

CAYMAN ISLANDS
LEGISLATIVE ASSEMBLY

OFFICIAL HANSARD REPORT
ELECTRONIC VERSION

1992 SESSION
(In Two Volumes)

VOLUME II
(Comprising pages 581 through 1152)

Hon. Sybil I. McLaughlin, MBE, JP
Speaker

Disclaimer: The electronic version of the *Official Hansard Report* is for informational purposes only. The printed version remains the official record.

PLEASE NOTE: While every effort has been made to mirror the bound volume, the electronic version does not necessarily conform to the page numbers of the bound volume index. Therefore, before quoting from the electronic version users should first verify the page numbers in the printed version of the *Official Hansard Report*.

GOVERNMENT MEMBERS

***HON. THOMAS CARROLL JEFFERSON, OBE, JP**
First Official Member Responsible for Finance and Development

HON. RICHARD W. GROUND, QC
Second Official Member Responsible for Legal Administration

****HON. JOHN LEMUEL HURLSTON, MBE, JP**
Third Official Member Responsible for Internal and External Affairs

*****HON. GEORGE A. McCARTHY, JP**
Third Official Member Responsible for Finance and Development

HON. W. NORMAN BODDEN, OBE, JP
Elected Member Responsible for Tourism Aviation and Trade

HON. BENSON O. EBANKS, OBE
Elected Member Responsible for Education, Environment, Recreation and Culture

HON. D. EZZARD MILLER
Elected Member Responsible for Health and Social Services

HON. LINFORD PIERSON, JP
Elected Member Responsible for Communications Works and Agriculture

**Retired 16 March, 1992*
***Appointed Hon. First Official Member 17 March, 1992*
****Sworn in as Hon. Third Official Member on 22 June, 1992*

ELECTED MEMBERS

MR. W. McKEEVA BUSH
First Elected Member for the First Electoral District of West Bay

MR. JOHN D. JEFFERSON, JR
Third Elected Member for the First Electoral District of West Bay

MR. TRUMAN M. BODDEN
Third Elected Member for the Second Electoral District of George Town

CAPT. MABRY S. KIRKCONNELL, MBE, JP
First Elected Member for the Third Electoral District of Cayman Brac and Little Cayman

MR. GILBERT A. McLEAN
Second Elected Member for the Third Electoral District of Cayman Brac and Little Cayman

MR. ROY BODDEN
First Elected Member for the Fourth Electoral District of Bodden Town

MR. G. HAIG BODDEN
Second Elected Member for the Fourth Electoral District of Bodden Town

MR. JOHN B. McLEAN
Elected Member for the Sixth Electoral District of East End

OFFICERS OF THE HOUSE

Mrs. Georgette Myrie
Clerk of the Legislative Assembly

Mrs. Wendy Lauer Ebanks
Deputy Clerk of the Legislative Assembly

Mr. Cline Astor Glidden
Serjeant-at-Arms

STAFF OF THE LEGISLATIVE ASSEMBLY

Mrs. Sharon K. Smith
Clerk Assistant

Miss Nanna Bothwell
Executive Officer

Mrs. Mary Williams
Refreshment Co-ordinator

OFFICIAL HANSARD REPORT

1992 SESSION

INDEX

(In Two Volumes)

Abbreviations*: 1r, 2r, 3r**, *first, second, third reading;* ***(A)*, Amendment;* ***CAL****, Cayman Airways , Ltd;* ***(C),*** *Committee;* ***CIHS****, Cayman Islands High School;* ***CIMS****, Cayman Islands Middle School;* ***GM****, Government Motion;* ***GT****, George Town;* ***GTH****, George Town Hospital;* ***ICCI,*** *International College of the Cayman Islands;* ***ILFC****, International Leasing Finance Corporation;* ***PM,*** *Private Member's Motion;* ***(R),*** *Report;* ***S.O****., Standing Order.*

Administration of Oaths or Affirmations

Ryan, Hon. James M., 795, 823
Smellie, Hon. Anthony S., 381

Bills:

- Affiliation (A) Bill, 1992, 984 (1r), 988 (2r), 1005 (C), 1009 (R), 1028 (3r)
- Bail Bill, 1992, 394 (1r), 395 (2r), 657 (C), 673 (R), 674 (3r)
- Cayman Cultural Foundation Bill, 1992, 1069 (1r), 1125(2r), 1126 (C), 1129 (R), 1129 (3r)
- Companies (A) Bill, 1992, 572 (1r), 595 (2r), 668 (C), 673 (R), 675 (3r)
- Elections (A) Bill, 1992, 572 (1r), 573 (2r), 667 (C), 673 (R), 675 (3r)
- Guardianship and Custody of Children (A) Bill, 1992, 278 (1r), 300 (2r), 346 (C), 348 (R), 348 (3r)
- Health Care Insurance Bill, 1992, 277 (1r), 278 (2r), 342 (C), 348 (R), 348 (3r)
- Immigration Bill, 1992, 573 (1r), 601 (2r), 670 (C), 674 (R), 675 (3r)
- Juveniles (A) Bill, 1992, 395(1r), 408 (2r), 663 (C), 673 (R), 674 (3r)
- Loan (Cayman Airways) Bill, 1992, 730 (1r), 733 (2r), 800 (C), 805 (R), 805 (3r)
- Loan (George Town Hospital)(A) Bill, 1992, 278 (1r), 300 (2r), 342 (C), 348 (R), 349 (3r)
- Local Companies (Control) (A) Bill, 1992, 984 (1r), 1002 (2r), 1006 (C), 1009 (R), 1029 (3r)
- Maintenance (A) Bill, 1992, 984 (1r), 984 (2r), 1004 (C), 1008 (R), 1028 (3r)
- Maintenance Orders (enforcement) (A) Bill, 1992, 984 (1r), 987 (2r), 1004 (C), 1008 (R), 1028 (3r)
- Merchant Shipping Act 1988 (A) Bill, 1992 *(withdrawn)*, 573, 730 (1r), 730 (2r), 832 (C), 833 (R), 834 (3r)
- Merchant Shipping Bill, 1992, 573 (1r), 600 (2r), 668 (C), 673 (R), 675 (3r)
- Misuse of Drugs (Miscellaneous Amendments) Bill, 1992, 394 (1r), 401 (2r), 661 (C), 673 (R), 674 (3r)
- Misuse of Drugs (Penalties) Bill, 1992, 249 (1r), 249 (2r), 276 (C), 277 (R), 281 (3r)
- Pension (A) Bill, 1992, 29 (1r), 33 (2r), 36 (C), 37 (R), 110 (3r)
- Prisons (A) Bill, 1992, 29 (1r), 29 (2r), 35 (C), 37 (R), 109 (3r)
- Summary Jurisdiction (Domestic Violence) Bill, 1992, 984 (1r), 989 (2r), 1005 (C), 1009 (R), 1029 (3r)
- Supplementary Appropriation (1990) Bill, 1992, 573 (1r), 650 (2r), 676 (3r)
- Supplementary Appropriation (1991) Bill, 1992, 1069 (1r), 1070 (2r), 1071 (C), 1071 (R), 1124 (3r)
- Trade and Business Licensing (A) Bill, 1992, 984 (1r), 1000 (2r), 1006 (C), 1009 (R), 1029 (3r)
-

Bodden. Hon. W. Norman

Annual Report and Financial Statements of the Civil Aviation Authority of the Cayman Islands for period 31 December, 1991 and 1990, 629
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 542

Cayman Airways Limited Financial Statements as at 30th June, 1991, 443
Cayman Airways Limited Financial Statements as at 31 December, 1991, 1085
Closing statement, 1144
Equitable Distribution System of Gratuities (PM 4/92), 369
Loan (Cayman Airways) Bill, 1992, 733, 783, 795
Reduction of inflation and cost of living (PM 3/92), 306
Report of the Public Accounts Committee on the Audited Accounts of the Government of the Cayman Islands for the year ended 31 December, 1991, 1119
Ten Year Tourism Development Plan (1992-2002), 1086

Bodden, Mr. G. Haig
Bail Bill, 1992, 398
Bodden Town Public Beach and Boat Ramp (PM 7/92), 698, 702
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 436
Closing statement, 1146
Companies (A) Bill, 1992, 597
Debate on the Draft Constitution (PM 13/92), 1045, 1072
Development and Planning (A) (No. 2) Regulations, 1992 (GM 6/92), 808
Development and Planning (Tree Preservation Orders) Regulations, 1992 (GM 7/92), 814
Elections (A) Bill, 1992, 576
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 172
Equitable Distribution System of Gratuities (PM 4/92), 367
Government Teacher's Cottage in Bodden Town (PM 10/92), 751, 756
Health Care Insurance Regulations 1992 (GM 4/92), 680
Health Services Authority Contract (PM 8/92), 710, 715
Loan (George Town Hospital)(A) Bill, 1992, 326
Misuse of Drugs (Penalties) Bill, 1992, 257
Misuse of Drugs (Miscellaneous Amendments) Bill, 1992, 407
Police Procedure for Handling of Juveniles and Interrogation of the Public (PM 5/92), 222, 232
Request for the services of a Behavioural Psychologist to support the Education Department (PM 2/92), 69
Swimming Pool/Sports Facility for Cayman Brac (PM 12/92), 820
Tribute to Hon. First Official Member upon his retirement, 378
Twenty-four Hour Police Presence in the Bodden Town District (PM 14/92), 1141, 1142
West Bay Clinic Services and Improvements (PM 9/92), 725
West Bay Roadworks Programme (PM 6/92) 613

Bodden, Mr. Roy
1990 Report of standing public Accounts Committee on Computer Services Department of the Government of Cayman Islands, 1118
Bodden Town Public Beach and Boat Ramp (PM 7/92), 698, 704
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 465, 477
Closing statement, 1145
Debate on the Draft Constitution (PM 13/92), 907, 918
Debate on the Throne Speech, 38-45, 88-94
Elections (A) Bill, 1992, 579
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 172

Equitable Distribution System of Gratuities (PM 4/92), 374
Government Teacher's Cottage in Bodden Town (PM 10/92), 751, 752, 761
Immigration Bill, 1992, 603, 635
Juveniles (A) Bill, 1992, 409, 565
Loan (Cayman Airways) Bill, 1992, 776
Misuse of Drugs (Miscellaneous Amendments) Bill, 1992, 405
Report of the Standing Public Accounts Committee on the Report of the Auditor General on the Audited Accounts of the Cayman Islands Government for the year ended 31 December, 1991, 1073
Request for services of a Behavioural Psychologist to support the Education Department (PM 2/92), 66, 69
Summary Jurisdiction (Domestic Violence) Bill, 1992, 991
Tribute to Hon. First Official Member upon his retirement, 379
Twenty-four Hour Police Presence in the Bodden Town District (PM 14/92), 1140-1162
West Bay Roadworks Programme (PM 6/92) 617

Bodden, Mr. Truman M.
Affiliation (A) Bill, 1992, 989
Bail Bill, 1992, 397
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 440, 457
Closing statement, 1147
Companies (A) Bill, 1992, 598
Debate on the Draft Constitution (PM 13/92), 834, 868, 1104, 1149
Debate on the Throne Speech, 140-149, 181-192
Development and Planning (A) (No. 2) Regulations, 1992 (GM 6/92), 807
Development and Planning (Tree Preservation Orders) Regulations, 1992 (GM 7/92), 812
Elections (A) Bill, 1992, 578
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 208
Equitable Distribution System of Gratuities (PM 4/92), 375
Government Teacher's Cottage in Bodden Town (PM 10/92), 760
Guardianship and Custody of Children (A) Bill, 1992, 300
Health Care Insurance Regulations 1992 (GM 4/92), 682
Health Care Insurance Bill, 1992, 286
Health Services Authority Contract (PM 8/92), 717
Immigration Bill, 1992, 643
Juveniles (A) Bill, 1992, 569
Local Companies (Control) (A) Bill, 1992, 1003
Loan (Cayman Airways) Bill, 1992, 741, 763
Loan (George Town Hospital)(A) Bill, 1992, 302
Maintenance (A) Bill, 1992, 986
Maintenance Orders (enforcement) (A) Bill, 1992, 988
Merchant Shipping Act 1988 (A) Bill, 1992, 731
Misuse of Drugs (Miscellaneous Amendments) Bill, 1992, 405
Misuse of Drugs (Penalties) Bill, 1992, 263
Pension (A) Bill, 1992, 34
Police procedure for handling of juveniles and interrogation of public (PM 5/92), 233
Prisons (A) Bill, 1992, 31
Reduction of inflation and cost of living (PM 3/92), 309

Request for the services of a Behavioural Psychologist to support Education Department (PM 2/92), 69
Swimming Pool/Sports Facility for Cayman Brac (PM 12/92), 821
Tribute to Hon. First Official Member upon his retirement, 379
West Bay Roadworks Programme (PM 6/92) 616
Summary Jurisdiction (Domestic Violence) Bill, 1992, 992
Trade and Business Licensing (A) Bill, 1992, 1001

Bush, Mr. W. McKeeva
Bail Bill, 1992, 396
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 462
Closing statement, 1149
Debate on Draft Constitution (PM 13/92), 834, 1009, 1030
Development and Planning (Tree Preservation Orders) Regulations, 1992 (GM 7/92), 814
Elections (A) Bill, 1992, 591
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 71, 72, 153, 213
Equitable Distribution System of Gratuities (PM 4/92), 367, 375
Government Teacher's Cottage in Bodden Town (PM 10/92), 758
Health Care Insurance Bill, 1992, 282
Health Services Authority Contract (PM 8/92), 710, 719
Juveniles (A) Bill, 1992, 408
Loan (George Town Hospital)(A) Bill, 1992, 328
Maintenance (A) Bill, 1992, 985
Misuse of Drugs (Miscellaneous Amendments) Bill, 1992, 404
Misuse of Drugs (Penalties) Bill, 1992, 266
Motion without Notice for Government to consider debating PM 13/92 at 4.30 PM each sitting, 976
Police procedure for handling of juveniles and interrogation of public (PM 5/92), 237
Re-appoint of Select Committees of Legislative Assembly (GM 2/92), 350
Recovery of Stolen Weapons as reported in *Caymanian Compass* of Thursday, 16th June, 1992, 773
Reduction of inflation and cost of living (PM 3/92), 241, 242, 321, 350, 357
Summary Jurisdiction (Domestic Violence) Bill, 1992, 990
Swimming Pool/Sports Facility for Cayman Brac (PM 12/92), 820
Tribute to Hon. First Official Member upon his retirement, 377
West Bay Clinic Services and Improvements (PM 9/92), 724, 725
West Bay Roadworks Programme (PM 6/92) 611, 621

Cayman Airways Limited
Cayman Airways Limited Financial Statements as at 30th June1991, 443
Loan (Cayman Airways) Bill, 1992, 730(1r), 733 741, 763, 776, 779, 783, 795(2r), 800(C), 805(R), 805(3r)
Parliamentary Questions relating thereto:
38) Supervisory/management appointments at CAL over last three months, 104
49) Steps taken to discontinue lease agreement on 737-400, 151
50) Cost to CAL to put new 737-400 into operation, 152
51) Comparison of lease payment on new 737-400 to original lease on other two 737-400s, 153
77) Additional employees of CAL, 445
78) Steps taken to reduce CAL expenses since January 1992, 446
79) CAL bookings, 447

110) Cost of operating inter-Island air service by CAL, 506
111) CAL contractual commitments re: five leased aircraft, 507
119) Details of all debts accumulated by CAL since June 1991, 534
121) Recommendations of CAL study implemented in Airline's operation, 536
133) CAL assets and liabilities *(withdrawn)*, 585
134) Monthly cost of CAL leases, 585
136) Rental cost of Miami Air and Air Atlanta 727 jets, 607
137) Number of people employed by CAL in North America, 608
138) Job description of CAL Vice President North American Operation, 610
139) Amount of annual subsidy paid to CAL, 610
140) Total funds provided by Government to CAL from 1968 to1992, 630
154) Cause of tyre blow-out on CAL flight 071, 824
180) Termination of CAL employees, 890
189) Factors leading to sale of CAL aircraft, 917

Debate on the Throne Speech
Bodden, Mr. Roy, 38-45, 88-94
Bodden, Mr. Truman M., 140-149, 181-192
Jefferson, Hon. Thomas, 197-199
Jefferson, Mr. John D. Jr, 94-100, 110-113
McLean, Mr. Gilbert A., 113-126, 131-140
Miller, Hon. D. Ezzard, 192-197

Divisions
01/92—PM 2/92, 71
02/92—PM 1/92, 221
03/92—PM 5/92, 241
04/92—Misuse of Drugs (Penalties) Bill, 1992, (2r)), 276
05/92—Loan (George Town Hospital)(A) Bill, 1992 (2r), 341
06/92—Loan (George Town Hospital)(A) Bill, 1992 (C), 341
08/92—PM 3/92, 367
09/92—On adjournment, 411
10/92—Suspension of S.O. to allow GM 3/92 to be taken without due notice, 431
11/92—GM 3/92, 555
12/92—PM 6/92, 627
13/92—Juveniles (A) Bill, 1992 (C), 666
14/92— Elections (A) Bill, 1992 (C), 668
15/92—PM 7/92, 706
16/92—PM 8/92, 723
17/92—PM 9/92, 727
18/92—PM 10/92, 763
19/92—Loan (Cayman Airways) Bill, 1992 (2r), 799
20/92— Loan (Cayman Airways) Bill, 1992 (C), 805
21/92—Continuation of debate on PM 13/92, 975
22/92—Suspension of S.O. 14(3), 976
23/92—Motion without Notice for Government to consider debating PM 13/92 at 4.30 PM each sitting, 976
24/92—Motion for Adjournment, 977

Ebanks. Hon. Benson O.
Cayman Cultural Foundation Bill, 1992, 1069, 1125
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 515
Closing statement, 1149
Community College of Cayman Islands Annual Report 1992 and Financial Statements 1991, 946
Community College of Cayman Islands—Financial Statements for 1990, 229
Debate on Draft Constitution (PM 13/92), 932, 1099
Elections (A) Bill, 1992, 587
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 207
Health Care Insurance Bill, 1992, 292
Loan (George Town Hospital) (A) Bill, 1992, 329
Misuse of Drugs (Penalties) Bill, 1992, 268
National Trust of Cayman Islands—Treasurer's Report for year ended 31 August 1991, together with Annual Report, 229
Reduction of inflation and cost of living (PM 3/92), 314
Request for services of a Behavioural Psychologist to support Education Department (PM 2/92), 67
West Bay Clinic Services and Improvements (PM 9/92), 725
West Bay Roadworks Programme (PM 6/92) 620

Government Motions
1/92—Cinematographic Authority, 37
2/92—Re-appoint of Select Committees of Legislative Assembly, 349
3/92—CI Health Services Authority Loan Guarantee, 431
4/92—Health are Insurance Regulations 1992, 676
5/92—Notice of Motion to Amend Legislative Assembly Standing Order (Revised), 817
6/92—Development and Planning (A) (No. 2) Regulations, 1992, 806
7/92— Development and Planning (Tree Preservation Orders) Regulations, 1992, 810

Ground, Hon. Richard W.
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 199
Misuse of Drugs (Penalties) Bill, 1992, 249, 271
Police procedure for handling of juveniles and interrogation of public (PM 5/92), 226, 230

Hurlston, Hon. J. Lemuel
Elections (A) Bill, 1992, 573, 594
Electoral Boundaries, 355
Immigration Bill, 1992, 601, 649
Prisons (A) Bill, 1992, 30, 33
Re-appoint of Select Committees of Legislative Assembly (GM 2/92), 350
Recovery of Stolen Weapons as reported in *CaymanianCompass* of Thursday, 16th June, 1992, 773
Report of Select Committee to Review CI Immigration Legislation (Special Fourth Interim), 493
Fifth and Final, 1118
Report of Standing Business Committee:
Meetings held 14th & 27th February, 1992, 413
Meetings held 17, 24, June and 2, 9, 17 July, 1991, 776
Meetings held 28th and 31st August, 1992, 1119
Roads in District Administration, 356

Twenty-four Hour Police Presence in Bodden Town District (PM 14/92), 1141

Jefferson, Hon. Thomas C.
Debate on Throne Speech, 197-199
Government Minute on 1991 Report of Public Accounts Committee on Auditor General's Report and Audited Accounts of Cayman Islands Government for year ended 31st December, 1990, 355
Pension (A) Bill, 1992, 33, 35
Reduction of inflation and cost of living (PM 3/92), 305
Report of Standing Finance Committee
Meeting held 18th February, 1992), 203
Meeting held 6th and 12th March, 1992, 353
Re-appoint of Select Committees of Legislative Assembly (GM 2/92), 349
Reply to tribute by Members to Hon. First Official Member upon his retirement, 380

Jefferson, Mr. John D. Jr.
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 435
Closing statement, 1144
Companies (A) Bill, 1992, 598
Debate on Draft Constitution (PM 13/92), 941, 954
Debate on Throne Speech, 94-100, 110-113
Elections (A) Bill, 1992, 575
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 72, 210
Equitable Distribution System of Gratuities (PM 4/92), 373
Health Care Insurance Bill, 1992, 282
Immigration Bill, 1992, 639
Juveniles (A) Bill, 1992, 568
Misuse of Drugs (Miscellaneous Amendments) Bill, 1992, 406
Misuse of Drugs (Penalties) Bill, 1992, 260
Motion without Notice for Government to consider debating PM 13/92 at 4.30 PM each sitting, 976
Pension (A) Bill, 1992, 35
Reduction of inflation and cost of living (PM 3/92), 242, 319
Tribute to Hon. First Official Member upon his retirement, 380
West Bay Clinic Services and Improvements (PM 9/92), 724
West Bay Roadworks Programme (PM 6/92) 611, 618

Kirkconnell, Capt. Mabry S.
Bail Bill, 1992, 399
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 510
Closing statement, 1145
Debate on Draft Constitution (PM 13/92), 1090
Development and Planning (A) (No. 2) Regulations, 1992 (GM 6/92), 807
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 174
Equitable Distribution System of Gratuities (PM 4/92), 374
Health Care Insurance Bill, 1992, 283
Juveniles (A) Bill, 1992, 567
Loan (George Town Hospital)(A) Bill, 1992, 329

Maintenance (A) Bill, 1992, 985
Misuse of Drugs (Penalties) Bill, 1992, 270
Pension (A) Bill, 1992, 34
Prisons (A) Bill, 1992, 33
Summary Jurisdiction (Domestic Violence) Bill, 1992, 994
Swimming Pool and Sports Facility for Cayman Brac (PM 12/92), 881, 819, 821

McCarthy, Hon. George A.
Agricultural and Industrial Development Board Report for year ended 31 December, 1991, 493
Audited Accounts of Cayman Islands Government for year ended 31 December, 1992, 1053
Companies (A) Bill, 1992, 595, 599
Loan (Cayman Airways) Bill, 1992, 779
Merchant Shipping Act 1988 (A) Bill, 1992, 730, 732
Merchant Shipping Bill, 1992, 600
Report of Auditor General on Audited Accounts of Cayman Islands Government for year ended 31 December 1991, 073
Report of Standing Finance Committee
Meeting held 3rd July, 1992, 775
Meetings held 15th and 16th July, 1992, 1065
Meeting held 14th September, 1992, 1117
Supplementary Appropriation (1990) Bill, 1992, 650, 657
Supplementary Appropriation (1991) Bill, 1992, 1070

McLean, Mr. Gilbert A.
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 487
Closing statement, 1146
Debate on Draft Constitution (PM 13/92), 871, 895
Debate on Throne Speech, 113-126, 131-140
Elections (A) Bill, 1992, 588
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 211
Equitable Distribution System of Gratuities (PM 4/92), 371
Government Teacher's Cottage in Bodden Town (PM 10/92), 760
Health Services Authority Contract (PM 8/92), 713
Juveniles (A) Bill, 1992, 566
Loan (George Town Hospital)(A) Bill, 1992, 301
Maintenance (A) Bill, 1992, 986
Pension (A) Bill, 1992, 34
Personal Explanation RE: Comments made by First Elected Member for West Bay during Debate on Draft Constitution (PM 13/92), 1122
Police procedure for handling of juveniles and interrogation of public (PM 5/92), 221, 222, 239
Prisons (A) Bill, 1992, 32
Health Care Insurance Bill, 1992, 289
Request for services of Behavioural Psychologist to support Education Department (PM 2/92), 66, 67
Swimming Pool and Sports Facility for Cayman Brac (PM 12/92), 818, 819
Tribute to Hon. First Official Member upon his retirement, 379

McLean, Mr. John B.
Cayman Cultural Foundation Bill, 1992, 1126

Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 518, 539
Closing statement, 1147
Bail Bill, 1992, 398
Debate on Draft Constitution (PM 13/92), 1088
Development and Planning (Tree Preservation Orders) Regulations, 1992 (GM 7/92), 814
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 206
Health Care Insurance Bill, 1992, 283
Juveniles (A) Bill, 1992, 409
Loan (George Town Hospital)(A) Bill, 1992, 331
Maintenance (A) Bill, 1992, 985
Tribute to Hon. First Official Member upon his retirement, 379

Miller, Hon. D. Ezzard
Affiliation (A) Bill, 1992, 988, 989
Bodden Town Grave Yards, 325
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 432, 543
Cayman Islands Health Services Authority Forecasted Statements of Receipts and Expenditures for Ten Years ending 31December 1992-2001, with Accountants' Examination Report, 355
Closing statement, 1148
Debate on Draft Constitution (PM 13/92), 924
Debate on Throne Speech, 192-197
Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands (PM 1/92), 157
Guardianship and Custody of Children (A) Bill, 1992, 300
Health Care Insurance Bill, 1992, 278
Health Care Insurance Regulations 1992 (GM 4/92), 676, 684, 691
Health Services Authority Contract (PM 8/92), 715
Juveniles (A) Bill, 1992, 408, 572
Loan (George Town Hospital)(A) Bill, 1992, 301, 332
Maintenance (A) Bill, 1992, 984, 987
Maintenance Orders (enforcement) (A) Bill, 1992, 988,
Misuse of Drugs (Penalties) Bill, 1992, 265, 294
Personal Explanation RE: Issue raised in Report of Public Accounts Committee on Auditor General's Report of 1991 Accounts, 1142
Summary Jurisdiction (Domestic Violence) Bill, 1992, 989, 995

Motion on the Adjournment
Recovery of Stolen Weapons as reported in *CaymanianCompass* of Thursday, 16th June, 1992
Bush, Mr. W. McKeeva, 773
Hurlston, Hon. J. Lemuel, 773

Motion Without Notice
For Government to consider debating PM 13/92 at 4.30 PM each sitting, 976

Parliamentary Questions
1) New system for patient registration at hospital, 15
2) Medical aid denied to patients unable to make deposit, 16

3) Steps taken to upgrade primary schools in outer districts, 16
4) Completion of tour of duty of Constables recruited from UK, 18
5) Title and grade of posts held by Caymanians and Non-Caymanians in Lands and Survey Department, 19 *(deferred)*, 204
6) Title and grade of posts held by Caymanians and Non-Caymanians in Cayman Islands Middle and High Schools, 19
7) Experts' reports on proposed new Hospital, 22
8) New posts created under new Agricultural Development Plan, 23
9) Responsibility for vessel "Warm Wind" anchored of Little Cayman, 24
10) Prescribed procedure followed by Police in detaining, arresting and interrogating juvenile suspects, 25
11) Total cost for construction of new hospital and correspondence relating thereto, 27
12) Benefits of Drug Conference held in September 1990, 28
13) Criminal activity at Cayman Islands High School, 47
14) Cases of abuse of teachers by students, and steps taken to prevent such, 48
15) Steps taken to increase Police presence in East End, 50
16) Offences warranting suspension and/or expulsion from CIMS & CIHS, 52
17) Government's annual cost per pupil, 53
18) Advantage/disadvantage of replacing GCSE with CXC, 55
19) Details of tutoring available to students in preparation for SAT, 58
20) Circumstances warranting a state funeral, 60
21) Use of CI Coat-of Arms in advertising, 61
22) Schedule of inspection of hospitality properties, 62
23) Proposed survey of students' attitudes towards drugs, cigarettes, etc., 63
24) Explanation of statement "It will be necessary to write off a whole generation to cure drug problems", as made by Hon. Member in 1989, 63
25) Overtime payments to Northward Prison personnel, 77
26) Rank of personnel on duty after regular hours at Northward Prison, 78
27) Responsibility and access of purchase order books at Northward Prison, 78
28) Estimated contribution of tourist arriving by cruise ship vs. tourist arriving by air, 79
29) Doctors employed by Government granted permission to practice privately by Health Services Authority, 81
30) Salary changes at GTH since Health Services Authority came into effect, 82
31) Investigative procedure followed by Health Services Authority when patient accuses a doctor or nurse of misconduct, 82
32) Number of aircraft leased and payments since 1989, 84
33) Countries visited by Member of Health and Social Services to observe similar services and programmes and number initiated in these islands as a result, 85
34) Results of training workshops for Church Youth Workers, 87
35) Procedure for purchasing merchandise at Northward Prison, 101
36) Responsibility for "Open Line" programme aired on Radio Cayman, 102
37) Reason for subject regarding various religions registered in islands aired on 3rd February, 1992, 103
38) Supervisory/management appointments at CAL over last three months, 104
39) Designated 'Place of safety" for juveniles, 105
40) Restriction on burial in private cemeteries, 106
41) Number of demonstration farms, length of time in operation, and cost to operate, 106
42) Cost per child to attend correction al institution in United States, 107

43)Meaning of statement “George Town Clinic will be a referral base for district out-patient services” as mentioned in Police Analysis of new hospital, 108
44)Arrangement for returning prisoners to country of origin to serve sentence; and rank of officer used to accompany same, 127
45)Steps taken by Government to investigate use of illegal scanners and recorders that listen in on private telephone conversations, 128
46)Costing of urgent repairs to roads in Eastern Districts, 129
47)Crushed rock stockpiled on south side of Cayman Brac on parcel of land, and who owns land, 130
48)Status of blasting and excavating work on south side of Cayman Brac, 131
49)Steps taken to discontinue lease agreement on 737-400, 151
50)Cost to CAL to put new 737-400 into operation, 152
51)Comparison of lease payment on new 737-400 to original lease on other two 737-400s, 153
52) Investigation into allegation of unfair gratuity distribution, 179
53)Nude bathing incident, 382
54)Use of hard-drugs reported by inmates at Northward Prison, 384
55)On duty officer at Government House reported missing for 15-30 minutes, 385
56)Why public approval was not sought for name change of Middle and High School, 385
57)Number of teachers leaving Computer Services Studies Department at JGHS, 386
58)Course content of additional year of primary school as it relates to first year of high school, 386
59)Cost of boat ramp repair at Lobster Pot and name of contractor, 388
60)Bodden Town boat ramp land purchase and date of completion, 388
61)Cost of CI Water Authority pipeline works to Eastern Districts, 389
62)Cost per mile of CI Water Authority pipeline works compared to cost per mile to West Bay contract, 391
63)Total number of nursing staff by nationality, qualifications, 392
64)Plans for monthly/quarterly collection of large items by Environmental Health in West Bay, 394
65)Cost to fill property in Prospect where Primary School is to be built, 417
66)Deviation from Education Plan for CIHS, 418
67)West Indian Islands with CXC system still utilise a middle school system, 419
68)Cost of water purchased for Prison, 421
69)Prison Officer’s Training Course, 421
70)Programmes on hand-to-hand combat for Prison Officers, 422
71)Steps taken to prevent a certain man from defecating on Post Office in central GT, 422
72)Ear-marking of head tax on cruise ship passengers, 424
73)Cost of free standing 250 foot communication tower near prison, 424
74)Moratorium on taxi licenses, 425
75)Update on bus depot in GT, 425
76)Action taken on PM 15/91, Financial Assistance to Indigents, 425
77)Additional employees of CAL, 445
78)Steps taken to reduce CAL expenses since January 1992, 446
79)CAL bookings, 447
80)PrisCraft Account, balance and administration thereof, 448
81)Penalty for prisoners who break rules, 449
82)Number and nationality of Prison Officers, 450
83)Cost of Jennet L Road to date, 450
84) Number of Caymanians in management in hospitality industry, 452
85)Names of local banks interested in financing new hospital, 453
86)Government policy on new super scale level in Civil Service , 453
87)Inskip murder case, 455

88)Marking of channels in Cayman Islands, 455
89)Steps taken by Labour Office to ensure job vacancies are filled by qualified Caymanians, 467
90)Investigation into allegation of advertising for positions done only as a formality, 469
91)Airport resurfacing project, 470
92)Total number of civil servants, number of Caymanians, percentage of budget allocated for salaries, 470
93)Adjudication of complaints against prisoners and prison officers, 472
94)Regulations encouraging prison officers to recruit relatives, 472
95)Draft Constitution available to public, 473
96)Cost of hospital advertisements in newspapers, 473
97)Proposed plan to prevent dumping in Barkers, 474
98)Breakdown and current status of projects requested for West Bay, 474
99)Policy regarding publishing names and bids of companies submitting tenders for Government projects, 474
100) Cost of Customs Boat and engine, 476
101) Tourist related businesses that do not collect and distribute gratuities, 497
102) Departments housed in Campbell Building and cost of furniture, 499
103) Size of Campbell Building property and cost to upgrade it, 499
104) Basis of promotion for Prison officers and number of foreign nationals promoted, 500
105) Recruiting procedure of Royal Cayman Islands Police, 500 *(deferred)*, 581
106) Amount of money spent on advertisements for new recruits for Royal Cayman Islands Police, 501
107) Number of teachers by nationality in Government schools and number of Caymanians trained as teachers since November 1984, 501
108) Programme in place ensuring Caymanians will comprise a larger portion of Government teaching staff, 502
109)Breakdown of road construction and maintenance by district during first five months of 1992, 503
110) Cost of operating inter-Island air service by CAL, 506
111) CAL contractual commitments re: five leased aircraft, 507
112) Repairs to automatic doors at Gerrard Smith Airport, 509
113) Cost to duplicate technical studies at CIHS, 523
114) Number of medical cases referred to US or Jamaica since January 1992, and type of ailments, 524
115) Cost of per patient sent abroad for medical reasons since January 1992, 525
116) Contingent liabilities of CI Government as at 31 March, 1992, 528
117) Register of approved contractors list, 532
118) Number of new teachers recruited, nationality and qualification *(withdrawn)*, 534
119) Details of all debts accumulated by CAL since June 1991, 534
120) Official arrangement allowing cruise ship passengers to bring bicycles ashore, 535
121) Recommendations of CAL study implemented in airline's operation, 536
122) When will National Health Insurance Plan be brought into effect, agreement on monthly premium, 538
123) Breakdown of ambulance calls from East End and North Side, 557
124)Type of material used on road surface at Cottage, Frank Sound, 557
125) Amount spent on travel by CI Port Authority 1989-April 1992, 559
126) Number of embezzlement or fraud cases in Government Service during last four years, 559
127) Number of GOL holders in hotel and restaurant industry, and positions held, 561
128) Number of people served with court ordered deportation, nature of crime, consideration of reversal of order, 562
129) Status of contract for clearing South Side Channel in Cayman Brac, 563
130) Cost of re-constructed road east of Frank Sound Junction, 564

