buy the argument that they would never be able to use that amount for training.

So, Mr. President, I hope that we will one day, shortly, be able to say to our Caymanians and students coming out of school there is money provided now for you, and if you meet the criteria and have the ambition to be trained at a local institution or abroad, apply to this National Training and Education Fund for your fees to be paid.

You may ask: Why not go to some other institution for funding? I believe we should encourage our Caymanians to fund it almost free of charge. This money is being collected for the simple reason of training Caymanians. Having very little overhead, not having to pay back interest on this money, even if they have to pay it back it should be interest free.

As the Motion said, employers have a duty to employ Caymanians. I believe if there is no pressure put on these employers they are not going to train people, and every time a work permit comes up the excuse is no one is available, no one has the qualifications. But I believe if this fund is created we will need a proper study of the job market, so we do not get 50 secretaries being trained at any one time with only 10 secretarial positions available.

In many cases people who want to have further training are burdened with heavy debts already. Quite often they have to pay someone to take care of their children or their parents at home, while they go to a night class. So the additional fee for the classes also poses a problem to them. This is why we have to make it as easy as possible to encourage them to train.

I do hope that while I have tried to touch on the basic parts of what I see this training fund trying to do to help the people of this country, I do hope the rest of the Elected Members of this honourable House to pick up the areas where they feel these funds could help and debate it, so the general public will be able to understand it better.

Mr. President, I do hope we can come to a happy ending by providing the necessary funds to Caymanians to train and with that I ask the other Members to give consideration and support the Motion, Sir.

Thank you.

MR. PRESIDENT: The Honourable Member for Education.

HON. BENSON O. EBANKS: Mr. President, this Motion, dealing as it does with training and education, would be difficult, if not impossible, to oppose. However, while supporting this Motion, I believe I should call attention to a few facts and sound a few notes of caution.

Primary school straight through to university or vocational and technical training is education and training of one form or another. So the not insignificant amount of approximately $13.4 million in this year's Estimates for expenditures for education represents an investment in the education and training of Caymanians. I would also like to point out that the Education Council grants scholarships presently to persons to pursue degree and vocational and technical courses from the scholarship funds made available for that purpose by this honourable House. It is unfortunate (but true) that the numbers coming forward in the vocational and technical fields are not as many as would be hoped for. But I do not believe the biggest reason why more Caymanians are not accepting training opportunities is the lack of money. At this time, too, the Education Council is revising the guidelines for the grant of scholarships. A special set of criteria are being proposed to cater to the needs of vocational and technical students.

I mentioned the Education Budget for this year is some $13.4

million. It is my view that this will increase considerably over the next couple of years as we get into the building of a junior school in George Town, West Bay and possibly Savannah; and also the possible building of a new middle school and high school for the Eastern Districts - not to mention the amount of approximately $6 million to build and equip the Community College, where hopefully most of our vocational and technical training will take place. There will also be heavy recurrent expenditure for the operation of this college.

I believe we have to be careful not to be setting up too many different funds because, after all, at the end of the day, the money will come from the Government Treasury in one form or another, even if it is part of the work permit fee.

I am encouraged that the Motion makes provision for consultation with the private sector in considering the establishment of the Fund, because I believe the private sector is doing quite a bit for training of Caymanians - probably more than most of us are aware of. But it would do well if we attempted to quantify just how much is being spent by the private sector on training.

I can give one example of a private sector company. Maybe all of them are not doing as much, but there is one large employer in the private sector which has approximately 95 per cent of its staff Caymanian, and I understand with very few Heads of Departments not being Caymanian.

Having said all of this, Mr. President, and having said, as I have, that I support the training of Caymanians fully, I have no problem with supporting and accepting this motion.

Thank You.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 11:21 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:43 A.M.

MR. PRESIDENT: Proceedings are resumed. Private Member's Motion number 15/89 continuing. Does any Member now wish to speak? The First Elected Member for Bodden Town.

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

At a different time I would not be so quick to rise, but since this is such an obviously worthy Motion, I need not be too worried about covering my colleague's back. I do not believe there will be too much opposition to this Motion.

Before I launch into any detailed explanation, I would like to congratulate the Mover and Seconder of this Motion because I see it as timely and important in our development. Although it may seem a little complicated, I believe it is well worth the considerations of this honourable House. I would further like to compliment my colleague, the Second Elected Member for Bodden Town, by saying that, although he took 10 months to take his first step, he is well within the bounds of normal psychological development, so he need not worry. If he continues he should turn out to be a normal, if not better than normal, legislator.

Now, Mr. President, I hope this is not one of those Motions where we are going to say nice things about it, nice things about the Mover and seconder, vote for it and then push it on the back burner, because we have a lot of these already. In fact, I am beginning to become worried that our tenure of four years will be up and we will not be able to address some of them.

I see this Motion as working in tandem with any constructive education plan. I would say that the Mover did a very excellent job in presenting it in such a way that there can be no confusion or misunderstanding because he acknowledged that there are those businesses in the private sector already making such a contribution and it would not be his intention, as the Mover of the Motion, to further burden them or to attempt to penalise them.

I would also like to comment on the observation that he made whereby he stated he saw this Motion, if and when it comes into effect, as being inapplicable for those people who have in their employ domestic servants. I believe that is quite justified and reasonable.

In any developing country we need a Motion like this. We not only need the Motion, but we need the will and the mechanism to put it into effect. What concerns me is that we have from fair to fine provisions already for people who want to pursue, what I call, a more academic calling - especially at the degree level. It is important at this time to point out in a small society such as ours, although we are growing at a tremendously rapid rate, that we can only absorb so many of this type of people. We can only absorb so many of these professionals. Indeed, it makes sense for us to now begin to broaden the perspective and pay more than lip service to vocational and technical training.

If my understanding of this Motion is correct, such a Motion aims to attract people exactly into these fields - auto mechanics, air conditioning and refrigeration technician, electrical, plumbing, masonsry. I will acknowledge from my experience as a professional educator and politician, that herein lies the problem. Because many of the young people in our society aspire to the white collar type of jobs because they see that as being the most important and they think the salary scales are the more attractive. I believe this is a serious fallacy. For example, I can state that a well trained and qualified auto mechanic has certain advantages over the professional who works in an office from 9:00 AM to 5:00 PM. In the establishment to which I am connected auto mechanics do not work on Saturdays but I, as a professional, have to work on Saturdays. They choose the hours they work and they choose the kind of jobs they like to work on. I do not have such a liberty.

What I would like to say to the young people is that it is more than meets the eye. Because someone is wearing a white shirt and tie, does not necessarily mean that their position is any more important than those of us who come with a blue shirt or is dressed in the uniform of a coverall.

Here, I would like to draw on the Japanese experience. In that society there is such a dignity in labour that it is an absolute taboo when you dine out in a restaurant to tip the waiter or waitress, because they think that is an admission that their position is demeaning and not important. When I visited that country I asked my Japanese host why. He told me that in their society they believe everyone who performs a task is important - the cement truck driver feels he is just as important as the Bank Manager. Indeed, that is what drew my attention to it. I was walking down the street one day and I saw the people on the garbage trucks driving and working with ties. I asked my friend what the significance of that was. He told me that was their way of assuring themselves and the other people who do not know that they consider their jobs just as important as any of the rest of us. They have such a sense of pride in their job that they dress the same way.

Quite often the difference is not in the reality, but in our perception of it. I would like to say from experience also that there are ample opportunities for young people in this country in auto mechanics, in the fields of air conditioning and refrigeration, in the field of electrical technician, in the field of masonry and plumbing - all of those other kinds of jobs which tend to get past over now.

I listened with interest to the contribution by the Honourable Member with responsibility for Education. I would just like to comment that there is no good in attempting to lay blame. What we have to do - and what should be the challenge of successive political directorates - is to try to find a way to inculcate the importance of technical and vocational education into the young people who are still at the high school level. For all the banks, trust companies and law offices we have they can only absorb so many of the 300 or so youngsters who pass out of our high school each year. We have to find a way of letting these youngsters know there are other vocations, other fields, which are equally important to the development of our society - in terms of the necessity to have someone fill them, in terms of their importance and also in terms of the opportunities they can afford young people.

For example, take the person who has acquired the skills and training in building. He or she has two distinct advantages: a) they can earn a livelihood; and, even more importantly b) they can help themselves by constructing their own house or their own houses. We have to find a way of reaching them, of letting them understand the advantages. The person who has a white collar job has the problem of finding a suitable person to construct his or her house and then every time something goes wrong, if they do not have the time or have not acquired the skills, pay someone to correct those faults. I think we need to inculcate in our youngsters that there is dignity is labour. When we have inculcated that sense, we have to be able to say to them that we have made provisions for them to avail themselves of a technical and vocational opportunity and education. It does not mean that if you aspire to other things, that you cannot do so. We are a growing society and in keeping with such, this Motion is entirely relevant. I do hope the private sector understands the intent is not to further burden them.

Here, I would like to say there is a company in the private sector whose record as far a providing training and opportunities to Caymanians, is excellent. I would like to pay some accolades to Cable and Wireless. I think that is an excellent example of a multinational corporation in this country who means well. There are others who are making strides. But I believe I am accurate in saying that Cable and Wireless is decades ahead of many others. I would like to congratulate them and I hope they see fit to continue. I would like to set the challenge for other similar companies try to emulate their examples. I would want to say the Motion is not intended to put any further burden on these companies, but we would like to see if we could challenge or elicit others to realise it is the least they can do to provide opportunities and funds so that Caymanians (who will indeed benefit these companies) can avail themselves of the opportunity to get further training.

The Government also has an obligation. But we also have a serious problem, because I am concerned that what is discouraging to the Government in many cases, where they train Caymanians, as soon as these trained Caymanians have realised some experience to the point where they become attractive to the private sector, they leave. So, it brings me to the question of loyalty.

I would like to say all the Motions and all the provisions in the world, like this, would be good. But if those people who are trained, and upon whom the money is spent, do not have some sense of loyalty, then the problem will continually need to be redressed. So I am appealing to the people who are fortunate enough to avail themselves of these provisions to realise they have a loyalty. I am making a special plea for those who are fortunate enough to be trained by the Government to realise there can be few, if any, higher calling than to serve one's country. The only higher calling than being a civil servant is being a politician.

So, Mr. President, this is the challenge to see how well we can put it into practise. It is a challenge not only for the those whom this Motion will affect directly, but it is a challenge for us as legislators and as politicians to encourage our constituents to avail themselves of the opportunities; once they have availed themselves of these opportunities, to develop a sense of dignity in labour and to develop a sense of loyalty so they can remain and make a valuable contribution. It is the only way our country can develop. It is a challenge for those organisations in the private sector who can contribute more than they are contributing.

In the strictly professional sense, I suppose credit has to be given to the Law Society which, again, can serve an example, because I believe they are the largest supporters of the Law school. Perhaps if we could get people or organisations in the private sector with a direct relationship with technical and vocational areas to emulate the examples of Cable and Wireless, and the Law Society and those firms who support the Law School, then we will be making positive strides.

In closing I would like to compliment the Mover and the Seconder. I would like to say if we continue along these lines there is no reason why the Cayman Islands cannot

continue to excel not only in the fields of banking, law and international finance, but also in the more technical aspects as well. Certainly it is not a shortcoming to aim at becoming self-sufficient in these fields, to aim at producing our own auto mechanics, air conditioning and refrigeration technicians, plumbers, electricians. There is nothing wrong with this.

This is one I am laying at the feet of the authorities responsible for education. We should set a time limit. We should give ourselves a decade. We should set a goal based on a really comprehensive plan for technical and vocational education and say, for example, in 10 years we will have 90 per cent of the people now on Gainful Occupation Licenses in these technical and vocational fields replaced by trained, qualified Caymanians.

Thank you very kindly, Sir.

MR. PRESIDENT: Does any other Member wish to speak? The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I would like to commend and congratulate the Mover of the Motion, the Second Elected Member for Bodden Town. I think this is a very good, a very forward-looking, far reaching and very important resolution. It is what every country aims for, to improve the skills and education of the people who make up the work force within the Cayman Islands. I, for one, believe education has to be given top priority. I think it is something which is crucial to every nation, every country; but it is even more crucial to a developing country, as is the Cayman Islands.

The system does provide, as the Member for Education mentioned, scholarships for people locally. There is training within the civil service. But this extension is necessary and very important. After the Member of Education spoke and said he was agreeing with the Motion I thought he may have started following the course that has become popular these days... but he did not say 'I am going to vote against it.' It was good to hear he was both speaking and voting for it. Therefore I think this Motion should have a nice, smooth passage.

I agree with the First Elected Member for Bodden Town when he says we should have time limits, and that we should have goals. It is no secret that sometimes the Member for Education could go a lot faster than he does. I would ask that this be given priority and the necessary consultations be dealt with at an early a stage as possible so that it can be put in place. I am not trying to say the proper work should not be done. That does take some time but we should get on with it. What worries me is time that when you are dealing with education, many times it can be the lives of those students. What does worry me (and this is seen very clearly at present for example) is if an extra classroom or extra accommodations need to be provided... some 20 students who wished to repeat at the final part of the school year could have gone on. I think that is important and should be dealt with early. Because even if it is one child, when we are dealing with a society that does face the problem of drugs, crime, drop-outs then I personally think it is of the utmost importance we get on with it. Not just this or the classrooms the Member was questioned on but whatever at an early stage.

There are good examples of employers who do a lot. I think notable mention was made by the First Elected Member for Bodden Town about Cable and Wireless. I know from reports that they have a very good record on training and there are many others out there. This Motion should be looked at I think as a constructive one by them. As the Second Elected Member for Bodden Town said this is in addition to what is now being done. We would not like to see employers putting a heavier load on the Member for Education by giving up some of what they are now doing, and expecting him and the Government to take on a part of a load that now exists.

I would like to point out, as did the First Elected Member for Bodden Town, that as members of the legal profession we have tried to do our duty within society and as was shown by questions that were asked some months back. The cost of articles to lawyers, in private practice for article students well exceeds per annum what Government pays out on the Law School. On average for every article clerk we have, it is probably between $13,000 to $16,000 per annum per student over 5 years. This is for a person who spends most of his or her time in school and it is not much of a return, in fact, because the priority is for them to go to school and get their exams. This adds up to a considerable contribution.

When you look at the size of some of the employers out there (be they in banking, trust, construction or the hotel industry) you realise that if a Law firm with five, six or eight members can provide a scholarship of $150,000 for the five years over the life of that student, then I believe much, much more can be done by other employers out there.