131) Cost of new Port Authority facility, 582
132) US company supplying vehicles and equipment to CI Government, 583
133) CAL assets and liabilities *(withdrawn)*, 585
134) Monthly cost of CAL leases, 585
135) Persons aged 17-25 convicted of criminal offences, 587 *(deferred)*, 605
136) Rental cost of Miami Air and Air Atlanta 727 jets, 607
137) Number of people employed by CAL in North America, 608
138) Job description of CAL Vice President North American Operation, 610
139) Amount of annual subsidy paid to CAL, 610
140) Total funds provided by Government to CAL from 1968 to 1992, 630
141)Complaints received by Government from Caymanians employed at hotels along Seven Mile Beach, 632
142) Number of Caymanians employed at establishments, 633
143) Number of Caymanian teachers at institutions abroad, 653
144) Provision for employment of returning Caymanian university students during summer holidays, 654
145) Number of Caymanian and foreign students enrolled at Cayman Islands Law School, 655
146) Income and Expenditure of Health Services Authority, 687
147) Government's undertaking to use Central Tender's Committee in awarding hospital contract, 688
148) Problems with sewerage line along West Bay Beach, 690
149) Outstanding projects for Bodden Town constituency, 707
150) Regulations/guidelines for mining and dredging of marl, 708
151) Number of permits for mining of marl issued over past 12 months, 709
152) Funds allocated to agricultural feeder roads, 729
153) Amount spent on rental of Government accommodation, 823
154) Cause of tyre blow-out on CAL flight 071, 824
155) Debts Civil Aviation is unable to pay, 825
156) Type of investigation conducted by Government when foreign nationals apply for residency, 825
157) Group employees in Government service, 826 *(deferred)*, 1027
158) Method for dealing with requests for street lights, 827
159) Completion of phase II of John A. Cumber Primary School , 827
160) Opening of new sporting complex in West Bay, 828
161) Radar station on south coast of Grand Cayman, 829
162) Complement of RCIP, 830
163) Cruise ship docking facilities and moorings, 831
164) Traffic hazard caused by parking on both sides of road in vicinity of Hyatt Hotel, 831
165) Sale of Government property, 853
166) Government surplus or deficit at end of August 1992, 856
167) Land acquisition for Breakers playfield, 857
168) Children suspended from Government Schools, 857
169) Provisions for children taking CXC exams, 858
170)Balance of Government's General Reserves, 860
171) Reason why DOT (Miami) is moving to another location, 861
172) Hotels operating without facilities for meals, 863
173) Qualifications of newly appointed Auditor General, 864
174) Tabling of Public Service Investment Committee Report on new hospital, 864
175) Number of Social Workers in Social Services Department, 866
176) Length of probationary period and number of persons retained on 'temporary' basis in Civil Service , 885

177) Percentage of increase/decrease in personal emoluments from 1988 to 1991, 887
178) Budget and staff complement of Computer Services, 887
179) Requests for pre-school subsidies, 889
180) Termination of CAL employees, 890
181) Revenue earned by West Shore Post Office, 892
182) Breakdown of yearly recruits to RCIP over past eight years, 892
183) Update on Guiness Peat Aviation law suit, 893
184) Expenditure to date on West Bay Birch Tree playing fields, 894
185) Complaints handled by Caymanian Protection Board, 913
186) Number of work permits issued since August 1991, 914
187) Number of juveniles incarcerated in Cayman Islands and provision for rehabilitation, 915 *(deferred)*, 1066
188) Total amount of taxes raised by Government and deficits since 1989, 916
189) Factors leading to sale of CAL aircraft, 917
190) Number of drug counsellors and qualifications, 918
191) Complaints received against RCIP, 947
192) Factors contributing to significant increase in overseas medical expenses in 1991, 949
193) Provision for training and promoting of capable young Caymanians at PWD and Land Registry, 950
194) Profit realised by CUC since 1984, 951
195) CUC pipeline reflect possible rate increase, 952
196) Environmental impact on proposed CUC pipeline, 953
197) Management of Town Halls and Civic Centres, 980
198) Government's policy regarding importation of heavy equipment, 980
199) Provision for management of Government properties, 981
200) Tabling of proposed revisions of Development Plan done by University of Tennessee, 982
201) West Shore Post Office: number of boxes, capital and recurrent expenditure, 983
202) Possible amendment to Division of Fences Law, 1990, 1024
203) Hardware/Software investment in Computer Services Department, 1025

Personal Explanations (S.O. 31)
McLean, Mr. Gilbert A., 1122
Miller, Hon. D. Ezzard, 1122

Pierson, Hon. Linford A.
Annual Report (1991) of Central Planning Authority and Planning Department, 381
Bodden Town Public Beach and Boat Ramp (PM 7/92), 699
Cayman Islands Health Services Authority Loan Guarantee (GM 3/92), 481
Closing statement, 1148
Debate on Draft Constitution (PM 13/92), 959
Development and Planning (A) (No. 2) Regulations, 1992, 729
Development and Planning (A) (No. 2) Regulations, 1992 (GM 6/92), 806, 809
Development and Planning (Tree Preservation Orders) Regulations, 1992, 729
Development and Planning (Tree Preservation Orders) Regulations, 1992 (GM 7/92), 810, 815
Financial Statements of Port Authority of Cayman Islands for year ended 31st December, 1991, 353
Government Teacher's Cottage in Bodden Town (PM 10/92), 752
Misuse of Drugs (Penalties) Bill, 1992, 261
Port Authority of Cayman Islands Annual Report 1991, 1023
Report on Street Naming and Property Numbering in Cayman Islands, 979

Swimming Pool/Sports Facility for Cayman Brac (PM 12/92), 820
West Bay Roadworks Programme (PM 6/92) 615
Water Authority Annual Report 1991, 945

Points of Order

Misleading, 258, 437, 703, 1031, 1032, 1033, 1035, 1039, 1040, 1112, 1113, 1115
Relevance, 288, 691

Presentation of Papers and Reports

1990 Report of Standing public Accounts Committee on Computer Services Department of Government of Cayman Islands, 1118
Annual Report (1991) of Central Planning Authority and Planning Department, 381
Agricultural and Industrial Development Board Report for year ended 31 December 1991, 493
Annual Report and Financial Statements of Civil Aviation Authority of Cayman Islands for period 31 December, 1991 and 1990, 629
Audited Accounts of Cayman Islands Government for year ended 31 December, 1992, 1053
Cayman Airways Limited Financial Statement as at 30th June, 1991, 443
Cayman Airways Limited Financial Statement as at 31 December, 1991, 1085
Cayman Islands Health Services Authority Forecasted Statements of Receipts and Expenditures for Ten Years ending 31st December 1992-2001, with Accountants' Examination Report, 355
Community College of Cayman Islands Annual Report 1992 and Financial Statements 1991, 946
Community College of Cayman Islands—Financial Statements for 1990, 229
Development and Planning (Amendment) (No. 2) Regulations, 1992, 729
Development and Planning (Tree Preservation Orders) Regulations, 1992, 729
Draft Constitution of Cayman Islands, July 1992, 823
Financial Statements of Port Authority of Cayman Islands for year ended 31st December, 1991, 353
Government Minute on 1991 Report of Public Accounts Committee on Auditor General's Report and Audited Accounts of Cayman Islands Government for year ended 31st December, 1990, 355
National Trust of Cayman Islands—Treasurer's Report for year ended 31 August, 1991, together with Annual Report, 229
Port Authority of Cayman Islands Annual Report 1991, 1023
Report of Auditor General on Audited Accounts of Cayman Islands Government for year ended 31 December 1991, 1053
Reports of Select Committee:
    Elections Law, 413
    Immigration Legislation (Special Fourth Interim), 493; Fifth and Final, 1118
Reports of Standing Business Committee
    Meetings held 14, 27 February, 1992, 413
    Meetings held 28, 31 August, 1992, 1119
    Meetings held 17, 24, 29 June 2, 9, 17; July, 1992, 776
Reports of Standing Finance Committee
    Meeting held 18 February, 1992, 203
    Meeting held 3 July, 1992, 775
    Meeting held 15, 16 July 1992, 1065
    Meeting held 14 September, 1992, 1117
    Meeting held 6, 12 March, 1992, 353
Reports of Standing Public Accounts Committee on Report of Auditor General on Audited Accounts of Cayman Islands Government for year ended 31 December 1991, 1053
Report on Street Naming and Property Numbering in Cayman Islands, 979

Ten Year Tourism Development Plan (1992-2002), 1086
Water Authority Annual Report 1991, 945

Private Members' Motions

1/92—Employment of effective Government and Judicial control of drug use and rehabilitation of offenders in Cayman Islands
Bodden, Mr. G. Haig, 172
Bodden, Mr. Roy, 172
Bodden, Mr. Truman, M., 208
Bush, Mr. W. McKeeva *(Mover)*, 71, 72, 153, 213
Ebanks, Hon. Benson O., 207
Ground, Hon. Richard W., 199
Jefferson, Mr. John D., Jr *(Seconder)*, 72, 210
Kirkconnell, Capt. Mabry S., 174
McLean, Mr. Gilbert A., 211
McLean, Mr. John B., 206
Miller, Hon. D. Ezzard, 157

2/92–Request for Services of a Behavioural Psychologist to support Education Department
Bodden, Mr. G. Haig, 69
Bodden, Mr. Roy *(Mover)*, 66, 69
Bodden, Mr. Truman M., 69
Ebanks, Hon. Benson O., 67
McLean, Mr. Gilbert A. *(Seconder)*, 66, 67

3/92—Reduction of Inflation and Cost of Living
Bodden, Hon. W. Norman, 306
Bodden, Mr. Truman M., 309
Bush, Mr. W. McKeeva *(Mover)*, 241, 242, 321, 350, 357
Ebanks, Hon. Benson O., 314
Jefferson, Hon. Thomas C., 305
Jefferson, Mr. John D., Jr *(Seconder)*, 242, 319

4/92—Equitable Distribution System of Gratuities
Bodden, Hon. W. Norman, 369
Bodden, Mr. G. Haig *(Seconder)*, 367
Bodden, Mr. Roy, 374
Bodden, Mr. Truman M., 375
Bush, Mr. W. McKeeva *(Mover)*, 367, 375
Jefferson, Mr. John D., Jr., 373
Kirkconnell, Capt. Mabry S., 374
McLean, Mr. Gilbert A., 371

5/92—Police Procedure for Handling of Juveniles and Interrogation of Public
Bodden, Mr. G. Haig *(Seconder)*, 222, 232
Bodden, Mr. Truman M., 233
Bush, Mr. W. McKeeva, 237
Ground, Hon. Richard W., 226, 230
McLean, Mr. Gilbert A. *(Mover)*, 221, 222, 239

6/92—West Bay Roadworks Programme
Bodden, Mr. G. Haig, 613
Bodden, Mr. Roy, 617
Bodden, Mr. Truman M., 616
Bush, Mr. W. McKeeva *(Mover)*, 611, 621
Ebanks, Hon. Benson O., 620
Jefferson, Mr. John D., Jr. *(Seconder)*, 611, 618
Miller, Hon. D. Ezzard, 620
Pierson, Hon. Linford A., 615

7/92—Bodden Town Public Beach and Boat Ramp
Bodden, Mr. G. Haig *(Seconder)*, 698, 702
Bodden, Mr. Roy *(Mover)*, 698, 704
Pierson, Hon. Linford A., 699

8/92—Health Services Authority Contract
Bodden, Mr. G. Haig *(Seconder)*, 710, 715
Bodden, Mr. Truman M., 717
Bush, Mr. W. McKeeva *(Mover)*, 710, 719
McLean, Mr. Gilbert A., 713
Miller, Hon. D. Ezzard, 715

9/92—West Bay Clinic Services and Improvements
Bodden, Mr. G. Haig, 725
Bush, Mr. W. McKeeva *(Mover)*, 724, 725
Ebanks, Hon. Benson O., 725
Jefferson, Mr. John D. Jr. *(Seconder)*, 724

10/92—Government Teacher's Cottage in Bodden Town
Bodden, Mr. G. Haig *(Seconder)*, 751, 756
Bodden, Mr. Roy *(Mover)*, 751, 752, 761
Bodden, Mr. Truman M., 760
Bush, Mr. W. McKeeva, 758
McLean, Mr. Gilbert A., 760
Pierson, Hon. Linford A., 752

11/92—Broadcast Standards Council/Commission *(Withdrawn*)

12/92—Swimming Pool and Sports Facilities for Cayman Brac
Bodden, Mr. G. Haig, 820
Bodden, Mr. Truman M., 821
Bush, Mr. W. McKeeva, 820
Kirkconnell, Capt. Mabry S. *(Mover)*, 818, 819, 821
McLean, Mr. Gilbert A. *(Seconder)*, 818, 819
Pierson, Hon. Linford A., 820

13/92—Debate on Draft Constitution
Bodden, Mr. Roy, 907, 918

Bodden, Mr. Truman M. *(Mover)*, 834, 868, 1104, 1129
Bush, Mr. W. McKeeva *(Seconder)*, 834, 1009, 1029
Ebanks, Hon. Benson O., 932, 1099
Jefferson, Mr. John D., Jr, 941, 954
Kirkconnell, Capt. Mabry S., 1090
McLean, Mr. Gilbert A., 871, 895
Miller, Hon. D. Ezzard, 924
Pierson, Hon. Linford A., 959

14/92—Twenty-four Hour Police Presence in Bodden Town District
Bodden, Mr. G. Haig *(Seconder)*, 1141, 1142
Bodden, Mr. Roy *(Mover)*, 1140, 1141, 1142
Hurlston, Hon. J. Lemuel, 1141

Proclamations
2/92—Summoning new Session, 1

Ryan, Hon. James M.
Draft Constitution of Cayman Islands, July 1992, 823
Local Companies (Control) (A) Bill, 1992, 1002, 1004
Notice of Motion to Amend Legislative Assembly Standing Order (Revised) (GM 5/92), 817
Oath of Allegiance, 795, 823
Trade and Business Licensing (A) Bill, 1992, 1000, 1002

Smellie, Hon. Anthony S.
Bail Bill, 1992, 395, 399
Juveniles (A) Bill, 1992, 571
Misuse of Drugs (Miscellaneous Amendments) Bill, 1992, 401, 407
Oath of Allegiance, 381
Report of Select Committee on Elections Law, 413

Speaker's Announcements and Rulings
Closing statement, 1143
Deportment of Members, 723
Members ordered to cease talking across floor, 159, 275
Member asked to refrain from using unparliamentary phrase, 292, 333
Order called for in public gallery, 511, 521, 1117
Tribute to Hon. First Official Member upon his retirement, 380

Statements by Members of the Government
Bodden, Hon. W. Norman
-Report of Public Accounts Committee on Audited Accounts of Government of Cayman Islands for year ended 31 December, 1991, 1119
Hurlston, Hon J. Lemuel
-Electoral Boundaries, 355
-Roads in District Administration, 356
Miller, Hon. D. Ezzard
-Bodden Town Grave Yards, 325

Suspension of Standing Orders
S.O. 10(2), 553, 938, 971, 1049, 1081, 1109, 1139
S.O. 14(2), 206, 710, 884
S.O. 14(3), 973
S.O. 23 (7) and (8), 26, 55, 86, 390, 475, 504, 534, 832, 862, 893, 953, 1066
S.O. 46 (1), 1068
S.O. 49, 800
S.O. 72(5), 204, 353, 1064

Throne Speech (*see also: Debate on*), 2

Tributes to Honourable First Official Member upon his retirement
Bodden, Mr. G. Haig, 378
Bodden, Mr. Roy, 379
Bodden, Mr. Truman M., 379
Bush, Mr. W. McKeeva, 377
Hurlston, Hon. J. Lemuel, 376
Jefferson, Hon. Thomas C., 380
Jefferson, Mr. John D. Jr., 380
McLean, Mr. Gilbert A., 379
McLean, Mr. John B., 379
Speaker, 380

MEETING DATES AND PAGES

First Meeting

14th February, through 16th March, 1992—pages 1-380

Second Meeting

22nd June, through 27th July, 1992—pages 381-822

Third Meeting

2nd through 18th September, 1992—pages 823-1152

WEDNESDAY
8TH JULY, 1992
10:14 AM

MADAM SPEAKER: 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 II, 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 Speaker of the Legislative Assembly, Official Members and Ministers of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

All this we ask for Thy Great Name's sake.

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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly. Deferred question No.105 standing in the name of the First Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

DEFERRED QUESTION NO. 105
(Deferred Wednesday, 1st July, 1992)

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 105: Would the Honourable Member say what are the procedures used in recruiting persons into the Royal Cayman Islands Police Force?

ANSWER: The procedure for recruiting persons into the Royal Cayman Islands Police Force is as follows. When vacancies for Constables occur, advertisements are placed in the local newspapers and announcements made on Radio Cayman. Applicants are required to complete and submit an application form, together with two recent photographs, and must meet the minimum standards for enlistment into the Force, which are as follows:

(a) preferably, but not necessarily, Caymanian or Caymanian status;
(b) entry age between 18 and 30 years, and up to age 40 in certain cases;
(c) of reasonable height;
(d) eyesight should be normal, without spectacles;
(e) must satisfy the Government Medical Officer regarding physical fitness.

Candidates who satisfy these standards are then required to sit and pass an entrance examination which comprises simple mathematics questions, a short essay and English comprehension. Successful candidates are then invited to attend an interview with the Officer-in-Charge of the Training Department or his Deputy. Applicants who are successful at their interview are then sent for a medical examination and a vetting check is also carried out. The initial process ends with a final selection in consultation with the Commissioner of Police and the Deputy Commissioner of Police.

New recruits then undergo a 15-week training course during which they are taught a variety of subjects, including law and police procedures, drill, first-aid, self-defence and simulated exercises. Progress tests are held throughout the training period which recruits are required to pass. A final examination is held and the course ends with a passing-out parade. 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.

SUPPLEMENTARIES:

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you Madam Speaker. I wonder if the Honourable Member would say if in cases where persons have scored well on the test and have indeed been deferred because at the time the person was told that the quota had already been filled, if those persons get any special consideration at the next recruitment?

HON. J. LEMUEL HURLSTON: Madam Speaker, assuming everything is equal, the answer would be yes that such a person would be given a high priority on the next recruitment opportunity.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say how frequently these recruitment exercises are held?

HON. J. LEMUEL HURLSTON: Madam Speaker, as frequently as necessary. Normally not less than once a year.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder then if the Honourable Member would have any explanation for the fact that someone who scored in the 80% in the entrance examination, completed the medical examination successfully and was deferred until the next recruiting, yet has not been recruited although two years have passed?

HON. J. LEMUEL HURLSTON: Madam Speaker, I would only have to assume that in that particular case there are other reasons unknown to the Member as to why that particular person has not been successful in being recruited. If he wishes to give me the name of the person he is speaking in reference to, I can have the matter enquired into on his behalf.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you Madam Speaker. In (d) of the answer given it mentioned that eyesight should be normal without spectacles. I wonder if the Member could say if an individual qualifies in all of the others listed and wears spectacles, would this stop him from receiving a job?

HON. J. LEMUEL HURLSTON: Yes, Madam Speaker. I am afraid in order to enlist as a Constable and in order to fulfill all of the duties of the Constable, that is a legitimate requirement.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. So am I to understand that we have no Constables that wear glasses?

HON. J. LEMUEL HURLSTON: No, Madam Speaker. What I was saying is that in order to enlist and complete the training, to join, that is a legitimate requirement. If ones sight subsequently deteriorates to the point to where glasses are required, that is a different matter.

MADAM SPEAKER: The next question is No. 131 standing in the name of the Member for East End.

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

NO. 131: Would the Honourable Member say what was the cost of the new Port Authority facility at Industrial Park?

ANSWER: The total cost of the Port Authority's new Cargo Distribution Centre in the Airport Industrial Park was $4,643,027.00.

SUPPLEMENTARIES:

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could tell us if this figure reflects the cost of the land on which the building is built?

HON. LINFORD A. PIERSON: Madam Speaker, for the information of the House, I will give a breakdown of the total amount. The original land, called six acres was $559,827.00. The land development is $904,037.00. Paving $619,442.00, the building, 10,000 sq. ft. $929,063.00, the cargo handling equipment $547,465.00, the trucking equipment $139,834.00 and an additional 3 acres of land for future development was $943,359.00 for a total amount of $4,643,027.00.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could tell us by whom was this built and also if he could give the figure for the paving of the yard with bricks?

HON. LINFORD A. PIERSON: Madam Speaker, the building was sub-contracted to a number of different contractors and I do not have that information readily available, but I could provide it to the Member in writing if he so wishes. On the answer to the second part of the question it had already been given. The cost of paving $619,442.00.

MADAM SPEAKER: If there is no further supplementary, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you. The $937,000.00 on land development, what was this in relation to, through you, Madam Speaker?

HON. LINFORD A. PIERSON: The land development cost was actually $904,037.00. That is in relation to land and development. The land development includes land fill, fencing, water mains, electrical hook up, security lighting, guard rails, drainage systems, etcetera.

MR. TRUMAN M. BODDEN: Through you, Madam Speaker, could the Honourable Member say how many acres of land this was?

HON. LINFORD A. PIERSON: Six acres, Madam Speaker.

MADAM SPEAKER: The next question is No. 132 standing in the name of the Elected Member for East End.

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

NO. 132: Would the Honourable Member say what company in the United States of America is used when equipment such as trucks, etcetera, is purchased by Government?

ANSWER: More than one company is used in the United States of America to supply vehicles and equipment to the Cayman Islands Government. The company used is dependent upon the type of unit required. The suppliers used in 1991 and 1992 are as follows:

(1) Transworld Brokers;
(2) Oshkosh Truck Corporation;
(3) Emergency One;
(4) E.D. Etnyre And Company;
(5) Caritrade Export Corporation;
(6) Ringhaver Caterpillar.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementaries. The Member for East End.

MR. JOHN B. McLEAN: Thank you Madam Speaker. I wonder if the Member could tell us, how they arrived at the six name companies, what sort of contact was made in the United States to get in contact with them?

HON. LINFORD A. PIERSON: Madam Speaker, vehicle and equipment model selection is done in conjunction with the head of the department or his representative and included in the consideration for suitability, dependability and liability are such items as engine type size, configuration etcetera, transmission chassis, suspension type and capacity, seating, additional requirements for specialised vehicles. Dealer selection depends on the price, past performance in terms of accuracy of quoted delivered prices, dates and specification and after sales product support.

MADAM SPEAKER: Supplementary. The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member please tell us how much the dollar value was purchased from each of these dealers.

HON. LINFORD A. PIERSON: Madam Speaker I will provide a summary for the Honourable Member for 1991 and 1992.

Atlantic Supply	29,244.00	1991
Byrons	7,200.00	1992
Car City	10,800.00	1991

MR. JOHN B. McLEAN: Madam Speaker, with due respect, I am talking of the six that you gave me. Sorry. The six companies that you named for me, not the local companies.

HON. LINFORD A. PIERSON: OK., Madam Speaker, I was providing the Member with the total summary, but I will just pick out the United States segment of this.

Caritrade	18,783.00	1992
Emergency One	107,586.00	1991
E.D. Etnyre and Company	7,831.00	1992
Oshkosh Truck Corporation	309,678.00	1991
Ringhaver Caterpillar	104,690.00	1991
Transworld Brokers	567,869.00	1991
Transworld Brokers	470,046.00	1992

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you Madam Speaker. Would the Member say if these vehicles that are purchased abroad are sold with the usual guarantee?

HON. LINFORD A. PIERSON: Yes, Madam Speaker.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Through you would the Honourable Member say whether any competitive bids or price comparisons are carried out in relation to these companies?

HON. LINFORD A. PIERSON: Yes, Madam Speaker.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say how are warranty claims made once a vehicle is taken out of the United States if there are break downs etc. here?

HON. LINFORD A. PIERSON: My understanding, Madam Speaker, is that it is done through a process through a local agent.

MADAM SPEAKER: Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. With regard to the local companies which the Member started to mention a while ago, could he say if Government continues to deal with everyone of those named?

HON. LINFORD A. PIERSON: Madam Speaker, my understanding is yes, generally this is the case.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Madam Speaker, could the Member say whether or not the suggestions of the Finance Committee in the Budget 1989, was ever investigated when vehicles have to be purchased abroad?

HON. LINFORD A. PIERSON: Madam Speaker, perhaps the Member would be kind enough to remind me of what suggestions he is referring to?

MR. JOHN B. McLEAN: Sure, Madam Speaker. It was suggested in Finance Committee in the Budget 1989, that when such vehicles are to be purchased that the Government should perhaps try for

assistance, like they do in other things, through Dade County for a better price?

HON. LINFORD A. PIERSON: Madam Speaker, this policy is in affect.

MADAM SPEAKER: The next question is No. 133 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 133: Would the Honourable Member say, as of 30th June, 1991, by what sum did the current liabilities of Cayman Airways Limited exceed its current assets; and by what sum did the total liabilities exceed its total assets for the same period?

WITHDRAWAL OF QUESTION NO. 133

MADAM SPEAKER: The First Elected Member for Bodden Town

MR. ROY BODDEN: Madam Speaker, I would crave the Chair's indulgence in withdrawing this question, seeing that I tabled the question prior to the accounts of Cayman Airways being laid and since those accounts have been laid I think the question becomes redundant.

MADAM SPEAKER: The question is that question No. 133 be withdrawn.

QUESTION PUT: AGREED. **QUESTION NO. 133 WITHDRAWN.**

MADAM SPEAKER: The next question is No. 134 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 134: Would the Honourable Member say what is the monthly sum paid by Cayman Airways Limited for aircraft leases, including the cargo aircraft?

ANSWER: The monthly sum paid by Cayman Airways Limited for aircraft leases, including cargo aircraft, is as follows:

737 Jets	$	658,450.00
Cargo	$	54,000.00
Island Air	$	42,000.00
Total:	U.S. $	754,450.00
		= = = = = = = = = = = =

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary. The First Elected Member for Bodden Town.

MR. ROY BODDEN: I wonder if the Honourable Member is in a position to say if this represents the maximum figure or if there is any time over the past year when the figure was more than this for leases?

HON. W. NORMAN BODDEN: Yes, Madam Speaker. There were additional charter flights which were operated in March, April and May of this year which would have increased that figure.

MR. ROY BODDEN: I wonder if the Honourable Member Could say what type of equipment was used on these charters and what was the monthly lease?

HON. W. NORMAN BODDEN: Madam Speaker, the type of aircraft that was used on the charters was the 727 aircraft and there is a substantive question down which I believe comes up tomorrow asking for the amount which I will reply to then or I can do so now, whatever.

MADAM SPEAKER: I think we could leave that question until tomorrow.

MR. G. HAIG BODDEN: Madam Speaker, may I ask the Member if he is aware that someone from the airline had been in El Salvador last week making enquiries about the lease or the purchase of another aircraft. Has he been told this yet?

HON. W. NORMAN BODDEN: No, Madam Speaker, I am not aware of that.

MR. G. HAIG BODDEN: Will he assure the House that he will investigate this matter?

HON. W. NORMAN BODDEN: Yes, Madam Speaker, certainly I will investigate it and under the arrangement whereby the role and responsibilities of Government as a shareholder the Board of Directors and the Senior Management of the airline have all been clearly set out and implemented. Enquiries might be made but before anything is finalised, it has to follow the proper process back to the shareholder.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member please tell us the number of planes covered in the figure given here and in the case of cargo and Island Air the number of trips?

HON. W. NORMAN BODDEN: The figure for the 737 jets, Madam Speaker, would be for four aircraft, that is 1-400, 1-300 and 2-200's. The cargo aircraft the amount quoted of $54,000.00 is a monthly average because the cargo aircraft are operated only as necessary and that figure would represent an average of nine flights per month. The Island Air figure that has been quoted covers the operation to Little Cayman and sometimes to Cayman Brac and represents an average of 60 flights per month.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, the amount shown here is about four time what the lease was in 1989 when they only leased the 727s and this figure will almost double which will mean that it will be seven or eight times in 1994 when the airline has to take back the 400s which are temporarily out of use. Would the Members say what he is doing to bring this lease under control?

HON. W. NORMAN BODDEN: Madam Speaker, the return of the 400 aircraft which the Member asked in the supplementary refers to is an option and I should point out to the House that the termination on the lease of the present aircraft, that is the 200 aircraft, coincide with the return of those aircraft if that option is ever to be exercised so that there might be a short overlap but it is planned in such a way that if those aircraft are to be returned, then the termination of the lease on the existing aircraft would take place around the same time.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Through you would the Honourable Member say what then would be the lease payments when the airlines has back the two aircraft and that lease is fixed under the agreement along with the other 400 making 3-400's and whatever else you would have, a 300 I think.

HON. W. NORMAN BODDEN: The agreement called for the aircraft to be leased at that time at $290,000.00 per month and if that takes place based on the company needs, it still has the option of leasing out the third 400 which they have from International Lease Financial Corporation (I.L.F.C.). The 300 would not be around because that goes back at the end of August or the first of September and that is just a temporary, short term lease.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you Madam Speaker. With regard to the $42,000.00 for Island Air, I take it that is for Little Cayman. Has any investigation been carried out to find an aircraft such as being used by Island Air which perhaps could be purchased within a year at this cost?

HON. W. NORMAN BODDEN: Madam Speaker, the consultants are presently looking at options for the inter-island service and I should have in hand a report from them within a few weeks. He is looking at various types of aircraft and as part of the recommendations which were accepted.

MADAM SPEAKER: The Member for East End.

HON. W. NORMAN BODDEN: Thank you, Madam Speaker. In regard to the cargo flights and aircraft, is this something that is set between a company and Cayman Airways or has it been negotiated to try to get cheaper prices or what is the situation.

HON. W. NORMAN BODDEN: Madam Speaker, the charter is operated on a per flight basis and it is profitable because they do not operate the cargo flight, as I understand unless they have a full load.

MADAM SPEAKER: The last supplementary. The Member for East End.

MR. JOHN B. McLEAN: Madam Speaker, what I was trying to establish is it with one company or do you try to negotiate for better prices with other companies? The reason I am saying this, I know in Miami, there are many cargo flight planes just sitting there looking for work, so something could be negotiated.

HON. W. NORMAN BODDEN: I am not sure, Madam Speaker but I would imagine that the

management of Cayman Airways has shopped around and received the best possible rates for our cargo charters based on market rates at the present time.

MADAM SPEAKER: The next question is No. 135 standing in the name of the First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 135: Will the Honourable Member: (a) state the number of persons, ages 17 to 25, who have been convicted of criminal offences since 1st January, 1992, to date; (b) give a breakdown of the convictions; (c) give the comparison for the same period in 1991; and (d) state the categories of offences for the period?

DEFERMENT OF ANSWER TO QUESTION NO. 135 (STANDING ORDER 23(5))

HON. J. LEMUEL HURLSTON: In accordance with the provisions of Standing Order 23(5) I have to beg leave of the House to defer answering Question No. 135 as a written answer is not readily available.

MADAM SPEAKER: The question is that in accordance with the provisions of Standing Order 23(5) the Honourable Member has asked to defer answering this question. I shall put the question.

MR. W. McKEEVA BUSH: Madam Speaker, if I can have a question here. You say you are deferring the question, to what date?

HON. J. LEMUEL HURLSTON: Until tomorrow, Madam Speaker.

MR. W. McKEEVA BUSH: Thank you.

MADAM SPEAKER: I shall now put the question.

QUESTION PUT: AGREED. **QUESTION NO. 135 DEFERRED UNTIL THURSDAY, 9TH JULY, 1992.**

MADAM SPEAKER: Government Business, Bills, Second Reading, The Elections (Amendment) Bill, 1992. Continuation of debate, thereon. (Pause) If no other Member wishes to debate, I would ask the Mover if he would like to exercise his right to reply. The Honourable Member for Education.

GOVERNMENT BUSINESS

BILLS

SECOND READINGS

THE ELECTIONS (AMENDMENT) BILL, 1992

(Continuation of Debate thereon)

HON. BENSON O. EBANKS: Madam Speaker, I support the Bill before the House. a Bill for a Law to Amend the Elections Law 1983. As stated in the Memorandum of Objects and Reasons, the main amendment proposed in this Bill is to increase the number of Members to be returned to the Legislative Assembly by the Districts of West Bay and George Town, from three to four and in Bodden Town from two to three. This amendment, is necessary to give the effect to the recent constitutional change increasing the number of Members in the Legislative Assembly from twelve to fifteen.

As has been stated in the Objects and Reasons, the opportunity has also been taken to tidy up existing provisions which are unclear or unnecessary or take no account of the fact that in most electoral districts voters vote for more than one candidate. One such tidying up exercise is Clause 19 which amends Section 38 of the principal Law, which seeks to remove the ability of the voter needing assistance to vote, to be assisted by a friend while still allowing him to be assisted by the presiding officer. The provision has also been included, which allows the voter to have a friend present when the presiding officer is assisting the voter.

This is the amendment which seems to be the most controversial to Members who have already spoken as has been pointed out by previous speakers. This matter was raised by me in the Committee where it found little or no support in the absence of Government Members but as has been stated, Government feels that this amendment is sufficiently important to be included in this Bill, even though it was not supported by a majority in the Committee. It is my view, that the present provision, whereby voters requiring assistance for whatever reason, can be assisted by a friend, is the most abused of all the voting process in these Islands. It has been stated, the foundation of democracy is one man one vote and this cannot exist where when often the friend who is assisting the voter needing assistance is coming out of the voting booth

before the person needing assistance is going in.

Very often it can be observed that that friendship is a friendship that has been established only on Election Day. There is no long-standing relationship and I also know that persons who are quite capable of marking their ballot on their own are sometimes convinced that it is better for them to have someone mark it for fear their vote is spoiled. This cannot be right where the person assisting can have multiple votes. This was bad enough when there were one or two polling stations in each district, but certainly in the case of West Bay and George Town, there are now at least fourteen polling stations in those districts and it is not impossible for a person who has acted as a friend to do so at each of those polling stations. It is an offense to do so but certainly the boast has been made by some people after the election that they exercised that right at many of the polling stations. It cannot be right that one person or two, acting as friends, can influence the outcome of the election. What is being proposed in this amendment is that the provision whereby the person could vote through a friend be removed and it be replaced by a provision for a the presiding officer to mark the ballot paper in the presence of the person needing assistance and/or a friend if he requests such.

That replaces a very similar provision where it said that the presiding officer would mark the ballot paper in the presence of the poll clerk and such of the candidates agents as were present. It was felt that because of the large number of candidates offerings themselves in some constituencies that it might have been intimidating to have a large number of agents present, so that provision was replaced by the provision that it could be marked in the presence of a friend and the presiding officer. It seems to me that this preserves the right of the person to cast his vote. It assures that the vote is cast in accordance with the persons wishes and it removes any possibility of the charge of intimidation and in my view, this has to be a step in the right direction. The other amendments seem to be all aimed at clearing ambiguities or irregularities in the law as it now exists and I support all of these amendments and I implore other Members, to support Clause 19 as well. Thank you.

MADAM SPEAKER: Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. I rise to speak on the Bill to Amend the Elections Law 1983 which has finally reached the House after having been in the works since 1989. The first motion I moved as a Private Members motion was in 1989 when I moved a motion which created a Select Committee of this Honourable House to examine the Elections Law with the view of updating it and making amendments to it. At that time, I can well recall various conditions which were obtained immediately following the 1988 election and including a case that was entered in court over alleged malpractice in the law, which was later not pursued and various allegations and the usual heat that takes time to cool after a General Election.

One thing that was clear out of it all was that the law needed revision and certain amendments could be made to get more workable and practical. I support this Bill generally with the amendments herein and I shall but comment on a few points in these various amendments. First of all, I think it is well that the law makes it clear that the Supervisor of Elections must be a senior public officer. I believe that is good in itself because senior public officers, to use the old phrase, really have no axes to grind and one can expect that they will carry on their duty in a manner which is above reproach and above question. They are not seeking office, they have the comfort of the security of tenure of being a civil servant.

In this regard, I wish to state that I am extremely happy, believing fully, that I live in a country that each election term sees free and fair elections without any question of corruption in the process. I would like to publicly state before this House that I think the present Supervisor of Elections and his Deputy and the various citizens of this country who have been caught up in the process of setting the election wheels in motion for 1992 have done and are doing an exemplary job in every respect. I have heard remarks to the contrary, as if to give the impression they were persons who did not wish to enumerate persons in the process of making a voters list. I believe those allegations are absolutely unfounded. In my opinion they were persons who for whatever reason, refused to be placed on the voters list, but I do not believe for a moment that it was the fault of any of the officials involved in the elections process.

One of the amendments renames the existing electoral districts. I have wondered for a long time why districts have been named one, two, three, four, five, six when these districts in these Islands have a name. I found myself before, trying to count and to remember sometimes which of the numbered districts I am really connected with and I usually say well, West Bay; one, George Town; two and then they go to Cayman Brac, so I usually come up with three but it is so easy to call a district by its name as I think, practically and sensibly it should be. That makes it clearer for the people in this country as a whole, for a visitor who might ask which district you represent and someone says the fourth or fifth district as the case may be.

One of the major amendments in this law is the increase of seats in the Legislative Assembly. Up until now there are a total of 12 Elected Members. With the amendments which are proposed in this, there will be three more, bringing the total of this House to fifteen. I hope, with steadfastness of purpose, I shall hear person protest about the increase of these seats, as I have heard being done when it was first proposed in the Constitutional Committee about the increase of seats in the Legislative Assembly. These seats have been recommended to be one in West Bay, one in George Town and one in Bodden Town. It has come as a result of advise, as I recall, from the Constitutional Commissioners, who said that in determining where additional seats should be, it should be largely in districts that have the largest populations. What it does, is widen the gap between the people of North Side, who have one man and one vote, and the people in East End who have one man, one vote, which I know and believe to be proper democracy in the terms of voting, to where in the district of West Bay and George Town one person has four votes which they can manipulate. It has been known that votes have been manipulated in the multiple districts and I dare say it will continue that way.