Along with this, we do have our other social duties such as poor aid relief and the voluntary work which is done generally. I merely quote this... and I am interested because I am a lawyer, but it is an example (I think, a striking example) of where a lot is being done. I know the Motion is geared towards a much wider class of working people, not just limited to people in the off-shore industry, but many of them could also do more.

As was mentioned earlier, I think the duty of Government and the duty of parents is really to give the opportunity to children and teenagers to get a good educations. It is up to the teenagers to take advantage of it and to pursue it because one of the things that is a hard reality is no matter how much opportunity you give children or how well you raise them, when they become of age they make their own decisions on where their life goes. The Government can do so much. The parent can do so much. So it is up to the children and teenagers out there to take advantage of what is there and to get the education and training that is necessary. That is something which cannot be done for them, so it has to have the initiative on the part of the teenager, because to a large extent the class it will effect is the teenagers to move on with it.

That cannot be stressed too much because if am employee is

going to be lazy, or take the approach they are not going to take advantage of the training that is offered, then I do not think they have any right to complain if someone else is put in that job. I do not think this House helps if we provide a feeling or an air in the work place that somebody is going to advance in his job, whether he is competent or not. That cannot produce a good working society. The duty rests very heavily on the employees to see they take advantage of what is being offered. I, too, accept that along with hard work one has to appreciate there is dignity in labour. Not everyone can do everything. Unfortunately, in developing countries the initial stress in education has been towards more of the academic side. As a result, there is a suffering on the technical and vocational side, in the very early stages. We are now well advanced in our way of life and our education system and this gap is now being covered. This is another step in covering that effectively.

I would like to say in summary that this Motion is good. I am grateful and congratulate the Member who moved it and the First Elected Member for West Bay, who seconded it. I will say this to the Member for Education: I am very happy to see this Government has taken the approach of agreeing with it and agreeing to move on: My only request is that it be done within a reasonable time so the effects can be felt at an early stage.

I would also like to thank the employers who have taken the time, spent money and put the effort into training and assisting their employees. That can only result with much improved business of those employers because they will have continuity. They will not have to worry about a two year permit and replacing people. It must be to their advantage to do everything possible to train Caymanians and residents who are in those jobs. A lot has been done but, I believe, this Motion now is going to further close any areas which may be deficient in completing that area which, I think, is most important.

I agree fully with the Motion. I agree the private employer should assist. I believe the evaluation, when it is done, we will have a much better light on what categories employers are assisting with training and those who are not. I would hope that within the next 6 months or so we will see this fund established and it will be well funded, and we will be getting underway with the first students or trainees under it.

Thank you.

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

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

I would also like to offer my support to this very important Motion calling for the establishment of a National Training and Education Fund. This is a subject which is very dear to me - the training of Caymanians. I would like to first say congratulations to those businesses who are operating here in the Cayman Islands and making a genuine effort to train and promote Caymanians in their organisations.

I feel it is time that we as legislators pay more than lip service to addressing the issue of this training and promotion of Caymanians. In our society every day new jobs are being created in management and other important fields. But very few of these are being filled by Caymanians because they are given the excuse that they do not have the qualifications or experience to fill these positions. So what happens is the particular organisation applies for a work permit and brings in a foreign national to occupy that position. That is bad enough, but what fails to happen in most instances at that stage is for the Government, through the Caymanian Protection Board, to advise the employer that the permit is being granted with the understanding that an effort is made to identify and employee or employees within your organisation that will be trained to eventually take over these positions.

I am not talking about the senior positions, Bank Managers and that type of thing, I am talking about positions in middle management and other areas. A lot of times the position is filled by the same person in excess of five or seven years, whatever the required time is when they can be considered for Caymanian Status. They apply and are granted Status and that eliminates the possibility of that job ever being held by a Caymanian. Not only is the private sector guilty of this practise, it is also very prevalent in Government. I used to be a civil servant. It amazes me when I walk through Government offices the number of people I see holding positions in Government who I do not recognise and who are not Caymanian. I personally feel Government must lead by example and the establishment of a National Education Fund would be a step in the right direction in starting the process of getting serious about training Caymanians.

I also agree with the Mover that contributions to this particular fund should be from both the private sector and Government. I also support the idea that the source of funds for this scheme could possibly be from work permits, where the employer is told; 'Yes, you can have a permit, but in addition to the fee which you pay for that permit, you are required to make a contribution of an equal amount into this National Fund.' Government must also be required to contribute the amount they would have been required to, if they were a private company, for their foreign employees. I also agree that exemptions should be given for permits for domestic helpers and possibly farmers. In my mind Caymanians must be put in a position to share in some of the prosperity we are experiencing in our country by holding the majority of the senior jobs available.

The Law School must be congratulated on the excellent job it is doing in producing qualified Caymanian lawyers. A previous Government (with foresight) was responsible for establishing this very important entity. I feel future generations should be able to look at this Legislature in no less a favourable light, for the vision we had in establishing policies and legislation, which will prove to be in the best interests of our people. I feel that as far as the Law School is concerned, what we must ensure now is these young qualified Caymanian lawyers find a proper place in their profession. Not a repeat of what, I understand, happened in the past at one law firm, that is operating here in the Cayman Islands, where a young qualified Caymanian lawyer was offered a position as a receptionist.

We must see more qualified Caymanian bankers, doctors,

accountants, insurance and hotel managers, electricians, plumbers, etcetera. We must also encourage, in addition to our efforts here, businesses who have their own training programme and those who do not have their own, be encouraged to establish one. Government should also place more emphasis on training locals for positions now occupied by foreign nationals. I feel it is important the required qualification for assistance from the fund should be less stringent than those established by the Education Council for the grant of scholarships, in order to assist the greatest possible number of people. I see this as not a replacement for the scholarship fund that Government already has established, but a complement to that particular fund, also a complement to the other programmes the businesses in the private sector have already established.

I am genuinely concerned and interested in ensuring that our people get a fair shake in this country. We have come a long way. I remember when I was thinking about going off to university. If you did not have the right family connections, there was no money available for that training. I would like to publicly thank my parents, who were prepared to make the personal sacrifice in ensuring I was given the opportunity of furthering my education. Today, in this country, that is no longer the case. In most instances if there is a genuine interest in furthering ones training or education, regardless of family background or financial position, it is now possible. But, we should never be satisfied with that position. We should always be looking forward for better ways and making it possible for a greater number of people to be placed in the position where they have these opportunities.

Mr. President, in closing I would like to offer my congratulations to the Mover, the Second Elected Member for Bodden Town, and even though this has been his first Motion, I think he did an excellent job in the presentation. He was genuine in his effort and I can assure him that he has my support in this Motion.

Thank you.

MR. PRESIDENT: If no other Member wishes to speak? [pause] 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 number 15/89, Establishment of a National Training and Education Fund. I would like to state at the onset that I support the Motion. I think it is well thought out. By what I understood from the presentation by the Member he was inspired to bring it by the fact that he realises, like I believe most of us do, that we have to do something about the number of persons who are working in the country, to the exclusion of our people.

There will always be a problem of needing foreign persons to work in our country, if we do not qualify our own people to take the jobs. There are numerous jobs in the Cayman Islands being filled by persons from other countries. This is not confined to any particular area because they are in the professions, skilled labour. They are in the vocational areas, which are filled by foreign persons. It is well known the increase in the Caymanian population is not providing enough persons to fill the labour market and the labour market, it appears, is constantly growing. Indeed, only a day or two ago, it was ascertained during Question Time that Government does not really have a policy as to how many jobs will be allowed in this country, by having some kind of policy on how much development will be allowed.

It seems if we are going to get to the meat of the issue, this Government has to make some decisions on how much is enough. It is not a question of pride, that we say it is enough; it is not a question of not having pride for us to say just let it continue indefinitely, the situation has reached a point where something positively has to be done. At this stage I, for one, am not satisfied that such is being done by the Government. In trying to prepare our people to take over jobs which are presently held by foreign nationals for which they can be trained makes a lot of sense. I honestly believe that is the general feeling and belief among all legislators (who are the representatives of the people). But getting something done about it is the major problem.

I believe there has to be much clearer action shown by the Portfolio which deals with education and indeed, by the Member responsible for Education, that thing are getting done. At the first sitting of the House a certain Motion was passed relating to education and allowing Caymanian children a longer opportunity for getting education. It was passed. Yet, rather than some particular type of action being taken, what we hear in this session is that one more matter has been referred to an expert to study the system. If we are to achieve education we have to utilise every bit of our own resources which include the physical resources, the tools of the trade and indeed, the people who can contribute meaningfully to this.

The Motion I just referred to was one brought by the First Elected Member for Bodden Town. I do believe he is one of the most qualified persons in this country in the field of education, and I know there are other persons who are qualified. I have not asked him, but I wonder if he has been approached. I wonder if the Portfolio took any opportunity to contact persons here who would have volunteered their time to a committee, to look into this and make recommendations to the Portfolio. On the other hand, if we have so much money to be constantly pay experts, why do we not take some of that money and pay our own qualified people to advise and give expertise?

With the increasing number of work permits in this country (which at this meeting of the House we heard was on the average of 200-odd, per week, being dealt with by the Caymanian Protection Board, it was not certain how many of them were new renewals) the indication is very clear that their are work permits constantly being dealt with and the numbers are increasing. We know this by the things which have been said by the Chairman of the Board and he made some very striking points. He made the point that it is really not his business how many people should come into the country, but it is the business of the Government - a business which I believe is being seriously overlooked and neglected.

It is the duty on Government to train its own people and that should not be shirked. I do not mean a situation which appears to be happening, I mean a situation where it can be proven that we are producing persons skilled and educated in this country. Lip service is constant but action is infrequent.

I share the views of speakers who stated, including the Presenter of the Motion, that the private sector has a role to play. It is well known that a large number of persons on work permits are here because the private sector needs them. The private sector is profiting from the service which they are providing. They are making money and it is only right they should put something back into the country. It is also necessary for our people to understand very clearly they can only compete when they can compete with the outside labour on parity.

I think it is very necessary in this country that from school age Caymanians are made to understand (and they have to feel it in this society of ours) that they are really wanted and the Government wants to see them achieve, that their parents want them to achieve, and there has to be that kind of an atmosphere to motivate them. Of course, I freely admit the old adage is true, you can take the horse to water but you cannot make them drink. So individuals have to be motivated and have a desire to be trained.

Mr. President, I believe that some system is needed whereby the force and desire of the Government is felt which urges along the population towards better achievement in education and skills. At this time, I could not honestly say I do not believe it is considerably lacking. Education to some extent is offered - Primary, High school level and even some beyond that to college level in these Islands. But, I believe if we were to assess numerically and factually the data which the various institutions could produce, and it was compiled and the numbers being produced at the level it is being produced and for the amount spent, I think it would be absolutely shocking. I feel the results would be far below the amount of money spent. I could draw reference to other Islands in the Caribbean that do not have the dollars and cents we have. But, indeed, it is striking and amazing the number of educated people that they are producing in those countries which in many instances are overpopulated to the land mass with less resources and particularly less money.

The Member who brought this Motion stated he did not confine his idea of using the fund for education, just to pure education itself, but in other fields. I believe vocational training is extremely necessary in this country. To produce more than is now being produced in the effort which is being put on by Government to train in skilled areas, such as hotel and the rest. In fact, I believe more has been achieved when the business of the vocational training was handled by the Portfolio of Tourism. There was Trades and Building School, there was a Hotel Training School, there was training in Tourism, Electricity and so on. I might be wrong, but I have not seen any statistics to prove otherwise. I personally had some involvement at that time, with what could have been termed the vocational training, trade and skill training.

In the high school children have the opportunity of being initiated to metal work, wood work, home economics and sewing, I believe. But are they learning enough? Are they getting enough fundamental understanding and training in these areas as might be expected? I do not think there is any assessment of it. In fact, I believe education in this country is sorely lacking in the evaluation of its progress.

MR. PRESIDENT: I was going to ask you if that was a convenient break time for you?

MR. GILBERT A. McLEAN: Yes, Mr. President, that is fine.

MR. PRESIDENT: Proceedings are suspended until 2:15 P.M.

AT 12:50 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:25 P.M.

MR. PRESIDENT: Proceedings are resumed in the debate on Private Member's Motion number 15/89. The Second Elected Member for the Lesser Islands continuing.

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

Before we broke for lunch, I was speaking about the area of skilled training. I believe there is a great need for training in skills in the Cayman Islands. Skill training is easier in many ways than straight education because the training can involve training can involve teaching someone to do a particular task with their hands. It requires common sense, basic intelligence generally, and it does not necessarily involve a college education level. There is an immense need in this country in all areas. In the construction industry there is a need for masons, carpenters, plumbers and tile layers. These are some of the areas, I understand, where there are the largest numbers of work permits. These are areas where people can be trained without having to have the high levels of education and certainly to have these people, without doubt, contribute in a most meaningful way within the Islands. Commercially there is a need for training of typists, computer operators, telephone operators, office machine repair persons and elevator repair persons. All of these are recognised specialised skill training areas. They are areas of serious need in this country.

I am aware that some time ago a Motion was moved by the First Elected Member for West Bay which was approved by this House to set up an apprenticeship system. I prefer to

use the word 'understudy' in this case because apprenticeship connotes to my mind what in Caribbean history years ago meant enslavement; that rather than assisting a person to learn a trade it was the way of hindering them from really taking over from the person whom they were understudying. However, such a Motion has been passed and accepted, but I know of no instance where the Government has ordered such a system into place or being enforced through the appropriate Government unit or department. It just sits there like many other motions and requests which are made of Government.

Of course, there cannot be any training if there are no funds. The Motion is asking for the appointment of a body to administer the funds and the Mover of this Motion also spoke about funds and funding. He suggested that funds which are taken in by Government through the levying of fees for work permits could be set aside for the purpose of training. I agree with him. I see nothing wrong with that and it is one source which could be designated. There may be others, but that particular one relates directly to the need for having persons trained, that of work permits.

I also believe businesses should be encouraged (and called upon, under whatever formula might be worked out between itself and Government) to contribute where necessary. If they do not contribute funds, they should surely contribute themselves to the advancement of themselves in the learning of skills. In other countries where there are labour unions, these would normally be requested to contribute into what is called a tripartite type of funding - the government, the private sector and the labour unions. For the fund to be administered and for it to succeed there has to be proper administration. The Motion calls for Government to appoint a body to administer. In so doing I personally would not like to think it would be top heavy with Government people, but, rather, Government would serve more in a watch dog position and directing the whole situation. But within that body or board I would like to see representatives of all the major employment areas: maintenance, professional areas, banks, the diving industry, construction, the Chamber of Commerce. A wide representation and involvement of all parties concerned.

Surely, a plan of action is necessary. Not a plan which would provide news for the newspapers or the radio; that such and such happening or is being contemplated or is being done. But a plan of action - "action" being the operative word. I believe it could be started right now because there is in place some means by which skills could be taught (and are being taught, to some extent) - the Community College. I believe it has to produce more results. It has to be clearly set down that it is the political will of the political directorate and persons concerned with it, in the particular area of administration in Government, are working to plan, which is being evaluated at regular intervals to prove it is bringing about the desired results.

I believe education on the whole in this country is under serious stress and serious risk because we are not producing qualified persons in the numbers and in the manner we should. Last night and today I received calls from some parents who are deeply concerned about the welfare of their children's education.

It relates directly to the fact that at 15 years of age children may not be required to continue school anymore, and, indeed, in many instances this is so. Of course, when they have reached a certain age they are told; well you have come to the end of your education (when they have taken the GCSE or the GCE or whatever other exam they may take that brings them basically to the end of the road). As I recall, earlier this year it was debated in this House that education needed to go beyond that. We needed to have a system which would take children up to the level of education which was desirable to give them a broader and more meaningful education, not strictly based on the number of subjects they took in GCSE or whatever, but it would be a planned system of education which their cut-off date would be nearer to the age of 18, that, of course, being the age of majority. That, unfortunately, has not happened.

I understand there are 30-odd children in Cayman right now who wish to continue further or their parents wish them to go back to school but, apparently, they have reached the magic age of 15 plus or 16. They have taken that particular type of exam. Whatever they have taken. Also, there is no space.

I see the request by the Member moving this Motion as helping the system and, of course, it could provide an opportunity for children to go on to study and be assisted financially into the grand old age of 18 years. Having been a teacher myself (it was my first profession at one time) I know children mature at different ages - physiologically and physically. We were taught as teachers that we had to be aware that some develop immensely physically, but often that very physical development was slowing down their mental growth. We need to take that into account in this country - because a child may not have succeeded the first time sitting a particular examination, it does not mean that child is a failure and the second time that child might top the class. It has happened thousands of times and it will continue to happen in this world. Surely children in this country having the opportunity of studying as long a time as they can in their middle and upper teens has to be to the best advantage to children of parent and the country.

The situation with education is at a time when I believe parents must demand the highest priority be given to it, over and above the need for roads any where or any system or any other such area of expenditure. The demand is now on the utilisation and the furtherance of our human resources. Members of the Legislative Assembly, in my opinion, need to support parents in their wishes in this respect. Members of the Legislative Assembly are themselves parents and guardians so we are all going to face this very same situation if changes do not come about. Surely, it has been proven that the slower learners tend to be in the larger majority. So we must cater to this situation.

Today I make an urgent call on the Member responsible for Education under the present system, whether or not the Motion passes (we understand it will because the Government accepted it) that something be done urgently, now, to help and correct the situation.

I support this Motion, Mr. President. Thank you.

MR. PRESIDENT: Does any other Member wish to speak? [pause] The Mover of the Motion is not present. I am sure he did not intend this. [pause] But he appears to be some way away. [pause] I think the Chair has no alternative but to put the Motion to the vote.

MR. W. McKEEVA BUSH: Mr. President.

MR. PRESIDENT: Are you rising to speak?

MR. W. McKEEVA BUSH: Yes, Sir.

MR. PRESIDENT: You did not catch my eye first. Would you please be seated? I will then call you. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I am glad you are applying the rules so strictly these days.

MR. PRESIDENT: I am being extremely flexible. [laughter]

MR. W. McKEEVA BUSH: Mr. President, I would not wish my good friend, the Member for Bodden Town, to miss his chance of winding up, as I know he is very keen on this resolution. It would be very unfair for the House to close with him not having his chance of winding up. This seems to be a waiting game. I was playing that game too. [laughter]

As seconder of the Motion I rise in support of it. This resolution has some bearing on the resolution which I moved here one year ago, a similar resolution that pointed out the need to train. We hear the Election and other things have slowed down progress on that resolution. We are happy to hear our country is in a good position financially. We realise it did not just become so. It took blood, sweat and tears, much effort to bring us to the point we are. The great question here today is what about the future? Where are we headed in terms of education and training to take over various positions in this country?

I do not need to go over the needs. I think the four or five Members who have spoken so far from this side, have done a very good job and my debate (anxiety and everything else) is on the records from last year. What I am concerned about is the amount of excuses we are getting with this very important, indeed, our life's blood of the future of this country. That thing called education.

There is too much apathy and non-concern in the relevant Portfolio. The Member rose to debate and he talked about what Government now has in place. Before I go on to that I would like to say that when I talk about the non-concern in the relevant Portfolio, I am not laying blame at anybody's feet except the Executive Council Member responsible for it. He is the man who is the professional, who is a good manager. That is what they say. Well, we want him to do the job that we put him in Executive Council to do - not to procrastinate.

There are different requirements when it comes to getting scholarships and the requirement for scholarships. There is no doubt there is difficulty for our people to get scholarships. Let us not put our head in the sand. If there was no difficulty why is it there have been monies left over from the money put aside for scholarships? There is a difficulty and this House must realise it. If we cannot do anything about it today, we have to do something at another time because the Member, in my opinion, is not concerned.

Getting back to the requirements for scholarships: First of all, you must have 5 "O" levels, with "B" grades, 2 or 3 "A" levels, with grades of "C" or better excluding medicine which I understand you can get with "O" levels, or a good S.A.T. score. They also require you have acceptance to a university. As I understand it, it is a catch-22 situation. Complaints by applicants and students are that this is the most difficult thing, because to get into a university you must have a scholarship. Here the Member and the Education Council is saying, to get the scholarship you must have acceptance into the university. Is there any wonder we find the discontent and the undue suffering we are finding?

The Member needs to get off his feet and do something about it. Our people cannot be trained with that kind of attitude. The Member has had that Portfolio since 1984. This is all a part of training and this is what he is telling the House that Government has. It is not helping. A few get, but the vast majority are in serious trouble and experiencing undue suffering.

Now, Mr. President, apart from those with "A" levels or "O" levels, how about the vast majority who do not have those qualifications who are in the other category? What do they have? The student loan? Here again the people are tied. This is not a good situation for this country to be in.

We are going to find more and more discontent in this country because that is the kind of attitude which is furthering it! No matter what the good financial position is! No matter how many tourists we bring! No matter how many banks we bring! No matter how many companies we bring! The Member cannot keep putting education back. If he can get a group to come here from the United Nations to tell him "A" is not "B".

What happens in the interim period? What happens to our young people from January or February when we pass the resolution to get school extensions for further training and education? You mean they have to wait until the next Election so it can be promised again? We should not allow this to happen. Just this year there are a number of students who are desiring to get back into school and what do we find? What do we find? They cannot! Some 19 students wanted to repeat this year, but were told they cannot. This is not a good situation for us to be in. What do we do with those 19 students? I understand they can

go to the Community College. Not all of them can get in there. Not all of them want to attend. If we are such a progressive country as we say are, we must take care of our young people. We must take care of our future. We must stop this attitude because some of us already have the 'we do not care' attitudes. That is what is happening here. I am very concerned because I know what Government will do with the resolution. I told the Member moving it some time back - no matter how much we stand here and talk and point out names, if they do not want to move, nothing will happen.

This resolution has been amended some five times. The Member did his best to try and satisfy everyone. I trust all Members are satisfied and will accordingly support the resolution, even though I am skeptical that anything will be done from the way the Government Member replied, and knowing under whose responsibility education falls.

Planning is what is needed and what should have been taking place for a long time. It should not be where we bring in a group, we should be implementing. But where there is no foresight and no wisdom people will perish and suffer - and they will, if that Member continues with his do not care, unconcerned attitude.

I have to congratulate the *Caymanian Compass* and their editorial which talks about training and educational development. I think they put the matter straight. I have called for studies and it is good to have them, but let us use the expertise we have locally - although they say there is none on this side and we are all a bunch of fools. Let them look at the people, not me, I do not have any. They can get up and say that if they want, but we do have some on this side who have the qualifications that could help and assist them if they were not so arrogant and refusing to put credit where credit is due rather than trying to take it all themselves.

The Member mentioned Government projects - what Government has to do. I remember when we were discussing the building of the Five Year Economic Plan. The honourable First Official Member said to remember it is good to talk about these things, but where is the money going to come from? When I sat here in November last year, and voted for Executive Council, I expected them to prove their professionalism and prove their managerial skills by finding the solution to this country's problems.

Certainly, this country has great needs in terms of capital development, but that capital development or the priority must not lie with Member's whims and fancies. It must be the priority that is the life's blood of the Cayman Islands, such as education, not a road. That is not the priority. While I support it and I want to see it happen, there must be priorities. As a Member who has been here for five years, I have taken my licks on the Backbench because I did then what I am doing today, pointing out the needs. I am sick and tired of that sort of procrastinating. That cannot help us.

Mr. President, I am sorry the Honourable Member for Education replied in that manner because he was not optimistic at all as to how this resolution would be implemented. That is what we should have heard. We should have heard how he was going to treat this problem. How he was going to handle this resolution instead of waiting five years down the line and tell us the Elections had him busy and use other excuses. Training is in serious distress in this country. The Member must get off his feet and do something about it.

I would like to thank the Mover for his presentation, and if anyone would want to doubt my position on the programme of training, check the *Hansards* and what I said under the Apprenticeship Motion. I guess now, Mr. President, you will hear what a bad fellow I am. But I hope the country understands they are responsible. They must do it, and if they say we must do it, we have the expertise on this side of the House, we have the tools. All we want is the offer from them.

Thank you, Sir.

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, number 15/89, Establishment of a National Training and Education Fund. The Honourable Member responsible for education spoke early on and indicated Government was going to accept the Motion. It is unfortunate that Members speaking since have laid several charges at the feet of Executive Council which, I believe, need to be answered.

I believe one of those charges had to do with timing, that we must get on with the job, and we must do this and we are not doing that. But you know, between the Select Committees which have already been set up, between the 13 or 14 Motions that are before Parliament today (and all of these Select Committees are established)... let us take, for argument's sake, we spend half a day on each one of those Select Committees, I believe we would be here five days a week.

Most of this kind of action that people want to see done will not be achieved in Select Committees. If you do not accept the Select Committees they tell you that you are not paying attention to them, that you are not allowing them to function as Backbenchers. Then when you meet with them (as often as you can) you give them all the information which is available, then they make it into a stick to beat you across the back to show their appreciation.

One topic which was raised by several people speaking to this Motion was the fact that there are a number of children who would like to repeat school this year and who are unable to do so, the number... some say 12, some said 30 and some said 19. I think the Government made it clear as far a priorities are concerned where their priorities are, because I believe in the Estimates for 1989 you will find Education, which is training, carries if not the largest one of the largest allocations of Government's revenue. So there can be no question in anyone's mind. It is nothing short of political rhetoric that we have listened to here this

morning, when people try to pretend otherwise.

Mr. President, the Motion is a good Motion. The Mover of the Motion has made his case. Government accepts it is something it should take under review and do something about. The Honourable Member responsible for the subject has given that undertaking. Unlike some Members, Sir, I am not worried about him getting off his feet and doing something. Maybe they believe if they are concerned about him being on his feet because he is, in fact, doing something. I have always found him to be an honourable man and when he gives an undertaking, he takes it quite seriously and sets about doing it to the best of his ability. But therein lies the crux of the matter.

You know, all of us can sit here in this Honourable House and spout off at the chest with a lot of vociferousness and verboseness, and at times we even get into some verbalism, but taking all of that and putting it into a programme takes a little more than talk. I believe if you could find a fault with the Honourable Member responsible for education, it is that he is conservative, he is careful. But most of all he always tries (and most times succeeds) and ensures that any programme he is developing, we get the best possible use of the resources at hand.

One Member, in thanking the private sector and saying that if the Government has a fear about this Motion the private sector will take the easy way out and contribute two or $300 into a fund and cut off all in-house training, which adds up to many, many thousands of dollars a year. We heard the figures of what the lawyers are doing. It is my information the accountants are offering substantially more, over $200,000 per annum, for scholarships. That covers a lot of work permits. We understand the Mover does not intend that to happen. That was the reason he included consultation with the private sector so, hopefully, we can have them do it in tandem and the people who might be asked to do this will be those smaller organisations who do not have in-house training facilities.

It is estimated, as near as possible, that close to $1 million is being expended annually on scholarships in this country now (a combination of private sector and Government). We can increase the monetary resources easily by adding on fees and putting it into an account, but unless the individuals, the persons, the bodies, are available and those bodies are capable, interested, determined and wish to further their education either in the technical or academic scheme, all the money in the bank means nothing. I think we have to be honest. I think the hard cold facts are there are just not enough bodies who are capable of being trained available.

I do not think the reason why all the funds in Government scholarships in 1988 were not used was due to any undesirable criteria by the Education Board, by having to have the right family connections, or having to know the right people, etcetera, etcetera. The criteria is there, but you know, 4 or 5 "O" levels, graded at "A" or "B" are not very high levels. What is the point of giving someone a scholarship to go to a university if they do not have the academic background to get accepted? One of the worst things we can do to people is to give them this sort of false hope that some speakers have given them here today, that once you get the money in your hand you do not have to worry, you will get your degree.

There are institutions in certain countries where their main criteria is attendance and paying the fee, but is it fair to take our people and send them to those kinds of institutions and when they come back here they realise they have not learned anything in four years? We, as leaders in this country, need to be spending time, not giving these individuals false hope, but rather giving them sound counselling that the way forward is hard work. The value of hard work will allow them to grasp the opportunity to get an education.

If I could explain what is happening to the 30 children who wish to go back to school this year, these are children who have had one opportunity. I am not averse to giving them another opportunity. I agree with that. But is it fair to have them reduce the opportunity of the others who are coming behind and trying to seize their opportunity? As I understand it, out of those 30 children, 12 who had 2 or 3 "O" level at "A" or "B" grades have been accepted back into the class. Some of these 30 children got top grades in the certificate of education exam they took. They cannot go back and get a better grade in that exam. Others got nothing.