Recommendations have been made for a boundaries

commission that will look at the concept of single member districts and there is much to be said for it. If the districts of West Bay, George Town and Bodden Town should continue to increase, lets say there are additional persons coming and it is suggested for there to be additional seats in this Legislature, then it is conceivable that in George Town and West Bay one person will have five votes to manipulate and in Bodden Town it might be four. There is something wrong with the way it presently exists in these Islands, in my opinion. Of course, the debate on the whys and wherefores of that would be more particular to a Bill suggesting changes in terms of electoral boundaries. The last election showed that it was necessary to have Deputy Returning Officers because I am told that at one station the Returning Officer became ill and actually had to discontinue the count and it was only through the Governor taking certain measures, reserve powers, was a person appointed to carry on a count and I think this is a practical change to that particular part of the law.

Another thing that was done and I think merits commendation, is the fact that under the present law, if someone objects to the name of another person being on a list, the person objecting has to go and serve a notice to that person that he is objecting to. If I have ever heard of a situation of confrontation, that has to be one. I am glad to know that this amendment is making it possible that objections can still be made and those objections can be made to the particular Elections Officer and that officer will serve the notice on behalf of that person to the last address known of the person who is being objected to.

There is also a change to the time on the particular day called Nomination Day from 10:00 a.m. in the morning now to 3:00 p.m.. It was felt that this was reasonable and the hours as first put down in the law could be changed to the new hours there. I support the idea. In keeping with this as well, there is also an amendment which makes it possible for a person who is entering the election race as a candidate to sign his nomination paper and have the people who are supporting his nomination sign it and have it delivered to the Returning Officer on his behalf. I think that too is an improvement in the process.

Much has been said about us getting to the point where we use voter registration cards. I think that is very necessary and I certainly do support the Election Officers examining the situation and making recommendations in due course, to the House as to how this could be implemented. It does not seem reasonable in this day and age that every time an election comes around that people are expected to go into every nook and cranny to register people all over again. It is my understanding that there were certain objections from Members of the public who said they had been on the voters list in 1988, therefore they saw no need to register again.

As the law presently exists, it is necessary, and I think that this is something that can be corrected and tidied up in the law, where through the process, the birth certificate of a person, or when the person is born, it is the age of computers, that at 18, a person can automatically be put on the voters list. I believe that it should be compulsory for people to register as voters, even if they do not have the sense or the care about their country to vote. In this respect , I understand there have been many objections and I have heard some voiced that it was the intentions of legislators when this law was made in 1983, for no person who had voted to lose the right to vote. I heard it argued to the extreme that even if a person was illegally on that voters list in the first instance, they should vote. I want to make it absolutely clear that I am disassociated from any such school of thought.

Persons who were legally on the voters list in 1988, I believe, should continue to be given the opportunity to vote and certainly those who have become eligible. There is an amendment also in the respect of a deposit of $1000.00 which is paid by a candidate to enter the elections race as a candidate. The Number, the way the law presently is, is that if a person wins a seat, he automatically has the $1000.00 refunded to him. For those who lose in the election and do not win a seat, the persons who have not received, under the present law, 1/16th of the votes loses their deposits. The 1/16th has been changed to 1/10th and I agree with it, because the more that I observe politics in my country, the more that I am involved in it, the more that I get the impression that a certain percentage of the public take the serious business of being an elected Member of the Legislature to be the job of a joker. Thus, that might be the reason why so many jokers at election time, seem to get out there to get into the race. The least that those jokers can have to pay is to lose the $1000.00 they had to put up in the first instance if they do not get 10% of the votes cast in the district that they may choose to race in.

During the 1984 election and 1988 election, I have seen the Supervisor of Elections moving these Islands, from place to place, making sure that things are going as they should, and I think that is extremely good and desirable, but there is the situation where in him setting up an election, he will need various buildings to be used as polling stations and I understand there have been difficulties in having access to certain buildings. There is a clause in the amendments that the Supervisor of Elections may have access to buildings, where they can be used for public use in areas which could be close and adjacent to sections of any particular political district.

There has also been a change in the law to make it clear that polling and counting agents may be appointed by a candidate any time after his nomination but sooner than seven days before the election date. There is much to be said for this, as I myself have appointed agents on the day of the election and you want to have them there immediately as the poll opens, so there is a bit of confusion at that particular time when you are handing in your appointment papers, appointing these agents to the presiding officer at any given poll so there is something to be said for appointing the agents a few days before the election date. In the present law, the term is used of an "illiterate voter." In my life time, I have had occasion to be a Returning Officer in election and I have also had the occasion to be a presiding officer and one thing that embarrassed me for the person, was when someone came who could not vote without being assisted because they could not read or write, but I had to faithfully take out that oath and say to that person, " Do you swear that you cannot vote without assistance by virtue of being an illiterate person." I always thought that was embarrassing and was unnecessary. I brought it to the attention of the Committee and the Committee agreed that it should be changed to say that a

person can take an oath that he cannot vote without being assisted. That can be for a multitude of reasons and certainly no-one has to be called an illiterate.

It has been removed from this present law by this amendment that a person does not need to vote with a black lead pencil. I have never understood why a black lead pencil is more desirable to making an x than in ink but I do know, I have seen votes rejected because they were marked in ink. I have had occasion to reject one in a position of Returning Officer and I had a number rejected for me during the last election. I think it is ridiculous that it was in the law but provision is being made now to change that. Following and in regard to that, the law has been changed to put an X in the space to the right of the selected candidates name instead of what is in the present law across in the space opposite the name, so these might be minor things but indeed in that moment of tension when the person is voting or being instructed by the presiding officer, it makes a whole lot of difference. The section many speakers before me have referred to in some detail, is where under the present law, the person can be helped by a friend to vote, the friend can enter the booth with a friend and that friend can place the x where that person says to do so. There has been an amendment to that where the presiding officer will actually do the marking for a friend. I do not know of any cases where a friend has marked a ballot contrary to what a person who is blind or who cannot read or write told them to put it, but certainly I can see where such a thing may happen.

I heard arguments from at least one Member to that effect that expressed certain doubts about it and perhaps this present amendment as it is will rectify the situation over all. The friend can be present and the friend can actually see the presiding officer mark the paper for the person whom the voter wishes to cast his vote for. The present law does not provide for the distance that crowd must be from a station where votes are being counted and one of the amendments here provides that it should be 100 yards away. I support that, as I think that makes a lot of sense from a security point of view. Rather than people be surrounding a town hall by the doors and windows and a person is announced as a winner whom the crowd may not particularly wish to see elected, or whom one person in the crowd may not wish to see elected it can lead to trouble and it is best I think as is recommended here in this amendment that a distance be prescribed so that all candidates can leave the particular station and the crowd learns about who is elected in the normal manner and all persons can go about their business not being crowded or crushed by people right at the doors of the counting stations.

Another thing that I think is very significant in this amendment bill is that candidates cannot find votes for them rejected because a person has marked a ballot in a place that is not exactly prescribed or stated. There have been instances where I have heard ballots were rejected simply because an X has touched the line or some persons have, let us say if it is a district where there are three Members, they may put down three X's opposite one name and courts of law have held that it is clear that the intention of the voter was to vote for that particular person and it should not be rejected. I think that such corrections here in this Bill will provide the opportunity for voters to see their vote honoured and not rejected, simply because they may make a mistake and put it that it touches a persons name or something, but still within the line in which that name appears. It will not be rejected as it has been in the past. That is very, very significant to the outcome of an election and I think it makes it easier for the Returning Officer to honour a persons vote and it gives the person a slight advantage to have his vote honoured.

There is a recommendation that Election Day should not be a holiday and I support it. I suppose it would be only in the Cayman Islands where most serious things are taken lightly or as a holiday, that there would be a holiday on Election Day. I certainly support the change and there is no reason why persons should not go to their places of work as they normally do and they must by law be given time off from their work that day to vote. Any employer failing to let off an employee is under penalty of the law, fine and imprisonment because what that will be doing is attempting to take away one of the most sacred rights that any citizen in any society has. In our society, once every four years, so it does not hinder anyone from voting as they must be given time off, if it is an hour, two hours, if it is three hours they must get that time off and that day is the most important day in the life of this country.

The 18th of November will be the most important day in the life of the Cayman Islands for 1992, I suggest, because it is that day that the people of this country will wield their swords to cut away those persons whom they do not wish to represent them and to put into this legislature those persons whom they wish to be represented by. An amendment here also makes it possible that a hotel, one hour after the polls have closed, may open to dispense alcoholic beverages. I see nothing wrong with that, in fact, in the normal course of events, even on Election Day if people are at their normal places of business and working, I do not see how the bars or whatever might cause any particular riots, or whatever the case may be. However, there were a majority of Members who felt that it would be best not to have bars generally during that time and I certainly make out no great protest against their majority views.

The law also makes it clear that candidates have liability for their agents whom they appoint. I think that is reasonable. Their agents should be properly briefed. They should be persons whom a candidate can be sure is of a character that they will do what is prescribed within the law and I think it is only right that a candidate should be liable for the illegal acts of their agents during the time of the election. An area that has also been done by a change that has been made in the election process by a regulation has been in the area of postal ballots. It has been made clear in that who can vote by postal ballots. I think that there are nine different instances, if I remember correctly. One, where there has been a specific statement to what happens in that case is where a person is physically unable to vote. In such a case the doctor has to provide a certificate stating yes, that person is physically unable to vote.

I have had occasion to speak to the Supervisor of Elections about this and stated to him I thought it very cumbersome. He has told me that the idea is for persons who wish to have postal ballots and are physically unable to go to the polls to vote, such persons as were being registered and certain notes were being made by the Registering Officer so it is coming as no surprise when such a request is

received. Doctors, before it is too far on towards the election, will be made available and given a list of all persons that they can physically go to their homes to ascertain that indeed the person is physically unable to come to the poll and issue such a certificate. In the other instances, I think it will be to the judgement of the Returning Officer whether a person qualifies for a postal ballot. It has also made it clear that candidates in an election in any district, cannot be associated with postal ballots either as witnesses or as having postal ballots come to their mailing addresses or anything of the sort to remove any question of impropriety which might arise in such instances.

MADAM SPEAKER: Would you take a suspension at this time Honourable Member?

MR. GILBERT A. McLEAN: Madam Speaker, one minute more and I will wind up.

MADAM SPEAKER: Fine.

MR. GILBERT A. McLEAN: Madam Speaker, as I have said this Bill to amend the Elections Law has taken a very long time coming to this Legislative Assembly, but I believe it has addressed many areas of need which required clarification, which required clauses to be placed into the law that were not there before and I think that the forth coming election can be better run because of some of these amendments which have been made to the law. There is just one last note I would close on and that is that I trust the office of the Supervisor of Elections the Office of the Honourable Chief Secretary, First Official Member and all persons concerned with the proper vigilance over the elections will keep a careful watch what the law says under Section 60 and Section 61, Section 62, which speaks about bribery, treating and using undue influence, personation and the like.

In the last election, I am aware of things which occurred in Cayman Brac during that election that if it was not bribery and if it was not treating, then it was nothing at all. The police did become involved but no case was ever brought forward in any of those instances, so I hope that the Special Branch will be equipped in manpower and that they will be informed by the legal expertise available to Government what to look out for, particularly in these instances, so that we can ensure while perhaps it will be the most serious and far reaching election ever in our history, it can be one where it will be run unquestionably to every aspect of the law.

Thank you, Madam Speaker.

ANNOUNCEMENT BY SPEAKER

MADAM SPEAKER: Before the House suspends, I would like to apologise to Members for the inaccurate numbering of the last five questions on today's Order Paper. No. 123 to 127 should have been No. 131 to 135, so that on tomorrow's Order Paper, the deferred question No. 135 will appear instead of No. 127. Proceedings are suspended for fifteen minutes.

PROCEEDINGS SUSPENDED AT 11:41 A.M.

PROCEEDINGS RESUMED AT 12:06 P.M.

MADAM SPEAKER: Please be seated. Continuing on the debate of the Elections Amendment Bill, 1992. First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, while I support some of the Bill before the House, there are changes which I cannot support. I cannot support it because in my view, it is undemocratic and they are changes which the Supervisor nor his Deputy recommended and which the Committee did not support or recommend in their report to this Honourable House.

Generally, there are several amendments which I support and which I feel will improve the procedure for general elections and enhance the democratic process. I believe that my colleagues on this side put forward quite well, our guess, our case on the matter of the voter who needs assistance in one way or the other. That is Clause 19 of the Bill. This is one of the most serious changes in the Bill, recommended by the Member for Education and I should say, the Member for Education alone. I do not see any need for change in this section of the law, whatsoever. The section in the law has ample protection against any sort of skulduggery as envisioned by the Member for Education.

Section 38 of the law which deals with this aspect of the incapacitated voter says and I quote: "38. (3) The presiding officer, on the application of any voter who is incapacitated from any physical cause, or by reason of illiteracy from voting in the manner prescribed by this Law, shall require the voter making such application to make oath in Form No. 19 of his incapacity to vote without assistance, and shall thereafter deal with such votes in the manner specified in subsection (4) or (5)"." This subsection (3) of 38 says that the voter himself, is required to make a sworn oath of his need to vote with assistance. Section 38 (4) says: "38. (5) That if any such voter as referred to in subsection (3) requests the assistance of the presiding officer, in marking his ballot, the presiding officer shall thereafter assist the voter by marking his ballot paper in the manner directed by such voter in the presence of the poll clerk and of the sworn agents of the candidates and of no other person and shall place such ballot in the ballot box."."

This is saying that if the voter wants the presiding officer to help him, the presiding officer has to mark the ballot in the presence of the poll clerk and the sworn agents of the candidates. Then in Section 38, subsection (5) it say: "38. (5) If such voter as is referred to in subsection (3) requests that he be assisted not by the presiding officer but by a person who is a voter in the electoral district, then

the presiding officer shall permit such person to accompany the voter into the voting compartment and mark the voter's ballot paper for him: Provided that no person shall at any election be allowed to act as such person for more than one voter"." This is saying that the voter also has an alternative, in that he does not have to let the presiding officer mark his ballot, but the voter can come in with his own assistance. The person assisting the incapacitated voter can only so act for that one voter, cannot go in with ten five or even two persons but he can go in with one voter. The law makes it absolutely clear that if he tries to assist anyone or if he assists anyone, he must make also a sworn oath which is prescribed by law.

This is the one, this particular section (5) is the one which has been used by those incapacitated voters, those people who might not be able to read or write over the years. This law has its own built in protection sufficiently wide enough to offer the voter alternatives and it goes further. Our Election Law, if I should say so, is a good law and it is patterned off of several laws in this region, it is patterned on the law of the commons and it is as I said, has its own built in protection, in that it provides penalties for treating, penalties for bribery, penalties for personation and one that could be used in this kind of situation which the Member for Education is complaining about, is undue influence. It says in Section 62 which deals with undue influence and I will read it for that Members edification. It says: "62. That every person who, directly or indirectly, by himself or by any other person on his behalf, makes use of or threatens to make use of any force, violence or restraint, or inflicts or threatens to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election, or who by abduction, duress of any fraudulent contrivance"."

This next part specifically would deal with the type of situation that he claims he came across so often. "62. Impedes or prevents the free exercise or the franchise of any voter, or thereby compels, induces or prevails upon any voter, or thereby compels induces or prevails upon any voter either to give or refrain from giving his vote at any election, shall be guilty of undue influence within the meaning of this Law"." This, as I said, carries penalties. The Member for Education who is the author of this particular section, talks about the abuse he has witnessed. I wonder why, since this man sets himself up as a paragon of virtue, if he knew of those incidents of undue influence, why he did not make some move to how the penalties of the law invoked, unless, was he the beneficiary of such skulduggery?

I well remember an incident that I was told of, of a supporter of his who said to another supporter of his, "Come behind here, I have the biggest fool in West Bay locked up here for three days." They carried him to the voting station and did not even take him back to his residence. That was the same man complained about here the other day whose medical history was given out in an answer to a supplementary question. That was some twenty years ago or more. Now, maybe the Member for Education knows a lot about other incidents connected.

I have to agree with my colleague the Third Member for West Bay, that the only reason that the Member for Education places so much importance and emphasis on this particular section, and so much importance on the type of individual concerned, because he well knows that those type of people do not and will not support him. He cannot look forward to this election to any support from these type of people.

MADAM SPEAKER: Honourable Member, would you confine yourself to the debate on the general merits and principles of the Bill. Thank you.

MR. W. McKEEVA BUSH: Madam Speaker, I will bow to your ruling but if you were listening, you heard the Member for Education talk about this and now I am dealing with the general merits of the Bill and I hope and trust that you give me sufficient time to deal with the debate as other Members have. This is very important because I feel that it is taking away peoples rights. This, in my opinion, is an act of intimidation and I place this particular act in the same book that I place the registration process which took place in West Bay.

In the attempt to be meticulous, they said you had to have a passport. an that shied away a lot of people who do not posses a passport because they have never been off this Island in their life. In particular, those same types of people that the Member for Education talks about. Those are the type of people that do not have passports and after we complained about this, they made an announcement on the radio that you did not have to produce a passport but it was too late and a lot of people shied away. Even a lot of the young people did not register until we as representatives and candidates organised a registration drive. The new amendment as proposed by the member for Education will do one thing. That is to stop people from voting. This favors him. A low turn out will favor no one else but him.

This is one of the most important amendments because it deals with a person having to place confidence in someone he knows and willingly asked to attend the poll with him, as against the same voter having to go up to someone he may well not like or is not acquainted with enough to put confidence in them and to tell them who he wants to cast his vote for. This takes away privacy and is more open to abuse because one person will mark all the ballot papers for the voters that need assistance and that person is appointed by the Government and is also paid by the Government. This takes away, in my opinion, the freedom of choice but it can benefit no-one else but the one Member who organized it.

I believe something that will not render democracy that he talks about saying that the democratic process or elections are the foundation of democracy, privacy has to be in that. Whether a person can read or write, that person should have the choice to go to the poll with someone that he knows if he so desires. One of the most significant aspects surrounding this particular amendment is that the House set up the Select Committee to look into the law. While in Committee, the Member for Education brought up this matter of the incapacitated voter but the Committee in its entirety, rejected his wish. He was outvoted and I

find it rather to of order to find this new clause in the Bill when the Committee did not recommend it. The report of the Committee clearly says this matter was rejected. It says here in the report to this Honourable House that it is recommended by a majority that Section 38 of the law not be amended as was proposed by one Member to abolish the right to have a friend assist with the casting of his vote by an incapacitated voter.

The Member for Education signed the report and agreed to the report but having done all of this, he comes to this House with that same matter included in the Bill. I think it goes against every convention of parliament and if the Member so strong about it to put a clause in the Bill after the Committee rejected it, he then should have made his wishes known in Committee and put in a minority report. The Bill could have come back to Committee and it could have been dealt with, but I find it hard to accept and I find it hard that the House has accepted that a Government Member can come into Committee, which the House sets up and that Committee in majority goes against him but he can bring a Bill back with the same outlandish substance as was proposed in that Committee.

In our Standing Orders it says that if a Member desires to delete or amend any provision contained in a Bill, as reported from a committee of the whole House, or to introduce any new provision therein. He may at any time before the question has been proposed, upon a motion for the Third Reading of a Bill, move that the Bill be recommitted and if the motion is agreed upon, the Bill shall stand so recommitted and the House shall resolve itself in Committee to reconsider it. Our Standing Orders, while this is dealing with a Bill that comes from Committee, instead of emanate from Committee, our Standing Order so provides that the procedure in Committee is the same as on a Bill, is the same as the procedure in this House. I find it hard to accept that this is correct procedure. I think it is "kangaroo government," that is what I think it is. Instead of going with the wishes of the Committee he comes here putting on white raiments pretending that he is such an angel, but forgetting that person who they locked up for three days in West Bay.

The truth is that there are people, and this is sad, there are people (albeit a few) who support him, that feel that persons who cannot read or write should have no vote unless they can control it and I am telling you what I have heard with my own ears. This is why there is this all out effort to discourage people from voting and I place no unsavory or accuse anyone of unsavory acts. What I am saying is that in an effort to be what I guess I put in the right language when I say in an effort to be meticulous, there was a foul-up in the whole system. I saw it in the registration process when they wanted to reject the same people who would have to go up to the polling clerk, or the presiding officer and tell him that they were not registered because they were not mentally capable of being registered. What a bunch of rubbish and they talk about cornerstone of democracy!

Democracy means more than having the majority in Government. We, ourselves, in that registration process had to go and collect people within the constituency to take them before the magistrate and say, "You make your decision to see if this person is not a fit and capable person of voting." I trust that in the next election, this sort of thing would be cleared up because it does no good for the democratic process. While this Bill, and I guess this is as good a time as any, to refer to the statement made by the Second Member for Cayman Brac who said that he hopes to see the addition of seats opposed with the steadfastness of purpose as he heard during the Committee, on constitutional change.

I also had the word confrontation used. Maybe that is what is wanted because here of late there have been some snide remarks during debate, but I can tell that Member that my position remains the same. The number of seats is like everything else, the Government wants; what it wants, it gets. I can also tell that Member that I will also oppose with the steadfastness of purpose those extreme constitutional changes that he supports and that will ultimately lead us into independence. Maybe that is why the Member has continuously, for the last seven months, made snide remarks against the Backbenchers when we cannot defend ourselves. I am not afraid of any Members in this House and if he has something in his craw about any Member of the Backbenchers he should be upstanding and say it and stop doing the skulduggery that is going on with certain candidates!

This Bill carries an amendment for an increase in Membership of this Honourable House by three. This is something which was done by the Privy Council in London on the recommendation of the Constitutional Commissioners and they did it on the recommendation of the majority of the Select Committee of this House on the Constitution. It is not something that I supported in full. I supported an increase of one Member for Bodden Town only. The only reason that I supported the one in Bodden Town was because it was the most logical increase because Bodden Town is a growing district. It has grown in the number of voters by at least 300 for the last several elections. I also support that increase of one Member for the House in order to get another elected Member for Executive Council which I feel needs another Member due to the increase of problems and the work load in the country.

The one new Member for Bodden Town would give us the one in the Executive Council and still keep the balance in the Assembly that we now have. That is why I supported that but as I said I did not support the three because I do not feel that West Bay needed four. That was supported again to give the Member for Education a better chance and so they have decided to increase West Bay by one, George Town by one, and increase the finances or the expenditure of this country. Not that I believe that we needed it, because I do not believe that we need it. What we need is not so much new Members, we need Members who are diligent, honest and have the integrity of purpose to come into this House, stand up and say what is good for the country and vote on their conscience. That is what the country needs! Not so much three new Members or a constitutional change.

There was another change I cannot support and the Second Member from Cayman Brac was also the instigator of this change that albeit a minor change to an extent; that part of the schedule that sets out the numerical order of the districts which simply says that West Bay is the First Electoral District, George Town the second, Cayman Brac and Little Cayman the third and so on. He himself

admitted that it is easier to call a district by number. Then, if it is easier to call a district by number, why change it because this is what we now have. This is what the schedule says! That is the situation today. I have said it in Committee and I have said it on the floor of this House, the reason why that was changed is because West Bay is the First Electoral, Why did they not change it around and say George Town the First, West Bay second, Bodden Town third and go right down the line as necessary in accordance with the number of voters. Some people would change Heaven if they could get it and get away with it. I will not support that item because from the inception of the election, I think the new Constitution of 1959, it had that numerical numbering. Why change it? It is not hurting anyone, it is not costing the Government anything, so why change it?

There are other changes in the Bill and I would have thought that provision would have been made for the orderly registration of persons and that is not in this new bill in that the same old process will obtain. It does not make sense to have a resolution moved in the House calling for such matters and not have it stipulated in the Bill. The Bill talks about the aspect of agents and postal ballots and I believe that there is anomaly here because this will do one thing when the law says another in that we can appoint agents, I think seven days before the election and those same persons, who knows, might have had something to do with the absentee or the sending out at least, of absentee ballots. So, I think there is some anomaly that exists between the Bill and the law and maybe the Honourable Acting Attorney General will look at it further when we are in Committee, we will have ample time.

I agree that we needed some minor changes and some major ones and the Bill, while it is not perfect, I can offer some support to it. I am strictly against Clause 19 where it is changed on a whim and not any proof, mind you, not any proof because if the Member for Education saw people that he said that he witnessed then it was his bound duty as a candidate and it was his bound duty as a decent law-abiding citizen to do something about it. It was bad enough to believe that something is going on but to witness it as he claims he witnessed and did nothing about it but to come here and take this route because he feels in this election he cannot get that kind of support! I tie it down to one thing, "kangaroo government."

I support the Bill for those parts that I can.

MADAM SPEAKER: The House will be suspended until 2:15.

AT 12:42 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:20 P.M.

MADAM SPEAKER: Please be seated. Debate continues on the Elections (Amendment) Bill, 1992. If no other Member wishes to continue the debate, I will ask the Honourable Mover to exercise his right of reply.

HON. J. LEMUEL HURLSTON: Madam Speaker, I would like to thank the six Honourable Members who made contributions during this second reading debate on the Elections Amendment Bill. The areas of greatest concern to Members seemed to have centered on Clause 19 of the Bill, which seeks to amend the section of the law dealing with the provision of assistance to those who require assistance in casting their votes. That particular amendment is designed to reinforce a sense of added independence to the process of assistance. It is appreciated that no matter how one sets about rendering such assistance it is likely to open itself up to embarrassment, intimidation and a certain amount of resistance.

The Government considered the matter carefully and decided that as it is proposed in this Bill,, the provision will simply strengthen the existing provisions by continuing to permit a friend to be present and to witness the marking of the ballot in such a way as to ensure that the wishes of the voter are properly expressed. It is true that the Government took this view after representation was made regarding areas of possible abuse of this particular provision and whilst the First Elected Member from West Bay did a very good job of explaining what the existing provisions call for, it is the Governments understanding that the enforcement of those provisions have from time to time been seen as somewhat difficult to enforce and it is for that reason that it is seen appropriate to make the arrangement more enforceable and therefore remove the doubt for the potential abuse.

The First Elected Member from Bodden Town thought that perhaps the Bill was ultra vires in how it found its way to Parliament. I can assure the House that there is nothing ultra vires about the Bill. It has been sent down in accordance with Standing Order, the necessary notice has been given and therefore the Bill is properly before the House. In moving the Second Reading Debate, I did confess that there were a few areas of disagreement between the recommendations of the Members of the Select Committee that studied the subject and the Bill. I made that confession knowing very well that Members of the Backbench would seize the opportunity to identify and focus on those areas where those differences are obvious. Clause 19 is one such example. Other general comments suggested that perhaps the select committee was a bit tardy in getting on with its work with the consequence that the arrangements for the 1992 election are not as improved as they might otherwise have been. That the voter registration process could have been improved that perhaps improved counting arrangements could have been put in place, voter registration cards, etc. However, when one looks at the Legislative agenda, that had been set for this Parliament since the House started in 1988, no fewer than eleven Select Committees have been established to work on various topics and in the majority of instances these have been Select Committees of the whole House.

In very few instances have there been Select Committees consisting of elected Members only. In the majority of cases, the Parliament has been in the habit and tendency of establishing Select Committees that consist of all Members including Official Members and this presents a difficulty

in that more than one committee finds itself unable to meet simultaneously. For example during much of 1991 when the Select Committee on the Constitution was meeting, no other Select Committee had the opportunity of meeting during that period. Additionally, there have been Select Committees on Immigration, Select Committee on Medical Termination of Pregnancy, Select Committee on the question of a Public Legal Defenders Office, another Select Committee on the Code of Ethics and Conduct of Legislators, another Select Committee on the Water Sports Industry, a further Select Committee on Cayman Airways, a further Select Committee to review Transportation Services, another Select Committee to deal with the Rights of Children, Young Persons and Women and another Select Committee dealing with the National Pensions Bill not to mention as I just did earlier on the Select Committee of the Constitution and the Select Committee on the Elections Law.

MR. W. McKEEVA BUSH: Madam Speaker, would the Member say how many of these committees actually met?

HON. J. LEMUEL HURLSTON: The majority of these committees have reported to the Parliament in November of each year so that we have a record of the progress of work of these committees. It is true that some are outstanding, but the majority have held meetings and have conducted business. I want to make the point to put on record that it was not the Governments desire to prolong the process, but one also has to remember that there was also a by-election in 1990 which resulted in a delay in the Supervisor of Elections submitting his joint report covering both the 1988 elections and the 1990 by-election. Immediately on receipt of the report, recording the experiences of those two elections, the committee settled down and got on with its business.

It is true that one would hope to achieve more effective changes in the short term, abut when dealing with a matter as sensitive selections are, one cannot rush and make attempts at improvements but have those attempts fail with rather disastrous results. It is therefore the view, that a more timely and cautious approach to change is appropriate. I believe it is important too, to place on record, the fact that at the beginning of the voter registration process, there was in fact, a considerable amount of voter resistance and voter apathy toward that process and it was not until subsequent public efforts and appeals were made that voters began to appreciate the thoroughness with which the exercise was being carried out. Those are the main issues that I would like to cover in the winding up at this stage.

The First Elected Member for West Bay raised a rather interesting point in concluding his contribution in pointing to a possible anomaly between the provisions of the election rules as they relate to postal voting and the appointment of election agents and thinking of the potential conflict of having persons first assisting in the postal voting process, themselves coming forward and subsequently being nominated or selected as agents.

The Honourable Second Official Member and I have been giving this some thought and it is possible that if in practice it is found that there is a genuine conflict in the two, the rules could be appropriately adapted by an amendment that can be done by Executive Council to ensure that there is no undue conflict. On the other hand it is possible that administratively the matter could be resolved by simply asking persons who are being proposed to be appointed as agents to declare before hand whether or not they have had any involvement in the earlier process relating to the issuance of postal ballots. In that way, one can determine in advance whether any likely conflict is about to arise and administratively, that could be handled.

The remaining contributions were a more political nature and I do not propose to involve myself at all in that arena. My task is simply to pilot the Bill on behalf of the Government. I am delighted to be doing that. I simply restate that I said in the beginning, that the Government acknowledges that some of the recommendations in the Bill are different from the majority of the Select Committee recommendations in very minor and few areas but the Government is of the view that these proposals are an improvement to the Bill, that they strengthen the Legislation and that they should make the process more efficient and effective.

I thank you, Madam Speaker.

MADAM SPEAKER: The question is that a Bill entitled, The Elections (Amendment) Bill, 1992, be given a Second Reading. I shall put the motion.

QUESTION PUT: AGREED. THE ELECTIONS (AMENDMENT) BILL, 1992, GIVEN A SECOND READING.

THE COMPANIES (AMENDMENT) BILL, 1992

CLERK: The Companies (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I move the Second Reading of a Bill entitled, A Bill to Amend the Companies Law (Revised)

MADAM SPEAKER: Would the Member wish to speak thereto?

HON. GEORGE A. McCARTHY, JP. Thank you, Madam Speaker. This Bill seeks to amend sections 212(2), 217(2) and 218(3) of The Companies Law (Revised) Chapter 22, to remove the need for the Governor in Council from time to time to recognise and designate those jurisdictions to and from which companies registered in the Cayman Islands may be transferred as the present provisions under the law the present certain practical

difficulties. It is felt that this amendment will enhance the movement of companies in and out of the Cayman Islands, thereby resulting in an increase in the value of new business for the Companies Registry and various firms operation in the private sector.

To effect the changes envisioned by the Memorandum of Objects and Reasons of this Bill, it is proposed that section 212(2) of the principal Law be amended by omitting paragraph (a) which reads as follows:

(2) The registrar shall register a registrant if-

(a) the registrant is incorporated, registered or existing in a jurisdiction for the time being designated by the Governor as recognised for he purposes of this Part [in this section referred to as "a relevant designated jurisdiction]";

It was also proposed that section be replaced with the following provision:

"(a) The registrant is incorporated, registered or existing in a jurisdiction whose laws permit or do not prohibit the transfer of the registrant in the manner hereinafter provided in this Part (hereinafter in this section referred to as "a relevant jurisdiction");";

It is also proposed that section 217(2) of the principal Law be also amended by amended by deleting paragraph (o) and replacing it with the following provision:

"(o) the laws of the relevant jurisdiction with respect to transfer have been or will be complied with;"

The emphasis being here placed on the removal of the word, "designated," which would now mean that the Governor not from time to time, have to designate new jurisdiction when the need arose. For the reason given above, the word, "designated" is also being omitted from paragraph (q). It is proposed to omit 217(2), paragraph (a) of the principal Law which reads as follows:

(2) The Registrar shall so deregister an applicant if-

(a) the applicant proposes to be registered by way of continuation in a jurisdiction for the time being designated by the Governor as recognised for the purposes of this Part (hereinafter in this section called "a relevant designated jurisdiction");

and to substitute the following:

"(a) the applicant proposes to be registered by way of continuation in a jurisdiction which permits or does not prohibit the transfer of the applicant in manner provided the in this part (hereinafter in this section referred to as "a relevant jurisdiction");";

section 217(2) paragraph (b) of the principal Law is also amended by omitting this section which reads as follows:

"(b) the applicant shall have paid to the Registrar a fee of four hundred and seventy five dollars;

and substituting the following:

"(b) the applicant shall have paid to the Registrar a fee equal to three times the annual fee that would have been payable pursuant to section 187 in the January immediately preceding the application for deregistration by an exempt company having the same registered capital as the applicant on the date of that application;";

section 217(2) paragraph (c) is also amended to remove the word "designated". This paragraph now reads as follows:

"(c) the applicant has filed with the Registrar notice of any proposed change in its name and of its proposed registered office or agent for service of process in the relevant jurisdiction;

The word "designated" is also being omitted from section 217(2) paragraph (l) of the principal Law with this paragraph now reading as follows:

"(l) the laws of the relevant jurisdiction with respect to transfer have been or will be complied with;";

The word designated has also been removed from paragraph (n) of section 217(2) of the principal Law.

This amended paragraph will now read as follows:

"(n) the applicant will upon registration under the laws of the relevant jurisdiction continue as a body

corporate limited by shares;";

The word "designated" is also being omitted from section 218(3) of the principal Law which will result in this paragraph reading as follows:

"(3) From the commencement of the date of deregistration the applicant shall cease to be a company for all purposes under this Law and shall continue as a company under the laws of the relevant jurisdiction;";

The draft amendments as proposed would remove from the law the requirement for the Governor from time to time to recognise and designate those jurisdictions to and from which companies registered in the Cayman Islands could be transferred. The amendments in essence will permit registration by way of continuation if the registrant is incorporated and registered in a jurisdiction whose law permits or do not prohibit the transfer of the registrant and as mentioned earlier, the financial community finds nothing objectionable about the proposed amendments.

Input into these proposed amendments to the Companies Law Revised, has been received from the Financial Secretary's private sector Consultative Committee and the Law Review Committee and I am pleased to inform this Honourable House that a large majority of Members from both groups strongly support these proposed amendments and feel that we cannot afford not to make these changes as the Islands are now loosing international business as a result thereof. There is nothing controversial about this Bill and indeed it comes to this Honorable House with the overwhelming support from the private sector with one of the major private sector firms indicating that the Bill entitled, "The Bill to Amend the Companies Law (Revised), is a very satisfactory way of replacing the present requirement of designating jurisdiction for the purpose of the law, a practice which was felt was undesirable as it could have been interpreted as placing an onus on the Cayman Islands to ensure that jurisdictions designated were of minimum standard.

I believe that I have covered all the points which are necessary in this amending bill but if any Member in this Honourable House raises any other issue in his debate not covered in this Second Reading presentation, I am willing to deal with it in my reply to the debate or during the Committee stage. With these remaining words, I recommend to this Honourable House a Bill entitled, "A Bill to Amend the Companies Law (Revised). Thank you.

MADAM SPEAKER: The question before the Honourable House is that a Bill entitled, The Companies (Amendment) Bill, 1992, be given a second reading. The motion is open for debate. The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I congratulate the Third Official Member for bringing this Bill to the House and must also congratulate what is now called the "T&L" group for supporting him. "T&L" means Tax and Loan group. They have put forward this Bill which I believe is very much needed. People are surprised that the Bill has taken such a long time to come. We know the Companies Law has been on the books for a long time and that it had been modeled perhaps after some other law but very recently, there has been agitation for this amendment.