We have created a Community College. You know we cannot be saying we need the Community College, on one hand there is a desperate need for it and the Member in the Government is doing nothing about it, and now that we have it in place we are telling the students, no, no, no, you do not have to go to the Community College. No, no, the Member should build you a classroom up at the high school and there is where you should be going back to. They go to the Community College free until age 18. It is my understanding that out of the 20 they accepted back into the high school in 1988 one person improved his subjects! Somewhere along the way we have to allow the facts to dictate our decisions. With that king of track record I would think the positions of these people and what Members should be doing is encouraging them into the Community College. This fund would be helpful for that kind of thing. But if they have do not have the academic requirements and we are offering them the Community College free, let us encourage them to do some of these technical things which we need so badly.

We have, to a limited degree (because we will be the first to admit the money is in the Budget this year) started construction on the community campus. We all know what the problem with that is. You have to deal with the holiest of holy things in ownership in Cayman, that is, land. They have been fighting for two years to get the land and if the Honourable Member got off his feet and mad it public, everybody would be claiming that he was a communist. You cannot take away peoples' land. I do not care what you want it for. But because he is going through due process of Law, protecting the rights of those people who own the land in accordance with the rights which are laid down in Law, they say he must hurry up - hurry up, hurry up - he must hurry up.

It is like the debate we had some days ago on democracy. You

know you cannot on one hand spout the tenants of democracy when you want quick democracy. Quick democracy does not exist. Quick provision of rights does not exist. Those people have a right to that land. We have to go through due process of Law to get it. I am convinced that Legislation is in place, the Board of Governors is in place, the curriculum etcetera, is being drawn up and then we get it. This country can be - will be, shall be, should be proud of what the Honourable Member has delivered as a Community College.

It will not be what was touted by some speakers a while ago - two little buildings down the back where you pay people a salary whether they come to school or not; you are paying them a salary to come to school and if they sit down on the Court House steps all day rather than showing up for school it does not matter you get the salary anyway. This is going to be a properly structured programme. We have heard figures since I have been a Member of this House of 700 and 800 people going through the Hotel Training School programmes. Where are they? What did they learn? When it was organised in such an ad hoc fashion, spread all over town and we were paying each person a salary to go to those institutions and we still have to bring in people on work permits to take the positions after years and years and years of this kind of programme. The present Government does not put those kind of programmes in place.

The most ironic thing of all is that they tell us we must use local expertise. 'You must use local expertise! You must find the right solution for the problem! You must find the right problem. We put you on Council to do that. We are not here to do this and of that, that is why we put you on Council.' When we bring in the experts to try to find the right answers, then they get caught up about some minuscule detail and the House spends all day debating it. It has nothing to do with what was done.

Let us look at the most recent example of using local expertise - the Cayman Airways issue. All locals. The Honourable Member responsible for Cayman Airways used young local fellows who are experts in those areas. And look what they did. They got kicked in the teeth from every public platform in this country - 'They did not know what they were doing. We should have brought in experts from overseas.' You cannot have your cake and eat it too.

Then they say; 'Well, that fellow is not really doing anything, you know. We have been on Council a couple of months. He is only giving lip service to these things.' I maintain that no Elected Executive Council Member given Portfolio responsibility has done more in 10 months than the present Elected Members of Executive Council with the support, consultation and advice of the three Official Members. Bar none! I have done more in nine months than the previous Member did in 96. And they came down here talking about you offering them lip service?

We had some figures (not figures but it was intimated) that by standards in other regions around us we have less people being qualified than any other territory. Again, I do not have the hard, cold facts before me, but I would hazard a guess that percentage wise we are not that badly off. Of course, any country which has a population of two million will has more people qualified than one that has 25,000. But you have to compare apples with apples, not apples with oranges.

They say we are not doing anything in technical education. As far as I know, the Honourable Member had a course last year in carpentry at the Community College and had only one student. What is he supposed to do? Send the police out to arrest those people who are working in the construction industry who think they are carpenters to come to school? I do not consider myself a carpenter, nor a mason, but I know people whom I have worked beside doing masonry work who I was just as good as. They do not do masonry work now. No, Sir. They are contractors in the business now. If people do not come forward we cannot force them to come into these programmes.

I believe the Motion has merit. I believe Government will take it to the private sector to come up with the best possible arrangement. That is what the Member said will be done. Of course, he is going to use his managerial skills in doing that.

Is their only role, as a representative of the people, that of constructive criticism? Is that their only role? I think they should examine the purpose for which they were put here. I would respectfully submit that part of their job, as well, is to help find the solutions and not just be destructive critics. Maybe a little constructiveness now and again would do us all a little bit of good. Cooperation!

The Mover set out the reasons why he was moving the Motion. He was very careful in his presentation that he did not intend to upset what was already in place, but he saw it as a mechanism to assist. I believe that is his genuine intent. Of course other speakers have tried (while telling him that they support him) to construct a wall of opposition in the private sector. It is going to be very, very difficult for the Member moving the Motion and the Member responsible to climb and overcome because many things have been, in my opinion, unnecessarily strewn and thrown in the pathway of the success of this Motion. Some of that is intentional, because they do not want the Member to succeed. They do not want the Government to succeed because that would be bad politics for them. The best thing that could happen to this Motion, politically, is that it does not succeed. In listening to some of the contributions which differed markedly from that of the Mover, in my opinion, that is what has been done. But the Government, the Member, his Portfolio staff, the professionals in there, are a resourceful group of people. I believe they will overcome. I believe the Motion will have a successful outcome. I commend the Mover in moving it.

Thank you, Sir.

MR. PRESIDENT: I think we might suspend for the tea break at this point for 15 minutes.

AT 3:30 P.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 4:07 P.M.

MR. PRESIDENT: Proceedings are resumed. Does any other Member wish to speak on Private Member's Motion number 15/89? The Honourable Member for Tourism.

HON. W. NORMAN BODDEN: Mr. President, I rise to support Private Member's Motion number 15/89, which calls for Government in consultation with the private sector to give consideration to establishing a National Training and Education Fund.

Now much has been said in the debate of this Motion. My contribution will be brief. During the time I have spent as a Member of this Honourable House I have learned at least two things if nothing else, and that is never to attempt to estimate before hand the length of debate that any item can generate; and secondly, never say before hand or decide before hand whether or not you are going to speak on a particular item on the Order Paper.

Generally speaking, I think this Motion will be like the Motion for adjournment, all Members in the House agree on this. Just let me briefly state my position. I believe that the single most important investment we can make in the future of this country is what is invested in training Caymanians to fill responsible positions in the labour market. This is especially true in the hospitality industry. A person cannot be expected to perform a job to perfection at whatever level unless they are properly trained to discharge their duties in an effective and efficient manner.

Much has been said about tourism and the cost. The cost is sometimes blamed for the downturn. To a great extent, I believe, that is a contributing factor. I am also of the opinion if we, in tourism, are to improve our product, if we are to defend the strong competition this industry now generates, much and more emphasis must be placed on training our people to improve their skills because, I maintain, that if our services are of a high standard our visitors, as well as locals, will not object to paying prices at a certain range within our restaurants, hotels and condominiums. So training is of paramount importance to the continuing success of tourism.

I believe that there are ongoing programmes. There are many programmes which are in place which are preparing Caymanians to fill those responsible positions which, we believe, they have a right in this country to fill. I know the Cayman Islands Hotel and Condominium Association have, in the past, offered scholarships. They have sent a young Caymanian lady to train for hotel management at George Brown University in Toronto. I saw in a recent paper where they have just selected another young Caymanian, I believe from the district of West Bay, to go to Toronto on a 2 year course.

I was also interested in noting the Hotel Association had a difficult time in selecting a person for that scholarship because there were many others who were interested. I think this is a very good sign. As one speaker said before, regardless of how well our plans may be laid, we can accomplish very little unless we have funds to spend.

We must also accept that a small country, such a ours, produces professionals at a very slow rate. Mention has been made of some of the companies which have made a very strong and serious effort to train Caymanians and place them in responsible positions. I think Cable and Wireless was mentioned, and I agree. At every opportunity in the past I have paid tribute to them for their efforts, which are quite evident in our country today. I believe Cayman National Bank is another bank that has trained Caymanians to fill responsible positions. Cayman Airways, itself, we have senior, experienced and qualified Caymanian pilots and cockpit crew members that hold responsible positions in the airline.

There are many associations contributing vast amounts to scholarships. I believe the Government itself is spending almost $400,000 on training and scholarships, just this year alone. It is an ongoing programme and while many things have been done, I quite accept that there is much more which needs to be done and as I said in the beginning, it is a real investment in the future of these Islands.

But I also believe that we must produce the right material to be trained. I think certain criteria must be met. A person who presents themselves for training must possess certain qualifications because it is unfair to expect someone to be trained at a level they are not qualified for. At the end of the day, you put that person out in the labour market and they are not going to be able to produce the high standard of services our country has become known for on international levels.

Government, particularly the Executive Council and the Member for Education, has been accused of certain delays in implementing some of the programmes which we would all like to see implemented. I accept there are times and reasons when Backbenchers will complain about this, because I agree many times things are not moved along and accomplished as quickly as we would like to see done. But they are not alone. We share that same concern and we certainly do not want to appear that we are dragging our feet but, never the less, a Government must conduct certain research, must have the available information and must decide on a definite plan. It must be realised and accepted that once a plan is implemented or an announcement is made that a plan will be implemented Government then has the responsibility to follow through. Therefore, time and serious consideration must naturally be given because a Government cannot be seen to announce or implement a plan today and say tomorrow we will have to draw that plan back because we agree we made a mistake. We did not all the facts or we did not have all the information. So I think it is a matter of accepting and understanding our interests and goals and desires for this country are all the same.

Mention was made about the understudy scheme which the First Elected Member for West Bay brought to the House in September. I replied to the best of my ability to the question which was raised. Just to use that as an example. Government was asked to consider such a scheme. I had said we should be able to table a report in February, and I do not want to preempt that, but just to look at two

areas: Government, in considering such a scheme, must look at what additional costs such a scheme will bring to the country. What increase in over-head expenses will be incurred? If there is a large increase in operating cost or over-head, these costs will naturally be passed back to the consumer. In looking at an understudy scheme concern must also be expressed about the human resources, the man power that would be available in an over-employment market. These are just two areas. I only use these as examples.

I think basically this Motion is a good Motion. I believe it is timely. I believe in the genuineness of the Mover and I certainly believe in the sincerity of the Member who accepted the Motion on behalf of Government. I am certain the justification for such a fund, providing we have the kind of support we need from the private sector. I believe action will be taken and this will produce good, acceptable and worthwhile results for our country, which is the aim and goals we all share.

Thank you, Mr. President.

MR. PRESIDENT: If no other Member wishes to speak would the Mover wish to reply?

MR. FRANKLIN R. SMITH: Thank you, Mr. President.

I would like to take this opportunity to thank all Members for their support and to especially thank all Members who spoke for it and those who indicated support by their silence. I would like to thank those in the private sector, the businesses out there which, as I said before, are helping and to also reassure the persons on work permits that this is in no way intended to discriminate against them.

I hope that Government sees fit to search and find out and make use some of the well known Caymanian teachers who are either retired from the profession or who are now Members of the Legislative Assembly who I am sure have a vast amount of experience which could help to set up a Board of Directors to administer or recommend how the fund which would be created by the passage of this Motion.

I would like to say that, yes, Government has a heavy responsibility for education. I am not denying they give money for scholarships, but it has been proven in the past and now in the present that even with what funds are available there is still not enough to train people who need to be trained.

The Honourable Member in accepting this said that Government was spending approximately $13 million in education this year. I accept that, Sir. He also said that funds for this training I am proposing would have to come from the Treasury, if I understood him correctly. But I proposed the ways and means of raising these funds, separate and apart from the money coming from the treasury and regardless of whether the money has to be collected from the Treasurer and not from the work permit holders, my suggestion was that it be collected from the work permit holders. If it cannot be done this way, it was only my suggestion, that it should be funneled through this National and Training and Education Fund.

Again, I would like to say the way I see it happening is if I applied for a work permit and I had to pay $100 to the Government treasury, my way of seeing it happen would be that I would be told when that work permit was approved by the Protection Board, I would have to deposit an additional $100 to this National Training and Education Fund. I envisage a receipt be taken back to the Protection Board and thereafter, the permit would be granted. As I understand, it would have to pass through Government treasury, that is fine, Sir. In the first place Government is not taking it out of the Treasury, they are collecting it and passing it through to this fund.

I do not agree that it is coming from the Government. What I will agree, and as I suggested before I will stick with that, I still say Government should be prepared to put up money, the equivalent to what the private sector had to pay because Government must first start and the private sector will follow. Government hires their employees without a work permit. Other businesses have to have a work permit to hire a foreign national. Government does not. So, I do not see how this money would be coming from the Treasury except Government would have to put forward the equivalent of how many foreign workers they are now hiring. That is all which would be required from Government. If they would put forward their part, it would help to train people to fill those positions. I am not satisfied that the workers in the Government sector is given sufficient training to fill those positions that are now being held by foreign nationals.

Yes, there is some funds out there for students to apply for. They are mostly coming from the Commercial Institutions, and they have to pay interest and they have to meet so many qualifications. That is why I would like to see this fund be set up and regardless of whether they have 1 "O" level or 5 "A" levels or no "O" levels or "A" levels. as long as they have the ability within them to train for something else other than what they are doing or to further their training. They should be given the chance.

I would like to see that the work permit holders in this country are told very shortly, if this Motion passes, that come January 1st, 1990, work permits fees will be increased for this particular reason.

MR. PRESIDENT: Could I just interrupt you for a moment? We should suspend Standing Orders to enable you to complete, I think.

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) in order to allow the Member to continue.

MR. PRESIDENT: The question is that Standing Order 10(2) in order to enable completion of the debate on this Motion. 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. FRANKLIN R. SMITH: Thank you, Mr. President.

I would again like to make it clear I would like to see domestic helpers and farmers exempted from the increase in the work permit fee.

I would like to say and make it quite clear that I have an interest in farming, but I would like to declare that interest, Sir. I would like to know that other farmers would be given a chance because those farmers are faced with the importation and competition of goods to this country and in turn, the cost to the consumer, the public, would go up. We already have some stiff competition out there.

As I said before, I have set out the ways and means which I feel Government could raised the necessary funds for this National Training and Education Fund. I support the contributions, especially those of the Backbenchers, who have brought out the need for action in the fields of education and training because it makes no sense to pass a well constructed Motion, if the actions will not be taken to implement the resolutions.

While it is the duty of the Backbenchers to bring a Motion to brings needs and weaknesses to Government's attention, it is the duty of the Government to address and implement these Motions, these needs and these weaknesses. If no action if taken to address the Motion, in a reasonable time, not only will the Mover and the supporter be disappointed, but more importantly, the whole country will be disappointed.

Mr. President, I again thank those Members for supporting the Motion. Let me now hope for an early implementation so we may all reap the fruits from the seeds we have sown.

Thank you, Sir.

MR. PRESIDENT: The question will now be put on Private Member's Motion number 15/89. Would those in favour please say aye? Those against no?

AYES.

MR. PRESIDENT: The ayes have it.

MR. W. McKEEVA BUSH: Could I have a division, Mr. President?

MR. PRESIDENT: It hardly seems necessary but, of course.

MR. W. McKEEVA BUSH: Sorry?

MR. PRESIDENT: I said it hardly seems necessary, but of course. Clerk.

CLERK:

DIVISION NO. 20/89

AYES: 14 **NOES: 0**

Hon. J. Lemuel Hurlston
Hon. Richard Ground
Hon. Thomas C. Jefferson
Hon. Norman Bodden
Hon. Benson O. Ebanks
Hon. Ezzard Miller
Hon. Linford Pierson
Mr. W. McKeeva Bush
Mr. John D. Jefferson Jr.
Mr. Truman M. Bodden
Capt. Mabry Kirkconnell
Mr. Gilbert A. McLean
Mr. Roy Bodden
Mr. Franklin R. Smith

MR. PRESIDENT: I had already said the ayes had it.

AGREED. PRIVATE MEMBER'S MOTION NO. 15/89 PASSED.

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 do stand adjourned until 10:00 A.M. Monday, next. 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, 11th September, 1989.

AT 4:39 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M. MONDAY, 11TH SEPTEMBER, 1989.

MONDAY,
11TH SEPTEMBER, 1989
10:02 A.M.

MR. PRESIDENT: Prayers by the Honourable Member for Health and Social Services.

PRAYERS

HON. D. EZZARD MILLER: 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 Assembly are resumed.

APOLOGIES

We have apologies for absence from the Elected Member for East End.

Questions. Number 94 please, 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 TOURISM AVIATION AND TRADE

NO. 94: Would the Honourable Member say whether there are plans to privatise Cayman Airways Limited, and, if so, will the Member responsible refer the matter to the Legislative Assembly for consideration at any time?

ANSWER: It is the view of the Member that over a period of time an effort should be made to at least partially privatise Cayman Airways. Naturally, for this to be accomplished, the Airline's financial position will have to be improved in order to make any public share offer attractive. It will, therefore, be left to the Government of the day to decide if this should, in fact, be done and exactly the procedure to be followed.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, would the Honourable Member say that it is not clear that in the event of a decision by Government (and I take that to mean the Executive of Government) that it should be referred back to the Legislative Assembly?

HON. W. NORMAN BODDEN: No, Mr. President, I am not saying that. I am saying it is my suggestion that over a period of time it would be a good idea to at least partially privatise Cayman Airways. In order to make that possible or make it attractive to sell shares to the public, the airline would have to reach the stage in its development where it is stronger financially. When that time comes I would see a review of the proposal by the Member responsible for Tourism, Aviation and Trade, with Executive Council, to decide whether the share offer should be made, whether the step should be taken, and if so, where to take it from there. I am not saying it

should not be taken to the Legislative Assembly.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Honourable Member say whether he is pursuing what I think he said some time ago, issuing about 10 per cent of the shares being transferred to staff?

HON. W. NORMAN BODDEN: Mr. President, this was in relation to a statement I made in the House during Question Time or during some debate. I think it would be a good idea to offer 10 per cent to the staff of Cayman Airways. I think this would be part of the overall exercise.

MR. PRESIDENT: Question number 95, 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. 95: Would the Honourable Member say whether there is a Cayman Airways Committee appointed to study the Cayman Brac and Little Cayman route requirements and to recommend aircraft for same? If in the affirmative, who are the members of the Committee and what recommendations for aircraft have been made?

ANSWER: In mid-June 1989 a Committee was formed by Cayman Airways to study the inter-island route. The Committee consisted of Capt. Kennedy Panton, Chairman; First Officer Chris McTaggart; First Officer Peter Schmidt; Mr. Danny Soto and Mr. Steve Smith. Shortly after its formation First Officer Peter Schmidt resigned, and in mid-July Capt. Kennedy Panton and First Officer Chris McTaggart also resigned.

A new Chairman, Mr. Danny Soto, has now been named, and two new members, the Director of Civil Aviation and Mr. Moses Kirkconnell, have been added.

It has also been suggested that the Committee may wish to have input from the two Members of the Legislative Assembly from the Lesser Islands, and also to co-opt whatever expertise within the company considered necessary.

No recommendations have, therefore, been received on this matter to date.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, would the Member say what led to the resignation of three of the members of the first Committee?

HON. W. NORMAN BODDEN: I can only say about Captain Kennedy Panton. He copied his letter of resignation to me and in it he indicated that due to the pressure of work and the fact he was to go into training he did not have the time to devote to it. I imagine and would assume the other two who resigned were on similar grounds.

MR. GILBERT A. McLEAN: Mr. President, would the Member state whether he considers the persons he has named as members of the Committee to possess the expertise to study the inter-Islands route and to recommend suitable aircraft?

HON. W. NORMAN BODDEN: Mr. President, I think the members I have named are competent to conduct such a study, providing they co-opt any other expertise which is necessary and available within the company.

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

MR. TRUMAN M. BODDEN: Mr. President, would the Member say what time-frame has been set for a decision since it seems that the ongoing training of pilots for the new aircraft is going to take some time?

HON. W. NORMAN BODDEN: Mr. President, to my knowledge no time frame has been attached to this. I imagine this is why the new members to the Committee were named. A study of this nature would probably take three to four months I would imagine.

MR. GILBERT A. McLEAN: Mr. President, would the Member say if it is a fact that the Committee he has referred to this morning, has already taken a decision to purchase another Shorts aircraft for the route?

HON. W. NORMAN BODDEN: No, Mr. President, I cannot say that is a fact. I think that must be rumour.

MR. PRESIDENT: The final question on today's Order Paper, number 96. The Second Elected Member for the Lesser Islands.

THE SECOND ELECTED MEMBER FOR THE LESSER ISLANDS TO ASK THE HONOURABLE MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 96: Would the Honourable Member say how many persons have acquired Caymanian Status since the time of its inception to the last occasion when approvals were granted by the Caymanian Protection Board?

ANSWER: The number of persons acquiring Caymanian Status since the time of its inception to the last occasion when approvals were granted by the Caymanian Protection Board is 564.

SUPPLEMENTARIES:

MR. GILBERT A. McLEAN: Mr. President, could the Member say if any of these person receiving Caymanian Status had families?

HON. J. LEMUEL HURLSTON: Most certainly, Mr. President, and there are those members of families who have themselves also been granted Status who have been counted and included in the total figure given.

MR. GILBERT A. McLEAN: Mr. President, would the Member say if it is possible, based on the rights of parents who might be within this number of 564, it could be two or three times as much if the children were counted in this collectively, as a family?

HON. J. LEMUEL HURLSTON: Mr. President, I am sorry. I am unable to agree with that assumption. I can confirm that it is possible that a number of members of families have not yet been granted Caymanian Status, but the means of estimating that number is, by no means, as a ball park figure, two or three times.

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

MR. TRUMAN M. BODDEN: Mr. President, for clarification.
Can the Member say whether this was grants of Status, or whether these were also acknowledgments into this, because the question just refers to acquired, Sir?

HON. J. LEMUEL HURLSTON: Mr. President, this answer relates to grants only.

MR. PRESIDENT: There seem to be no more supplementaries. In that case we will move to item 3, Other Business. Private Members' Motions. Private Member's Motion No. 16/89. The Third Elected Member for West Bay.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 16/89

TRAFFIC OFFENCES

MR. JOHN D. JEFFERSON JR.: Thank you, Mr. President.
I beg to move Private Member's Motion No. 16/89, standing in my name, entitled, Traffic Offences, which reads:

> WHEREAS section 68(2) of the Traffic Law provides that a uniformed constable may issue traffic tickets for some offences under the Law;
>
> AND WHEREAS this is a convenient process to the general public for the paying of fines without a Court appearance;
>
> AND WHEREAS there is presently no provision for the issue of traffic tickets for speeding offences under the Law;

BE IT NOW THEREFORE RESOLVED THAT Government look into the matter of traffic tickets being issued for certain speeding offences.".

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

MR. PRESIDENT: Thank you.

Private Member's Motion No. 16/89 has been duly moved and seconded. Would the Mover now wish to speak to it?

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

The objectives of this Motion are twofold. First, it is an attempt to help reduce the heavy case load before the Court. Secondly, it is also designed to provide another valuable service to the people of this country. Mr. President, section 68 of the Traffic Law (Revised) now provides for certain traffic offences to be handled administratively by the Clerk of the Courts office. Such offences under the Law which could be handled in this manner are:

1. Using a vehicle upon a road for racing or pacemaking.

2. Using any vehicle, designed to be used with a muffler or silencer, without such muffler or silencer or with such muffler or silencer in an unsound condition.

3. Obstructing or failing to give way to an emergency vehicle.

These are only a few of the offences which can now be handled administratively by the Courts office. By administratively I mean where one is convicted or guilty of the offence a uniformed constable or police officer can issue a ticket. What it does is, rather than being summoned by the court to appear before a Magistrate, allow one to take that particular ticket to the Clerk of the Courts and pay the fine there without having to go to court. This resolution calls specifically for routine speeding offences to be handled in this manner. By that, I mean those offences which are presently covered by section 63 of the Traffic Law. It in no way intends to include those traffic offences, such as causing death by dangerous driving, covered by section 64(4) of the Law. It is not intended to cover reckless and dangerous driving, which is handled by section 65 of the Traffic Law, or careless driving, covered by section 66 of the Traffic Law.

I feel that in order for this system to work, there has to be a cut-off point for speeding offences. It must be limited to a speed of, let us say, 20 or 25 miles over the speed limit, or whatever limit the Attorney General or the courts feel would be acceptable, which could be considered a routine speeding offence.

The advantages of the resolution would vary. The first one, which is very obvious, would assist in reducing the number of cases presently being handled by the courts. I would dare say that a large percentage of these cases involve routine speeding offences. To give you an idea of the case load which the court is now responsible for handling, in the Royal Cayman Islands Police Report for 1988 the following statistics were given: just for crimes: in 1987 we had 2,594 cases; in 1988 we had 3,061 cases. In addition to that in 1987, 935 routine speeding offences were being handled before the courts, and in 1988, 949 cases. That is not the limit to those cases because there are a number of other civil matters which are handled by the courts, such as divorce, land disputes and the list goes on. If we, as Legislators, can come up with a system to reduce this heavy case-load before the courts, then I think this is warranted.

The resolution also takes into consideration the value of people's time when are charged with these offences. I must add that the majority of these offenders are hard working, upright members of society. We are not dealing with criminals here. I would even dare to say that 90 to 95 per cent of these offences are incurred by people in this category. By allowing the courts to have their case loads reduced, another obvious advantage to the courts would be to allow more time to devote to cases which requires the extra consideration.

As far as the fines are concerned, under the present system the fines are already established. From what I have learned, the fine consists of $10 per mile above the posted speed limit, plus $100 administrative fee. If I am guilty of a routine traffic offense and I consider myself a law abiding citizen, I would think it would be very important to me to be in a position to go to the court's office and pay that fine, rather than having to appear before the Court for this offence.

I see this system working under some type of points system, with a total number of points being established and with each offence attracting a minimum number of points given over a period of time over which, if you accumulate a certain number of points, could automatically result in a disqualification for a certain minimum period of time. Chronic offenders could be required to attend driving classes which could easily be established and run by the Traffic Department, in addition to a disqualification. That would be a condition which would have to be complied with before a licence is reinstated.

I do not buy the argument that a court appearance acts as deterrent for speeders. To prove my point statistics from the Cayman Islands Police Report and the Clerk of the Courts office reflect the following statistics: In 1986 speeding offences totalled 944. In 1987 we had a slight drop to 935. In 1988 there were 949, and so far this year until the end of June we had a total of 694 offences. We are not dealing with criminals. I do not believe the court appearance has anything to do with reducing or discouraging the number of routine traffic offences.

I feel we, as Legislators, have to think of ways of improving the

services that we make available to the general public. I feel support of this Motion would be an indication of our desire and commitment to do just that. As leaders we must recognise problems and arrive at workable and practical solutions.

Mr. President, I feel my proposal will assist with the problems of a heavy case load before the courts and would also provide another valuable service to the people of our community. In closing, I solicit the support of the Members of this House for this Motion.

Thank you, Sir.

MR. PRESIDENT: Does any other Member wish to speak? [pause] The Honourable Member for Communication and Works.

HON. LINFORD A. PIERSON: Mr. President, I rise in support of this Motion. It is Government's position that it could provide a convenience to the general public if the residents of these Islands were allowed to pay fines for speeding offences without having to appear in court. Before making any further comments on this Motion, I wish to take the opportunity to congratulate the Third Elected Member for West Bay for the very comprehensive presentation of this Motion.

The two objectives which he raised supporting this Motion are also shared by Government. Number one was the attempt to reduce the heavy case load coming before the courts and number two was to provide another valuable service to the people of this country. At present, there is in fact no provision under the Law for the issue of traffic tickets for speeding offences. Section 63 of the Traffic Law (Revised) specifies various speeding offences and the penalty attaching to each offence.

The resolution asks for Government to look into the matter of traffic tickets being issued for certain speeding offences. However, it may provide a convenience to the general public if I take a few minutes to quickly state what type of offences are involved in order to better understand the wisdom and reason for this Motion coming before us today.