The principal amendment will allow the company registered in Cayman to be transferred to another jurisdiction and it is my understanding that new companies being registered are now unhappy with the Cayman Islands if they are not given a guarantee that the transfer to another jurisdiction is possible. This Bill is a step in the right direction. We have to take a move to do what we can to encourage the offshore business to stay with us. Through the actions of the Government we are no longer the premier destination for offshore business. We have done a lot to hamper big business, actions such as the moratorium on the hotels and the construction. Actions like the increase to 10% on the stamp duty have hurt this country badly. The Government is to be blamed for investors leaving the country and certainly we need to do something to stop the outward flow.

It is very sad to hear some of the satellites of the Government coming out and talking about impact fees which will certainly devastate the present investment of big businesses and we have to look very carefully at this and I would ask the Financial Secretary to seriously consider such a move before he puts it forward. I heard a little bird up in Bodden Town and it was singing that impact fees is going to be the way to raise money for the future but we have to be careful because we are not the only place where these businesses can go. I notice that the suggested fee will be a fee equal to three times the annual fee that would have been payable pursuant to section 187 in the January immediately proceeding the application for de-registration by an exempt company having the same registered capital as the applicant on the date of that application. While I have not checked the figures in reality what this fee will be, I trust the Financial Secretary has satisfied himself that the fee is not so exorbitant that it will defeat the very purpose for which the amendment has been brought.

With these few comments, I would only like to add that it is a pity that the Government has waited until their sun has set before they have brought in this, what I call, a very good amendment to a Bill which has to do with one of the pillars, or one of the three cornerstones of our economy. I was jubilant to hear from the Third Official Member that the Government has taken and by this amendment is taking the advice of a committee and is not acting like they did in the hospital matter where they ignored advice of a Government committee. I assure the Third Official Member that I will vote Aye for this amendment.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I support this Bill. It was back, I

think, over two years ago, probably in the 1990 amendment that we saw the insertion of the clauses in the Companies Law to permit the transfer of companies by way of continuation. There are clauses which have become important in modern company laws these days and which many of the jurisdictions have adopted. Unfortunately, since that period we have had none of the countries designated and the amending law does what I think is now sensible and it removes the designation by Executive Council and leaves it to the Registrar of Companies to ascertain where there are existing laws with reciprocal rights to receive companies coming from the Cayman Islands. There is similarly a reciprocal right to register companies here.

Many of the jurisdictions have fees much lower than ours. The Bahamas, for example, has what I think are called International Business Corporations of which the fees is U.S. $100.00. Turks and Caicos and British Virgin Islands are somewhere in the vicinity of U.S. $300.00, compared to exempt companies that are somewhere in the area of about C.I. $875.00 or somewhere in that vicinity but substantially more. The importance of this amendment is not that there may be many companies that move from jurisdiction to jurisdiction but the importance of it is that now clients can be safely advised that should they wish to do a transfer to or from the Cayman Islands, they have that option. In fact, this transferring of continuing companies to other jurisdictions has risen from what has for many years been called the 'Fee' Clause in Trust which basically permit trusts to be moved out of a jurisdiction at very short notice and to continue in another jurisdiction if necessary.

It is not very often these clauses are used for the common companies especially. I say that for companies perhaps other than specialty, commercial companies such as perhaps insurance or banks where the question of further licensing can be very important, or the question of operating from specific jurisdictions can be advantageous but the dismantling of that type of commercial company and the setting it up elsewhere is by no means a simple thing. Many are publicly held.

I commend the Honourable Financial Secretary on bringing this, I think it is very good and I am happy that the Government is taking his advice to bring in what I think will ultimately bring further business to the Islands, not necessarily through the transfers of companies here but from the fact that companies that register here, know they have the option and the flexibility in the event of a necessity, that they can move from the Islands and continue elsewhere. Failing that, the English Company Law is a very complex, expensive and time consuming system, whereby you reconstruct a company or you wind it up and begin somewhere else. It is really to avoid those provisions in the event that companies do wish to move to elsewhere or to come from elsewhere, where this is important.

I believe that there have to be updatings of the Companies and the other Laws that affect the offshore and financial industries to ensure that we remain in the market and that we remain competitive. I am also happy to know that the Honourable Financial Secretary has been consulting with the private sector because I think this is most important that when major legislation, or minor for that part is being introduced that it has the support, if possible, of the industries or the areas of private commerce that it affects. It is really in that way that you get the full benefits under the law because you have the full cooperation of the people who have to deal with the clients who come to the Islands who advise them.

I support the amendment and I believe that it will be good for the Cayman Islands giving this alternative which is now found in most of the up to date financial centers of the world. Thank you.

MADAM SPEAKER: Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you Madam Speaker. I also rise to offer my support to the amendment to the Companies Law. I am pleased that the Third Official Member did mention that this amendment does have the support of the financial community, as I feel it is very important that any legislation that is brought here that affects that community does have the support and also the input from that sector.

I think that there is a need for continuous creativity as far as we in the Cayman Islands are concerned, if we are going to remain a competitive financial centre.

To do this, we must provide flexibility as called for in this particular amendment, where a company if threatened, can be registered here overnight regardless of where it is coming from, what jurisdiction, as long as the laws of that particular jurisdiction allows it to be done.

There are a lot of very wealthy persons or companies who desire that type of flexibility, just in case something goes wrong in some other jurisdiction. It should also work the other way around where if something happens here, they have the flexibility of moving to some other jurisdiction.

I also feel that we must look very carefully at our fees that we charge clients, not only Government but the private sector because there are a lot of jurisdictions that are springing up overnight in order to compete with us for this business. In particular, understand that the British Virgin Islands have had a tremendous impact on the amount of business that they have been able to attract which would have probably otherwise come to the Cayman Islands.

The reason that they are attracting business is because of the attractive fees and the speed at which a company can be incorporated in that jurisdiction and also the flexibility that they offer the client.

I was talking to a banker recently and I am told that what a lot of the financial institutions here are doing in order to avoid or minimize the amount of business that they are losing, is that they have taken steps to establish a presence in those jurisdictions, so when a client walks in he has an option to either incorporate a company here or in one of those jurisdictions. This can be easily done because you have a presence there also.

I feel that this is another area that has been affected by the cost.

That is that we hear of visitors continuously complaining about the high cost here of food and accommodation and everything else. This has trickled down and has also affected the financial community, in that we are considered expensive when compared to other jurisdictions such as the British Virgin Islands or even the Bahamas.

I have the feeling that we here in the Cayman Islands, for the past couple of years, have been sitting on our laurels and basically have the attitude that well, business has to come here because we have such a reputation and we do things here right. That does have some merit but I can assure you, if a client is looking for a jurisdiction as far as incorporating a company all things being equal, if there is a substantial difference in the fees that are charged in incorporating that company, it does not really matter to him whether it is here or the British Virgin Islands. I was also a bit concerned to hear that Government had established a policy of discouraging the licensing of private banks in the Cayman Islands. I still believe that there is a lot of good private banking which would be desirous of being registered or licensed here in the Cayman Islands. I feel that we cannot afford to make such decisions because all this does is encourage business for the jurisdictions that we are competing with; Turks and Caicos, British Virgin Islands, the Bahamas. I believe that we have reached a point where we can be very selective in the type of business that we attract here, but I feel that it is very important for us to remain competitive.

I want to commend the Mover of this amendment and I would just like to say that I will be supporting it.

Thank you.

MADAM SPEAKER: If there is no further debate, I will ask the Honourable Third Official Member if he would like to reply.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I rise to say thanks to the Honourable Members for their overwhelming support of this Bill.

The Members who spoke, who are Second Elected Member for Bodden Town, the Third Elected Member for George Town and the Third Elected Member of West Bay. All suggest that there is a need for us to be concerned in regard to the fee structure, or the fees that are being imposed.

The Government is very cognizant of the fact that there can be dangers of pricing ourselves out of the market and to ensure that this would not have been so, particularly in regard to the amendment under section 217(2)(b), dealing with the proposed increase in fees there, that this was not commented upon as having an adverse impact by the private sector. If they had seen that there were any dangers in regard to the fee being too high, they would have been the first to alert us because it is by the same means that they themselves insure their own livelihood as well.

We are aware of the competition that seem to be coming about in the other territories. We are also aware of the fact that we are not immune to such competition. WE are constantly watching in terms of what is happening there. We are looking at the quality of the products that the financial community of the Cayman Islands is packaging. We are looking at those products. We are trying to make sure from a Government point of view our fees appear reasonable and competitive with the other territories. We realise that we are ahead of the Bahamas and some of the other territories but I think basically we have an edge, so to speak for the type of lead that we have now put ourselves into. We do not want to erode this for any reason whatsoever.

The Third Elected Member of West Bay commented on Governments policy decision to discourage the licensing of private banks. The policy which the Member can be more fully informed about was to encourage the licencing of banks but it is the Governments decision to make sure that whatever entity that is operating in the Cayman Islands as a banking institution, it is not a stand alone where someone is walking across the street and saying that they would want to set up a bank.

We are saying that because of the fact of the international scrutiny that is being paid to tax havens and the misinformation that seems to exist in the international community that we maintain our banking activities here and licencing operations at a high standard.

We, the Government has taken the decision that whatever entity is licensed in the Cayman Islands as a banking institution, should be an affiliate or a branch or a subsidiary whereby there should be some form of external policies and more importantly, the directors and officers concerned have got the necessary acumen and banking expertise in order to make sure that the activities of the banking institution for which they will be granted a license is conducted at a very high standard.

Thank you very much Madam Speaker, and once more, thanks to Honourable Members.

MADAM SPEAKER: The question is that a Bill entitled, The Companies (Amendment) Bill, 1992 be given a Second Reading.

QUESTION PUT: AGREED. THE COMPANIES (AMENDMENT) BILL, 1992, GIVEN A SECOND READING.

THE MERCHANT SHIPPING BILL, 1992

CLERK: The Merchant Shipping Bill, 1992.

MADAM SPEAKER: The Honourable Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I move the Second Reading of a Bill entitled, The Merchant Shipping Bill, 1992.

MADAM SPEAKER: Would you like to speak to it now?

HON. GEORGE A. McCARTHY, JP. Yes. Madam Speaker, this Bill seeks to qualify and consolidate the laws enforced in the Cayman Islands relating to the operation of the merchant ships in so far as such operations involving matters of safety and marine pollution.

The provisions of the Bill are drawn from the following sources:

(a) The Merchant Shipping Law of the Cayman Islands, (which will be repealed in full).

(b) The Merchant Shipping Act, 1894

(c) The Merchant Shipping Act, 1970

(d) The Merchant Shipping Act, 1988

Amendments have been made to various provisions drawn from these sources and new provisions have been adopted to in order to provide a complete, coherent code relating to the operation of merchant ships, with respect to the matters concerned. The various acts referred to are acts of the United Kingdom Parliament to the extent that such acts have been extended to the Cayman Islands. Those acts have been extended to the Cayman Islands. Those amendments and the repeal and replacement of the Merchant Shipping Law of the Cayman Islands are set out in Clauses 48 to 51 of this Bill.

The Bill will therefore provide, along with the subordinate legislation, which will be consolidated or made under it, the legislative framework for the enforcement of the international conventions which apply to safety and marine pollution. These are conventions which have been extended to the islands by the Government of the United Kingdom at various times after consultation with the Government of the Cayman Islands.

I have stated before they relate primarily to ships, life at sea, and marine pollution. They will include (1) the Collisions and Distress Signs Convention, (2) the Load Line Convention which determines the levels that ships can be safely loaded, (3) the International Convention for the Prevention of Pollution from Ships (4) the Safety of Life at Sea Convention and (5) the International Convention on the Standards of Training Certification and Watchkeeping for Seafarers.

The Bill comprises nine parts which in turn contain 51 Clauses and three schedules and although in itself, a fairly complex piece of legislation, it would go a along way to consolidating in one volume the primary legislation covering matters of safety and pollution at sea and by cross referencing in Schedule Three, it provides a ready reference to the existing secondary legislation, whether extended by Her Majesty, by Order in Council, or made by the Governor in Council, which are to be read and applied with this consolidation bill and which relate to the same matters of safety and pollution.

The huge body of primary legislation and secondary legislation which this Bill seeks to consolidate and codify would create a stack this high on this table. The primary legislation relating to matters of safety and pollution is now all going to be contained in one bill and the secondary legislation will still be bulky and separate, but it is all listed in the Third Schedule which will be updated from time to time. Thus, the newly named Merchant Shipping Law that is now proposed, contains all the primary legislation that has hitherto been drawn from the Merchant Shipping Acts of 1894, 1970, 1988 and the thrice amended applicable Conventions Law of 1987. The old laws will be repealed, the new law will require confirmation by order of Her Majesty in Council. This Bill makes finding the law a lot easier for the many owners of ships, captains and crew and for the persons who advise them and certainly those responsible for administering the law.

Accordingly, I commend the Bill to this Honourable House. Thank you.

MADAM SPEAKER: The question is that a Bill entitled The Merchant Shipping Bill be given a Second Reading. The motion is open for debate. (pause) If there is no debate, I do not know if the Mover has anything to add.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I would just like to thank Honourable Members for the overwhelming support of this Bill. Thank you.

MADAM SPEAKER: The question is that a Bill entitled The Merchant Shipping Bill, 1992, be given a Second Reading. I shall put the question.

QUESTION PUT: AGREED. THE MERCHANT SHIPPING BILL, 1992, GIVEN A SECOND READING.

MADAM SPEAKER: This would probably be an appropriate time to take a brief suspension of 15 minutes.

AT 3:19 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 3:44 P.M.

MADAM SPEAKER: Please be seated. Second Readings continuing.

THE IMMIGRATION BILL, 1992

CLERK: The Immigration Bill, 1992.

MADAM SPEAKER: The Honourable First Official Member.

HON. J. LEMUEL HURLSTON: I beg to move the Second Reading of a Bill for a Law to Make Comprehensive Provision for the Immigration of Persons into the Islands for the Status, Rights, Obligations and Disabilities of Immigrants and Other Persons and for Matters Related or Incidental thereto. The short title for the Bill is, The Immigration Bill, 1992.

This is a Bill based upon the recommendations of the Select Committee of the Legislature which has been sitting to consider the existing Caymanian Protection Law, 1984, as well as the Trade and Business Licensing Law (Revised) and the Local Companies (Control) Law (Revised), and this Select Committee was established on the 22nd of February, 1989, by the passing of Government Motion No.2 of 1989 as amended. On the 1st July the Select Committee presented a special interim report of the progress of the Committee and the records of the 1st July will have in the *Hansards* the verbatim. I do not propose therefore, to go into that in any amount of detail. The Bill is attempting to repeal and replace the existing Caymanian Protection Law and to make the relevant amendments recommended during the work of the Select Committee.

The Law governs all matters relating to Immigration into the Islands, including administrative matters, the acquisition and loss of Caymanian Status, Permanent Residence, Gainful Occupation Licenses and related immigration matters including deportation from the Islands. The first major change proposed is in the title of the Board administering the matter. The Board (formerly called the Caymanian Protection Board) is now going to be under this Bill renamed and will become known as the Immigration Board. The composition of the Board and the size of the Board is being reorganised. The Board presently consists of a Chairman and nine Members representing a cross-section of districts. The new composition will be a Chairman, a Deputy Chairman and six other members, being one from each district. That change is reflected in Clause 4 of the Bill.

In Clause 12 the Bill seeks to require the Board to give brief reasons for refusing grants of Caymanian status, permanent residence or work permits. This has been a matter of great public contention that where, as the Law previously provided an appeal mechanism, appellants felt somewhat handicapped in that they did not know the general area of the Law which to address their appeal. By this amendment, requiring the Board to give brief reasons, appellants will now have the opportunity to focus their appeals on the areas identified in the decision.

Clause 13 summarizes when a person has Caymanian status. It is different in that the concept of an eligible person has now been abandoned and is consequently being omitted from the new legislation. The current definition of an eligible person, included persons from Commonwealth countries, the United states and other specified countries. It is proposed now to delete reference to eligibility and the have all nationalities considered on the same merit.

Clause 14 brings together the provisions relating to the obtaining of Caymanian status by children of persons with Caymanian status. Sub-clause (2)(b) dealing with the acquisition of Caymanian status by birth, differs from the existing provision in that there now is a requirement that only one parent be domicile in the Islands at the time of birth instead of both parents as presently required. Clause 14 is new. This provides that where a person claims to be the father of an illegitimate child and is able to prove to the satisfaction of the Board that he is in fact the father and also undertakes responsibility for the maintenance of the child the Board may declare that for the purposes of acquisition of Caymanian status, he is to be regarded as the father of the child. Under the existing law, he is to be disregarded.

Clause 15 deals with the qualifying period for application for status on the grounds of ordinary residence, the period is being increased from seven to ten years. Clause 15 (8) is a new provision. It allows a person to apply for the grant of Caymanian status without any residency period if at the time of birth he is, or was, a legitimate child of a person of Caymanian status by birth or descent. This is a new definition of a of Caymanian status by descent.

Clause 18 (1)(a) provides for the loss of Caymanian status acquired by grant by reason of a period of ordinary residence outside the Islands. The period is increased from three to five years. Clause 18 makes a new provision relating to the loss of Caymanian status acquired by marriage. It provides that such status should be lost if within ten years of the aquisition of the status, the person is living apart from his spouse, in circumstances where in the opinion of the Board, the marriage has irretrievably broken down. A new proviso has also been added to the paragraph that providing that loss of Caymanian status on separation or divorce, permitting a person who has lost status by reason of these provisions, but who had held it for five years or more, may apply within three months before the Board for an order that such status should be continued. Clause 18 also imposes a duty and responsibility on persons who have lost Caymanian status which was acquired by marriage to notify the Board of the relevant circumstances. Wilful failure to do so is made an offence.

Clause 19 simply modifies provisions for loss of Caymanian status upon conviction of an offence. The Board may now revoke status on its own motion rather than acquiring a recommendation from the court. The provisions relating to permanent residence have been collected together in

one place and reorganised. The provisions for loss of permanent residence, contained in Clause 25, have been made discretionary by the substitution of the word 'may' or the word 'shall.' A new ground for the loss of residency inserted by Clause 25(e) provides that repeated convictions for minor offences which come to total more than twelve months, may also warrant withdrawal of permanent residency. It is also made plain in Clause 23 that a permanent resident may not work unless he has a work permit. He is expressly permitted to do so under the provisions relating to the employment permanent residence, or is otherwise exempted.

The Bill abandons the expression 'Gainful Occupation License' and adopts the expression 'Work Permit' instead.

Clause 29 makes a slight change to the previous provision to make it plain that the protection of local interest includes particularly the interest of Caymanians. Clause 29, introduces two new matters which the Board is obliged to have regard to when considering the grant of work permits. Firstly, the Board will be required to have regard to availability of suitable accommodation for workers and dependents. Secondly, in the case of an application in respect to a professional, managerial or skilled occupation, to take account of whether an adequate training program to ensure that a Caymanian is being trained to fill the position has been established.

Clause 31 makes a new provision in respect of temporary work permits, enabling them to be issued by the Chief Immigration Officer for an initial period of up to 90 days. The Chief Immigration Officer is also given power to extend such permits for a further period, not exceeding 90 days, providing that the extension was not foreseeable at the time of the original grant. The Chief Immigration Officer is also obliged to inform the Board of such extensions and is given power to revoke, modify or vary such permits.

Clause 32 addresses the question of fees. Sub-Clause (1)(c) is new and permits the Governor in Council to exempt such classes or persons as by regulation, so prescribed. Sub-clause (3) provides that Work Permit fees and repatriation deposits should be paid by employers and not claimed from employees or deducted from their wages. Sub-clause (4) makes a breach of these provisions a criminal offence.

Part 6 of the Bill deals with general entry into the islands with various technical points clarified.

Clause 44 is new and makes provision for bringing children who are born in the Islands but who do not obtain Caymanian status at birth under proper immigration control as visitors. There is now a statutory obligation to report such births to the Immigration Officer.

Clause 77 is entirely new. This makes it a criminal offence to enter into a marriage of convenience which for these purposes is defined as entering into a fraudulent marriage with the primary intention of avoiding any of the provisions of the Immigration Law, or of obtaining a benefit under any of its provisions.

Clause 80 is a savings clause and makes certain amendments to the Trade and Business Licensing Law and to the Local Companies Control Law, consequent upon the new definition of the Board.

The Bill is divided into eight parts and contains 85 clauses in total. As I said at the beginning, it is a Law that is designed to repeal and replace the existing Caymanian Protection Law, which was last comprehensively reviewed in 1984. The Government regrets the delay and the amount of time taken to bring this particular legislation forward.

I would like to put on record the sequence of events immediately proceeding the circulation of the Bill. The committee, having held 28 meetings, decided at its last meeting on the 13th of May 1992, that copies of the second discussion draft would be issued for public input with a deadline date of the 12th of June. A press release was issued on the 19th of May, and copies of the legislation were made available as that date. As of the 12th of June, 1992, the date by which public comments were opened, no written comments had been received. However, subsequently, on the 19th of June, 1992, written comments were received from the Cayman Islands Chamber of Commerce and a few days later, on the 22nd of June, 1992, written comments were received from the Young Caymanian Businessmen's Association. The majority of these comments repeat and reiterate earlier comments by these respective groups and had very little new substance to other earlier representation.

Copies of these representations have been circulated to the Committee and we should note that the work of the Committee continues. The bringing forward of this piece of legislation at this time is simply to tidy up one of the major pieces of work before the Committee. The Committee still has two other pieces of legislation on its agenda, namely, the Trade and Business Licensing Law (Revised), the Local Companies Law (Revised). The most difficult matter that the Committee had to consider was the question of how to, in some way, extend the accommodation to persons who have been ordinarily resident in the Islands for many years and who felt that it was time to try to obtain some sort of security of tenure with the ability to continue to be gainfully employed.

The Committee considered this, and while it is not addressed in detail in legislation presently before the House, I did read into the *Hansards* the recommendation of the Committee which is now to be considered by the Executive Council. This recommendation is that the Executive Council should issue a directive to the Caymanian Immigration Board which would encourage the Board to grant permanent residency to persons who have qualified in all of the respects, but, in particular, the persons who have been resident in the Islands for a period of 20 years or more, and that such residency may be endorsed with the right to work providing that the right to work is conditioned to the employment profession or area of the individual at the time it is endorsed. The Committee has recommended words in the form of a draft directive which will be very helpful as a guide to the Executive Council.

Also, on the question of the quota for the granting of Caymanian

status, Members will remember very well the traditional quota of 12, which was fixed for the grant of Caymanian status. That quota has now been in a state of suspension for about 18 months, having suspended at a time when the Committee thought it was important to complete the deliberation process of the review prior to reinstating such a quota. The legislation now before the House, retains the ability for the Executive Council to set quotas for the grant of Caymanian status and, if passed, would then be the responsibility of the Executive Council to fix such a quota, to have it published in the Gazette, as before; and thereafter, for the Board to administer it with existing or further directives.

I could go on and on at length on this particular issue, because it is quite an in-depth matter, but I feel in the interest of time, the House having spent a long period deliberating this in Committee, having listened to the details of the Committee's report presented on the 1st July, I feel that it is more appropriate to present the matter in summary form at this stage, with the opportunity to clarify any matters which may be raised during the Second Reading debate.

I commend the Bill to Honorable Members and would invite their usual noncontentious contribution.

MADAM SPEAKER: The question is that a Bill entitled The Immigration Bill, 1992 be given a Second Reading. The matter is open for debate.

MR. ROY BODDEN: Thank you very kindly, Madam Speaker. This Bill which is currently before the House, is, most Caymanians would agree, long overdue. I am not touting the Bill since it is really not my Bill, but the Government's as the panacea to our growth and immigration problems. It enables us the opportunity to settle with some satisfaction a simmering problem, and it is safe to say that the whole community is looking forward to some sort of satisfactory conclusion and a document at the end of this debate.

I note the Mover's wish for the debate to be conducted in an noncontentious atmosphere. I give him the assurance that I believe it will be conducted in that kind of atmosphere by myself. Since we have dealt at length in a select Committee (of which he was a very able Chairman) and we had some soul searching and some arguments because this is an issue which cuts close to the grain of many Caymanians. Indeed, I would go so far as to say that on the threshold of this issue hangs the future development of our country. Before I get into the merits and demerits of the proposed Bill, I crave the Chair's indulgence to lay a foundation which will help to make sense of what I am going to say in regard to some of these clauses contained in this proposed Bill.

It is common knowledge that the modern development of the Cayman Islands came about as a result of the resilience and the industriousness of its people combined with a fortuitous admixture of circumstances which led to an economic take-off beginning in the 1960s. Because of this economic take-off we, the Members of this Parliament, have had the challenging task of trying to cope with a society which has been growing at, one could almost exaggerate and say, exponential proportions. As a consequence of that, there are those Caymanians who feel threatened and outnumbered by foreign nationals in our country. Let me caution early that this concern should not degenerate into a fear where we upset the balance we have now because if there is too great an upset in that balance, what will happen on one hand, in an effort to achieve some kind of growth parity (be it by ethnic or national origin) we are bound to affect on the other hand the economic growth because we can successfully argue that both are inextricably linked.

Let me say that while I share the concern of Caymanians being outnumbered, what we need to do and what this proposed Bill should ideally do is remove that fear, while at the same time striking an even balance. In trying to find that balance I believe that we have a couple models we can use as a starting point to examine. I class the Cayman Islands as a frontier society. It is a frontier society because many people are attracted to it because of the economic prospects and opportunities it offers. We in the Cayman Islands have changed from how we were prior to the 1960s where Caymanians had to emigrate to other countries to make a living. We have moved to the point now where we are attractive to nationals of other countries, who immigrate here to earn a living. It is as a result of this that our people have, quite logically and quite naturally, become concerned that they may be losing ground in their own country. We are very small country - people would say that we are a micro-state - and one that was not very heavily populated, so it is easy for us to be outnumbered by outsiders.

In this effort to try to arrive at a comfortable mixture at a reassuring rate of development, we have three models to go by. But my preference is very closely aligned to the Swiss model for many reasons. Switzerland itself, is a small country and because also its economic system is based on some of the same things that the Cayman Islands economic system is based on - banking and international finance. I would hasten to add that Switzerland has some manufacturing concerns and they are particularly famous for watchmaking, so that there are some differences. There is also the North American model - the United States - the model of the great melting pot, where the United States says that anyone who emigrates to the United States, must become a United States citizen. That is, they must shed their nationality of the country from which they came, and firstly and foremost, they must be Americanised.

Then, there is the Canadian model which calls itself a vertical mosaic. It states that it is possible for the country to contain Italians, West Indians, Chinese, Vietnamese, and they all fall into a mosaic which is vertical rather than horizontal. Well, it is well and good for the United States to be called the melting pot, and for Canada to be called the vertical mosaic because these are large countries with vast stretches of land for people to move about and settle freely on. They are also economically much more advanced than we are in the Cayman Islands and there is scope and opportunity to envelope all peoples from the blue collar worker to the largest white-shirted executive.

Unfortunately, we in the Cayman Islands do not afford such a

wide scope so our model has to be condensed much more stringently. Well, it is time now for us to arrive at a model which is politic-free, and rather than for the decisions to be made on the political whims and fancies of the political directorate in power, the model should be based on the concerns of Caymanians, those people whom I prefer to call established Caymanians as against the peoples who were more recent immigrants. It is time for us to develop a model which eliminates the more negative affects of immigration and softens the urge to differentiate and degenerate into a system where we have classes of people, some of whom are pejoratively referred to as "Paper Caymanians." It is also time for us to definitively arrive at an accepted level of immigrant which our society can absorb without stress and without upsetting those of us who have been established in this country.

To this extent, some people argue that we should do away with the notion of Caymanian Status as it has been known in the past. I will argue later that there is some merit in this. There is great merit, but one cannot just do away with that notion and feel satisfied - unless and until, one has effected the mechanism and plans for dealing with those people who have been established here for as long as 20 years and who, for all intents and purposes, have their domicile here. We have quite a number of those people and the decision as to how to categorise them or what type of status to give them must not only be made on the purely legal grounds but must be influenced by morals and the moral obligations that we might have; also by the law of natural justice which would suggest that those persons who have been here for all this time and who have a acculturated themselves in our society and have remained decent, law-abiding citizens and have expressed their intentions of remaining here to the point where they have acquired land and houses, apartments etcetera. . . . I would argue that there is an obligation on the part of this Parliament to deal fairly and equitably with those people, while ensuring at the same time that established Caymanians are none the worse off for absorbing these people into their society.

MADAM SPEAKER: It is Now 4:30. You would not be finishing now, would you?

MR. ROY BODDEN: No Ma'am.

MADAM SPEAKER: I will ask for the motion for the adjournment.

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10:00 tomorrow morning.

MADAM SPEAKER: The question is that this Honourable House do now adjourn until 10:00 tomorrow morning.

QUESTION PUT: AGREED.

AT 4:31 P.M., THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., THURSDAY, 9TH JULY, 1992.

THURSDAY
9TH JULY, 1992
10:11 A.M.

MADAM SPEAKER: Prayers by the Member from 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly. Questions to Honourable Members. The first question is No. 135, standing in the name of the First Elected Member for West Bay.

QUESTIONS TO HONOURABLE MEMBERS

DEFERRED QUESTION NO. 135
(Deferred Wednesday, 8th July, 1992)

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE THE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 135: Will the Honourable Member:

(a) state the number of persons, ages 17 to 25, who have been convicted of criminal offences since 1st January, 1992, to date;

(b) give a breakdown of the convictions;

(c) give the comparison for the same period in 1991; and

(d) state the categories of offences for the period.

ANSWER:

(a) 126 persons between the ages of 17 and 25 have been convicted of criminal offences between 1st January and 20th June, 1992.

(b) The breakdown of categories of offences is attached.

(c) 187 persons were convicted during the same period in 1992.

(d) The breakdown of those offences is also attached.

It is invalid to compare the two sets of statistics. The 1992 figures are complete, as all the cases have been dealt with. Insofar as 1992 is concerned, the records are incomplete due to the lead in time before receipt of conviction notifications from the Court.

The Commissioner's Annual Report, whilst not specifically categorising offenders in the 17 to

25 years-of-age bracket, gives a more detailed and accurate comparison of the crime situation over successive years.

Attachment:

Category	1992 Offences between the ages of 17-25 years	1991 Offences between the ages of 17-25 years
Offences Against Public Order		
Carrying offensive weapon	6	8
Threatening violence	8	1
Permitting prisoner to escape		1
Escaping lawful custody	1	4
Insulting the modesty of a woman	2	1
Disorderly conduct	20	19
Offences Against the Person		
Murder	1	
Grievous bodily harm		1
Wounding	6	6
Assault (common)	2	1
Assault causing ABH	10	6
Offences Against Property		
Theft	12	19
Burglary	10	17
Attempting to obtain property by deception	1	
Obtaining property by deception	2	2
Handling stolen goods		2
Going equipped for stealing		4
Attempted burglary		1
Malicious damage to property	4	4
Forgery		2
Uttering false document		1
Misuse of Drugs Law (Law 13 of 1973)		
Offences involving Ganga (Cannabis)		
Simple possession	15	14
Possession with intent to supply		6
Consuming	13	23
Offences involving Cocaine		
Simple possession		9
Importation		3
Possession with intent to supply	4	3
Aiding and abetting	1	
Possession of utensil	2	2
Consuming	1	10
Refusing to give urine	3	12
Possession of utensils	1	
Police Force Law Law 5 of 1976		3
Firearm Law Law 17 of 1964	1	2
Grand Totals:	126	187

SUPPLEMENTARY:

MADAM SPEAKER: The Member for East End, supplementary.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. From the answer given I wonder if the Member could tell me where it says for 1991, under permitting prisoner to escape, was this by someone from the public or was it by an Officer of the prison?

HON. J. LEMUEL HURLSTON: I do not have the details of the circumstances surrounding the offence.

MADAM SPEAKER: If there is no further supplementary, the next question is No. 136, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 136: Would the Honourable Member say what is the cost of the recent rental of the Miami Air and Air Atlanta 727 jets?

ANSWER: The cost of recent aircraft rental by Cayman Airways Limited, was as follows:

Continental	US$	61,117.00
Miami Air		256,990.00
Av Atlantic		170,000.00
Total:	US$	488,107.00

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker, I would just ask the Honourable Member if he has available the length of time or number of times these air crafts were used for this amount?

HON. W. NORMAN BODDEN: Yes, Madam Speaker. The charter operation took place mainly in March, April and May and there were seven flights operated by Continental, 61 by Miami Air, and 63 by Av Atlantic.

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: In light of the fact that Cayman Airways have a complement of four or five jets, why was it necessary to charter these air craft for such an extensive period at this time?

HON. W. NORMAN BODDEN: Madam Speaker, the schedule was planned well in advance and due to the accident in which the 300 was involved, and the termination of the lease with GPA, where one air craft was returned in February, it was necessary to charter additional air craft to meet the schedule which it was committed to. Some of the charter activity involved times when some of the Cayman Airways air craft were in maintenance or being serviced and some was due to last minute mechanical problems, as well.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I would like to ask the Honourable Member who negotiates these kinds of leases or charters and how much advance notice is normally required?

HON. W. NORMAN BODDEN: Madam Speaker, to the best of my knowledge the arrangement would be negotiated by the Managing Director of Cayman Airways and I believe they have in place a sort of standing arrangement with some of the charter companies to fill in at short notice in the event that there is a mechanical and to avoid the cancellation of the schedule, then they substitute the scheduled flight by a chartered air craft.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker, through you. Can the Honourable Member say whether on these air craft the air lines had to do any D-checks or engines checks or on any of the leased air craft, if he could tell me? And I have a second one, whether the Board is involved in these leases?

HON. W. NORMAN BODDEN: Madam Speaker, none of the chartered air craft. Any checks that they would require would not be at the expense of Cayman Airways and I am not aware of any checks that were carried out by these charters at the time that they were chartered, at least to Cayman Airways. The Board would be involved in any proposed charter arrangement in the discussion. I imagine the actual negotiation would be conducted by the Managing Director who would report to the Board.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I would just like to ask the Honourable Member on these charters or leases, are the crew of these air craft from the leasing company or are they being crewed, both cockpit and cabin, by Cayman Airways staff members? Secondly, is there a special escrow account which covers funds for these kinds of leases or does it come out of the general revenue?

HON. W. NORMAN BODDEN: Madam Speaker, the charters would be a rent/lease charter, which means that the charter company would provide the crew. It would not be crewed by Cayman Airways and the cost of the charter would be paid out of general revenue.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. With regard to lease rental arrangements, are these monthly figures, which have just been given and are they in addition to the figures given yesterday in answer to Question No. 126?

HON. W. NORMAN BODDEN: Madam Speaker, the amounts that I quoted in the reply covered for the period of time, they were not monthly. The figures I gave yesterday related to the direct lease cost of air craft which Cayman Airways, itself has leased.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: The Member for East End asked one of the questions I had and the other one is, will the Member say if there were other charters since 1989, besides these charters that are mentioned here? Were there also freight charters and were there any other passenger charters?

HON. W. NORMAN BODDEN: Madam Speaker, there probably were. I am sure that there were occasions when the airline had to charter air craft for passenger and cargo since 1989. The reply was dealing with the recent rentals and covered the period from March, April and May this year.

MADAM SPEAKER: The next question is No. 137, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 137: Would the Honourable Member say what is the total number of people employed by Cayman Airways Limited in its North American operations; and what are their post descriptions, date of hiring and salary scales?

ANSWER: Cayman Airways Limited employs a total of 100 persons in its operations in Miami, Houston, New York, Tampa and Baltimore. This excludes the North American staff of the Department of Tourism who receive a nominal allowance for marketing support. It is considered inappropriate to publicise the details of salaries earned. However, this information along with post descriptions and date of employment is included in the attachment to this reply for the information of Honourable Members.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town, supplementary.

MR. ROY BODDEN: Thank you, Madam Speaker. In these posts, for example, those in the categories of secretaries, public relations officers and managers and sales representatives; are there any opportunities for Caymanian peoples to be seconded for some of these positions or is there a system whereby they can work in some of these areas and offices for certain periods of time in some kind of exchange so that they may get experience in other markets and other environments?