Section 68(2) of the Traffic Law (Revised) provides that a uniformed constable may issue traffic tickets for some offences under the Law. Those offences include, inter alia, the following list of offences where a traffic ticket may be issued. Section 68(2) of the Traffic Law (Revised) reads as follows:

> "When an offence appears to have been committed contrary to section 56 or paragraphs (a), (f), (h), (i), (j), (k), (l), (n) (in so far only as that paragraph relates to section 26, 53, 55, 57 and 58), (o), (q), (in so far only as that paragraph relates to sections 20(5) and 40), (t), (u) or (w) of section 68(1).".

And I would invite Members to check these sections out.

> "A uniformed constable may serve upon the alleged offender a traffic ticket in the form prescribed and, if the offender desires to plead guilty to the offence alleged, he may produce such ticket to the Clerk of the Court at the place, and on or before the date and time therein prescribed (not being more than fourteen days from the service of the said ticket) pay the prescribed fine into court;".

It goes on to say;

> "but if the alleged offender desires to plead not guilty to the offence alleged or to request the court to mitigate the prescribed fine, the said ticket shall operate as a summons to the alleged offender to appear before the court at the date and time therein prescribed so that, in default of payment of the prescribed fine or so making appearance before the court, the alleged offender shall be liable to be arrested and brought before the court and there charged with the offence alleged.".

Mr. President, section 26 of the Traffic Law (Revised) deals with offences in relation to any infringement relative to the proper display of licence plates and coupons, etcetera. Section 53 deals with conditions of user of road vehicles, such as the conditions of the tyres, steering and transmission systems, etcetera. It also provides for traffic tickets to be issued in accordance with the provisions of section 68(2). Section 55 also provides for the issue of traffic tickets for any infringements under this section relating to the duties of drivers to drive safely, etcetera. There are other areas where traffic tickets may be issued, such as the infringement of section 57 of the Law dealing with the parking of taxis, etcetera. Section 58, deals with infringements to legal procedures relative to pedestrian crossings. Section 40 also provides conditions under which learners may drive, and traffic tickets may be issued for infringements of this section. Section 68(1) of the Traffic Law also provides a list of offences and penalties when a traffic ticket may be served.

I would like to take a few minutes here to deal with one section of this Law which tends to give the general public (and even sometimes, young police officers) some bit of concern. This is section 56(1) and (2) which reads:

> "To prevent congestion of traffic in certain areas, the Commissioner may cause a yellow line to be painted at the side of any road and no person shall park any vehicle between such a line and the road centre other than...".

These points should be clearly understood. There is no question that Members of the public cannot, at any cost or at any time, park on yellow lines. That is generally believed - that you cannot under any circumstances park in a yellow line. But it is not the case. The three instances under the Law when this is possible are as follows:

(a) in the case of a truck, for a period not exceeding twenty minutes for the purpose of loading or unloading goods; or

(b) in the case of any other vehicle -

(i) for a period not exceeding eight minutes for the purpose of loading or unloading goods; or

(ii) for a period not exceeding five minutes for the purpose of setting down or picking up passengers; or

(c) in any emergency.".

I wanted to make the point that there are cases, in fact, when members of the public can park on yellow lines for prescribed periods of time and for prescribed purposes.

I have outlined the foregoing areas of the Law specifically to point out instances in which a constable may serve upon the alleged offender a traffic ticket in the form prescribed, rather than the alleged offender having to make an appearance before the court. As stated earlier this is, indeed, a timely and a very good Motion and Government has no problems with supporting this.

A point was made by the Mover, and I wish to comment on it. This Motion is not intended to cover those cases which could be classified as very dangerous driving or in the cases of deaths from dangerous driving. Those cases would still have to come before the court. On behalf of Government I have no problem with supporting this Motion and certainly look forward to the necessary enabling amendments being made in due course.

Thank you, Sir.

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

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

As the seconder of the Motion, I am very happy to rise in support of this Motion before the House. I think it is a good Motion. It is progressive. It is timely. By its passage and its ultimate implementation, it can make life much easier for good honest citizens in paying the penalty for driving over the prescribed speed limit. I think that what it suggests is simple, precise, legal and a practical way of dealing with minor speeding offences. At one time or another just about all of us find ourselves for no deliberate reason, exceeding the speed limit.

I do not share the view, as some people seem to do, that someone doing five or 10 miles over the speed limit is such a big deal or great offence that they must appear in court and be bundled into a situation of a dozen others who are there for similar offences. I think exceeding the speed limit is an occupational hazard of our lives in this country today. I think the way it presently exists, for a person to have to go to court and face a judge, is an unnecessary embarrassment for the citizen. I do not believe that embarrassment deters someone from repeating the offence because I believe in the majority of instances it is not a deliberate occurrence.

The court system is congested because of the numbers, and time which could be directed to more serious offences is lost. The individuals who have to go to court must, in many instances, take time off from their jobs and that leads to an unhappy situation for themselves and their employers.

The implementation of this Motion therefore, I believe makes for a very good service to the public. What is being suggested is something which is already in place in other countries of the world. We are not making any daring step into the unknown. Surely, I believe this Motion is very timely. It assists our Courts of Law and the citizens of this country.

Mr. President, I support this Motion fully.

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

MR. TRUMAN M. BODDEN: Mr. President, I support this Motion. I would like to commend the Third Elected Member for West Bay who moved it.

In summary, Sir, this is one which will assist the people of the Cayman Islands. They can simply pay the fine on traffic matters. On the other hand, it will save the Court's time because already our Magistrate's Court - in fact, just about all our courts - are under a lot of pressure with their case loads.

I see this as one will hopefully be implemented early, as the Government agrees with it. I think it is one of those several necessary improvements for both Government and the private sector.

Thank you.

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

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

I, too, rise to support Private Member's Motion No. 16/89 - Traffic Offences. I would like to congratulate the Mover of this Motion. I think it is a very necessary Motion and one which will be beneficial, not only to relieving the congestion in the courts, as has been said, but also as a service to our people because many of those who have been prosecuted for violating the speed limit have done so, not intentionally, but sometimes we seem to forget the speed limit (trying to get to a location quicker than we should) and we find ourselves speeding. The speed limit is naturally lower here than in a lot of major cities, so many people relocating to the Cayman Islands find our speed limit somewhat difficult to become adjusted to.

Another item I would like to speak to is the endorsement of our licence because of speeding offences. While we are looking at this adjustment, I think we should take a look at this because endorsements are made to licenses for speeding, apparently, regardless of the intent or the amount of excess speed incurred. If an unfortunate driver receives more than two endorsements in a three year period, their licence is suspended. I do not know, according to the Law, when it is reinstated. In the Cayman Islands being able to drive your own vehicle is a very essential service as we do not have proper public transportation. To disqualify a person from driving sometimes takes away his profession. Other times it takes away his ability to get to his employment. So that is another issue I would ask our Government to take a look at while we are looking at the Traffic Law.

In closing, Mr. President, I give this Motion my full support and I compliment the Mover and the Seconder for bringing it to this Honourable House.

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

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

I, too, would like to add my name to the list of those Members who have seen fit to compliment the Mover and the Seconder of this Motion. I believe this is a very timely Motion. It is certainly one that can improve the efficiency of our administrative system. I would implore the general public, if and when such a procedure is put into place, that they avail themselves of the opportunity to go this route.

I, too, am of the opinion that ordinary speeders are not necessarily criminals, and in view of the fact that our courts system is increasingly burdened, this administrative exercise designed to alleviate some of this work could help us deal with the less serious matters in a routine administrative way.

I would like to suggest also, while we are in the process of reviewing these matters with a view to implementing this procedure, that we give some serious thought to the endorsement system, as was just raised by the First Elected Member for the Lesser Islands. I believe in many cases repeat speeding offenders and repeat offenders for minor traffic offences (especially those offences which are caused from simple indiscretions or the lack of courtesy to other drivers and users of the road) I believe these kinds of offences and offenders should be considered for further driver education. In some countries where they have the points system, the penalties are designed not necessarily to be punitive, but to be educational. In many cases, once a person has accumulated the required number of points, in addition to the suspension of the licence they are obligated to undergo driver education. I think this is something which could be considered.

I also believe, given our nature as Caymanians, it would be beneficial in the sense that it would help us to understand that although we have been driving for five or 10 years, we do not necessarily know everything there is to know. Above all, it would force us (on a road system that is becoming increasingly congested) to be courteous and considerate to other drivers and remind us in some cases that although we may have the right-of-way it is prudent to yield that right-of-way in the interest of safe driving.

In conclusion, Sir, I can only say this is a Motion which is innocuous in the sense that it is designed to benefit one and all of us. I am pleased to know it was accepted by the Government. I believe we are on the right track and, again, congratulations to the Mover and Seconder.

Thank you.

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

MR. FRANKLIN R. SMITH: Thank you, Mr. President.

I rise to support the Motion before this House. I would like to say that I feel it is very important at this time for these steps to be taken. As the Mover has said, it will help to alleviate the backlog of cases in our courts regarding traffic tickets for speeding offences.

On the street leading from the Post Office to the Assembly building here in town, I had an occasion where I was given a ticket by an officer for turning into a delivery point at Comart. When I went to the station and stated why I objected to it, to a higher ranking officer suggested that I come from Mary Street to park at Comart. Now, I have no objection to doing that, but upon arriving at Comart you find there is no space to enter, you circle again and you could continue circling for the rest of the day. The higher ranking officer I spoke to was very sympathetic.

For a time they said yes that could be possible that you are in trouble there. They removed the no turning signs and some months afterwards replaced them. I questioned it. They said it was being abused. I can understand that, but these are cases where consideration needs to be given and, in particular, for a delivery point to a major supermarket as this one is downtown, consideration should be given because you could patrol those streets all day waiting for a space to park in.

I would just like to say that I had the privilege of going to pay that ticket without going to court. I did that. I would just like to say consideration should be given to other matters of that nature too, Sir.

I support the Motion.

MR. PRESIDENT: If no other Member wishes to speak, would the Mover wish to reply?

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

First of all, I would like to say thank you to all Members who stood in support of this Motion. I also thank the Government Bench for accepting the resolution which is called for in this Motion. I look forward to the required enabling amendments to legislation to see this very important service to our people implemented.

Thank you, Mr. President.

MR. PRESIDENT: The question will now be put on Private Member's Motion No. 16/89. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED: PRIVATE MEMBER'S MOTION NO. 16/89 PASSED.

MR. PRESIDENT: We now move to Private Member's Motion No. 17/89. The Third Elected Member for West Bay.

PRIVATE MEMBER'S MOTION NO. 17/89

PUBLIC LEGAL DEFENDERS' OFFICE

MR. JOHN D. JEFFERSON JR.: Mr. President, before I move the Motion I would like to bring to your attention that the Seconder, the Elected Member for East End, is not here but I have one of my colleagues who is willing to second the Motion.

MR. PRESIDENT: Thank you.

MR. JOHN D. JEFFERSON JR: Mr. President, I beg to move Private Member's Motion No. 17/89, standing in my name which is entitled, Public Legal Defenders Office, which reads:

> "WHEREAS the number of cases before the Courts each year has increased;
>
> AND WHEREAS the number of lawyers available to handle legal aid cases is limited;
>
> AND WHEREAS many of those accused, or involved in civil matters before the Courts, are poor persons and are considered to need legal assistance;
>
> BE IT NOW THEREFORE RESOLVED THAT a Select Committee, consisting of all Honourable Elected Members and the Honourable Second Official Member of Executive Council, be appointed to determine the need for the establishment of an Office of Public Legal Defender to defend poor persons certified under the Poor Persons (Legal Aid) Law for defence by a legal practitioner.".

MR. GILBERT A. McLEAN: Mr. President, I beg to second the Motion.

MR. PRESIDENT: Private Member's Motion No. 17/89 has been duly moved and seconded. Would the Mover wish to speak to it?

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

I feel very strongly about the resolution in this Motion because I have a genuine concern for the poor people of this country. Initially, legal aid assistance was restricted to civil matters only by the Poor Persons Legal Proceedings Law. Subsequently, defense for criminal matters was addressed by the Poor Persons (Legal Aid) Law (Law 17 of 1975).

The reasons for this resolution is that at the present time most private legal practitioners prefer the corporate side of their practice rather than litigation because it pays better; there is less hassle and it is less time consuming. Or, if they are in court they prefer to handle clients who can afford to pay the fees they are accustomed to, rather than being in a position where they are required to handle

legal aid cases which attract a very small fee.

To give you an idea of what we are talking about by the way of fees, a maximum fee per day now allowed under the Law is $150 per day. Let me say here that I do not blame the private legal practitioners for wanting to take those cases where they can attract the kind of fees which are required in order for them to continue to support their business. I support that, because their investment, as far as their practice is concerned, is very large indeed. But it leaves us in a position where I feel the poor persons in this country who apply for legal aid assistance are in a very difficult (and in my opinion very unfair) position because the majority of these cases are handled by the less qualified lawyers, or lawyers who have not yet made a name for themselves. Therefore, the demand on them for their services before the courts would be much less than the more prominent, successful and experienced lawyers.

To make things worse, it is my opinion that the number of poor persons requiring legal assistance is increasing. However, the number of lawyers available and willing to take these cases remains limited. This leads me to believe that as a result our poor persons are suffering and I feel this matter must now be addressed.

My recommendation for the establishment of a public legal defenders office would be as follows: I feel it should be headed up by a qualified and experienced lawyer. In my opinion, it would require a small staff, of a legal secretary-receptionist and possibly one or two young qualified Caymanian lawyers. Let me stop here to say that I am proud of the calibre of young qualified Caymanian lawyers now available. We have some very good ones presently attached to many of the private law firms in addition to some in the Attorney General's office. I think this would provide an opportunity for some of those young qualified lawyers coming out of the Law School to be in a position to make a very valuable contribution to their profession.

The responsibilities of the office would be solely the legal representation of persons qualifying for legal assistance under the Legal Aid Law. I see the application for legal aid still being handled by the Clerk of the Courts office and once approved passed on to the Public Legal Defenders office for representation. I also think it would be imperative for this office to be a statutory board and not placed under any Government department, to enable it to retain its independence.

Under the system I would still encourage those private lawyers (the few who are still interested in assisting with some of these cases) to be in a position to be able to do this in order to provide the applicant with a choice of representation. I think this condition would put the staff requirement of the office in a position were it could be held to a minimum.

I see the cost of this office as being shared both by Government and the private legal practitioners through an annual contribution to be determined. I recognise the majority of the private law firms now are making a substantial contribution to the community in that they have a number of article clerks who attend the Law School, the cost of which is being born by the respective firms. I do not see them objecting to an annual contribution for this purpose if it is reasonable. So I do not think we will have a problem with our legal practitioners supporting this particular office.