HON. W. NORMAN BODDEN: Madam Speaker, there is, to the best of my knowledge, a programme whereby Cayman Airways, I know especially with the airport staff at Miami will send some of the local staff members up for specific periods of on the job experience and training in the Miami area. Especially at the airport check-in counter.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker, through you. Can the Honourable Member say how many of these are Caymanians?

HON. W. NORMAN BODDEN: Yes, only 10 per cent. There are only 10 Caymanians included

in the group of 100 that is presently employed by Cayman Airways in its over-seas offices.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, through you. Can the Honourable Member say how the staff have increased, say over last year or the year before, if you have the information?

HON. W. NORMAN BODDEN: I think earlier in the Meeting, I did give some statistics on the increase and staff and I believe in the Miami area it would an increase of about 15 per cent and that increase was mainly in the reservations department so that we could extend the reservations hours and improve the services being provided.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I notice from the list the Honourable Member gave concerning that when it comes to the Executive Vice-President, there is a no hire date. I wonder if he could explain that or is that just an error?

HON. W. NORMAN BODDEN: Madam Speaker, that should have been filled in there but quoting from memory this employee was first employed by Cayman Airways in 1982 as Managing Director and on January the 1st, 1991, in his present position.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could tell us if any investigations have been carried out with regard to the number of persons employed in the U.S. office to ensure that we could do the same job with less people, especially less foreign people?

HON. W. NORMAN BODDEN: Madam Speaker, I cannot say that any specific survey or assignment has been conducted to assess this. I only know that the management of Cayman Airways is fully aware that the company cannot support or afford to support unnecessary staff. To the best of my knowledge his efforts are all geared to minimising the number of staff that is required to provide and maintain the best possible service. So I am not here to say that if this was properly checked, that there might not be some fat or some slight reduction that could be made but I believe that it is felt that those that are there are necessary in order for Cayman Airways to conduct its business and provide the best possible service to the travelling public.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I think the Member mentioned something like 10 per cent of the number given here as being Caymanians. I wonder if he could tell us how this compares with say, a U.S. carrier operating from Cayman with regard to employing their people in their office here?

HON. W. NORMAN BODDEN: I am not aware on what the statistics would be for the U.S. carrier based in the Cayman Islands, but I would hazard a guess that the majority of persons employed by the foreign carriers operating out of Grand Cayman, would be Caymanians, would probably be local staff. However, in comparing that you also have to look at the difference between the size of the operation conducted in the Cayman Islands by foreign carriers as opposed to the size of the operation conducted by Cayman Airways in the United States.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, two questions for the Member. On a rough count more than one-third of the people employed seemed to have been employed from 1989 onwards. Can the Member tell us why there has been or if there has been a 50 per cent increase in staff since 1989? Also, one person's salary is showing as $112,320.00, is that a monthly salary or an annual salary?

HON. W. NORMAN BODDEN: Madam Speaker, I am not certain of what the percentage would be. I do not think it would be 50 per cent, but there is undoubtedly an increase in the number of staff employed since 1989 because the operation has been expanded, the number of frequencies have been increased and an attempt has also been made to improve services by extending office hours, extending the number of hours that staff put in at the airport and also at the reservations department. I think that went from something like eight hours a day to 10 or 12 hours a day in order to provide a better service. So there has been some increase in staff since 1989.

The salary that was referred to is an annual salary.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. My count yields 54 persons in the Miami reservations office. I wonder if the Honourable Member could explain what kind of system these persons

work under?

HON. W. NORMAN BODDEN: Madam Speaker, they work on a shift system and some of the staff are also part time staff that probably fill in maybe two, three or four hours a day.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, the minimum salary paid to anyone, even the most junior job, appears to be $3,600 a month. Will the Member say if this is normal in the industry?

HON. W. NORMAN BODDEN: Madam Speaker, that amount quoted by the Second Elected Member for Bodden Town is an annual amount and it is a token amount that I referred to that is paid to some members of the Department of Tourism staff who assist the airline with marketing support.

MADAM SPEAKER: The next question is No. 138, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 138: Would the Honourable Member say what is the job description of the Vice-President - North American Operation - of Cayman Airways Limited?

ANSWER: The Vice-President, North American Operations, is responsible for the overall operation of North America's departments of Administration, Marketing, Sales, Reservations and Yield Management and, as such, is required to assume and perform such reasonable responsibilities and duties as are consistent with the position, and as may be assigned or delegated to him by the Managing Director.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I would like to ask the Honourable Member if the vice-President of North American operations, is one of his roles also that of one of the principal advisors to the Managing Director?

HON. W. NORMAN BODDEN: Madam Speaker, I do not know if he is one of the principal advisors to the Managing Director, but I have reason to believe that there is close consultation and liaison between the Miami office and Grand Cayman.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I would like to know if the Executive Vice-President of North America can take any decisions which have to do with for example, marketing, leasing of air craft, opening of new routes, without the consent of the Managing Director?

HON. W. NORMAN BODDEN: No, Madam Speaker.

MADAM SPEAKER: The next question is No. 139, standing in the name of the Third Elected Member for West Bay.

THE THIRD ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 139: Will the Honourable Member say how much of the 1992 annual subsidy has been paid to Cayman Airways Limited; whether there will be a need for more financial support in 1992 and, if so, give an estimate of the amount?

ANSWER: The sum of $2 million, which was provided in the 1992 Budget, has been paid to Cayman Airways Limited. There will be a need for additional financial support subject to the approval of Finance Committee and the Legislative Assembly.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker, I wonder if the Member could give us an estimate of that amount of assistance that would be needed?

HON. W. NORMAN BODDEN: The request was for an increase of the annual subsidy for 1992 from $2 to $4 million and the amount for a recaptilisation plan is a subject of a Loan Bill which will be brought to the Legislative Assembly during this Meeting.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Through you, can the Honourable Member say whether funds such as this, have been used to pay D-checks or engine checks on any of the leased aircraft or whether it has been used as contributions towards paying for D-checks or engine checks?

HON. W. NORMAN BODDEN: Madam Speaker, not to my knowledge.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker, through you. Does this money go into the general fund, in which case my question is have there ever been any D-checks or engine checks on aircraft, leased, which this general fund that this goes in may have been used for?

HON. W. NORMAN BODDEN: Madam Speaker, this goes into the general operating fund of the airline and I am not aware of any D-checks or engine checks that would have been performed on any aircraft that were chartered by Cayman Airways. As to any checks that are performed on aircraft, which are leased by Cayman Airways, there is an arrangement where a maintenance reserve has to be put aside each month to cover those checks.

MADAM SPEAKER: That concludes Question Time for today. The next item on the Order Paper of today, Private Member's Motion No. 6/92, Programme of Road Works for West Bay. The First Elected Member for West Bay.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 6/92

WEST BAY ROADWORKS' PROGRAMME

MR. W. McKEEVA BUSH: Thank you, Madam Speaker, I beg to move Private Member's Motion No. 6/92, standing in my name which reads as follows:

> "WHEREAS the Government has promised, on several occasions, to undertake roadworks in West Bay;
>
> AND WHEREAS the Honourable Elected Member of Executive Council responsible for such works, has since 1989 made several visits to the district along with Members from the districts, the Chief Engineer and his Portfolio staff;
>
> AND WHEREAS such roadworks were budgeted in 1989, and $500,000.00 being placed in the 1990 Estimates;
>
> AND WHEREAS there is urgent need for roads in West Bay;
>
> AND WHEREAS this has been pointed out to the Honourable Member of Executive Council by the district representatives (Members of the Legislative Assembly) of this Honourable House;
>
> BE IT NOW THEREFORE RESOLVED THAT Government consider a programme for road maintenance and construction for West Bay as soon as possible and undertaken in accordance with priority as determined by the district representatives in consultation with the staff of the Public Works Department and the Honourable Member.".

MR. JOHN D. JEFFERSON, JR.: Madam Speaker, I am pleased to second the Motion.

MADAM SPEAKER: Will the Honourable Member wish to speak to the Motion?

MR. W. McKEEVA BUSH: Madam Speaker, it is a fact that Executive Council has promised on several occasions to do certain roadworks in West Bay which has not materialised. The Member, as it said in the Motion, made several visits to the district and we visited all of the roads and some areas which do not have roads, since 1989.

Since 1989, we have been trying to get these roads worked on. Many of these roads were roads which were built by Government and received the first application of chip and

spray during 1985/1988. These roads are now in need, serious need of their second application so that Government would not lose its investment and this should have been done a long time ago. The roads that were completed between 1985 and 1988 which need second applications. In addition to these roads, which is one category, there are many roadways or tracks which need to be worked on because some of these are just mud-holes and especially in the rainy weather these are unbearable.

People who have to walk out to the main road cannot get out dry foot and for those who might own a vehicle, sometimes the vehicle is unable to use the roadway. These need to be up-graded. There are roads such as Willow Close in Northwest Point which, since 1985, Government has been putting a little bit of marl here and there. The rains come and wash it away. These people deserve a decent road as well as anybody in this House. During 1984 to 1988, or the Administration 1985 to 1988, we went several times to look at this particular road. In dealing with that period, we understand and know quite well that the present Member was not in charge, he was in the opposition at the time and during that time in dealing with this particular road, the Member at the time, Mrs. Orrett, fouled up the efforts to have the road up-graded because she wanted to shift the entrance to give a family member with existing boundary ownership of the existing entrance to make their proper larger.

The residents, who for generations, used the existing entrance would not agree to it. From then, a monkey wrench was thrown into the works as far as that road is concerned. Now she is using that same road to campaign against myself and the Third Member for West Bay with dirty politics. And I keep wondering why the road is not fixed.

Willow Close, otherwise known to Government because of the different requests that have been made to them, as Garnell Rivers or Sheila Ebanks Road, these are names of residents who live in the area and we use their names for identification purposes before the street actually was named and a sign put up. Another road under question is one in the Birch Tree Hill area known as Captain Shelby's Road or Buddy Parson Road, for Government's purposes, both names have been used over the past couple of years. This is an area where the legal right of way is about six feet wide. There are in the general area about nine homes in total. There is no legal vehicular right of way. The persons living in the area for generations now, have to go through someone's property or cow-pasture to get to their homes. The garbage trucks, the Government vehicles have to take the same route, someone's property or cow-pasture through the good graces of that person.

We have made more attempts at getting this road than any other, since 1985, but still nothing has been done except for promises. There have been in connection with this road, several actual plans drawn by Public Works and these have been agree upon by land-owners concerned in the area. In spite of all this effort, still nothing has been done. I should say the land-owners agreeing to this road would have to give up considerable portions of property in order for those residents to get a proper road and these particular land-owners, in this case and that particular plan, are three owners.

Nothing has been done. We approached that matter from another angle and we drew up another plan. This last plan was also agreed upon with the two owners this time having to give up much property. Nothing has been done. The House will recall that in the Finance Committee held in December last year, I moved several resolutions in which the Government promised action on this particular road. Up to now, this road has not been built. Why? Can I ask the Member why? This Motion seeks to address this sort of wanton disregard for the people of this country, for the people in West Bay. Those particular people.

Over the last several years there has been other roads requested which have not been touched. This particular list that I hold in my hand has been stuck up on my notice board for the past eight years. It carries the hand writing of myself and the hand writing of the Member for Education. This is a list of roads visited and promised for action over the past several years. The road list goes on to read and here are names because as I said some of them were not named at the time:

"Lyman Bush
Jude Powery
Clifton Ebanks or Captain Shelby or Buddy Parsons
Ironie Ebanks
Ellard Ebanks
Garnell Rivers or Sheila Ebanks otherwise now known as Willow Close
Marion Ebanks
Darvin Ebanks
Charleen Rivers
Gwen Bush
Charlie Welds or Grace Ebanks or Kivy Ebanks
Burman Scott
Autry Powery or Lyle Hill
Mellie Ebanks or Sonnie Fellner
Joy Manderson
Birdell Ebanks
Farrington Lane
Essie Mae Hall or Ken Hall
Andrae Jackson
Meriam Ebanks
Kenneth Ebanks.".

These are roads that either need second applications since

1985 or roads that we need to be fixed. These are roads that have not been touched.

"Timmy Ebanks
Romell Coe
Darrel Brown
Captain Charlies Road
Alvonzo Ebanks
Link Road
Wilbur DaCosta or Ivan Farringtons Road (whichever one you want to use) - not completed
Leah Bush - second applications
Roy Grant.".

The list is here for one and all to see. Nothing has been done. The question asked a few days ago by my colleague the Third Member for West Bay, the Member responsible, the Member for Communication and Works, in his answer sought to give the impression that in 1989, for instance, there was he said $388,438 were spent. When you look at it, actual road works was done for $101,763 and the rest was, for instance, sidewalks to Government House of $186,675. When you talk about sidewalks to Government House, I cannot see why they should get pushed into West Bay, and I cannot see, even if they say it was West Bay, why it would cost $186,000 because West Bay's boundary begins just above the Governor's residence. I cannot believe that that little stretch of sidewalk between the West Bay boundary and the Governor's residence which is in West Bay has taken $186,675.

As far as I can remember there was a special vote for these sidewalks so I cannot see why this has been lumped in with West Bay. There was a special vote for shoulder works, also. While I agree that the shoulders beginning on the main West Bay Road had to be worked on and the Government's excuse is to save the road from breaking away, when we requested certain same work done in West Bay to save Government's main roads the Member quickly got up and said that we were trying to fix people's driveways when in actual fact, we were trying to save the Government road from breaking away. But they used the political excuse that we were trying to fix people's driveways. So in the answer given here the other day, they were large sums but when you look at actual road work, you cannot say that there was anything done.

For instance in 1990, West Bay Boat Ramp, was thrown in as road works. The Sports Complex for $38,054 was thrown in. That was the paving of the parking lot. The West Bay Softball pitch was thrown in for $36,000. Fencing was thrown in, drains were thrown in but when it comes to actual road work with all that Government has promised there has been little results. Granted there has been some work done. We have done some repaving of the main Northwest Point Road, on the main Batabano Road and some of the other roads but in comparison to other areas when we look at roads like the Jennett L to see that a million dollars has been spent to facilitate businesses, which is all in the general development of the country, it is good. But, we have to service our people.

We talk about quality of life. It is hard enough for somebody to struggle to get a little home to enhance quality of life but then Government must see that at least in rainy weather they can get out to use the common phrase, "dry foot". I am going to wait to hear from the Member, their decision on this resolution and let us hear how they will compare actual road works as against fencing, drains, turtle farm parking lot; all thrown into the lump sum on the West Bay Road Works vote.

Thank you, Madam Speaker.

MADAM SPEAKER: The question before the Honourable House is Private Member's Motion No. 6/92 which has duly been moved and second and is now open for debate. The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I would like to support this request from the West Bay Members for specific roadworks in their district. I sympathise greatly with their plight and I perhaps understand more than any other Member in this House how the Government, led by the Member for Education and the Member for Communications, have over the past eight years denied the districts of this Island, with a few exceptions, of work needed, work that was absolutely necessary as the First Member for West Bay so ably put it, needed just so that common citizens could get out on "dry foot".

I refer, especially to a visit made by the Member for Communications to Bodden Town to the Harvey Stephenson farm. I understand that that visit had to be aborted because the Member and his entourage could not get their vehicles through the lake which blocked the road into the hinterland of Bodden Town. Yet, today that road when it rains still remains impassable. This is a year in which one would think that the Government would try to be equitable in the distribution of the people's money and try to serve all the districts. It was eight years ago when I was a Member of Executive Council that the Government took a decision to build this road. A road in the back of Bodden Town they called it and we requested Public Works and Lands and Survey to map out the road. After they looked at it they said it is impossible to do what you request because that land has never been surveyed. We need an aerial survey.

Our Portfolio ordered the survey. When we got in touch with the people from Florida, they said to us, instead of just doing this area for this road, it would be more economical to do the whole Island. So the Government said, go ahead and do it, they would have to bring down their cameras and their aircraft and their crew and the aerial survey was done for these roads for the Island. Unfortunately when the maps arrived in December of 1984, I had lost my seat in Executive Council and the new Government headed by the Member for Tourism and the Member for Education, were in charge. They have taken those maps and they have

built roads through-out this Island in every area except the one area for which the aerial survey was requested initially.

If that is not a bit of political subterfuge, you tell me what it is? In December of 1984, the Member for Education and the Member for Tourism visited Bodden Town to meet with the late Jim Bodden and me, to find out what we wanted done in Bodden Town. I can remember Jim's words ringing in my ear when he said, "Haig, do not meet them. They mean you no good and they are not going to do anything." But out of courtesy I went and met with them alone and I told them there were four projects we would like to see done in Bodden Town and this road was one of them. Needless to say, this project and the other three have not yet been touched, although in the eight years they have been asked for again and again.

Now comes the sweet part of it. At election time this year, and in 1988, the Members of Government who, will not do what they are supposed to do for the people of this country, now tell the public that nothing has been done on this road because the Bodden Town representatives are no good and they already have their little satellite out in Bodden Town telling people that they would have their roadwork done if they had good representation. The Member for Communications told us last week in this House that the reason why nothing is done in Bodden Town is a reflection of the Bodden Town representation.

MADAM SPEAKER: Honourable Member, I have allowed you to stray but I would appreciate if you got back on the subject of the West Bay Road Works.

MR. G. HAIG BODDEN: I appreciate that very much, Madam Speaker, for allowing me to say what needs to be said and I will go on. I was only trying to let the public understand that the situation with the West Bay Road is precisely the situation through-out the Islands. That the Member for Communication is not going to do the work in West Bay if he does not have the support of the two Members who are seeking the work to be done. This is sad because it is Government's money.

We were told in this House that Government has spent a lot of money this year on roadworks but none in West Bay to speak of. We were given the figure very little spent in West Bay, perhaps the largest district in area; very little in Bodden Town, $20,000 in Bodden Town; nearly a million dollars including the land in George Town; $299,000 in Cayman Brac. This is not equitable distribution of the tax payers money. This is why I support this request. The Members of the Backbench can only bring to Government the needs of the District. We can do nothing in Finance Committee to help our people since Governor Scott and Executive Council and the Member for Cayman Brac changed the composition of Finance Committee. We can do nothing. We are powerless. We are impotent. So all we can do is to cry and to make noise. Believe me, noise is going to be made, not only in this Chamber but throughout every corner of this Island until West Bay gets its fair share of road works and Bodden Town gets its fair share. This is all we are seeking.

I believe the Members from West Bay who have moved this have done so in good faith and if the Government had performed over the last four years, there would have been no need for this Motion to be here because I feel the way roadworks should be handled is that the Member responsible should sit down when he is preparing the budget, with the Members from the districts and say, look, we have this money to share up in the districts. What are your priorities in the district? What do you want done this year? Which roads are giving you the most problem?

Dealing with the needs of the people because Government's responsibility under the Government that we have is to provide roads and other infrastructure for the inhabitants who they tax so heavily. Not to over-spend on one project like the Jennett L and then use it to launch their political candidate. This is squandering Government's money and some of the money that was spent on that could have fixed the pot holes in West Bay and there would have been no need for this Motion and it hurts me to see the other half of the Jennett L being almost closed to facilitate the construction of CIBC. This is big business being catered to by Government.

When this Motion says there is an urgent need for roads in West Bay. I believe every word of it. This Motion about Bodden Town could have been brought about East End. It certainly will not have to be brought about Cayman Brac. The resolution says; "BE IT NOW THEREFORE RESOLVED THAT Government consider a programme for road maintenance and construction for West Bay as soon as possible and undertaken in accordance with priority as determined by the district representatives in consultation with the staff of the Public Works Department and the Honourable Member." I know the West Bay Members are hearing the same excuses that we get. The latest letter that we received from the Member for Communications on roads said they are private roads. He cannot do anything. Every road in this country started out as a private road until declared in the Gazette and made a public road! That is an excuse!

The Member for West Bay outlined names and names and names given to these roads but these roads do not belong to people. I recall some years ago when we tried to get a turn fixed in the Bodden Town road and the Member for West Bay would do nothing about it because it was a Bodden Town road and I kept complaining about the accidents. The next fatal accident killed five West Bayers. We cannot say because it is in the district of West Bay it is not going to hurt George Town because everybody uses the road once the road is there. And the Members of this Legislative Assembly should not have to be, as has been suggested in the newspaper, cooperate with Executive Council to get their roads fixed. This should not be the way Government is run. We should not have to do this. We must bring to the Member the needs for West Bay and the needs for other districts and the Member must sit down and say we will do this. Kisses should not go by favours unless you have a group of axe grinders with their special axes to grind.

I would like to close in supporting this debate by quoting an article from a recent publication called "Accountability". This short passage has been paraphrased from the book of the prophet Isaiah from the Bible and in modern language says and I would like to leave this with he Member for

Communications and ask him to think about it and to Executive Council because they are responsible. If the Member for Communication is not doing his job, they must shake him up. They are all responsible to the people. When roads are not fixed, I hold the Member for Education responsible just the same as I hold the Member for Communications. I will close with this: "The hope of Isaiah that some day there will be a chief of government who rules with integrity; And national leaders who govern with justice. Each of them will be like a shelter from the wind and a place to hide in storms. They will be like streams flowing in the desert, like the shadow of a great rock in a barren land. Their eyes and ears will be open to the needs of the people. They will not be impatient, but will act with understanding and prudence; And they will say what they mean! The scoundrel will no longer be considered "honourable", Nor the corrupt called "honest"! Everyone will recognise an evil man, and hypocritical politicians will fool no one at all! Their lies and their cheating will be plain for all to see. The smooth trickery of evil men will be exposed, as will be the lies they use to oppress the poor in the government and the courts, denying them justice and their rights but an honourable person acts honestly and stands firm for what is right. Everywhere in the land righteousness and justice will be done. There will be peace and security forever, Because everyone will do what is right!".

I am pleading with the Government to do what is right.

MADAM SPEAKER: This will be an opportune time to suspend for 15 minutes.

AT 11:28 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:51 A.M.

MADAM SPEAKER: Debate continues on Private Member's Motion No. 6/92. The Honourable Member for Communications and Works.

HON. LINFORD A. PIERSON: Madam Speaker, in the Resolve section of this Motion Government is being requested to consider a programme for work maintenance and construction for West Bay as soon as possible and undertake in accordance with the priority as determined by the district representatives in consultation with the staff of the Public Works Department and Honourable Member.

Madam Speaker, the preamble to this Motion would suggest that no road works have been carried out in the district of West Bay since 1989. If this is the meaning of that preamble or the intended meaning to convey to the public I can say that this is not correct. However, in the Mover's presentation he did give some credit for some roads being done in West Bay. Further, I am at a loss as to the significance of mentioning in the preamble to the Motion that $500,000 was provided in the 1990 capital budget for roads works in West Bay. As indicated during question time in this Honourable House on Wednesday, 1st of July, the records of the Public Works Department show that in 1990, 18 road projects were completed in West Bay at a cost of $426,223.00, which indicates that 81.3 per cent of the funds budgeted in 1990 were in fact, utilised.

I am pleased to note that the Member moving the Motion has acknowledged that I, along with representatives from my Portfolio and the Public Works Department, have indeed paid regular visits to West Bay to keep abreast the needs in that district as indeed, I have done in all other districts of Grand Cayman and in Cayman Brac and Little Cayman. Further, I am pleased to say that over the three period in question 1989 to 1991, that a significant amount of road works have been carried out within these Islands. Whilst I am the first to agree that more work is required, I can also say that Government is doing its best to utilise our limited funds as fairly an equitably as possible. In accordance with the priority placed on these various road projects by the Portfolio and the Public Works Department.

For the information of this Honourable House and the listening public I submit as follows a breakdown of capital expenditure carried out on roads during the period 1989 to 1991. A total of $6,774,756.00 has been spent over this three year period. In Cayman Brac and Little Cayman a total of $2,324,439.00 was spent which represents 34.4 per cent of the total amount. In George Town $1,413,998.00 was spent, representing 21 per cent. In West Bay $884,439.00 were spent representing 13.1 per cent. In Bodden Town $854,961.00 were spent representing 127 per cent. Yet, the Second Member from Bodden Town says nothing was done. In East End, $487,782.00 were spent representing 7.4 per cent. In North Side $355,707.00 were spent representing 5.3. per cent. This was the lowest expenditure in all districts, yet, I am accused of doing work in districts that would politically enhance my position and the Member for North Side is a Member of Government. The Master Ground Transportation Plan (MGTP) a total of $413,430.00 were spent representing 6.1 per cent of the total.

It can clearly be seen that of the $6.7 million spent on roads in the Cayman Islands over the past three years, that West Bay received a total of approximately $900,000 or approximately 13 per cent of the total amount spent. I invite any Member of the House to check with the Public Works Department, their records on this and I will give the Chief Engineer the authority to go through the details with them. Further, an application is now pending for consideration by Finance Committee requesting additional funds for road works in West Bay. In the presentation by the Mover of the Motion he read a list of roads or requests that he had made and one of these referred to the Captain Shelbys road. I have discussed this matter with the First Elected Member for West Bay and he is aware that efforts are being made to obtain the necessary funds to do that road. As a matter of fact, an application is now with the Financial Secretary and hopefully this will be brought to the next sitting of Finance Committee.

There is no doubt that this Government is already undertaking the programme of road works that this Motion is calling for. We are in the process of doing this. We are therefore three years ahead of this request. To accept this Motion would be to suggest that Government is not already doing all that we can within the ambit of Government financial constraints to address the road problems in these Islands.

This Motion is therefore overcome by the previous events which have taken place over the past three years. In other words, it is somewhat redundant because we are already undertaking what this Motion is requesting us to undertake.

As stated earlier, I recognise the need for additional works to be carried out throughout the Islands. However, it seems somewhat a contradiction in terms especially when I hear the Second Elected Member for Bodden Town accusing Government on one hand for over-spending but on the other hand we are being criticised for not spending enough. But that is typical of that Member. The Member for Bodden Town also mentioned during his contribution of an incident that occurred during a very heavy down-pour of rain when members of my Portfolio and the Agriculture Department were unable to reach Mr. Harvey Stephenson's farm because of water in the road. But in the same breath that Honourable Member admitted to being the Member who built that road. If I were in his position I would have kept my mouth closed on that because had he properly built the road, we would not be having the problem we are having there today.

He talked about what he did in eight years, yet, when he is pinned down as to his contribution to this country in eight years, he is unable to say what they were. I recognise the need for additional works to be carried out and this is exactly what we are doing within Government in general but particularly through my Portfolio. Madam Speaker, we can never seem to win because as I said with the one hand, the Backbenchers accuse us of over-spending and on the other hand they are saying we will not spend enough. In the event that there is any misunderstanding regarding the amount of money spent in the district of George Town, let me point out that money spent in George Town are often not only for the benefit of the residents of the George Town district. For example, the reconstruction of the road at Red Bay in 1991 at a cost of $139,000 is an example of a project which has major benefits to residents of Bodden Town, East End and North Side.

Similarly, the major project which was implemented as an immediate action project under the MGTP, was the improvements to the inter-section of Eastern Avenue, North Church Street and West Bay Road at a cost of over $300,000 with major benefits to the residents of West Bay. As stated earlier, the Government accepts that there is indeed a considerable amount of road works through-out the Islands which are in need of being carried out as I has been in past years and past administrations. At the same time Government is also mindful that many of the requests which it receives are for repairs and upgrading to access roads which do not serve many people and are not public roads. Such requests have to be weighed against the needs of other roads which carry hundreds or even thousands of vehicles each day.

Members of this Honourable House know or should know that a road cannot be gazetted under the guidelines of Public Works until it meets with the Public Works and Planning Department and standards. Once gazetted it then becomes a public road and Government then has the authority and responsibility to maintain the road but many of the roads that are being requested for repairs are private roads, many of which serve only one or two people and this has been over and over explained to Members of the House that Government does not have the authority to go in on private property and repair roads. I gave an undertaking earlier in this Meeting in response to a question by the Mover of this Motion to provide him and other Members with a list of projects requested for the district of West Bay by the 8th of July, yesterday. However, due to the detailed contents of the information being required, I was unable to provide the information as promised but I give the undertaking that I will pass this to the Members as soon as it is ready.

I did receive a type of answer which I felt was not satisfactory as it said that the figures were broad estimates and ball-park figures. I felt that it would not have been proper to give that type of information to the House until it was more properly looked into and streamlined, so that I would be providing the House with as accurate a position as possible. As stated previously, Government is now doing all that it possibly can within the ambit of our financial constraints to address the many and varied demands on our financial resources including road works. Therefore, as stated earlier, in view of the programme of work undertaken since 1989, and which continues to be undertaken, this Motion, though I am sure well intended, is nonetheless overtaken by these events.

Government is already doing what this Motion is requesting Government to do though understandably perhaps not at the same level required by the Mover and Seconder of the Motion. It is therefore against this background that I am unable to support this Motion. Thank you, Madam Speaker.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. This Motion is one which is attempting to get Government to move to fix, maintain and construct I should say, roadworks which the little man in the country is suffering as a result of not having it done. We know that expensive areas of road relating to big businesses get priority by this Government and it has really only been in the past few months when the reality of getting votes for the November Election has come back hard to the three Elected Members of Executive Council, who need these votes most, that suddenly we are getting some work done on the roads. I am grateful for what is being done and I am sure the people are but it means that when you leave road works, such as that in West Bay or any other part of the Island, until it reaches such a bad state the cost of doing it becomes tremendous.

What should be done is that after an Election, the Elected Members should try each year to do a reasonable amount of maintenance and road work by way of new roads or better surfacing so that people who have to use these roads could be assisted and not have to drive on roads or walk on roads that many times in the rainy season are under water and which many times are pitted with pot-holes or shoulders are badly in need of repair. I note that the Member for Communication and Works stated that he had spent some $6.7 million in the past three years on roads and in George Town only about 21 per cent of it or a bit over $1.4 million was spent. I think those figures I am quoting are correct.

This has got to be a very bad track record, much less a very bad road record, since we do have in Executive Council two George Town Elected Members, but more than that, the Member for Communication and Works is from George Town and he dealt with some of these roads. I am not going to dwell on them very long but I would like to make my comments on what he too has commented on. The mention was made of the $900,000 spent on the Jennett L, of which $300,000+ was spent on the road and which is admitted by the Member to be the most expensive road in the Island, probably the most expensive road in the world at this stage. If that money had been spread over the maintenance of George Town's pot-holes and roads, clearing up the pot-holes and the shoulders, it is amazing how much this could have done to assist the many little people out there that he talks about just before the Elections.

My comment on this is, it is obviously a very good piece of road but it takes traffic that was going on to one busy street, the Cardinal Avenue area on to Shedden Road, another extremely busy street and it leads no-where. It basically is a link from one busy street onto another busy street. Opposite it is a lovely piece of land that is just cleared on the Shedden Road side. Lastly on this, as was mentioned, it is unfortunate when a lot of Government's money, which could go in repairing roads, is basically used as I see it, for politics such as the opening of this and the launching of a new political campaign on Government's money.

The Motion could well have been a similar Motion for all of the districts. I think it mirrors the problems that we have all had. While it does set out what needs to be done in West Bay, what it does show is that while the two Elected Members on the Backbench are doing all that they can to get roads repaired in West Bay, they do have one Elected Member from West Bay, the Member for Education who is in Executive Council, I do think the duty rests on far heavier to see that his district gets the necessary roads and out of the percentage of money spent that the Member has mentioned, West Bay is way down in the list. George Town fared reasonably well but on the other hand it has the largest road network and the heaviest use of all of the districts. Probably next to it in population is West Bay. So I see it as really a failure by the Member for Education to press the Member for Communication and Works to get on with work in the West Bay district itself.

It is obvious that we cannot, as Backbenchers, do anymore than ask and this Motion and the many questions are evidence that we have done what we can. In fact, the Member for Communication and Works, when we voted quite a considerable amount for district roads and many other things, including the roads in West Bay, in 1989 when the Backbench had control of Finance Committee and we made the budget, the reference to us and to the roadworks at that time was that it was parochial budget. Of course, if the Member for Communication and Works feels that the districts should not get their share of the money and it is obvious that it is only a pittance of the money has gone on roads. You add all the budgets together, we are probably looking with this years, probably in the area of $400 million and $6.7 million is being spent on roads.

No longer is there a clear and organised schedule of road works so that every year there is what was referred to in the MGTP Report, or one of the reports that the Member for Communication and Works had done, there is no organised schedule of repairs or maintenance on roads throughout the Islands. As a result of this, you have only the piece-meal dealing with roads and only roads that suits the respective Executive Council Members it appears at times to do. The people who ultimately suffer from the traffic jams and the lack of maintenance of roads are many times people who have to either walk in to their house through marl roads or through roads that are swamped with water, in the rainy season especially, and these are the people that ultimately have to put us in this House; the little man as they are often called or the people at large. It is distressing that we could get admissions that in George Town nearly a quarter of the money voted in the last four years has gone on one small short expensive footage of road, the Jennett L.

I guess there is a saying that when people come to you and they start telling you what they are going to do for you in politics, you ask them, tell me first what have you done? The record of this Government, as far as maintaining roads and building roads, in general, has got to be one of the worst that exist. I support the Motion, I do not accept what the Member for Communication and Works has said that he is doing what it is calling for because if he is doing it, it is very hard to see where he is doing it.

I would call on the Member in the short period of time left before the Elections, which I know will be very busy for him generally, to do whatever is possible to assist the Members in West Bay and the public in West Bay to get the necessary roads and to do everything he can to assist his own George Town people to maintain and build the roads that are necessary. Thank you.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I believe that this problem of seeming non-compliance with requests is largely due to the misunderstanding of the role and expectations of the Members on both sides of the House. Now very interestingly, I read a book by a man whom I would consider a successful career politician who was for a long time the Speaker in the Congress in the United States; a man by the name of Thomas 'Tip' O'Neil and in his book entitled, *Hardball,* he said that all politics are local and that politicians must remember that if they keep their constituents satisfied their constituents will keep returning them.

Quite often I have heard comments here about requests being parochial. Well, I would say that that is at best an absurd observation because if the people of Bodden Town put me here, it is only fair and reasonable to expect that they are going to demand that I articulate some of the needs of the constituency. If the constituency needs roads, then I have to articulate that need for those roads. Similarly with Members for West Bay, East End, North Side and George Town. And if I, as a sensible politician, want to be returned, then I have to try to get those needs met.

Our system, I have to say is a rather obsolescent and antiquated system. Where that breaks down is because by the very nature of it, when you make those requests to the Government it sets up an adversarial system and it plays one section off against the other. Quite often there is a

misunderstanding as a result. I am afraid unless we get some kind of reform of this system it is bound to grow worse, rather than better. I must say in all candor that in many respects the Government must be credited for paying attention under very trying circumstances because the budget has to meet a variety of demands. I appreciate the difficulty of six different districts or constituencies demanding road works, etcetera.

That, however, does not exonerate the Members to whom the requests are being made from lending a sympathetic ear and from negotiating in good faith. Now, I have had some difficulties in getting some of the road works etcetera, for my constituency addressed, just as the Mover of this Motion. I am prepared to be reasonable and lenient, as I am sure is the Member of this Motion. But what disturbs me is when my good friend, the Member for Communications and Works, sometimes gets annoyed and carried away and says that the reason why requests are not being met is probably a reflection on the type of representative a constituency has. Well, I do not believe that he is serious when he makes those kinds of remarks, just like I said something a few days ago that he said he did not believe I was serious. So, I will pass that off as him trying to get out of a moment of frustration and annoyance and in an attempt to be fair, I must say that for the most part, my approaches to him have been met with some amount of reason and fair play but, this does not mean that I am entirely satisfied with the way he has been handling the requests that I have made.

I have to appreciate his difficulty because it seems to me that his Portfolio is one upon which most demands are made and it is a credit to him that he has survived in the manner that he has and is ready to go into a campaign intact. I was hoping that it could have sapped him of some of his energy so that he would have been able to conduct a less energetic and enthusiastic campaign and give us on this side a greater advantage.