As I mentioned before, this is something I feel very strongly about and I think it is also in keeping with my commitment to my people, in that I would support and move any legislation or policy which I feel is in their best interests. I do not see this as being a very controversial issue. I cannot see Government opposing it, and I do request the support of all Members for this very important Motion.

Thank you, Sir.

MR. PRESIDENT: Proceedings are suspended for 15 minutes.

AT 11:13 A.M. THE HOUSE SUSPENDED

HOUSE RESUMED AT 11:41 A.M.

MR. PRESIDENT: Proceedings are resumed.
Debate on Private Member's Motion No. 17/89, continuing.
The Honourable Second Official Member.

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

I am advised, on behalf of Government, to reply to this Motion and I am happy to say to the Member who moved it that Government wholeheartedly accepts it. It is a Motion where the matter be referred to a Select Committee, but I think I can positively say the principle behind it is something which Government accepts and endorses and when the question gets to the Select Committee, all that would need to be sorted out are the administrative details.

The Member did touch on his recommendation for the establishment of the office, and I am happy to say there is none of which I would take exception to. I think the staffing level of one qualified senior lawyer and two younger lawyers is right. I would sincerely hope those younger lawyers could be recruited from the young Caymanians coming out of the Law School. Practice in a legal defenders office provides excellent experience and wonderful groundwork in litigation for any lawyer who hopes to pursue that as a career and would like to do that sort of work. Any young lawyers joining this office would be faced with hard work, but will gain experience that could not be bought anywhere else, at any price. Having said that, it is not always easy to tempt the newly qualified lawyers from the firms where they have qualified and where they are offered careers, but as the Law School qualifies Caymanians each year I hope the time will come where a pool of such young lawyers (who are not wedded to any particular law firm) will grow up and some will come to this office.

The Member also rightfully said this should be an independent

Of course, in regards to the collection of gratuities, there are those visitors (and perhaps members of the public, locally) who believe that in most cases or in all cases, gratuities should be voluntarily paid, based only on the customers' satisfaction with the quality of service received. There are advantages to the voluntary system. In fact, I believe there are some properties who already use this system and in some instances, if customers have received exceptionally good service, they are often minded to pay more than the 15 per cent. There are some who have the view that if the 15 per cent gratuity is in fact collected, the discharge should be added and included in that total price to the customer, rather than shown or collected as a charge, which sometimes becomes a source of aggravation to some visitors. In fact, in some cases it causes duplication of payment.

Having said that, I leave it to the individual property to decide which system they should apply, whether the automatic 15 per cent or voluntary. I would like to point out here that the system of collecting tips or gratuity was started and continued by various individual hotels, condominiums and restaurants, not by the Department of Tourism, not by Government. It should be noted that there are, in fact, some properties within the hospitality industry which have also continued the tips system voluntarily. But to return to a distribution formula being set by Government, I cannot support that a standard formula should be developed. As I have previously pointed out, the Committee on Labour legislation felt in its deliberations that it was preferable for flexibility to be maintained, as this appeared to be the less complex means and has worked well in the past. That is when certain controls and requirements were provided for in the Law, the system where each property worked out an individual formula with their own staff, with agreement reached from their staff, rather than to attempt to set a standard formula, which would apply to all and might not, in fact, suit everybody.

My information is, according to reports from the Director of Labour, that this has so far worked well and there have been little or no complaints by workers in the hospitality industry, in this regard. Since I knew this Motion was being brought, I personally checked with a few of the properties and they have all indicated to me they would not like to see the formula standardised.

But I agree that where there have been many complaints is where properties allow professional and managerial staff to participate in and benefit from the collection of gratuities which, in turn, reduces to a great extent the amount received by other staff members at lower levels and for who I believe the gratuity or tips system were intended to help. It would seem to me that bearing in mind what the original intent was, and the fact that professional and managerial staff (many of whom are on work permits) should be paid a reasonable basic salary which corresponds to their respective jobs. They should not have to depend on gratuities to earn a decent salary, and therefore, should not participate in the distribution of gratuities in any form what so ever. This is the reason why in an amending Bill on the Labour Law I have included in clause 10 an amendment which seeks to clarify that employees at professional or managerial levels should not be entitled to the distribution of gratuities under section 32 of the Labour Law. It was my intention to bring this amending Bill to the Labour Law to the meeting, as promised, last May. Some work has been done. The Bill has been drafted and was ready for presentation at this meeting, but due to a last minute difficulty experienced in dealing with one other section of the Bill, a decision was taken to postpone its presentation until the November meeting, when I have had an opportunity to gain wider input on the area which has been causing some concern.

I assure the House it will definitely be brought and presented at the Budget Session this year, which will meet the second portion of the Motion dealing with managerial staff. As I have pointed out, I cannot accept the section which asks Government to set a formula. Therefore, I cannot support the Motion in its present form and will vote against it, Mr. President.

MR. PRESIDENT: I wonder if I might intervene on that. I have been reflecting on the Motion while the debate has been going on, and it seems to me, in light of what Members have said, that under Standing Order 24(13) it is provided that separate resolution parts of a motion can be put to the vote separately. I would therefore propose to put to the vote separately, the two parts of the resolution, in this Motion.

Would any other Member now wish to speak? The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Mr. President, I rise in support of the resolution, as seconder of the Motion. I am sorry Government does not see fit to support the resolution in its totality. I have yet to look at the relevant Standing Order which you just spoke about.

This is a matter which I have raised time and time again. I well remember in the Committee stage of the Bill, that is the Select Committee, I sought to have some provisions be part and parcel of the Law, something with more teeth. Rather, what happened was that it was felt by others that this section should not be too restrictive and, as a result, by leaving it so wide (this flexibility, I believe the Member said) like other sections of the Law, employers have used it as they saw fit and applied it to their advantage. Of course, for the people which this Law is intended to benefit, this particular section is doing very little. The matter continues to be a very sore point, and a point that has been drawn out, long enough.

I still question why certain properties under one management can pay $1,000 for one month and another manager comes along (the same number of rooms or apartments) and only $200 is paid for the same period. This is a very unsatisfactory state of affairs; one, I believe, Government should seek to rectify.

As has been said, the system of gratuities is something not put in place by Government, rather, by those in the tourist sector who saw fit to raise such a system of gratuities in order to keep their payroll down. I believe what is happening is that the gratuities are making up the payroll. I do not believe (and I do not know of) any other Member in this House has as much experience with this problem and

the tourist industry - not only did I work in it, my parents have worked in it for 30 years.

I believe that tourists today are not complaining about this gratuity they pay, rather, I think it is Caymanians who got out to these places for dinner or lunch who do the complaining. Tourists sometimes complain about the service, but, then, that is a matter left in the hands of the Portfolio, as far as training, and the relevant properties. That situation (attitudes and what have you) can be rectified by another system. So I would hope I would never hear of anybody wanting to do away with the gratuity system.

The Member under whose responsibility this falls says properties would not like to conform to a standard. Certainly, certain properties would not like a standardised system because in a wide open system, with much flexibility, they can do as they please. And who suffers? The people we represent and the people we need to look favourably after because of their poor hourly wage. Again, this is a matter which I said I have talked up and down these hallowed halls about. I thank God we have a Member who can support me in it by raising this resolution. I would hope Government would change its mind and accept in totality, seeing as we are going to go back to deal with the Labour Law, I believe Government should changes its position and say let us sit down and look at what you are asking for and reconsider it. That is the proper way, Mr. President. There can be no harm in doing that.

I would ask them to rethink their position and support the resolution in its totality.

Thank you, Sir.

MR. PRESIDENT: Proceedings are suspended until 2:15 P.M..

AT 12:45 THE HOUSE SUSPENDED

HOUSE RESUMED AT 2:25 P.M.

MR. PRESIDENT: Proceedings of the House are resumed on Private Member's Motion No. 18/89. Does any Member wish to speak? [pause] It appears no other Member wishes to speak. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Mr. President, I support this Motion. The Third Elected Member for West Bay should be congratulated on this Motion because this one, as well as the last one, is in the interest and the advantage of the working people.

The Labour Law came into effect on the 9th of December, 1987, nearly two years ago. Today we are looking at the first amendment, an attempt to implement a section (section 32) of that Law. The reasons given by Government for not prescribing a formula, either for all employers, or all employers of a certain category for determining the distribution of gratuities among employees as section 32(2) provides, to me is not sufficient. Nearly two years have passed and I think at this stage the position should have been clearer if something should have been worked out under that section of the Law.

The position on gratuities is very important to a very large part of the people who work in hotels, restaurants, condominiums and similar types of properties. It is one which should be a uniform system because I do not believe with some classes of properties, for example, a restaurant, that there can be that many major differences in schemes which are put up in relation to the distribution of gratuities. If there are minor areas of schemes which are not similar, then I would say the Portfolio or the Labour Officer should sit down and work these out. But, what I do not think should be left is what could be a hodgepodge type with 10, 12 or 15 schemes, all different in major areas. Some employees have to be getting less and some are getting more. Similarly, some employers will be benefiting more and some benefiting less.

If the resolution had not put in what the Law itself prescribed, which was giving a right to prescribe to a formula for employers of a certain class, then I could have seen the argument put out by Government. But I cannot see how or why there should be major differences within similar classes of employers. I am not satisfied this delay is not a continuation of one that we have seen from time to time with this Government and the previous one.

The Member mentioned the Minimum Wage Committee. I had a brief look at this. It is found in section 20, and once again this has been two years and it has not been established. The Elections have been run. Many times we hear about the little man and the man in the street. Surely, at this stage, while it is mandatory under section 20, it seems to me that if what he is saying is that he is now establishing a Minimum Wage Advisory Committee, then it is probably...

POINT OF ORDER

HON. W. NORMAN BODDEN: Mr. President, on a Point of Order. I think I should clarify regarding the Minimum Wage Committee. When I referred to that this morning in my debate, it was to say we were seriously considering this. I do not think any commitment was made that we were going to establish such a Committee, and I would like to correct that.

MR. TRUMAN M. BODDEN: Mr. President, I did not mean to mislead there but, even worse, if there is a provision in the Law which gives the Member a right to establish a Minimum Wage Advisory Committee and it is two years on, and he is saying he is not even committed to establishing it, then that does not change the

thrust of my argument. In fact, the prescribing of the other regulations which are not mandatory, should have been done. I would hope that the principle that the Legislature does not legislate in vain, which is the Common Law principle, would follow. There must have been some good reasoning for putting in the right to set up a Committee and also the right for the Governor in Council to prescribe the formula in relation to the distribution of gratuities.

The Labour Law itself is a difficult and complex one. I believe if it is going to remain on our books then we have to come to grips with the provisions of it and get on with the implementation of it. I am not fully certain of this, but from what can recollect, there probably is no minimum wage which has been set.

The second part of this Motion is in relation to the exclusion of management of gratuities. I believe it must have been the reasoning behind these sections on gratuities when they were brought in... and maybe the Law was not specific there, but is good to see Government is accepting that. I fully agree with the Member for tourism when he said the properties who employ management must pay them sufficiently and they should not be left to get a part of their salary out of the gratuities, which are for persons who are in the lower bracket of employment not the management areas. I also agree with him about the importance of earning gratuities, because if the initiative to earn them is totally exhausted, then I believe the quality of service will be reduced. However, I do believe it takes many different people (for example in a hotel) to provide the different services to the guests - and it is a wide range of services - therefore, the spreading of gratuities should remain with those who are directly giving the services to the guests. I understand from the Member that in due course an amendment will be coming forward with that and it is one I expect will have wide support.

Therefore, in summary, I think where the Law does make areas of it discretionary, I believe that at the earliest stages possible those sections should be utilised, and in this case the part of the resolution which is dealing with the provision of a formula for distribution of gratuities among employees is one that should be looked at very hard by Government with a view of trying to get these as near to standardise within the classes of employers. The Government is left with quite a bit of scope there, because dealing with a class of employer enables them to distinguish somewhat more, than if those classes had been laid down originally in the Law.

I support both resolve sections of the operative section of the Motion and I would like, once again, to congratulate the two Members, the First and the Third from West Bay, in bringing and seconding the Motion. I know their hearts are very near to the working people of this country. Indeed, that is where it should remain and these efforts here are to assist and improve the working conditions and remuneration for the people. That has to be good for the Cayman Islands.

Thank you.

MR. PRESIDENT: The Honourable Member for Health.

HON. D. EZZARD MILLER: Mr. President, I rise to speak to Private Member's Motion No. 18/89, entitled Gratuity Formula. I think the Honourable Member responsible for Tourism made it quite clear that he could support the second resolve because, basically, he has already drafted the necessary amendments to the Labour Law to allow that. The difficulty comes in Government being asked to prescribe a formula for the distribution of gratuities amongst employees.

The first problem I have with that is the fact that gratuities are not now prescribed by Law. I believe before we could prescribe how something is going to be distributed, we would probably have to prescribe in Law that it be collected, because if people are resistant now to filing a formula, as is done under the Labour Law (and took great exception to Government prescribing something which is collected at this time without any statutory authorisation), then the simple thing for them to do is not to collect it. I believe there would be some properties who might exercise that option. Then we could not ask them to distribute something which is not collected.

I believe in most instances (of course there are always exceptions to every rule) the Labour Law is working in terms of the companies notifying the Labour Office that they have a formula by which gratuities are distributed. I think what most speakers have fails to mention is that the formula has to be accepted by the Labour Officer and I think one of the criteria he uses in accepting any formula proposed by any employer is that there has to be some indication that employees are in agreement with the formula which has been forwarded to the Labour office. I do not believe the tourist sector, with its varying levels of employment, services and types of facilities (whether they are condominiums or small guest houses or large hotels), that any one prescribed formula is going to be easy to monitor or implement.

One Member has complained, as he usually does, about the delay in Government acting. It is interesting to know that in eight years they could not get the legislation drafted, much less have it passed in two years and get any action on it. I think it is fair to say (and all Members are fully aware) that all employers were given one year before any of the penalties or provisions of the Labour Law, which carried penalties, were put in place. As for trying to say the Honourable Member for Tourism is not acting because he has not prescribed or has not activated the Committee for the recommendations of minimum wage, it is not mandatory under the Law. It is written the way it is so that in the event circumstances in the society dictate a minimum wage is needed, it can be done. But as long as supply and demand is taking place and everybody feels they are getting a minimum wage, and the little man, as he talked about, is not being unduly pressed, there is no need to implement the minimum wage. Of course as soon as you start interfering with private enterprise by prescribing all of these things, they tell you Government is acting outside the bounds of Government and they should not interfere with private enterprise.

I believe one or two instances have come to the attention of the Honourable Member responsible for Tourism, and that is why he is considering appointing this Committee. But I

hope Members will support the implementation of these kinds of prescribed formulas which are also prepared to add penalties for people who do not come up with it, and when the public starts to scream and holler that Government is dipping into private enterprise, we do not hear any charges that Government should not be doing it.

Mr. President, I cannot support the Motion in its present form. The Motion is not asking Government to consider it, but that it prescribe those things. I have always believed very formally in supply and demand and the laissez-faire economy. I think the Member is acting wisely. I think the Member is acting timely and I cannot support the Motion in its present form.

MR. PRESIDENT: If no other Member wishes to speak, I call upon the Mover to exercise his right of reply.

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

First of all, I would like to thank those Members from the Backbench who stood in support of the Motion. I am also heartened by the fact that Government is prepared to support the second resolution at least, calling for an amendment to the Law, to make it explicitly clear that management is not to share in the distribution of gratuities.

The Honourable Member for Tourism mentioned that he could not agree that Government be responsible for establishing a formula. That is the reason why I recommended it go to a Select Committee of the whole House, so any formula which is arrived at by Government will only come after consultation with establishments in the hospitality industry and also from employees in the industry. I do not...

POINT OF CLARIFICATION

HON. W. NORMAN BODDEN: Mr. President, on a Point of Clarification. The Motion before the House, Sir, I do not see any indication in that Motion that it was to go to a Select Committee and I think the records should reflect the Motion we are dealing with.

MR. JOHN D. JEFFERSON JR.: Mr. President, I thank the Member for his clarification, but it is my understanding anyway that with regard to the proposed legislation which is coming before the House we, as Elected Members, will have a chance to meet and discuss those proposed amendments before they are put into Law. I envisage that this particular formula could be handled in the same manner. I do not agree with the idea that Government should just implement something, regardless of what it is, if it has serious consequences on those people which it was intended to control or affect.

I agree in arriving in those particular positions only after proper and adequate consultations. I think it would be difficult, and that is why I am saying the formula should only be arrived at after adequate consultations has taken place. I think it is impossible to believe we will arrive at any formula which will be totally satisfactory to every establishment in the hospitality industry. But what I am hoping is that we could arrive at a formula which would be acceptable to the majority of those establishments.

I disagree with the idea of leaving this formula to be established by the respective properties themselves, because even though section 32 of the Labour Law does provide basically three options for the establishment of this formula - it can be by the Governor in Council, by the Labour Office or by the establishments themselves with the consent of the employees - the other two options that are prescribed (or allowed under the Law) have not been exercised, in my opinion. That is the reason why we are now saying a formula should be prescribed by Government.

I do not think it is realistic to expect that the establishments will arrive at a formula which will be against the benefit of members of management because the people who will be establishing that formula in the first place, will be management with very little consultations from the employees, themselves. I disagree with the reasons put forward by the honourable Member for Health when he said the Law does not prescribe for the collection of gratuities, but it does provide a formula for the distribution of those gratuities collected can be done. So what we are proposing is not something which is not covered by the Law.

I see no reason why Government cannot arrive at this formula. Personally, I think the only way we will ever have a formula that is agreeable to most of the parties involved is if Government prescribes it. It has been proven in the past that the properties, themselves, cannot arrive at a consistent formula.

I think it is ludicrous to be in a position where Government says you can have 12 different formulas and they are all acceptable. I cannot see that being the case. Regardless of the little representation we get from those members of the hospitality industry who would oppose Government establishing such a formula, I think a majority of them would welcome the idea of Government accepting the responsibility for the establishment of this formula.

I support free enterprise. I think we all share that view here. But the Law specifically states that it can be done, and the Law also states where establishments fail to comply with the provision of the Law there can be penalties assessed. A blatant example of that, as far as abuse is concerned, is the delinquent fees that are now owing by establishments in the hospitality industry. What were we told? I would daresay, Mr. President, if we had a system in place which ensured the collection of those fees on time, Government would not have to worry about running into deficits or covering any deficits, because from what we have been told this is a substantial amount of money. We cannot leave everything for the establishments to arrive at themselves. We, as responsible legislators, have to ensure that fairness is administered, but, at the same time, we must get on with the business of the country, and if it means certain things must be prescribed, certain things have to be prescribed.

You could imagine if motorists were allowed the option of getting insurance coverage for vehicles the position we would be in. How is it that Members do not consider that a violation of privacy? The Law says you must have it. Everybody accepts it as a fact and that is it. We are dealing with a very important issue here, something which has been knocked around for many, many years. I think it is time for us to arrive at a satisfactory conclusion. The only way we can do that is for, as the resolution called, the Government or the Governor in Council to prescribe the formula and the Law be amended to make it explicitly clear who is entitled to gratuities.

I have no apologies for the stand which I am taking because I feel it is the only workable solution to this problem. If I honestly felt the establishments themselves could arrive at that formula I would have no problem. If I honestly felt proper consultation would be made with the employees of other establishments in arriving at their formula and those thoughts taken into consideration, then I would have no problem. But I am not convinced that is possible. That is why I have arrived at a position that the solution to this problem is Government prescribing the formula after adequate consultation with the parties involved.

I would like to urge all Members to support this Motion. I think employees who are now satisfied with the scheme which their particular employer has in place should not be concerned that they will be worse off if Government prescribes this formula. I would daresay just the move to amend a Law excluding management from the distribution of these gratuities is going to be a tremendous benefit in itself and there should be more money available for distribution for those employees who are entitled to it.

Mr. President, I urge all Members to consider supporting what I feel is a very, very important Motion.

Thank you, Sir.

MR. PRESIDENT: As mentioned earlier, I shall put this question on the two separate propositions.

The first question is on the proposition that: "The Governor in Council be requested to prescribe a formula to be used by all employers, or all employers of a certain category, to determine the distribution of gratuities among employees;".

Would those in favour of this proposition please say aye? Those against no?

AYES AND NOES.

MR. W. McKEEVA BUSH: Could we have a division. Mr. President?

MR. PRESIDENT: Excuse me, I will call for a division. I would ask the Member to study the Standing Orders on calling a division before he challenges me again.

MR. W. McKEEVA BUSH: Are you speaking to me, Mr. President?

MR. PRESIDENT: I am, indeed.

MR. W. McKEEVA BUSH: What are you asking me to do, Sir?

MR. PRESIDENT: Study the Standing Orders before you challenge me again on the vote.

MR. W. McKEEVA BUSH: I am not challenging you, but I would draw your attention to precedence.

MR. PRESIDENT: The Standing Orders are perfectly clear. Perfectly clear, even to you, sir!

CLERK:

DIVISION NO. 21/89

AYES: 6	**NOES: 8**
Mr. W. McKeeva Bush	Hon J. Lemuel Hurlston
Mr. John D. Jefferson, Jr.	Hon Richard Ground
Mr. Truman Bodden	Hon Thomas C. Jefferson
Mr. Gilbert A. McLean	Hon W. Norman Bodden
Mr. Roy Bodden	Hon Benson O. Ebanks
Mr. Franklin R. Smith	Hon. Ezzard Miller
	Hon. Linford Pierson
	Capt. Mabry S. Kirkconnell

MR. PRESIDENT: The result of the division is six Ayes and eight Noes. The first proposition fails.

PRIVATE MEMBER'S MOTION NO. 18/89, FIRST PROPOSITION NEGATIVED.

MR. PRESIDENT: The question now on the second proposition, which is in the second paragraph of the Motion before Members. Those in favour please say Aye...Those against No.

AYES.

MR. PRESIDENT: The Ayes have it.

AGREED. PRIVATE MEMBER'S MOTION NO. 18/89, SECOND PROPOSITION PASSED.

MR. W. McKEEVA BUSH: Can we have a division on that, Mr. President?

MR. PRESIDENT: In the opinion of the Chair a division is not necessary. The vote was perfectly clear.

Private Member's Motion No. 19/89. The First Elected Member for West Bay.

PRIVATE MEMBER'S MOTION NO. 19/89

SELECT COMMITTEE ON CODE OF ETHICS AND CONDUCT FOR LEGISLATORS

MR. W. McKEEVA BUSH: Mr. President, I beg to move Private Member's Motion No. 19/89, standing in my name, which reads as follows:

> "WHEREAS many countries have prescribed guidelines to which legislators are requested to conform;
>
> AND WHEREAS there is no written code of ethics and conduct for Members of the Legislative Assembly of the Cayman Islands;
>
> AND WHEREAS it is considered desirable to establish such a written code for the preservation of the integrity of those who conduct public business;
>
> BE IT THEREFORE RESOLVED THAT a Select Committee of the whole House be established to examine these matters and to recommend an appropriate written code of ethics and conduct for Members of this honourable House.".

MR. ROY BODDEN: I respectfully beg to second the Motion.

MR. PRESIDENT: Private Member's Motion No. 19/89 has been duly moved and seconded. Would the Mover wish to speak to it?

MR. W. McKEEVA BUSH: In moving this resolution, Mr. President, I wish to make it quite clear at the onset that I am inviting the House to approach this in an entirely non-partisan spirit and purely from the point of view of seeking to explore those things which may contribute to the national interests on the one hand, and the preservation, indeed the extension, of public confidence in the democratic system. Which is one point I believe both sides of the House are in support of.

Having made that absolutely clear, I think it will become increasingly clearer, as I develop the arguments in favour of this resolution, that it is being approached in an entirely non-partisan way. Next, I would like to state quite clearly that I am not concerned myself (and I do not think this House should be concerned) with any question of what other countries may or may not have done in this regard. I think in a matter of this sort each country has to judge its problems for itself and must evolve solutions to those problems as they perceive the problems, and with God's help find the wisdom to see their way to solving those problems and contribute to solutions.

I think it is impossible to consider the importance of this resolution if one does not pause for a moment to consider the nature of the political system that we support, then, having considered the nature of the system, to further consider how far the public trusts the system and how far a resolution of this sort may contribute to allaying such doubts as may enter marginally on the political scene. I would very briefly say that we would all agree that is the essence the democratic system rests on, the whole idea of Government by consent. A logical extension of the idea of consent is the concept that Government should (and in the case of a democracy, needs to) conduct its business as to command public confidence. Consent flows naturally out of public confidence. Consent is a natural outcropping of confidence, and since it is essential for a democratic system to not rest upon the use of any repression or force to perpetuate itself by the contempt of the people, I think and feel, it is against this background that we are going to look at some of the problems which might emerge. If the concept of consent is important, then, obviously, democracy must present an image to the public of a capacity for self-restraint. Self-restraint in action is a capacity for self-restraint at a voluntary level, and even self-restraint in terms of being willing to impose legal sanctions on itself, to act in a restraining manner. In other

From my limited experience in the active political arena - but with deep experience as an academic - I would like to add what I consider a sententious observation of its own; that is, I am fully supportive of such a Motion. I think coming as we are, arriving now to the stage and era of the professional politicians in these Islands, we have to be careful that we do not build or construct the parameters so narrow that we eliminate the best people with the best minds because we restrict and enforce certain rules which would preclude them because of business ventures, business commitments, involvements at whatever level from the business of politics. We have to acknowledge and realise that for the continued success of our country we must not only have the best ethics and morals, but also the best brains. Sometimes, it is necessary to be flexible. I say this because the work of the Select Committee is not to be unduly harsh, not to make the business of politics a closed fraternity, but to make it so sensible that we can always have the best in terms of conduct, morals and also in terms of intellect because it makes no sense to have the best morals and the best ethics but the worst intellect. I think one would be as destructive as the other. Certainly what we have to look for is the best combination. I see that as being very important. It is a cautionary remark to which I would remind Members to bear in mind whenever we sit down to formulate such a document.

I would rather (as the first speaker said there is a growing cynicism among the young concerning politics) describe it as a healthy irreverence, because I too have some sentiments of what I call the healthy irreverence. Part of it stems from a lack of understanding of the depth of what politicians do and what they are expected to do. But I do not necessarily think this irreverence is negative or is detrimental. Rather, I say it serves to develop our powers of observation.

I would like to suggest the winds of change in our society are blowing towards politics. Many people are shedding the impression of politicians as evil Darth Vaders. They are coming to realise that politicians play a necessary and integral part - indeed, such an important part - because without them our society could not function. So it is incumbent upon us, as politicians, of course, to formulate some means of policing ourselves. All fraternities do that. Certainly the business or the calling of politics is a fraternity, but sometimes fraternities are inflexible. That is the criticism I have with a fraternity of which I am a member which has its roots deep in the annals of the black education movement. Over the years it has become so inflexible as to become exclusive. I have a special irreverence to anything which moves and borders on exclusivity to the point where it excludes some of the most worthy people, some of the most worthy candidates.

I would say that we have to be sure in our attempt to police ourselves, in our attempt to set a standard for ourselves, that we do not become so exclusive. I was pleased some years ago when certain barriers were removed. I was even more pleased when the legislators in their wisdom saw fit to make the stipend or make the salary so attractive that we could attract a new breed of politicians: one who would be a professional politician, one who would not have reservations about going to the university, studying the discipline of politics of public management and entering the field because therein lies our continues success.

The historical development of colonialism and, indeed, many apologists of British Colonialism would be hard pressed to say that the traditions which have been laid down are not now being subverted by unscrupulous politicians. The history of developing countries is rife with good politicians gone bad - Nigeria, Ghana, indeed, all of Africa - because the politicians for whatever reasons saw themselves as gods and they strayed away from the purpose for which they were meant. Even with the strong Westminster tradition...

MR. PRESIDENT: I was going to ask whether the House wishes to extend for you to finish, or what would you wish to do?

MR. ROY BODDEN: Sir, it would be wiser, begging your pardon, if I finish another time.

ADJOURNMENT

HON. THOMAS C. JEFFERSON: Mr. President, I move the adjournment of this Honourable House until 10:00 tomorrow morning.

MR. PRESIDENT: The question is that the House do stand adjourned until 10:00 tomorrow morning. Would those in favour please say aye? Those against no?

AYES.

MR. PRESIDENT: The Ayes have it. The House is accordingly adjourned.

AT 4:32 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., TUESDAY, 12TH SEPTEMBER, 1989.