Nevertheless, I would implore him in the little time that is left to try to see if he can do whatever is reasonable for us to get some of these demands met because we have to remember that the country is comprised of various sections and the whole is only as good and as sound as its parts. So if the roads are not good in West Bay, and if the roads are not good in Bodden Town, and if the roads are not good in Cayman Brac and Little Cayman, that is a detraction from the country as a whole. So I have to say in all fairness, that I am going to give him a little more leeway and I implore him to get involved and expend some energies to see that we can all go into the next few months looking good.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. As the seconder of this Motion I naturally rise to support it. The First Elected Member for West Bay and myself over the past three years have been accused of many things, as far as our district is concerned, I hear reports that we are not doing anything. Nothing could be further from the truth. I have in my possession here this morning, a list of requests that were submitted by the First Elected Member and myself, in 1990, to the Member for Communication and Works in conjunction with the Public Works Department for road works in West Bay.

The requests amount to 88 different requests and at a total cost of $1.4 million. In addition to that what we did in 1990, when the Backbench controlled Finance Committee, we gave the Member for Communications $500,000 to start the road works in the district of West Bay. On many occasion the Member has visited the district with his entourage, and on everyone of those occasions at least the First Elected Member for West Bay and myself have accompanied him around the district and pointed out each time the need for road works in our district. We have also sat down with the Public Works Department and prioritised our requests, basically saying, all right we appreciate that you cannot do everything in one year, but here are the most urgent requests.

In spite of all those efforts and the interest we have shown, and our persistence as far as the requests to the Member and the Public Works Department, very little has been done to deal with the requests that we have submitted. The requests are all sensible and necessary because in each case, contrary to what the Member for Communication had to say, the road in question does not serve one person. In most instances there are a number of residents, ordinary citizens who use the road and live in that respective area of the district. The other sad situation is that many residents in our district of West Bay, do not have a legal access to their homes. So these are the reasons for our requests and also contrary to what the Member for Communication and Works had to say, Public Works has done it in the past and they will continue to do it in the future, that is deal with private roads. They have done, nobody can deny that. My attitude is, I have no apologies to make to anyone about our requests in these areas, be they private roads or public roads. They are needs that our people have and those needs must be met by Government if the private residents in those areas cannot afford to pay for the service themselves.

The First Elected Member for West Bay did mention in particular the effort that was made since 1988, especially by himself and myself in trying to get a proper road for the residents in the area of Willow Close and also the area known as Captain Shelbys road. Many residents in the area, especially those that would be served by the road referred to as Buddy Parsons road or Captain Shelbys road, during the rainy season are unable to get out of their homes because the area is under water and the tracks in those areas are flooded. I believe that our people deserve better than they have gotten over the past three years from Government. We were told back in 1989 or 1990, that Government does have a policy in place of attempting to starve out the Members of the Backbench. That is, offering very little or no assistance to the Members here in respect of their individual districts, hoping that the people will turn against these Members in the up-coming General Election. But our people know that we have tried and we will continue to try to get those things and those services that they need in our respective districts.

I am a bit disappointed, especially due to the fact that West Bay does have a Member on Executive Council, that is in the Member for Education. He has been a Member of

Executive Council for the past 20 years and I understand his argument has always been for putting him back in Executive Council is that we need, that is the district of West Bay, a Member on Executive Council to ensure that we get our fair share. What has he done to ensure that has happened over the past four years? Or even over the past 20 years? It is my understanding that this Member has been responsible for derailing many of the requests that the First Elected Member and myself have submitted on behalf of the district of West Bay just because he did not have the interest or the initiative to bring these requests himself and he is afraid that the First Elected Member and myself might get some credit for our efforts.

My position since being elected in 1988 has been, and I know a lot of people do not support the position, that as long as it is for the benefit of the district of West Bay, it really does not matter to me who brings the request, I will be supporting it and that is the position I have maintained since 1988 and the position I will continue to maintain as long as I am a Member of this House. All we keep getting from Government are promises and the Member for Communications and Works in his feeble attempts to put forward arguments for not supporting this Motion, gave some very startling statistics. He said since 1989, that something like $6.7 million had been spent on road works in the Island. In the figure that he mentioned, he mentioned that $884,000 or 13 per cent of those funds were spent in the district of West Bay.

Statistics can tell you anything if you want them to but my question to that Member is, how much of that $884,000 was actually spent in the district of West Bay, as opposed to Seven Mile Beach which falls generally within that district? I think if you look closer at the figures you would discover that the majority of those funds were spent along Seven Mile Beach. It benefits all districts and the Island as a whole. Not the district of West Bay in particular. The other question I have to ask is how much of this money was spent as a result of our requests in West Bay? Very little according to my calculations. After we sat down with Public Works and agreed on a programme for the year 1990, and like I said before, our request was in the region of about $1.4 million, there was something in the region of about $194,000 that was spent in the district as a result of our requests.

I think the Member for Communication and Works should rely on the representatives of the district to determine what requests and what roads should be done because we live in the district and we are the ones that the people come to with these requests. So I feel that more attention must be paid to the requests that are submitted through the representatives of the respective districts. That Member also had the nerve to say that on the one hand the Backbench is accusing of Government of over-spending but on the other hand, we are saying that they are spending enough. There is no conflict in that position. Our position has always been is that Government has to get its priorities in order and we opposed Government financing such large projects as the $18 million for the hospital. Not because necessarily we do not agree with up-grading our health services in this country but on the basis that we could not afford it.

Our position has always been, we continue and we have continued to support any request brought by Government that was practical, affordable and in the best interest of the people of this country.

MADAM SPEAKER: Would the Honourable Member be prepared to take the luncheon suspension now? The House will be suspended until 2:15 P.M..

AT 12:47 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:20 P.M.

MADAM SPEAKER: Debate continues. Private Members Motion No. 6/92, the Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. When we took the lunch break I was dealing with some of the comments put forward on behalf of Government by the Member for Communication and Works. He accused the Backbench of inconsistency in that on the one hand we were accusing him of spending too much money and on the other hand, also criticising for not spending enough money. I mentioned that there was no conflict with this position as far as the Backbench was concerned. We only objected to those requests for expenditure that we felt we were unable to afford and was not necessary. I did mention that we did support any request that came to this House that was practical and affordable and in the best interest of our people.

As I mentioned before, and I would like to elaborate a bit, I do feel that these requests that have been put forward by the First Elected Member for West Bay and myself, were both practical and common sense requests. I mentioned that several of these requests were to enable residents in certain areas a legal road access to their homes. Requests for road access for example for Mr. Lymon Bush, Buddy Parsons, Birdell Ebanks and Gwen Bush fell in this area. To give you an example of what we are talking about, I guess it is probably over a year ago there was a fire in the vicinity of Mr. Lymon Bush's residence. The fire truck was called but the fire truck was unable to get to the home that was on fire because the road was too narrow. This was one of the roads that we had requested Government assistance with and a request that was ignored. As a result of that a poor family loss their home. That family is still homeless even though the First Elected Member for West Bay and myself are making efforts to have this home replaced.

I also recall another very sad tragedy, that is relation to Mrs. Lorenza Ebanks. There was a road to her residence that was in dispute, one of the land owners in that area, after giving his permission went back and actually erected posts all the way down the middle of the road. Unfortunately, this lady took sick and the ambulance was unable to get to the residence and as a result, this women died. So it

not only gives the residents in these areas access as far their vehicles are concerned to their homes, but it also provides access as far as your emergency vehicles are concerned, that is a fire truck, the ambulance and even the garbage truck, to go in these areas to pick up refuse.

The Member for Communication and Works I recall prior to the 1988 Election had so much to say about the little man. He was a champion for the little man, but it appears since 1988 when he was elected to Executive Council, his position has changed and now he is more interested it appears to supporting the interests of special interest groups, rather than his people. I recall back in 1990, when we had provided the Member with $500,000 in funds and a list of priorities for the district of West Bay for road works and we kept getting the excuse that public works was busy and was going in so many directions. We did request or suggested to the Member and the Public Works Department that in an effort to get the work done that they should contract Mr. Rollin Ebanks who lives in the district of West Bay and has the equipment to do the job. If this was done, it would have also ensured that Government would have gotten good value for the money spent. But this was not done and as a result, the majority of our requests for roads for the district of West Bay are still not taken care of.

I, for one, do not expect any assistance from Government between now and November 18th, that is the General Elections, because I feel that Government will continue its policy of trying to deprive us on the Backbench of as much as they can. But I can assure the people of West Bay that these requests will be dealt with in due course after we have been successful in putting together a new Government, after the General Election and we do have a new Member in place who has not only the interests in the district but also the ability to get something done. I do support this request and I must say that I am very disappointed in Government as far as their approach is concerned. It always appears that regardless of how legitimate the request, the mere fact that it comes from a Member of this Backbench it is rejected, basically on that basis rather than on the basis of the merits or demerits of the request. Thank you, Madam Speaker.

MADAM SPEAKER: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I wish to oppose Motion No. 6/92, on the basis that all that can be done with the resources which Government has, is being done. The Member responsible has put forward the case and demonstrated quite clearly that much has been done in the immediate past and he indicated that there is plans to put before Finance Committee in the very near future requests to do additional work.

The Third Elected Member for George Town in his contribution and in his criticism of the building of Doctor Roy drive, had a lot to say about building roads for big business and none for the little people. I would just point out that the businesses in that area have in fact, contributed significantly to Government's income through import duty and materials for building, business licences, the number of staff who they employ who buy stuff at the super market and other consumable items which helps the Government to cater for what he calls the little people who contribute somewhat less to Government's coffers and whose needs from Government is, in most cases, greater. He also indicated that the Government has no organised schedule of road maintenance of the roads in the Islands. This is not entirely so because as that Member is aware, in each of the annual budgets that come to Parliament, there is a substantial amount of money which is put under the sole control of Public Works for the maintenance of roads throughout the Island. He cannot expect to get it all in George Town.

I like his advice to the electorate that when the politicians, including himself of course and myself, come around seeking votes in the election they must not accept, that is the electorate, the politicians promise as to what they are going to do over the next years but I think his phrase was, tell me what you have done? From where I sit, I have no problem with that test. But I believe some of the Backbench Members will have some serious concern if that question is asked because most of their action, in particular since 1989, has been to block, agitate and just create problems in Parliament wherever they can. Road work is always an important element to the electorate and to Government. I think the Government has done its fair share with the increasing cost to road repair and I give the people of my constituency the commitment that we will continue to do what is possible with the resources that we have on hand. Thank you.

MADAM SPEAKER: The Honourable Elected Member for Education.

HON. BENSON O. EBANKS: Madam Speaker, this Motion, in my view, is based on false premises. Any school child knows that any project that is not already in the pipeline by now has not a ghost of a chance of being accomplished during the life-time of this Assembly. The time-table for the electoral process sets the dissolution of this Assembly, I think on the 18th of September, two months away. We have to finish this sitting and come back on the first of September for another sitting. So it is wishful thinking for anybody to believe that they can start something in motion now and achieve any favourable results from it.

The Honourable Member for Communications pointed out that there is a request to come to Finance Committee, hopefully during this Meeting, which includes money for road works including specifically Captain Shelby's road as it is called in West Bay and other road works. Beyond that, it is my view that we have not got a chance of getting any additional work done. It is my view that this Motion has been brought for two purposes. One was accomplished during the presentation this morning, that is an unwarranted, an unjustified attack on a previous lady Member of this House from West Bay. And the second is the continued attack which has been made on me throughout the delivery by Backbenchers, especially the Third Member for West Bay.

He said that he understands that many of their requests, that is the request of himself and the First Elected Member for West Bay has been derailed by myself. Nothing could be

further from the truth. I have nothing to gain if I could by derailing anything that they might request. Lest a distorted version of what I am sure the Member is referring to is placed on the record, let me put the correct version here now. About six weeks to two months ago, I received a telephone call one morning enquiring why would Public Works equipment and men be sitting down in West Bay from up until 9:30/10 o'clock and doing no work. I said, well, I have no knowledge of that. They said when they were asked what they were doing, they said they were waiting on the First Elected Member for West Bay to come to show them what to do.

I went across to the Portfolio for Communication and Works and enquired why the road machinery was lying idle in West Bay waiting on the First Member to tell them what to do, since I thought the job of directing the road crew was that of Public Works. I understand that that resulted in possibly in the diversion of the efforts in West Bay. My concern certainly was not that somebody was getting a load of marl, my concern was that equipment and men were sitting in West Bay up until 10 o'clock in the morning doing nothing and therefore must have been using up the scant money that we had for road works in West Bay to no avail. If that is regarded as being diversion or derailing of requests I have no apologies to make in that regard.

The Third Elected Member for West Bay also said that I had been in Executive Council for the last 20 years. Now, everybody knows that from 1976 to 1980, I was out of the Assembly altogether and from 1980 to 1984, I certainly was not in Executive Council. I can only assume that the Third Elected Member for West Bay is ignorant of that fact since, as I understand it, being a born-again Christian that he claims to be, he should not be lying. So I can only assume that it is ignorance and that that is typical of what he talks in here.

The First Elected Member for West Bay in presenting this Motion quite rightly listed a number of roads which had been requested to be fixed in West Bay from 1985 and he indicated that that bore the handwriting of myself and himself. that is true, we put a big shopping list before Government then, realising that we would not get it all at one time and we tried to prioritise it. The Third Elected Member for West Bay conveniently uses that list as a list submitted in 1989 or 1990 and at that point it was costed at $1.4 million. The fact that that list is costed is as a result of Public Works putting an estimated cost on the list from 1985. That is a copy of the 1985 list, costed by Public Works and re-submitted. I have a copy of it too. The point being, that when we come to this House we must tell the truth.

As I said, if I believed that this Motion could achieve anything, I would be the first person to support it. But in reality, it is an impractical request and the Member's know this. The Third Elected Member for West Bay just said that he does not expect any assistance between now and November 18th. That was the nearest he got to being realistic in his contribution because that is a fact. The only work that can be accomplished between now and then is the work that is already planned and that financing has been identified to do. This request, in other words, is late.

The Third Elected Member for George Town, indicated West Bay had not gotten its share of road money. Of course, he too thought that I was to blame for that. Of course that is their common song as someone has said, the versus are and the chorus is, "Get Benson out and we do not have a problem." But, let me assure them that it takes more than them chewing their gums in here to do that. The people in West Bay and this country know me. I have been around a long time and the more they pound on me the stronger I get. The people of this country know that if they want to get rid of me, they have something up their sleeve that they believe that they can put past somebody else that they could not put past me.

The Members talk about Government being a bunch of spend-thrifts. That is their normal charge and when Government does not find the money to patch every pot hole, they begin to holler that we should find the money to do it. I believe that when people are making demands for capital expenditure, in particular, they should be objective enough to at least attempt to identify the source of the money to do it with. It is interesting that on each occasion that Government has had to raise money to do what it has been able to do for the people, those same Members have refused to have anything to do with those revenue measures, but they are good demanding people, they are good beggars, but not good suppliers.

As for the Second Member for Bodden Town, I will deal with him by dealing with the First Elected Member for Bodden Town. The First Elected Member for Bodden Town says that he has to be realistic and say that the Government has not done too badly with meeting his requests, but that politics being what they are, he has to respond to the people's urgings for road work in Bodden Town. Otherwise when the records are calculated in November, he might find himself in problems. I just want to assure the First Elected Member for Bodden Town that if his problem is going to come from the Second Elected Member for Bodden Town, that is, if the people in Bodden Town are going to compare his record with the Second Member for Bodden Town, he does not have to accomplish much to equal that. That is a fact and the story of the donkey under the grape tree is well known, that was given on open line a few Monday nights ago. That was what had been achieved in 15 years, in the opinion of one caller, by the Second Elected Member for Bodden Town.

It is a fact that, as I said, that we have not been able to do all that we would hope to do for roads in West Bay and it is also true that not in every instance has the priorities that Members would have liked to have seen adhered to carried out. We have to cut our coat according to our cloth and consequently we can only do what the money that Government has will allow us to do. We cannot do impossibilities. With that, I will have to vote against this Motion when it is put to the vote.

MADAM SPEAKER: If there is no further debate, I would ask the Mover if he would like to exercise his right of reply.

MR. W. McKEEVA BUSH: Madam Speaker, usually matters such as the requests for road works are not something, as such, that we must have a full-fledge debate in the House. In normal circumstances this could be taken care of at the Portfolio and departmental level. So, Government might have had some merit in

normal times to say these matters are not of sufficient weight to take up the time of the House, or they would have had some merit if they gave the excuses in normal times like we have heard that the matter has been overtaken by circumstances. What is left to be said is what kind of unfortunate circumstances.

These are not normal times. Not normal circumstances. The unfortunate experience of this side of the House, and in particular this Member for the district of West Bay, in my representations to the Government and requests for assistance in matters to benefit the people I represent, to help give them a little bit better life over the past three years, then we must understand I have no other recourse but to use this channel of representation open to the people of the country, which is to bring the matter to this House. It is really appalling and stinks of gutter politics when we see that the Members of Executive Council have taken the Government to such a low state where they believe it is their own little fiefdom. It seems to me that the dictum of the Member for Education, the instigator of these refusals of assistance when he said that Exco can have its way, is taken too far. This political victimisation has reached real deep in the hope that the people will become dissatisfied with those of us on this Backbench who are not shoo-shooing with the Members of Executive Council.

It stinks when one Member can have so much done in their constituency and other Members have had hardly anything done! This dirty strategy extends to every area of requested work or assistance for our people. Everything that I have tried to do, those Members on Executive Council have tried, and done their best, to knock it down. We campaigned in West Bay for a lot of different works which said that these things would be done through the judicious expenditure of the country's money. If we had a judicious Government, then there might be some excuse. But they have spent and taxed every little item that they could tax. I will get to that later on, Madam Speaker.

We have heard Members of Executive Council get up in this Honourable House and lie when they say that Members are not representing their districts. But they can afford to say it because they know that they have taken devious steps to make sure that our requests for our people, falls on barren ground. I am fed up with this dirty strategy and the way that those Members on Executive Council has taken the system of governing in this country. It is nothing less than gutter politics! Gutter strategy that could not otherwise be devised but than by those, at least three of them, because I will give the Member for Tourism his due. He does not get involved in that sort of thing but those other three Members up there, have taken this country to the lowest and dirtiest position when it comes to the representation of the people.

In dealing with this road work, one case in point is for a long time we have been trying to get electricity to an old lady's home in West Bay. The problem is that the access to her house presently used is over someone's property and not a road at all. She is completely blocked in, except that a small track established in another area for generations now leads to the house. Some surrounding land owners have obtained enough space over certain properties leading across their house lots to this old lady's home from the main road. Since I could get no action during the past several years for a road for her, after visiting the old lady in her yard with the Member for Communications and Works, the Member for Education, a host of department staff and television crew, on several occasions, on several occasions, Madam Speaker, the Member for Communication and Works had the television crew with him!

We could get nothing done and nothing up until now has been done except I begged the Chief Engineer to give a few loads of marl, including some marl for two other accesses to homes, since the people had obtained their right of ways themselves and had gotten them cleared with a bulldozer. This is the occasion that the Member for Education rose because he knows that I was going to deal with his interference. He shrugged it off on Public Works wasting time. But he would not tell the truth! If he had told the truth, it would have been fine, but he knew that I was going to deal with it and I will get to that in a minute or two. That is why he rose today like the devil.

My information is that when the Member for Education found out that I was getting a few loads of marl for these three road accesses, he enquired about what was happening from the Portfolio. He went and enquired what was going on because Public Works had made a start by putting a load of marl on one of the roads that only just started. And to say that somebody called him without saying who this somebody is, stands and holds no water in the Parliament and I am here to say that I do not believe anybody called him.

That fact is that a candidate in that area, one of his candidates in that area saw the Public Works up in the area and told the Member for Education what was going on. That is in the Mount Pleasant area, his new found friend now. That is what happened because is it anything new or strange to see five or six Public Works men sitting on the side of the road or standing on the side of the road? It is nothing strange in this country! The Member for Education when he rises, instead of talking about the Third Member for West Bay telling the truth, if he would go to the altar a little bit, we would get a little bit of peace and satisfaction in the country. Not that he had to have a complete wash-over or Baptism, but just go to the alter a little bit, it would do the country a world of good.

Having got the call from his candidate he went to the Portfolio and as was told to me by a member of the Portfolio, the Member for Communication and Works said, it was all right but any such works requested from the MLAs must be declared from him first. Public Works, as much as they get criticised, were trying to offer a little assistance by giving the three roads a little bit of marl. They have made a start on one, has it finished yet? No! Have the other two received the other loads of marl? No! The old lady needs the road so she can get Caribbean Utilities to put in electricity to her home and it is this sort of political interference by the Member for Education, who has said that the Members of the Backbench will get nothing. It is this sort of interference that is doing damage to the system as we have it. It is this kind of dirty strategy that makes the whole system stink.

Numerous roads have been requested since 1989, as I said, some left over from the 1984 to the 1988 administration, but very little has been done. It is said that the Member for

Education has no conscience. But something must have been rattling him just now because he rose to say that the list which I was talking about, and the list that I was reading from, was the same list that my colleague the Third Member for West Bay used when that is not the case. He even went in his usual way trying to discredit the Third Member for West Bay to say that the Member for West Bay was not telling the truth. When in fact, the list that I have with his hand-writing on it was the list from 1985 and the list that the Member Third Member for West Bay was using is a list made up four years later and delivered to us on February 20, 1990. Totally different lists with other names on it with the differences there are some of the names in the 1990 list, carried over from the 1985 list. The Third Member, my colleague, was not telling any lie.

What the Member for Education should have done is said why the roads from 1985 to 1988 were not completed. These roads, some of them cost under $10,000. Had the Government been diligent in their road plans for the districts over a three year period, we could have completed these roads. The position for the past few years has been we will go with them, we will look at the roads, then when the people expect to get the work done because they see the Executive Council Member on the site, we will say the district representative is not doing his job. And that is what they are doing. This is what obtains and this is what has been said from the floor of this House. Is this is the work of honourable men? Are these the same people who seek more constitutional power? How can I put trust in any system or agree to give more power to these men when simple matters, such as the giving of a little marl to the little people, have to go through the Executive Council Member instead of the Public Works Department, at department level because a Member of Executive Council from the district is manoeuvering as the Member for Education has done? How can I put trust and confidence in what they want for constitutional power? That movement is expected from time to time that persons over the years in top positions of responsibility should continue to measure up to that responsibility and provide the type of leadership required in order that the country has the right direction and the people be better served.

Let me tell you that this is one disillusioned Member that stands here today because what I see and what I have had to go through with in the past four years, as a representative, to an extent makes me lose confidence in the system. Parliamentary Government is responsible government and when the Executive can manipulate and connive, as is being done, our job is made that much harder. This House and the Executive has a relationship and is a very axis of Government and it is on its proper functioning that good government will ultimately depend. But I cannot say that today standing here today. We are here to satisfy the precepts, at least of popular government for we are elected by our people for the upliftment of the society in which we live. But has this really materialised? There is an old Jamaican saying "same knife stick goat, stick sheep". I hope that those who propose all these powerful changes will try to do a little bit better with the power that they presently have. Enough said on that.

I had to listen carefully, in some instances, to the Member responsible in answering this resolution the Member for Communications and Works and the Second Member for George Town, he said that he was at a loss concerning the statement in the resolution that $500,000 was voted in 1989, I do not see why he should be at a loss because the Minutes of Finance Committee will verify that this had happened. We voted $500,000 for road works but was done? He says that West Bay received $900,000 in road works over the last three and half years. It is not true. It is not true! That Member knows it is not true. If the Government had spent even half of that amount we would still need to be addressing the roads for the small man in West Bay.

The Member for Communication and Works said he discussed the matter with me about Captain Shelby's road. He said that I was aware that he requested money from Finance Committee. I do not know this to be true, Madam Speaker. I heard the Member for Education, like a good parrot shouting the same thing. They know what they do in Executive Council, but we do not know unless we force it out of them and even then the truth is not told. But I do not know that he requested money from Finance Committee. I was told that he would request it but they would not finish their sentence. He said that they were having problems with the Governor. That is what he said, they would request it but they were having trouble with His Excellency, the Governor. What I heard is that, when a request was made, and that the Governor took the request and threw it on the table and said there is no money for all of this work.

I do not know what goes on in Executive Council and I do not know about this alleged request and I do not know about their problems with His Excellency the Governor but this, what I was told was just after the Budget Session, sometime early in this year that I was told that they would request this money and that these things were happening. What I do know is that Finance Committee met in April and nothing came forward for West Bay or for any other district, that I remember. I think Cayman Brac got some at that point. Again, Finance Committee met last Friday, in a very long session to get millions of dollars, but there was nothing for road works.

It is rather strange that the Member for Communication and Works, who after talking this rot this morning would not sit here today and listen. Dodging somewhere around the corner. It is rather strange that he cannot get a few thousand dollars for road works for West Bay, but can come to Finance Committee, pull pieces of paper out of his pocket and proceed to ramrod through Finance Committee such matters as the new Post Office for West Shore Centre, then we hear about the sale of the building and before that we heard about the granting of status, all in sequence. If works were needed in Cayman Brac, they come here and get it and we supported it, as we already did this year. But to come here and say that they are going to take the matter and how laughable it is when we listen to the Member for Education, the bunch of them cannot even get their stories straight.

Time will take care of people, like the Member for Communication and Works. They can smile up with you, but one of these days they will be weighed in the balance and found wanting. They say that they are doing what the Motion asks and I would like to ask the Member for Education where is the beef? Where is it? Usually in Government when someone asks for such matters and

Government replies they are already doing it, Honourable Governments would say, "We have no problem in accepting the Motion because we are doing it already." That is Honourable Government. If there was Honourable intention, that would be fine, but I cannot believe this because some of these requests date back to 1985 and the Captain Shelby and Buddy Parsons road dates back to the early 1970s when the same Member for Education was a Member responsible, and if I am not mistaken, he was associated at the early stages with Communication and Works. After the change in constitution he took up responsibility for another Portfolio under the constitution.

These roads, this is not something that started today. For long years that Member over there sat down and did nothing, hidden while the people needed their roads. If there was honourable intention the House will recall that there was a couple of motions back in December of last year. What did they do? They said they would do it. If there was honourable intention there has been ample time since this is July and two meetings of Finance Committee have already been disbursed with and as the Member for Education so proudly declared, the House will be dissolved in September.

What I see here is not honourable. What I see here in the rejection of this Motion is a worthless attempt by Executive Council to do as they have been doing since we entered here and they lost us as their majority in 1989. Refusing to give anything for our district while finding excuses and telling half truths. We are not asking the Government to do this road work for ourselves. It is for the people and they talk about expenditure, being critical of Government expenditure? When we look at the outlandish expenditure over the past three years, we are just to criticise them. The Member for North Side, the Member for Health, look at the millions of dollars that he has spent on consultants.

According to him, I am just a lawn-mower pusher. But I believe that I could make some good decisions in Government without having all these consultants. When we look at the amount of money the extravagance on the Jennett L, one million dollars for that little scrap of road, 1,500 feet of road. One million dollars for 1,500 feet of road and they get up here showing their teeth talking about what they have done for their district. If I could not do better than that, I would not seek Executive Council. It would not have been fair for me to say that no work was done because that would be acknowledging that I had not gotten anything at all for the district and that would not be so. What I am complaining about is that very little was done in comparison to the amount that is needed in the district and needed for so long.

The Member for Health, when he first got into Executive Council and the change-over of Government of Finance Committee, I would listen to him, but today that Member is really laughable. It is a pity when you cannot tell the truth but I will be dealing with him in another resolution with his lies. He criticised the Motion on the basis that businesses have contributed significantly by the duties they pay and so on and that is good enough reason, he says why we should have spent one million dollars on the Jennett L. That shows you his economics. It does not surprise me, he is not too far removed.

Yes, these businesses pay. But what about those people, the same people I am asking about fixing their roads and they have waited so long. Do these people not pay duties? Who is paying the $20 million in taxes that they increased everything, as far as I can remember, on import duty? Are his people not paying, are they not paying duties for their cars? Are they not paying a 50 per cent increase on fuel? That Member puts on his little cowboy hat and his little cowboy suit, gets in his little cowboy wagon and expects to ride rough-shod over everybody. But I can satisfy myself with the feeling that he too, will be weighed in the balance and found wanting and there will be weeping and wailing and gnashing of teeth for the storm will be upon them.

This new found statesman, the Member for Health, accused us of blocking, of agitating and creating problems in this Parliament. In my humble view, this Parliament has been reduced to a Kangaroo Court and that is no disrespect to the Speaker. It is all because we have a Government that does not know where they are going, that has created dictatorial policy after dictatorial policy. It is a good thing that this country had a Backbench that stood strong at times against their every whim and fancy. Do we not realise what would have happened to us today, Madam Speaker, if we had allowed the Master Ground Transportation Plan to go through? Yet, they call us fools. What would have happened? They should answer the question!

What would have happened if they had listened to the Backbench on the issue of Cayman Airways? Would we not have been $30 million better off today? And the hospital, in my opinion, has had more corrupt practices than any other issue! And has taken the very foundation of good Government to pieces! Because when we have the same lady Member that the Member for Education sought to protect just now, or defend, get up in the newspaper and say that International Healthcare Corporation promised to pay her commissions, we have to wonder where in the world this country is headed and has gotten? It is a good thing that we have a Backbench that can agitate and can block! It is a pity that we did not have all the Backbench to block.

The Member for Education said that the resolution is based on false premise. What is false about this? Everything here is factual. Can he deny that there was $500,000 voted in 1989? Can he say where the $500,000 went? Can he deny that he visited along with the Member for Communication and Works all of the roads pointed out on the list, not only this Member for Communication and Works, but the previous one before him? Can he deny that? There is nothing false about this resolution.

Can he deny that there are people in West Bay who travels through water at times to get out to the main road? Can he deny that? Can he deny that First Elected Member for West Bay and the Third Elected Member for West Bay, on several occasions wrote to him, wrote to the Member for Communication and Works asking for these road works? Here is a letter dated 24th of February asking for these same roads, asking for 11 lights and because the Member for Education in his political victimisation with his political candidates already declared, are doing what they can to stop us. It is hard as an Elected Member to have political candidates giving directions in the district, as is being done with the road works, as is being done with the water works. They have now employed her! Employed her, taking Governments money paying her to be a

candidate to campaign against John and me, and put stumbling blocks in our way in the district. That is now what is going on and that is what I am hot about today. That is what I have been hot about for several days because I am a duly Elected Member! This political victimisation is destroying this country and it is deeper than what is on the surface. I am tired of it.

The Member for Education who boasts that he has been here in total now for some 20 odd years says that the project that is not in the pipe-lines do not stand a ghost of a chance. Wishful thinking to start anything in motion before the dissolution of the House. These requests have been in for years and years. Where was the Member for Education? It does not surprise me that none of these are going to get done, even if they pass the Motion, because in his own subject that he holds responsibility for in the constituency, namely schools, we and the PTA had to kick him in action in 1990 to get a few classrooms done. He never opened them yet. I guess that they will be opened with a big splash. I guess the lady candidate will be there singing her praises for people that protect her and gets her a job at the expense of the country.

The Member for Education said that the Motion was brought for two purposes. When you look at the amount of motions brought by myself, time and time, see them here, see them here, I do not frivolously propose motions in this House. I take my duty seriously and it is only because that we have being trying for so long to get these roads completed or worked on, or tried to save Government's money on those that have already had its first application, that I believe that I am justified today into bringing the resolution before the House. I do not need to make an unjustified attack on the previous lady Member, his declared candidate, her record speaks for itself. Very dismal, And as far as he is concerned, he said the second thing, well before I get to that, I do not think that what I said concerning her interference is unjustified because we are dealing with a resolution and the Member for Education well knows that she proposed the removal of the entrance of Willow Close. He knows that here family owns the existing property, bounding the existing road and he knows that she attempted to take that piece of land by removing the road. He knows that the residents in that area objected because we had meetings with several of the residents. I say that if this is what the residents want, we must go by it because they have been living down in here for years 60 or 80 years.

Up until today, the truth is, and what the Member for Education should admit is that what has stopped this road is her interference because she has said that if she gets elected again, she is going to remove the entrance. And he knows that. But, "if", is a mighty big word and she too has been weighed in the balance and found wanting.

MADAM SPEAKER: Honourable Member, it would appear as if you are not about to complete your winding up. Would we take a break at this time?

MR. W. McKEEVA BUSH: Yes, Madam Speaker, I had 15 minutes more but I will take the break now.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 3:47 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 4:08 P.M.

MADAM SPEAKER: Please be seated. Debate continues, the First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, when we took the break I was dealing with the remarks by the Member for Education. The Member for Education said that when asking for capital expenditure we should identify where the money is coming from? I wonder where the money is coming from for the Loan Bill before the House for Cayman Airways? That is a large enough capital expenditure, $16.8 million worth. Are they going to tell us where they are going to get the money from for that lay-out of cash?

They very well know the philosophy of the Backbench. There must be prudent expenditure and in the same Finance Committee which this Motion refers to of 1989, there were a lot of projects voted on including the roads and one that they keep referring to, especially the Member for Health, is the building of slaughter-houses. We voted money for such things and still saved the country money in that budget. We had a saving after the Backbench, in their majority, cut their large expenditures and the thing to really look at when they ask about where are we going to get the money from, is that in the suggestion of the building and the voting of funds for the building of the slaughter-houses for the districts, they never built the slaughter-houses.

Instead they brought in a consultant. They said that we were wrong and the Member for Health, who is not listening now, was the one who criticised us on it but the consultant that they brought in, that they spent thousands of dollars to bring in, to tell them about these slaughter-houses and what to do and what not to do, told them that they should have taken the advice of the Backbenchers because that was what he was suggesting. that is what he suggested. So we saved the country money. Judicious spending. That is where we will fund the little road for the little man. But do they know about judicious spending? I do not think so. They can talk it and they will go back and promise it to the people, but actions speak louder than words.

The Member for Education talked about the gazetting of roads and legal access. I have said that there are a few roads on both lists, the one for 1985 and the one in 1990. And subsequent lists because we have had several. We have made requests every year as was done the 24th of February, in this letter to Mr. Linford Pierson, the Member for Communication and Works. They are roads that do not have legal access, we have acknowledged this. But it is this kind of roads that make the whole matter so

ridiculous. If these roads are private, as the Government says, then the sensible thing to have done was for the Executive Council to take the necessary steps and have the roads gazetted. We are not talking about six months and I think it could be done in six months. We are talking about an eight year period now.

The Member for Communication and Works talks about planning requirement. If they needed to meet planning requirement, was it not the logical thing for them to do to go ahead and get it? Since the Member responsible for road works is the same Member responsible for lands and also responsible for planning, these things could have been done if, they had the people's interests at heart, if they wanted to do these road works and many other works. What amazes me is that the same Member finds so much difficulty in assisting me with these requests for the poor little people but it is so easy for him to do things that benefit the big man. We have seen it in the Post Office and we saw it on that little burger restaurant on Church Street that was not supposed to go there.

We have seen it, this is the type of Government we have and this is the way, at least the three of them, the Member for Health, the Member for Education and the Member for Communication and Works have been carrying on since we put them in office. Nothing for the little man, but everything that can be done to accommodate the big man, even to that which should not have been done, was done. A good example of that is that we had a little man and that same Church Street situation trying to get it done to put a little facility there and it was refused. No parking they say, yet they put a restaurant on it.

I think that I have demonstrated quite clearly the need for the road works and if this Government were honourable, if they were fair, we could get some of these road because the one point that the Member for Education missed was that all the Motions says is:

> "BE IT NOW THEREFORE RESOLVED THAT Government consider a programme for road maintenance and construction for West Bay as soon as possible and undertaken in accordance with priority as determined by the district representatives in consultation with the staff of the Public Works Department and the Honourable Member.".

I did not put a time-frame on this. If I had put a time-frame in it, he would have come back and said you cannot put a time-frame because you cannot tie Government down. That is what they usually tell me. So I left it open. Make a start. That is all I am saying. I am not saying that they must finish all of the roads that they have left from 1985 until now, that we must finish them before the House dissolves. I did not say that, although they should have been done. I still think that we can get a lot done but I know that we cannot get all of them done. That is why the Motion does not say it.

I believe that I have done all I can. I do not think that I could say anymore that would change the hearts of the Government. The Motion does not really tie them down. It says that they must begin in earnest because what they did was promise me and promise me and in summing up we have had two Finance Committee meetings already for the year, and they have done nothing about it. A motion I attempted to get passed and they passed, in fact, in Finance Committee they have taken no notice of it. I thought it was high time that this thing be aired publicly in the House, those issues and the situation with the political interference and victimisation as constructed by the Member for Education with his candidates in West Bay interfering in the business. I thought it was high time that this thing be aired.

One last reference to what was said, and that was the mention about the small amount of road work in North Side. That is no bouquet to the Member of Executive Council responsible and the Member for North Side. Because, there is a lot of money that should have been spent on roads and a lot of North Side roads need fixing too but the Member for Health preferred to waste it on a Post Office, hundreds of thousands of dollars for a very small population when he could have fixed his roads and still got a good facility. Again, you cannot tell him anything. He knows it all. So, Madam Speaker, I do not think it is any bouquet to him to say that they are not meddling or they are not victimising us because he has not got roads in his district. He has not got the road because a lot of money is wasted on the Post Office.

The Member for Education says that the Motion and the team or chorus he has heard sung was, "Get Bensen out". That is going to be no hard job. He is going to go and the country will all say, "Amen". All I tell him, Madam Speaker, as I will tell all the candidates, and those connected with him, that do not throw stones at my house, do not cause my children to fret 12 o'clock in the night, do not paint up the roads, do not shoot up the trucks, just run a clean campaign. That is what I promised my people and that is what I intend to do.

"Some day there will be a chief of government who rules with integrity; And national leaders who govern with justice. Each of them will be like a shelter from the wind and a place to hide in storms. They will be like streams flowing in the desert, like the shadow of a great rock in a barren land. Their eyes and ears will be open to the needs of the people. They will not be impatient, but will act with understanding and prudence; and they will say what they mean! The scoundrel will no longer be considered "honourable", Nor the corrupt called "honest". Everyone will recognise an evil man, And hypercritical politicians will fool no one at all! Their lies and their cheating will be plain for all to see. The smooth trickery of evil men will be exposed, As will be the lies they use to oppress the poor in the government and the courts, denying them justice and their right. But an honourable person acts honestly and stands firm for what is right. Everywhere in the land righteousness and justice will be done. There will be peace and security forever, Because everyone will do what is right!"."

They are lofty words and lofty thoughts, Madam Speaker, but that is my hope, the House can do what they please with the resolution but I point out again that it has not set any time-table for these works. I ask the House to consider that we were promised that these would have been started and it has not been started. We all know nothing has come to Finance Committee and I ask them to go ahead and

vote yes, on the resolution.

MADAM SPEAKER: The question before the House Private Members's Motion No. 6/92, "BE IT NOW THEREFORE RESOLVED THAT Government consider a programme for road maintenance and construction for West Bay as soon as possible and undertaken in accordance with priority as determined by the district representatives in consultation with the staff of the Public Works Department and the Honourable Member.

AYES & NOES:

MR. W. McKEEVA BUSH: May we have a division please?

MADAM SPEAKER: You certainly may. Madam Clerk.

CLERK:

DIVISION NO. 12/92

Ayes: 7	Noes: 8
Mr. W. McKeeva Bush	Hon. J. Lemuel Hurlston
Mr. John D. Jefferson, Jr	Hon. Anthony Smellie
Mr. Truman M. Bodden	Hon. George A. McCarthy
Mr. Gilbert A. McLean	Hon. Norman Bodden
Mr. Roy Bodden	Hon. Benson O. Ebanks
Mr. G. Haig Bodden	Hon. D. Ezzard Miller
Mr. John B. McLean	Hon. Linford A. Pierson
	Capt. Mabry S. Kirkconnell

MADAM SPEAKER: The result of the Division is eight Ayes, seven Noes. The Motion has accordingly not been passed.

NEGATIVED BY MAJORITY: **PRIVATE MEMBER'S MOTION NO. 6/92 REJECTED.**

MADAM SPEAKER: It leaves just four minutes to the hour of interruption. I think at this time I would ask the Honourable Member to move the adjournment.

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10 o'clock tomorrow morning.

MADAM SPEAKER: The question is that this Honourable House do now adjourn until 10 o'clock tomorrow morning. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

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

AT 4:30 P.M., THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., FRIDAY, 10TH JULY, 1992.

FRIDAY
10TH JULY, 1992
10:12 A.M.

MADAM SPEAKER: Prayers by the Honourable Member for Education.

PRAYERS

HON. BENSON O. EBANKS: 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly.

APOLOGIES

MADAM SPEAKER: We have had an indication from the Member for East End that he will be arriving a little later on this morning.

Orders of the Day. Presentation of Papers and Reports. Annual Report and Financial Statements of the Civil Aviation Authority. The Houourable Elected Member for Tourism, Aviation and Trade.

PRESENTATION OF PAPERS AND REPORTS

ANNUAL REPORT AND FINANCIAL STATEMENTS OF THE CIVIL AVIATION AUTHORITY OF THE CAYMAN ISLANDS FOR PERIOD 31ST DECEMBER, 1991 AND 1990

HON. W. NORMAN BODDEN: Madam Speaker, in accordance with Section 18 of the Civil Aviation Law, I beg to lay on the Table of this Honourable House, the audited Financial Statements and Annual Reports of the Civil Aviation Authority, the year ended December 1991.

MADAM SPEAKER: So ordered.

HON. W. NORMAN BODDEN: Madam Speaker, the Annual Report, clearly sets out in detail the continuing, competent and orderly development of Aviation Services within the Cayman Islands. This continuing development is taking place under the watchful eye of an experienced and qualified director of Civil Aviation and the able guidance of a responsible and dedicated Board. I would like to take this opportunity to publicly thank the members of the Civil Aviation Authority, the Director of Civil Aviation and also add Mr. Max Jones of the Public Works Department who worked very long hours to assist with the big undertaking of resurfacing the runway at Owen Roberts International Airport and the continuation of phase two of this project which involves the resurfacing of the ramp and taxiways.

Madam Speaker, this is a costly but necessary project in order to protect for the future, the lifelines to and from and within these Islands and certainly could not have been successfully completed without the close cooperation of all concerned, including of course, the airlines. I must also mention the main contractor, Island Paving which completed the runway resurfacing slightly below the contracted price. There can be no doubt that the proper maintenance of this valuable facility at high standards must remain a priority and all those who have helped in our endeavors during my term of office as Chairman of the Civil Aviation Authority, have my sincere thanks and my deep appreciation.

Madam Speaker, the accounts for the year 1991 show that the total income earned by the Authority stood at $5.3 million while expenses totaled $4.4 million leaving a net income of $922,268.00. This amount, when added to the general reserve of $595,195.00 form the previous year, plus a transfer from reserves of $500,000.00 which was done to assist with the runway rehabilitation project enabled the Authority to end the year with a total general reserve of $2,017,463.00. The notes of the Financial Statements as well as a certificate from the Auditor General have commented on item of accounts receivable which include an amount of $1.4 million drawn by Cayman Airways mainly for landing fees in Grand Cayman and Cayman Brac.

It is important to the Authority's Operations that this debt is honored and settled as early as possible in order to assist the sizeable commitment which the Authority has with the Rehabilitation Project at Owen Roberts Airport, 20% of which must be funded from the Authority's own resources. Madam Speaker, development and airport improvement must be seen as an ongoing process. There are many challenges still to be met and choices to be made but I am confident that the same spirit of determination, cooperation and commitment to high safety standards that have gained Cayman Islands a place of respect in civil aviation within the Caribbean and indeed the world, will continue to remain in place and will continue to bode well for the future of the Cayman Islands in civil aviation matters.

Thank you, Madam Speaker.

QUESTIONS TO HONOURABLE MEMBERS

MADAM SPEAKER: Questions to Honourable Members. Question No. 140 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 140: Would the Honourable Member say what is the total amount of money which the Government has put into Cayman Airways from the inception of the company until May, 1992? Please give answer so that annual contributions are reflected.

ANSWER: The amount of funds provided by Government to Cayman Airways Limited, from 1968 to the end of May 1992, are as follows:

Year	Subsidy	Advances	Equity
	----------CI$----------		
1968			30,600.00
1969			
1970	8,000.00		
1971	6,000.00		
1972	6,748.00		122,400.00
1973			
1974			
1975			
1976	10,000.00		67,400.00
1977	10,000.00		
1978	9,996.00		183,750.00
1979	16,467.00		
1980	9,201.00		416,670.00
1981			
1982	1,485,833.00		11,581,704.00
1983			932,462.00

1984	100,000.00		
1985			
1986	2,500,074.00		
1987	1,050,000.00		
1988	1,050,000.00		
1989	1,050,000.00		
1990	1,050,000.00		
1991	1,050,000.00		
1992 (to May end)	2,000,000.00	1,700,000.00	
Totals (CI$):	11,412,319.00	1,700,000.00	13,335,086.00

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you Madam Speaker. I wonder if the Honourable Member would be in a position to comment comparatively on the revenue that Cayman Airways brought into the Island during this period?

MADAM SPEAKER: Honourable Member, that is really far fetched from the substantive question. If the Honourable Member can answer it I will allow it.

MR. ROY BODDEN: Well, Madam Speaker, thank you kindly Ma'am, but I have another Supplementary.

MADAM SPEAKER: Would the Honourable Member be in a position to answer that?

HON. W. NORMAN BODDEN: Madam Speaker, I would not be able to comment from 1968 to 1991 but I could comment by saying that in the past five or six years the total revenue earnings of the airline has been between $35 million and $41 million. That is annually.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Madam Speaker, I wonder if the Honourable Member would be in a position to say how these figures would compare to airlines of a similar size operating in this region.

HON. W. NORMAN BODDEN: Madam Speaker, the studies that were carried out on Cayman Airways in identifying the regional carriers placed Cayman Airways very high at the top of the list.

MADAM SPEAKER: The Second Elected Member for Bodden Town

MR. G. HAIG BODDEN: Madam Speaker, can the Member confirm if the large equity of $11,581,704.00 had anything to do with the purchase of the BAC 1-11s. In other words was a part of this money used to pay off Royal Bank for those planes and was a part of it also used to build a large office building that Cayman Airways now has on the Airport Road?

HON. W. NORMAN BODDEN: Madam Speaker, to the best of my recollection, there were developments in 1982 for which funds were needed. I am not in a position to say exactly what funds were ear-marked for the administration building at the airport and for the aircraft. I know that some of it was used to assist the airline with operating expenses, some was treated as a loan to the company and some was put in equity. It could very well be that some of those funds were ear-marked for the aircraft or the BAC 1-11 as referred to by the Member and the construction of the office building.

MADAM SPEAKER: The Second Elected Member from Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, is it not also true that this equity was returned to Government when the final sale was made on the 727s and the deposit from Inter-First Bank in Dallas was returned to Government? That deposit I believe was something in the vicinity of $5 million.

HON. W. NORMAN BODDEN: Madam Speaker, there was an amount, I believe it was $4 million though, that was placed in an Escrow account from the sale of the 2 BAC 1-11s which was returned to Government when the remaining time on the lease of the was over.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Would the Honourable Member say whether in fact, the combined accounts of Cayman Airways or Cayman Air Holdings Limited as of the 30th of June 1982, showed only a capital injection of $8.3 million which in footnote four showed the 2 BAC 1-11s and other assets including the Trillander Hawker-Sidley of $11,215,170.00 showing that this was in the outright payment for the purchase of the 1-11s and all of the related equipment.

HON. W. NORMAN BODDEN: Madam Speaker, I cannot confirm what the Third Elected Member for George Town has just said. He obviously has the combined Financial Statements of Cayman Airways and Cayman Holdings of 1982 in front of him, so I am not able to confirm what he has said. I guess he must be quoting from those figures which I do not have with me. I do know, however, that the Hawker-Sidley aircraft was an aircraft that was only leased and the BAC 1-11 I think, was purchased. The Trilander aircraft was purchased and probably funds were used to offset against that equipment which would be shown as an asset.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Through you, with respect to the Members answer and I know it is nine years back, footnote one says that in order to passenger service within the Cayman Islands, the airline owns a Britain Norman Trilander and a Hawker-Sidley 748. My question really was that it appears from the accounts that only $8.3000,000.00 Unites States went into equity and that is sitting in capital in the company shared capital and against it is showing the $11.2 000,000.00 which have been purchased and owned outright.

MADAM SPEAKER: I would ask Honourable Members to bear in mind that the purpose of Supplementary Questions is to elucidate an answer given and the answer given covers the years 1968 to 1992 and if Members are going to pick out accounts between those years very far, it will be difficult for the Member to be arriving here with all those accounts stacked in front of him. If you wish an answer and he is able to give it, at a later date, in writing, then perhaps you would do so.
The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I understand what you are saying there, my question then is whether the equity of $11,581,704.00 if the Member would procure the 1982, 1983 consolidated statements and have a look at that and see whether the shared capital in it is not $8,300,000.00. I am saying that that may be an error and the balance may have gone some where else but this was the reasoning, Madam Speaker.

MADAM SPEAKER: That is a fair request.

HON. W. NORMAN BODDEN: I will undertake to check that Madam Speaker.

MADAM SPEAKER: The next question is No.141 standing in the name of the First Elected Member for Bodden Town

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 141: Would the Honourable Member say what kinds of complaints the Government has received during the past twelve months from Caymanians employed at hotels along the Seven Mile Beach?

ANSWER: The most frequent complaints received by the Labor Office are as follows:

(1) Unfair distribution of gratuities collected.
(2) Non-payment of vacation pay.
(3) Non-payment of remuneration.
(4) Unfair dismissal/claim for severance pay.
(5) Non-reimbursement of money paid into compulsory savings.
(6) Unfair suspension.
(7) Charges of employment of non-Caymanians without Gainful Occupation Licences.
(8) Unlawful deduction for Gainful Occupation Licences.
(9) Non-payment of medical claims.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you , Madam Speaker. I wonder if the Honourable Member could say what procedure is used in investigating these cases and also if any investigations have resulted in sanctions, prosecutions, etcetera.

HON. W. NORMAN BODDEN: Madam Speaker, complaints of substance, that are accompanied by specific detail and information, those complaints are probably investigated by the Labor Office. Some of the complaints that I called out, the Labor Office informs me are not supported by sufficient evidence. Many of the complaints have been investigated and resolved and I think in one case, one of the hotels was charged and a fine was enforced against that property for employment of a non-Caymanian without a Gainful Occupation License (GOL).

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say if there is a specific procedure for registering a complaint and Madam Speaker, with your permission, I would like to explain. For example, if an employee calls in to register a complaint to the office, if that employee is encouraged to come to the Labor Office, and there is a specific form or a specific procedure where information is taken like a statement which would be taken for example by the police, if such a procedure exists at the Labor Office.

HON. W. NORMAN BODDEN: Yes, Madam Speaker. A specific procedure is followed which I believe is outlined in the Labor Law. A very detailed account is kept and documented of the complaint.

MADAM SPEAKER: If there is no further Supplementary the next question is No. 142 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 142: Would the Honourable Member say what are the numbers of Caymanians employed at each of these establishments:

- Ramada Treasure Isle;
- The Hyatt Regency; and
- The Radisson;

what are the posts held by Caymanians in these hotels; and what are the posts held by work permit holders?

ANSWER: The number of Caymanians employed at the establishments named are as follows:

- Ramada Treasure Islands	-	99
- Hyatt Regency	-	150
- Radisson	-	49.

Posts held by Caymanians and expatriates in these hotels are shown in the attachment hereto.

Attachment:

RAMADA (Caymanians)

- Asst. Front Desk Manager
- Res. Supervisor
- Asst. Dir. of Housekeeping
- Chief Engineer
- Income Auditor
- Inspectress
- Chief of Security
- Security Officer
- Accounts Receivable Clerk
- Front Desk Clerk
- Res. Clerk
- Light Tech.
- Executive Chef
- PBX Operator
- Maid
- Bellman
- Laundry Worker
- Painter
- Plumber
- Carpenter

- Electrician
- Gardener
- Barback
- Cashier
- Cook
- Dishwasher.

RAMADA (expatriates)

- General Manager
- Front Desk Supervisor
- Payroll Supervisor
- Accounts Receivable Sup.
- Asst. F & B Controller
- Asst. Controller
- Rest. Coordinator
- Personnel Coordinator
- Controller
- Night Auditor
- Accounts Rec. Clerk
- Security Officer
- Head Gardener
- Front Desk Clerk
- Res. Analyst
- Stores Clerk
- Bartender
- Cook
- Waiter
- Waitress
- Cashier

HYATT (Caymanians)

- Front Office Personnel
- Res. Officer
- Housekeeping
- Bell Service
- Security
- PBX
- Concierge
- Exec. Officer
- Kitchen Personnel
- Maid
- Bartender
- Sales Personnel
- Engineer
- Accounts Officer
- Cashier
- Night Audit

HYATT (expatriates)

- Manager (Front Desk)
- Reservations
- Manager (Housekeeping)
- Bell Service
- PBX
- Concierge
- Asst. Manager
- Exec. Officer

RADISSON (Caymanians)

- Activities Director
- Food & Beverage Server
- Housekeeping
- Maintenance
- Bellman
- Guest Service Clerk
- Kitchen Helper
- Cook
- Busser

RADISSON (expatriates)

- Front Office Night Manager
- Asst. Chief Maint.
- Night Auditor
- Guest Ser. Clerk

- Bookkeeping
- Chief Landscaper
- Maitre 'D
- Food & Beverage Server
- Disc Jockey
- Asst. Housekeeping
- Housekeeper
- Bellman
- Bartender
- Busser
- Cook
- Cashier
- Dishwasher

SUPPLEMENTARIES:

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say whether there exists at any or all of these establishments, a program for the training of Caymanians so that they are unable to move up the ranks in their respective establishments?

HON. W. NORMAN BODDEN: Madam Speaker, to the best of my knowledge, these and some other properties have in house training programmes to train Caymanians and in addition to these programmes the system applied to the Caymanian Protection Board, should also assist with having positions filled by Caymanians who are available and able to fill the positions that are filled by non-Caymanians.

MADAM SPEAKER: First Elected Member for Bodden Town

MR. ROY BODDEN: Thank you Madam Speaker. I realise that the Honourable Member may not have this information available and if that is the case, I would request him to please give an undertaking to get it provided in writing at a later date. I wonder if there is currently a record of the number of Caymanians who have been trained internally or who have gone abroad on secondment in these institutions?

HON. W. NORMAN BODDEN: No, Madam Speaker. I do not have that information with me, but I can have it researched and supply as requested.

MADAM SPEAKER: That concludes Question Time for this morning, the next item of the day is Government Business. Bills, Second Reading. The First Elected Member for Bodden Town continuing on the Immigration Bill, 1992.

GOVERNMENT BUSINESS

BILLS

SECOND READINGS

THE IMMIGRATION BILL, 1992

(Continuation of Debate thereon)

MR. ROY BODDEN: Thank you, Madam Speaker. When we left off, I was suggesting, Madam Speaker, that those persons responsible for articulating the concerns in this new Immigration Law, a moral as well as a political obligation and in view of this circumstance, it can be suggested that the task of drawing up a draft law that will meet with the expectations and hopes of all spectrums of this society, is made more complex and more difficult, partly because the Cayman Islands have almost, from the inception of their recorded history, been Islands that peoples were attracted to.

I find it interesting sometimes in reading, not so much recently, but about 12 to 15 months ago, when it was more topical, the continuing debate in the newspapers and listening to people, concerning who was Caymanian and who was not Caymanian. What is interesting about that fact is, that while there are those people who I term established Caymanians, by virtue of the fact that some of us have been here from the 1700s, this whole country, Madam Speaker, is made up of expatriates if we may call it that because the original inhabitants of these Islands, if they were permanently inhabited, had to be of Amerindian descent, so those of us who are here now of mixed European, African or whatever descent, we are really, strictly speaking, ourselves, expatriated.

I think that there is that tempering influence in the debate and it should serve as a sobering fact to remind people who are over zealous. Nevertheless, that does not detract that I recognise that there are many people here, established Caymanians who must by law and otherwise have a greater

claim to the privileges and benefits of this country than others. What I am saying, Madam Speaker, is that I have to respect the fact that there are some people here who have a greater claim and a greater reason for concern about being overrun than others. If we look back over the statistics, in a bulletin from the Department of Immigration, before there were people of non-Caymanian descent living here prior to 1945, indeed, there were 22 such people registered. During the period from 1945 to 1959 there were 11. From 1960 to 1969 there were 85; from 1970 to 1972 there were 234; 1970 to 1973 there were 552. I note from this Madam Speaker, that the influx of non-Caymanians, people who were not established Caymanians began from 1960 when, for all intents and purposes, the economic boom of the Cayman Islands, had its genesis. Quite understandably, there were peoples from the region. Jamaica, Honduras, and other parts of Latin America and the Caribbean with close proximity to these Islands. Now, however, we have people from Angola to Zimbabwe and Madam Speaker, that must say something about the attractiveness of our country. It also says that the people of the Cayman Islands are quite right in being concerned of the fact that they may become a minority in their own country.

It is interesting once again to make a comparison to Switzerland (which I initially made a few days ago). One of the things that I find difficult to comprehend is that we in the Cayman Islands give some people status or citizenship without requiring them to give up the citizenship that they held prior to acquiring Caymanian citizenship. I believe, Madam Speaker, that that is a mistake because it seems to me that if someone wants to be, or opts to be a Caymanian, he or she must be a Caymanian. There can be no business of holding Caymanian citizenship along with another citizenship because there is a possibility that someone may be using the Cayman Islands as a source of economic convenience.

In the United States, if one is to become an American citizen, one has to swear loyalty to the United States and can indeed hold no other citizenship. I understand the nuances and the distinctions which are allowed and tolerated throughout the Commonwealth and I agree with that because the Commonwealth is a kind of family. I believe, however, that there are cases where people hold Cayman status or citizenship and are still allowed to hold passports other than those of a Commonwealth country. Ideally, as far as I am concerned, that should not be.

The whole question of labour migration complicates the drafting of an Immigration Law. It complicates it because if people acquire citizenship through naturalization and that citizenship goes to the first generation, what happens to the offspring and subsequent generations? Is there an obligation to give them citizenship? How are we going to handle the problems that that kind of system brings? Madam Speaker, a lot of people in Cayman were lamenting and quarreling with the fact that while they had Caymanian status, their children had to apply for that status upon the age of 18 and in some cases, lost it.

It is interesting to note, that in Switzerland, naturalization, the alternative procedure by which the Swiss people use to reduce and control the number of aliens have also been complicated by the same kinds of things that we have experienced in Cayman. For example, in Switzerland, nationality is not determined by place of birth, as in most Anglo-saxon countries but by the nationality of the parents. Thus, even the children of foreign nationals, who are born and brought up in Switzerland, remain political aliens until they acquire Swiss nationality either through naturalization or in the case of women, through marriage to a Swiss person, which automatically confers the husbands citizenship upon the wife. This point, Madam Speaker, I am going to come back to later but it is sufficiently important to mention it now. Conversely, marriage to a foreigner automatically cancels the Swiss citizenship of the wife even if she continues to live in Switzerland. I want to say that in cases where a woman acquires Swiss citizenship through marriage, that woman loses that citizenship if she divorces her Swiss husband and remarries a foreign national. She loses that citizenship if her spouse is deceased and she remarries a foreign national, even though she might not be requested to leave Switzerland or she might not be denied the privileges, for example, of working in Switzerland but, in other words, the citizenship acquired under those circumstances is non-transferable and I believe that we in the Cayman Islands should adopt such a system.

Our Immigration Law, this proposed law, has something close to that. Madam Speaker, I will now elaborate on some of the clauses of this law and state what I think are some of the strengths and weaknesses. I crave the Chairs indulgence although I hasten to add that I am not going through in tedious detail because some of the clauses are sufficiently clear that they need no elaboration. One of the significant points, I believe and one of the important points that people in the street will notice is the name change. It is no longer called the Protection Law, it will be called the Immigration Law and Madam Speaker, I support that because I think the notion of a Protection Law was a little confusing and many Caymanians had come to expect that the Caymanian Protection Law was a law which spelled out clearly and conspicuously the advantages and rights of Caymanians vis a vis nationals.

That was what the Law was supposed to do, unfortunately, it is not always easy to do things like that and in spite of the fact that the Law must be drafted to protect Caymanians, it cannot be drafted in such a way that it is prejudicial to foreign nationals, to the point where it excludes them from certain privileges they may acquire based on length of residency, based on things like family connections, based on things like marriage. I think the title Immigration Law is more, shall I say, user friendly in that it will eliminate that the Caymanian Protection Law is designed categorically to take care of the rights of Caymanians to the exclusion of all other people.

Also, in Clause 4, the stipulation that the composition of the Board has changed. The Board becomes less cumbersome and will now be reduced in number by 3 to consist of a Chairman, Deputy Chairman and six other members being one from each district and this is commendable, Madam Speaker, because it will allow persons from districts to be able to have input into matters brought before the Board when it relates to an applicant or when it relates to their prospective district. It will also, I contend, allow for the more efficient running of the Board in that it is my belief that the construction as it is proposed in this law is ideal in that the composition of the Board is not unwieldy.

What I would have liked to see included is also the possibility of

the liaison of the Director of labour at the time because I think this would be particularly valuable in those cases where we have applications for positions in establishments which have been controversial in the fact that Caymanians have registered many complaints against an establishment or by virtue of the fact that Caymanians claim some kind of unfair treatment regarding employment practices.

Clause 12(2) requiring the Board give brief reasons when it rejects applications for the grant of Caymanian status, permanent residence or a work permit. Certainly, it is commendable in the sense that it is democratic and the emphasis here, I believe, would be brief reasons and while I am commending this as Democratic and as a helpful practice, I would caution that my interpretation of it would be just that; the Board would give a brief reason but the Board would to be obliged to give intricate details and indeed in some cases where there may be sensitive matters, matters of maybe a criminal nature against someone or a complaint against someone or some type of investigation, I believe the Board should reserve the right not to give any reason for rejecting and certainly the applicants should be able to understand. I caution people not to expect, because the Law stipulates that the Board can give brief reasons, that the Board should in every instance give intricate details.

By and large, Madam Speaker, the complaint was generally that people did not understand that sometimes when they made applications why the applications were rejected and as a consequence did not understand if they should reapply for the same person or if they should try to apply for someone else. I think this business of the Board giving a brief reason will make it more clearly understood for all and sundry the course or courses that they should take, so indeed, that is commendable.

Clause 14, dealing with the provisions relating to the obtaining of status by the children of persons with status. This, Madam Speaker, is one of the single most challenging, controversial and probably important aspects of this whole exercise and it goes back to what I just mentioned about how the Swiss handle these kind of cases. I think that information that I have, states that there are about 900 people who would be eligible for Caymanian status by virtue of residency and the fact that they have met most of their requirements but that does not include their children. Now, demographers would arrive at the total number of people by finding the birth rate of these persons and applying that over a number of years. That would enable us to ascertain what kind of effect it would have on our total population were we to give these 900 people Caymanian status and at the same time accommodate their children.

You see, Madam Speaker, it makes little sense to accommodate the first generation and leave subsequent generations out of the picture. That will only be passing the buck. If you are going to give the parents status, that may satisfy them now, what happens when their children turn 18, what are they going to get? Do they have to apply? Put their name on a quota or will they be eliminated altogether? This makes the issue complicated and increases the complexity of the problem. Ideally, we could find out the size of these families, the birth rate and we would be in a position to know 10 years down the line how many people this would be, thus, better able to make a judgement as to whether we could accommodate these people and I caution, Madam Speaker, caution against any move to accommodate some without taking this long term into consideration. All we would be doing is postponing the problem.

It is better for us not to award status at all and to give something else in its place than for us to start out and say, " Well all right, these people who are here will get it but we cannot assume any responsibility for their children or their grand children." We will be complicating the issue and I still contend that there is still a moral obligation which states that if we extend the generosity to the parents, we must seriously consider extending it beyond that. Then we have to answer how far beyond that would we wish to go and what is the birth rate of these people as against the birth rate of established Caymanians.

I say all that to say that the matter is not easily cut and dried. Madam Speaker, there are people who have been in these Islands for more than 20 years. They have for all intents and purposes made clear their intentions to be domicile here forever. Some have built houses, established businesses. They have raised their own children and some now have grandchildren. These people are spread throughout the three islands, more so on Grand Cayman as would be expected, than perhaps Cayman Brac and Little Cayman. Now is the time for us to determine exactly what status we are going to give these people. How we are going to accommodate them. There is no question that they have been abiding, they have contributed to the growth of our country and continue to participate in its economic life. It is time we face up to the challenge of what we are going to give them whether it be citizenship, whether it be some other type of security of tenure but certainly delaying the problem can serve no purpose.

Since we are coming out with a new law, I think this is the best time to incorporate these kinds of residents so that we can have them brought more closely into the main stream with the ideal intention of putting this argument of Caymanians vs. non-Caymanians finally to a rest because the challenges that this nation is now facing cannot be overcome by having to detour to solve and settle these kinds of arguments. Perhaps one of the strong points of this law is that it makes it unmistakably clear that in the future the prerequisites and qualifications necessary for acquiring Caymanian status - emphasis, in the future! What I am saying here is that we have to clear up this backlog which we have from past years and I have a personal observation. The weakness of our Immigration Law is that in the very beginning, we did not make the stipulation concerning citizenship and who could get citizenship. If we had stipulations clearly laid out from the very beginning, then we would not be faced with this problem. Perhaps, Madam Speaker, that was an oversight. Perhaps it had to do with the fact that the legislators of yesteryear did not dream or expect that our country would boom to such a level that we would be so attractive to outside people to immigrate here in these numbers.

This whole notion of immigrants and work permits, Madam Speaker, also reminds me that the economy of the Cayman Islands as drastically changed. Changed from the point where we, as Caymanians, immigrated to other countries to seek employment and then repatriated those funds to the Cayman Islands. I make this point because it is an extremely important point in the continuing economic

development of this country. The situation is now reversed from where Caymanian people immigrated to the region, to the United States and repatriated the funds to the Cayman Islands to the point where peoples from these regions come here seeking employment and repatriate funds back to their respective countries of origin.

I make the point, Madam Speaker, because this is a tremendous drain on the foreign exchange of this country. The reason why we in the Cayman Islands have not suffered from the deleterious effects of this, is because our financial structure has grown to and our population is sufficiently small so that at this present moment this does not seem like a drain or a burden. We have to bear in mind that there are only so many work permit holders that we can take because we in the Cayman Islands have to import everything. If we add to that that the people who come here to work from the countries abroad repatriate funds, these two things are a further drain so that there is the possibility that one of these days the strain on our foreign exchange is so great that it is bound to show. In times of economic recession, there is a greater likelihood of that happening, like now, than it is when things are going well.

I say that to say, Madam Speaker, that one of the things this new Immigration Law is expected to deal with is the whole question of control of work permits. I relish the name change from Gainful Occupation Licence to Work Permit. It may just be an exercise in semantics but I think it is more realistic in that right away, it strikes at the root of the problem, a work permit as against the more aesthetically sounding Gainful Occupation Licence. This business of work permits, Madam Speaker, has been a concern of legislators in all walks of life and it is business that we will soon have to come to grips with because in a population where there are 16,000 people employed, according to information, there are more people on work permits than there are Caymanian people. Even in the Civil Service, one third are foreign nationals. In a country of this size, Madam Speaker, I am saying that that is out of balance. There is a maladjustment and this maladjustment will manifest itself first in economic frustration because Caymanians will find that they will not have access to certain kinds of jobs and this economic frustration will in turn, manifest itself in social disruption and resentment.

Upon this law rests the hopes of Caymanians that there can be a more equitable balance. Caymanians are looking to this law to bring that balance. I, as a representative of the people, am looking to this law to strike that balance because if there is an absence of that balance, I am afraid that the frustration of the Caymanian people will grow. I do not know how we will be able to explain and justify to them that in their own country that they have to be unemployed or register for unemployment while foreign nationals seemingly have easier access to jobs. I say that, Madam Speaker, quite seriously and quite naturally to introduce the observation that this proposed law in itself is not the panacea. It needs companion legislation if it to be able to redress successfully some of the problems of which Caymanians complain.

Earlier, I mentioned, Madam Speaker, that in this sitting I would have moved a Fair Employment Practices Act and a Fair Competition Act but I decided against that because with elections scheduled for November and the Government already burdened by a number of Select Committees and by work that probably will not get done during the tenure of this Parliament, I have decided to postpone that with the hope that God and the Bodden Town people will spare me the good fortune of returning in November. I believe, Madam Speaker, that we need a Fair Employment Practices Act to protect Caymanians because the work of the Immigration Board or the Caymanian Protection Board as we now know it, does not extend and does not have the teeth and the organization necessary to deal with the complexities of these problems as experienced by Caymanians.

This whole business of advertising and when Caymanians apply, telling them that the advertisement was only to meet the requirements of the Protection Board, is unfair and frustrating and does not bode well for amicable development and mutual respect between Caymanians and non-Caymanians in this country. Madam Speaker, there are many large companies and organizations in this country, guilty of that malpractice. There are people who posit that the Government itself, the public sector, should have to advertise their positions and have to seek work permits for their employees who are non-Caymanian.

I do not know, Madam Speaker, if I am necessarily and advocator of this although I must say that the strong point in it is that it would seem to convey some sense of fair play, in other words, what is good for the private sector is good for the public sector. It would also tend to give Caymanians the feeling that they would know exactly what is going on in the Government in terms of what kinds of positions are available, what qualifications are necessary and it would make them feel and indeed may serve as motivation and incentives for them to seek further training and to improve their education. While I am not at this point, advocating that route for the Government, I say it has some merit.

Then, Madam Speaker, there is the corollary of Caymanian people who are subjected to unfair competition, the whole business of fronting and how to deal with it and I have in a file no less than half a dozen recent complaints from Caymanians about incidents of unfair competition. Being literally forced out of business by foreign nationals and also quite unpalatable by our own Caymanians fronting for foreign concerns. The problem is not easily handled, but I believe that it can be handled and I am prepared, as I have said, if I have the opportunity to introduce legislation to deal with it. Indeed, I went so far as to have had the motions drafted and had an undertaking from my colleague the Second Elected Member from Bodden Town and from my good friend, the Second Elected Member from Cayman Brac, that they would second the motions had I exercised my intentions to bring them to this sitting of Parliament.

I hope that whatever side of the House I am on, come November, I can still be able to bring this kind of legislation because, I believe that it is timely, that it is necessary and I believe that it would serve as a compliment to this new Immigration Law, the draft of which is before us at this time. Madam Speaker, many organizations and some individuals came before the Select Committee and I am sure that the mover will acknowledge their appreciation of the Committee for the input of these people.

What is unfortunate, is that it is not possible to take all of these ideas that people have proffered and incorporate them into a law, although many of them were worthwhile. In

arriving at this draft, I feel comfortable that we have a document which is superior to its predecessor. I feel comfortable in the fact that we have a document that purports to handle the immigration problems of this country in a more systematic and sensible way. I feel comfortable in the fact that we have a document which reflects the best that the representatives of the people could put forward, full well realizing that they as representatives, had the obligation not only to consider their own positions but the positions of the constituencies and the people whom they are representing.

I feel comfortable that the Committee was ably chaired by the First Official Member who in his usual judicious way, kept the Committee on track and was sufficiently diplomatic and tactful as to diffuse the explosive situations and let even those people who lost arguments come away feeling that their input was not ignored, although it may not have been placed as they would have liked it in the draft law. I feel comfortable in the fact that I believe there is reason to be optimistic in the promise that those people who have established themselves here and have indicated, either by the acquisition of property, houses, businesses etc. that they will be considered for some kind of security of tenure.

It is impossible for any law, Madam Speaker, no matter who the authors might be, to please everyone; to please every element of this society but I believe that I am safe in saying that the proposed Immigration Law will meet the expectations of the majority of Caymanians. Madam Speaker, it is my responsibility as a representative of the people, not only to articulate the views of the few, sometimes the vocal few, but also to articulate the views of the vast majority - that majority which is sometimes not even so obvious or so articulate or so eloquent. I am satisfied that within our constituency, my colleague, the Second Elected Member and myself have sufficiently availed ourselves of the prevailing view of the residents as to have been able to come before the Committee, in its myriad of sittings and articulated the concerns of our constituents, honourably, fairly and honestly to the point where Caymanians, those of us who, as I call them established Caymanians, can feel that they are fairly treated. Those elements in the constituency who do not have as yet, a satisfactory security of tenure, will be taken care of.

Madam Speaker, that is an awesome responsibility. That is an awesome challenge to deliver. It is a relief to be able to stand here, to say that I can support this Bill because I was with the Bill from its inception, from its birth. It was a pleasure to work on the Select Committee and even though there were times when the ideas put forward by some people were not popular, and there was always a mutual respect. I believe, Madam Speaker, that our country will be the better off when this Bill is adopted into law and I would implore my constituents, those who like myself are established Caymanians and those who are waiting for something for which they can be satisfied, to give the Law a chance and I give them my assurance that I will do along with my colleague all in my power to see that parties on both sides of the spectrum can come away with some satisfaction, hope and confidence in the Law.

I look forward, Madam Speaker, to being spared the opportunity to bring a fair employment practices act and a fair competition act to these hallowed halls because I believe that as companion legislations to this law, they will put us in a position to give our Caymanian people the kind of protection from unfair employment practices and unfair foreign competition. Madam Speaker, I wholeheartedly support this Bill to become an Immigration Law.

MADAM SPEAKER: The House will be suspended for fifteen minutes.

AT 11:33 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:55 A.M.

MADAM SPEAKER: Please be seated. Debate continues on the Immigration Bill 1992. If no other Member wishes to contribute to the debate, I would ask the Honourable Mover if he would like to reply. (pause) The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. Madam Speaker, I rise to speak to the proposed changes to the Immigration Law. This is probably the most important piece of legislation that we have had to deal with in this parliament in the past four years.

Madam Speaker, we are a very small society with a limited number of people and limited resources. We are a community that has changed from a mosquito infested environment to one of the premiere financial centres and tourist destinations of the world. As a result of this, we have attracted business and persons from the four corners of the earth. Madam Speaker, the success in addition to prudent legislation has been the honesty, decency and friendly rapport of our people. People visiting these Islands, have always been charmed by our people and as a result, Madam Speaker, many people who come here to visit or work have acquired a genuine desire to remain here among us. We have always extended a warm welcome to all visitors who have come to our shores.

As a result of our rapid success, we have experienced here in the Cayman Islands, as a financial centre and as a tourist destination, it has created a great demand for foreign professionals such as accountants, lawyers and bankers because there were very few qualified Caymanians in these areas in these Islands and as a result, these professionals had to be brought in. On the other hand, Madam Speaker, due to our limited population and due to lack of qualified persons in the hospitality industry a great demand has also been created for persons to be brought in to staff hotels, condos and many of the restaurants that have sprung up to service this industry. Madam Speaker, initially, in order to attract the necessary persons that they needed to come here to fill these positions, it was necessary to offer such potential employees very attractive compensation packages.

I recall as a civil servant, Madam Speaker, the type of contracts, benefits that Government, for example, had to offer foreign nationals to attract them to the service. I recall Government offering such benefits as housing. In a lot of instances, transportation and a gratuity at the end of the term of contract to up to 33 1/3% of the monetary value of the contract. While having to do this, Madam Speaker, we have been very slow or not as fast as I would like to have seen it happen. We have been very slow in qualifying Caymanians in these respective areas in sufficient quantities to ensure that this situation of dependency on foreign nationals is quickly reduced.

Madam Speaker, we have been very slow in addressing the needs of qualifying our Caymanians in the areas of technical trades, that is in the areas of plumbers, electricians, carpenters and masons which could have been very easily accomplished, Madam Speaker, if we had taken the initiative to establish a proper trade school in these Islands and I do not have the statistics, Madam Speaker, but I dare say that a large quantity of the foreign nationals that we have here in the Cayman Islands are employed in these respective areas. We have not been as lenient as I feel that we should have been, Madam Speaker, also in the area of ensuring that sufficient scholarships are available to those Caymanians who have a desire and the ability to go abroad to further their education in the different professions because, Madam Speaker, it is my contention that if we are ever to be in a position to lessen the demand for foreign labour, it will only come if we have qualified Caymanians in the respective areas to fill the positions in this country.

Thanks to a former Government, Madam Speaker, who had the foresight to establish a Law School locally, we are now training sufficient Caymanians as lawyers to take over many of the positions presently filled by expatriate lawyers. Madam Speaker, much more has to be done to train Caymanians in the other areas of our community. In my opinion, we have now reached a delicate position where we have to maintain a balance between ensuring that those Caymanians qualified find jobs in the areas where they are qualified and at the same time ensuring to continue to have sufficient foreign national as professionals to ensure that we continue to be in a position to provide with a level of services that we are accustomed to in this community.

Madam Speaker, as a result of the trend in the past where we look to the outside for foreign nationals to fill positions available here in the Cayman Islands, we have become, in my opinion, much too dependant on this source of labour. The result of this is that many employers, rather than taking the time to recruit and train a Caymanian would prefer to apply for a work permit and bring someone in to fill the position. We have not had any problem in the recent years, attracting foreign nationals to fill these jobs, because in many instances, the job market situation in their homelands
is not as lucrative or open as it is in the Cayman Islands.

Madam Speaker, the latest statistics reflect, as a result, of this lenient policy, we now have a position where there are as many foreign nationals as we do have Caymanians in the labour force. In a recent issue of the *Caymanian Compass*, Madam Speaker, it was mentioned that the number of work permits at the end of March 1992, amounted to approximately 10,000 people. This is a bit concerning Madam Speaker, in light of the first time in a very long time in this country, we have Caymanians who are unable to find a job and to aggravate the situation, every year, our Cayman Islands High School is graduating an average of about 300 students the majority of which, Madam Speaker, do not have the academics to go on to further their education or the skills to go out to compete for a job in the labour market.

Madam Speaker, because of this and until we make the efforts to establish the proper trade schools and make more scholarships available to those who do have the qualifications to go off, we will continue to be dependent on foreign labour in this country. What concerns me also, and I have visited a few of those establishments, there are many employers here in the Cayman Islands who are reluctant or unwilling to hire available Caymanians.

I was talking to someone just yesterday, who was very upset. He said, "You know, I have been looking for a job. I look in the newspapers, I see vacancies advertised, and when I call that employer, there is always somebody who is already employed to fill that position." It is a joke; it is a mere formality because many of the employers in this country especially in foreign employers, Madam Speaker, do not have a genuine interest in hiring or training Caymanians for positions which are available. The result of this, Madam Speaker, is a growing resentment among Caymanians toward foreign nationals in this country. This is not a healthy situation and one which must be immediately addressed in order to avoid the same mistakes that have been made and in our neighboring countries. We must ensure that Caymanians have the opportunity to qualify in the respected areas through making scholarships available not only by Government, but by the private sector.

It is also the responsibility of the Government and the private sector to ensure that Caymanians who are qualified and willing to work, find employment. Government must ensure, and it is their responsibility that Caymanians are trained by their respective institutions to enable them to eventually replace foreign nationals who presently fill these positions. Madam Speaker, as a result of a rapid development and the shortage of qualified Caymanians in the respective areas of employment , we now have a situation in this country, where foreign nationals have been allowed to reside in this country for 20, 30, 40 years. Many of these persons have children and grandchildren who have grown up here, have gone to school and the only home that they know is the Cayman Islands.

Many of these people have invested in homes, land and businesses in this country and they have made a contribution to society and in addition to that, the majority of these persons are law abiding citizens. In my opinion, Madam Speaker, we now have if not a legal obligation, I feel we have a moral obligation to provide such persons with some tenure of security. On the other hand, we have a responsibility of not allowing too many persons into our society that will deprive Caymanians of opportunities in the respective areas of employment. In my opinion, Madam Speaker, that was the main objectives for the revisions to the Immigration Law. It was necessary to find a solution for the long-term residents that we have here, awarding

those some form of security and at the same time, Madam Speaker, ensuring that the continuous number of persons who are allowed here are restricted to ensure that Caymanians continue to feel comfortable, and inn control of the situation in these Islands.

Madam Speaker, I am one representative, who during my 1988 campaign, spoke on the issue of status. My position then as it is now, that status should be restricted to the spouses and children or the dependants of Caymanians or to persons with Caymanian connections. That is my position on status. As a result of the exercise that we just completed, this was not done. Status is still available to foreign nationals who can qualify strictly on residency. It is my opinion that if it were desired to keep the provision of status open to foreign nationals, it could have been easily continued the way it is right now, where Exco have the prerogative of awarding Caymanian status to persons in our society who they feel warrant that consideration. It could be done on a very sparing basis.

Madam Speaker, in my opinion, as a result of an inaction of the committee, to deal with this issue of status, that is restricting it to dependants or spouses of Caymanians or to those persons with Caymanian connections, that we have failed to resolve our present dilemma. That is of finding a solution for those persons who like I mentioned before, who have been her for fifteen to twenty years. In another five, ten fifteen years, the situation will be further magnified and repeated because you will have more people here in the same situation. That is, if they have been here ten years, not granted Caymanian status but allowed to remain here.

Madam Speaker, after someone has been in your country for that length of time, it is very difficult to say thank you, you are no longer welcome, pack your bags and go back home. In my opinion, we must draw the line somewhere. We must deal with what we have. the long term residents that we referred to before are already a part of our society. Let us cut the situation right now. Deal with these persons as far as deciding whether or not they will be granted some form long term tenure. If not, Madam Speaker, I think the immigration has a responsibility of then advising these persons that they must return to wherever they have come from but to enable those persons to hang on here for another ten or fifteen years, is only going to aggravate the situation even further.

I am not sure how many persons we have here who have been a part of this society for fifteen or twenty years, but, Madam Speaker, even if it is five hundred people, they are already working in our community, they have homes here, they are accounted for as a part of our population. Madam Speaker, I believe it is better for us to address the issue now and say, "Well, either give them permanent residency with an indefinite right to work in a respective area of employment or those persons who we feel married and deserve it should be granted Caymanian status, but lets draw the line here and now. In the future, Madam Speaker, once we have gone through this clean up exercise, foreign persons who come here, should come here with the understanding that you are coming in to fill a particular job for a specified period of time, after which you will be expected to return to your homeland.

I do not know, Madam Speaker, what is so wrong with that policy, because, Madam Speaker, I believe that foremost our obligation is to ensure that our Caymanian people continue to enjoy the opportunities that they have worked so hard to create in this country and to ensure that our Caymanian people remain in the friendly, honest and warm people we have become known to be. Madam Speaker, it is important to us not to allow our community to grow beyond what we can accommodate because what has made the Islands attractive to visitors like I mentioned before is the friendly and honest disposition of our people and we must guard this situation very carefully, indeed.

Madam Speaker, let me now attempt to look more closely at certain proposed provisions of the new law. Clause 4 deals with the constitution of the Board. The Board will no longer be referred to as the Caymanian Protection Board, but the Immigration Board and will consist of a Chairman and six Members. One Member, Madam Speaker, from each district. I feel this is fair because it is important to have a representative from the respective districts on the Board to ensure that each district receives its fair consideration.

Clause 14, Madam Speaker, deals with the acquisition of Caymanian status by birth. It makes it much easier for someone to be considered a Caymanian in that it requires now that only one parent be domicile in the Cayman Islands at the time of the birth of the child instead of both parents and there is no longer a distinction made between births on or in the Cayman Islands or abroad as long as the child is for a Caymanian. I believe that it is ridiculous and I have seen many advertisements in the papers where a Caymanian for one reason or the other has a child who is born in Jamaica or one of the other countries, that a child is then forced to apply for Caymanian status.

I feel about Caymanians the way the Jews feel about Jews - that irrespective of where they are born or where they live a Jew is considered a Jew. That is the way I feel about Caymanians - no matter where they are or where they were born, in my book they are still Caymanians. Madam Speaker, Clause 14(3) provided that where a person claims to be the father of an illegitimate and is able to prove to the satisfaction of the board that he is the father of the child and is prepared to maintain the child, the child can then apply and be granted Caymanian status. I support this amendment, Madam Speaker, because I have seen some very cruel situations where for a Caymanian man had a child by a foreign lady and they were not married and the mother of that child was forced to leave the Islands. The Caymanian man was unable to claim custody of the child because he was an illegitimate child and the child was forced to return to the mother to the homeland.

In many instances, Madam Speaker, returning to such places as Nicaragua and other communist countries where it is well known that economic hardships and political hardships exist. This provision makes it possible now for a Caymanian father to claim the child, produce some evidence to the satisfaction of the Immigration Board and applies for Caymanian status for this child. Madam Speaker, Clause 15 deals with the provision of status by residency, and all it has done is extended a term of qualification from seven to ten years but it still leaves the idea of status wide open and some person here can still be considered for the grant

of status if they have been here at least ten years.

I have mentioned before, Madam Speaker, it is my opinion that status should have been restricted to spouses, dependents of Caymanians and persons with a Cayman connection. In our society, Madam Speaker, it is very important for us to be careful not to leave the flood gates open and to continue to let people become a part of this society which puts them in a position to compete with born Caymanians in every aspect of our society. I feel that we do have at least a moral obligation to deal with the long term residents who have been here for 10,15,20 years but I feel Madam Speaker that that is where the obligation stops and the cycle should not be repeated in another 10 or 15 years. The only way that you can do that, in my opinion, is if you have very strong immigration policies in place and you restrict the grant of Caymanian status.

Madam Speaker, you know when everything was flourishing, and Caymanians could get any job they wanted or if they wanted to hold two jobs at one time, this situation was not as threatening to them but Madam Speaker, I feel that in light of the fact that we have young Caymanians each year who are coming out of the high schools, we have to ensure that the growth of our economy is monitored. We have to insure that positions or opportunities are available to these young persons and it is a responsibility of ours to train these young Caymanians to ensure that they are in a position to take advantage of the opportunities that are available.

Clause 15(8) of the Law is a new provision and provides that the person may apply for the grant of Caymanian status without any residence or period if at the time of his or her birth , he or she was the legitimate child of a person of Caymanian status by birth or by descent. Madam Speaker, Clause 18 is a new provision and 18(1)(b)(ii)(b)deals with the Laws of a Caymanian status acquired by marriage and based on what this provision says is that if someone who has married a Caymanian and acquires status, divorces that Caymanian or separated from that Caymanian within 10 years that they will automatically loose the grant of that status. On the other hand, the provision does provide an opportunity if the spouse has been holding Cayman status for at least five years to then apply to the Board for the status in their own right. I feel this is fair because today, we see too many marriages of convenience. We see people who want to avoid immigration controls coming into this Island paying somebody $500.00, marrying them and then once they say, "I do", never seeing them again or spending one night with that person. But as a result, Madam Speaker, they are able to remain here indefinitely.

I feel that if that person has married a Caymanian, they should be living together and if there is a change in that situation then that right should be withdrawn. Madam Speaker, the provision of permanent residency will continue to cater to two groups of persons. On the one hand the financially independent person who desire to apply for permanent residency to live here. I do not have a problem with this type of person, Madam Speaker. The only thing that I would suggest is that maybe the qualifications for the grant of this particular benefit be increased. I think at the present time anyone who has an investment here of $150,000.00 or $250,000.00 can apply and be granted permanent residency. Madam Speaker, maybe that should be increased to $500,000.00 to $1,000,000.00 and I also believe that the fee associated with that privilege should also be increased so that Government is in a position where its revenue is enhanced by awarding this special privilege.

Madam Speaker, it appears to be the approach that now permanent residency will be exercised or awarded or granted much more frequently to persons who maybe the Board does not feel should be granted Caymanian status. These people, if they qualify can be granted permanent residence with a right to work in a particular area. Madam Speaker, Clause 29 (1)(j) introduces two new matters to which the Board is obliged to have regard for when considering the grant of a work permit and those two matters are the idea of suitable accommodations for the employee and this is a welcomed requirement because it is appalling the living conditions of many of our foreign nationals who are here on work permits.

I think it is important, Madam Speaker, that before we agree anyone to come here to work, that they on their own, or through their employer, is insured suitable accommodation. The Board will also have to insure that an adequate training program is in place to ensure that a Caymanian is being trained for this post which has been established. Madam Speaker, I think that it is time for us to insist on a few things and pay more than just lip service to the idea. I believe that one of those issues is a matter of training and qualifying Caymanians.

Madam Speaker, Clause 77 of the Law deals with; this is a new provision of the Law, Madam Speaker, deals with marriages of convenience. For the benefit of the listening public I would just like to read what it says. "It shall be an offence willfully to enter into fraudulent marriage with the primary intention of avoiding any of the provisions of this law or with the intention of obtaining any benefit under this law. An offence contrary to this section shall be punishable on summary conviction with a term of imprisonment not exceeding one year or with a fine not exceeded $10,000.00 or both. It is time for us to get serious about this issue, that is the issue of the marriages of convenience and when it is discovered that one exists, the guilty party to be dealt with severely.

MADAM SPEAKER: Perhaps this would be a convenient time to take the luncheon suspension. The House will be suspended until 2:15.

AT 12:46 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:18 P.M.

MADAM SPEAKER: The Third Elected Member for West Bay continuing the debate. The Immigration Bill, 1992.

MR. JOHN D. JEFFERSON, JR.: Madam Speaker, when we took the lunch break, I was dealing with Clause 77 of the Bill which deals with marriages of convenience. That provision in the Law is very severe and I feel appropriately so because we must as much as possible avoid the continuation of such incidents in this community.

Let me re-emphasise in closing that I do not feel that the Bill will address the most serious issues that we are faced with in this country at the present time. That is, on the one hand, the problem of the long term residence in these islands, that is those persons who have been here 15,20,25 years and on the other hand the concern among Caymanians of being outnumbered. Madam Speaker, I would like to re-emphasise that I feel it is important in the future that any foreign nationals contracted to work in these islands should understand that they are coming here to do a specific job for a specific period of time. Hopefully, the machinery in the mean time, will be in place to train interested Caymanians in these respective areas and eventually, these Caymanians can qualify for these positions and a foreign national is thanked for his service and moves on.

Madam Speaker, I feel that it is not only important for foreign nationals to be aware of this new policy but I believe that it is the responsibility of this Government and the private sector as well to pay more than just lip service to the policy of training Caymanians. Madam Speaker, Government is as guilty as the private sector in this regard. That is its reluctance to train Caymanians for the respective positions in the service because as the First Elected Member from Bodden Town mentioned this morning in his contribution, the service now consists of approximately one-third foreign nationals.

I believe, Madam Speaker, that a unit has to be established with specific responsibilities for this purpose. That is their main business - to ensure that Caymanians are employed, trained and eventually promoted to their respective positions for which they are qualified for. Madam Speaker, I see this as very necessary if we are going to avoid social unrest and resentment among our people because one of the reasons for our difference as far as or attitude and makeup as a people, has always been that due to the fact that as a people, we have never been threatened. We have never been subjected to slavery to the extent that many of the other Islands were subjected to and as a result of this, or people have always been known as honest, upright people, who are very friendly and open to everyone regardless of color,, creed or status in life.

I believe, Madam Speaker, that we take the necessary steps in order to address the present problem that we have that we will continue to be successful, not only as a financial centre but as a premiere tourist destination. I trust , Madam Speaker, that once this Bill has been past, and subsequent amendments are going to be necessary but I trust that the Government, not this one, Madam Speaker, the next Government, will be prompt in its attention in dealing with its large number of persons who are here in this country, who are citizens of no country, so that these persons can get on with their lives and also ensure, on the other hand that we close off, as much as possible, the number of new residents that we allow to come in to our society because of the present pressures that Caymanians are experiencing in finding employment and the other benefits that they have enjoyed for so long.

Thank you, Madam Speaker.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank You, Madam Speaker. This Bill, the Immigration Bill, is undoubtedly one of the most important laws in the Cayman Islands. It is important because we have a small population and therefore, the amount of persons who are within these Islands at any one time, and the ways which they are employed or reside, impacts very heavily upon Caymanians as a whole.

This law, makes certain changes but in whole, or overall it substantially repeats a substantial amount of the previous law which has been tested over the ages, since March 1972 and as it has been amended throughout the years. It is, however, important that the Law be kept up to date, that as circumstances change and as the Islands develop that there is a constant updating to ensure that people are dealt with in an equitable way to ensure that progress continues and also to ensure that there are the necessary controls on immigration, which are necessary, I think, for shaping the future of the Cayman Islands.

I had hoped that this Bill would have been moved off and dealt with perhaps in September. I mentioned earlier in Committee and I repeat here that I do not believe that sufficient time has been given to fully digest this by the public and to give us the necessary feedback. I have, however, seen and I know there have been extensive representation throughout the three years, by different bodies and by different persons and I think this is good. I know that the Committee gave as much time as it could having regard to the other Select Committees, especially the Constitution Committee and I am not attempting as such, to point a finger at anyone, however, I personally feel and I support the Chamber of Commerce and the other organizations who have requested more time on it.

The Bill is complex. It is important and I believe that it does take a considerable amount of time for people to get into it and really come to grips with the different areas of it. Since the Bill was published, I think over a month ago, there have been some comment on it. Luckily, the Press has made comments in different areas and I know that the Chamber of Commerce has and so has the Young Cayman Businessmen's Association and others. We took a long time on this and while some of it was lost through the Constitutional Committee, a lot of it was spent in very deep debate and looking at all aspects of the Bill because it is one that will shape the future of this country and we have to get it as right as it can be. Having said that, Madam Speaker, I intend now to move on and debate areas of the Bill that I have concerns in relation to. Some of these have already been expressed in the minutes of the Select Committee on Immigration, and I do not intend on this Second Reading to go into all major areas of the Bill.

I would like to commend the Chairman, the Honourable First

Official Member, Chief Secretary on his chairing of this and his patience throughout the past three years in dealing with what became at times very controversial and sometimes nearly everyone on the Committee had a different view on certain areas of it. His ability to pull it all together and get some consensus out of the Bill is good. In relation to the establishment of the Immigration Board, there was a reduction it and as other Members have mentioned, we are now taking one Member from each district.

I personally felt, and I mention there, that a further three persons could have been added to that board and to have either nominations by or after consultations with private sector bodies and get some representation from them which I think would have made the Board somewhat more rounded and more able to see both sides of arguments. The argument against that, Madam Speaker, this is one bill that I intend to put the advantages and disadvantages as best I can; the argument against it is that too large a board becomes unweilding. I agree with that. Secondly, that within the Members in each district, it is possible to have representation from the different organizations in those Members.

The giving of reasons for decisions and this is one I know that both the Chamber and I am dealing here really with representations and the Bill itself. I am not attempting to go back to the dozen or so representations that we had before the Bill went into a draft stage. I know both the Chamber and the Young Caymanian Businessmen's Association dealt with this point and the present law will amend the old law in that brief reasons will now be given when it rejects either applications for status, permanent residence or what are now called work permits. There was a feeling that this should have gone further and that there should have been rights of appeal beyond this to the court. While I understand perhaps, the reasoning behind this, there is in fact the equivalent of a limited appeal to the court, in that a prerogative writ which is basically a common law right by which if a decision has been made against the rules of natural justice, it can be either quashed or varied in some way so that the appeal, I am dealing here with appeal and reasons for appeal, do go a bit beyond the pure appeal and into Executive Council. It is not as much as the statutory right of appeal but I believe was really what some of the representations were in relation to. In any event, if there was a further appeal on to a court from the Executive Council or from an administrative body, more than likely it would only be an appeal in law. So, this prerogative writ goes some distance to cover that.

As to where the appeal goes, I feel that appeals in relation to work permits are in a different category than in relation to Caymanian status and permanent residence. I believe tat appeals on work permits could have gone to an administrative body which would have lifted a considerable load off of Executive Council because the bulk of appeals are in relation to work permits. Why the difference between those and status and permanent residence? Well, the granting of status and the appeals from it and the granting of permanent residence and the appeals from it deal with an extremely serious matter because Caymanian status is about the nearest that we can give in this Island to nationality. It is basically permanent residence without restrictions and the right to work or otherwise carrying with it also, the right to sit in this Honourable House and the right to vote. Further, permanent residence, once given, is once again a very serious right and I feel that there must be a different type of scrutiny relating to those matters which would only be a few rather than in relation to work permits which are not permanent as such. With a work permit, it is renewable, if mistakes are made, it is not as serious if status is granted.

The view that the appeals should be on those to the court, rather than to Executive Council, I disagree with. The representations made on that for the reason that Immigration in any country has to be dealt with as a policy of the Government as to where the country is going. In the United Kingdom, appeals in relation to nationality, for example, stop with the Minister. He alone makes the decisions. There is scope, and I know this, at times, for error but I believe that the Executive Council, owing its existence nearly to the people at large and having the duty to report to the public from time to time, is a body to which serious matters of appeal like that should lie. I would be prepared, even though there is not a majority of you on this, to say that Gainful Occupation Licence, as a work permit, could go to the body, leaving permanent residence with the right to work and status, going to Executive Council.

I would like to point out perhaps one of the dangers in this. A court of law makes its decision on fact and law, or in this instance, if it were an appeal, probably purely on law. In 1972 when I was acting Attorney General, a decision of the court at that time, basically stated that anyone who could show that they were domicile in this country prior to the 27th of March, 1972 would have status and it would have opened the flood gates of hundreds of people at that time who would have automatically had status. I took it on from the Grand Court into the Court of Appeal and there were I think, another two cases on it and in the end. We managed to get it considerably restricted and then some time shortly after, the question of domicile was further clarified and made somewhat more certain. In fact, we have gone even further I think and dealt with the question of domicile at this stage, which I think is good to turn it into a statutory definition.

I would be much happier with the direction of policy on Immigration being left or made by this legislature and/or the Executive Council. There was comment about who has a right to be heard before the Appellate Tribunal and who does not. As a lawyer, I agree that everyone who should be heard should be heard but in practical terms, many of the appeals as such that for the argument on it, would probably not assist very much. In fact, courts who appeal the highest courts in the United States and the United Kingdom, take written submissions on appeals and many times extremely limited argument orally, so I do not think that there will be any traverse of peoples rights there because there is a right that if it is felt that a person needs to be heard, then they can be heard.

The removal of eligible person and the concept, I agree with. The world has fortunately now become largely a democratic world, a lot of the barriers have been dropped and I think the original reasons for the limitations to the Commonwealth and our friendly countries are less important. Section 14 which deals with allowing status to a child, one parent of whom at the time of birth is domiciled, I agree with. At the time when eligible person was a part of the Law, it was felt then that it was important to differentiate but

I think that where you have one parent domicile, one parent with the status, then the difference between being born here or being born in the United States definitely should not come in to play.

In relation to the section that deals with illegitimate children acquiring status through the Caymanian parent, Caymanian father, that section, I think will now equitably permit a child who has a status which is not of his own making or bringing on, it is something that he is born with, bringing him into line in permitting that child to have status. Notwithstanding that he may not be legitimate, provided that his father has the qualifications that would have been necessary if he had been married to the child's mother and further that he takes to maintain his child. I think that the question of the maintenance of the child is very important because if it is one thing that I think in this life no one should escape, it is the maintenance and support of their children or their elderly family parents or whatever are within the near family.

If this status is going to be endowed on the father, then I think he should be man enough to support his child. That law needs considerable updating as to the amounts that fathers pay for maintenance. Moving the seven to ten years on status, I agree with. The next area for amendments were in relation to Section 15(8) which was a new provision to allow for application for grant of status without any residency if, at the time of the applicants birth, he or she was the legitimate child of a person of Caymanian status of a person by birth or by descent. This section I had a fair amount to say and I also gave it considerable amount of thought because I believe that notwithstanding that a person may have had a Caymanian parent, that person should spend some time in these Islands before he is permitted to apply for status.

The reason for this is that people not withstanding that they may be children of Caymanians, who have never been here, have no connections with here alternatively, may not be of the best character to come back to the Islands. If they are permitted to apply for status before a period of residency here, it is going to be extremely difficult to check their background and to check whether they genuinely could assist in and be beneficial to the Island. One of the arguments against what I have just said is that we have a lot of people abroad who should be given this right because they come back and they feel that through the connection of their parents that they should be in a stronger position to contribute to the Islands than perhaps someone with no connections. However, I go back again to my argument and that is that if somebody is coming here to get status, then I believe that there should be a period of having them around, seeing who they are and what they are going to do and also to give an opportunity of finding out about the persons police record and otherwise.

I know it only permits the application, I know it is discretionary but my big question is how do you really check a person who out of the blue makes an application, presumably from abroad. Another argument against it is that people who have good jobs do not want to give them up unless they have the security of tenure, but I believe a work permit could be issued for say two years or three years and they could be told that they were in a privileged position for status after they had spent a bit of time, so I personally do not agree with that section.

The Section on the loss of status 18(1)(e), I have no problems with the increase from three to five years in that. I know the Chamber of Commerce mentioned at one stage that there should have been a closer link with the labour Office and I believe the view that some of these things can be done administratively is perhaps the better way of dealing with some of them such as that. The question of whether status should be abolished or not. My view is that Caymanian status should remain but that it should be extremely limited. I use the word extremely because I believe that the Cayman Islands have been made up of many people who over a period of time here have worked amongst us and have contributed a lot. I would be against abolishing it totally, but I really believe that it should only be given in very limited instances, the quota, for example, as ten per annum and that, I think, is the type of number we can deal with. There will be people who deserve it and I think same amount of people from here get citizenship elsewhere; provided it is limited, then it should be continued.

I was for putting the number, the quota, in the Law, it was felt by the majority it should not be done. The argument I had was that at least we would know with certainty how much it was, the argument against that, is that Executive Council would fix the quota and have the flexibility as to whether that ten should be twenty or whether it should be two, or whatever.

I have no real strong feelings there because I feel that any Executive Council would have enough common sense to fix it early because this is an important area and they would review it from time to time. The loss of Caymanian status by a spouse 18(1)(b)(ii)(b), where the Board itself has given a discretion as to whether the marriage has irretrievably broken down. I appreciate that goes a bit off the beaten track in Immigration Laws, however, I do believe it is one of the two clauses that will now be seen as a means of stopping marriages of convenience which have become a problem. So, rather than have to have what in the past was either divorce or a legal separation, then we have a situation whereby the Immigration Board would now be making a decision as to whether they felt the marriage had broken down.

A further proviso in that same section, provides that if within three months of the date of the loss of status by a spouse under the section, the spouse may, if more than five years have elapsed, since the spouse began to possess Caymanian status by virtue of marriage, apply to the Board requesting that the Board continue Caymanian status and that person will continue to have Caymanian status until the Board makes a decision.

That, I think, will avoid what many times becomes the crucial decision in whether couples divorce or separate which is whether they continue to have status or whether they cease to have status. The section giving the Board discretion and especially with the proviso, I support that. Notification to the Board of the loss of status through marriage, I support, that is, by the person who has lost it.

In Clause 19, under the previous law, whenever a person was convicted, status could only be taken away if the Court recommended it. That has now been changed so that once there is a conviction, the Board, without a recommendation by the Court, can make a decision as to whether the offence is one that falls within the section which provides that he must be sentenced to an immediate term of

imprisonment of twelve months or more. Then they can decide after the person has been convicted and sentences to one year as to whether they wish to revoke status or not. If it is a serious enough matter, they will, if it really is not, then they probably would not. It is an immediate term of imprisonment, so it would exclude the suspended sentence and would actually have to be an actual sentence of twelve months.

I would assume it is not in here, but naturally, the Board would wait until all of the appeals had been exhausted in relation to the sentence before they invoked their powers to revoke status. I think this is very important because unfortunately we do get people married to Caymanians, male or female who commit serious crimes and then I feel the Board should have this discretion. The Board will have to weigh naturally, the effect and the impact upon the family as a whole. If there are children involved, children to support, then naturally this would be taken into consideration as well but the power is theirs and it is not limited to what the Court recommends.

Moving on to the provisions relating to permanent residents, I found, beginning at Section 20 and going through to Section 25 that permanent residents with a right to work is such, that the Board may attach to it such conditions in relation to the right to work as it so wishes. Where this differs from Caymanian status, and where I feel it will cover the gap to give security of tenure to people who deserve it, in circumstances where perhaps Caymanian status was given in the past, but which will give to Caymanians the protection that they need, is found in this section.

Madam Speaker, it is substantially the section that was in the 1984 law. The difference between this and status is, where it is felt that a person deserves to be granted permanent residence with a right to work, but it is felt that the right to work should not be an unlimited right to work, but limited in some way as to either time or as to a specific Island or as to the category that a person can work, then in the interest of the Island, they can grant permanent residence with a right to work. Like I said, this can either be a range from a work permit in the category that the person now works, whatever that occupation may be, and it can be granted for several occupations, it can be granted for a period of years, five years or ten years if the feeling is that that is the length of time that it would take for Caymanians to fill those positions, or it can be granted for life. It does not necessarily, have to be restricted to one occupation. There is a power even to go back to vary it. For example, if you have someone in a category and five years or ten years down the line there is a greater need in another category, it can go back to the Board and they can vary the right to work.

I see it as an alternative to status which has the advantage to the foreign person here in that they have security of tenure from the point of view that grant is permanent and fixed, either for a period of time or whatever and they know with certainty exactly where they are. It has the advantage to Caymanians that it will keep the person in the area of work that is needed in the Islands and will not permit the person to go out and work in any other area of work, which is the disadvantage that Caymanian status had. There was no restriction on what a person could do, so you could find a person who was maybe, take the profession I am in, a lawyer, granted status, and the following day he could go into something in the dive business or retail or other areas that are presently very substantially filled by Caymanians and are highly competitive.

I think that this section is going to go a long way towards harnessing a lot of the discontent that we have had in relation to people who have been here for a long period of time. There is a specific directive in there that would apply to a small category of people who have been here for either 15 or 20 years, who can apply under that section for permanent residence with the right to work and they are put in a privileged position from the application point of view.

There is power in the Board to take away permanent residence and for loss of permanent residence which are substantially along the lines of Caymanian status. Both in relation to the grant and loss of permanent residency with a right to work the provisions are substantially similar. The old category of permanent residence which is permanent residence more for retirees without a right to work, remains in the Law and as was mentioned earlier, I would hope that the necessary qualifications such as property or contribution economically into the Islands, in relation to the people, would be revised from time to time. These, many times, are people who can also contribute. There are retirees who may have a specialist area or a profession that we need locally and provided that when all of the considerations by the Board are gone through, they feel that that type of person should have permanent residency, or alternatively permanent residence with the right to work, they have the discretion to grant it.

Changing the name of the Law and changing Gainful Occupation License to Work Permit, I think, is keeping up with the times. The matters which the Immigration Board will have to look at in relation to Work Permits has been substantially strengthened. I would like to just read these through and by the way, there are many of these that are similar to what are needed for status and permanent residence, but I will read these rather than attempting to go through the two different categories.

It says; the Board, in considering any application, shall, subject to any general directions which the Governor and Council may from time to time give in respect of the consideration of such application, take particularly into account-

(a) the character, reputation and health of the person whose gainful occupation is sought to be authorised (hereinafter in this section referred to as "the worker") and where relevant, of any member of his household;

(b) the professional or technical qualifications of the worker;

(c) the availability of the services of persons already resident in the Islands;

(d) the protection of local interests and in particular those of persons of Caymanian status;

(e) the economic and social benefit which the worker may bring to the Islands or enhance by his presence;

(f) the sufficiency of the resources or proposed salary of the worker and his ability adequately to maintain his dependants;

(g) as to whether the worker has a sufficient knowledge of the English language;

(h) the hardship that may be caused to the spouse and the dependents of the worker;

(i) the location, type and adequacy and suitability of the accommodation available for the worker and his dependants, if any, throughout the term of the work permit sought;

(j) in the case of professional, managerial or skilled occupations, whether the prospective employer has established an adequate training programme to ensure that a Caymanian is being trained to fill the position;

(k) generally, the requirements of the community as a whole and such other matters as may arise from the application."

The criteria upon which the Board has to make its decision as to whether a person gets a Work Permit or not, I think that that is as comprehensive as it can go.

What we have added in relation to training programme is also very important, because it will avoid the criticism that advertisements put in the newspaper are tailor made toward a specific applicant and therefore precludes persons, either residents or Caymanians who could apply for the position. This I think is important because it is a duty on employers and in fact it is in their interest economically, to train their Caymanian employees to fill positions.

The other new section that was added was as to the availability of proper housing. This country has at present a very serious housing problem, where we have workers, mainly in the unskilled category living in accommodation which is substandard. It is a problem that is quite large and covers, I think, a large sector of the working force and it is one that has to be dealt with in the near future by the Government. It is not going to be a simple matter to deal with it, but I believe that this Bill now, is beginning to come to grips with the new persons coming in, to ensure that they are paid enough and that they have proper accommodation to live the way that human beings requiring the basic necessities of life can live. I hope that the Board will enforce both of these new provisions when making its decisions on applications. As I said, this long list of considerations are fairly similar to those for Caymanian status and permanent residence.

Another section deals with the Governor in Council being able to exempt categories or persons from Work Permits and one of the excluded categories by law, not by the Governor in Council himself, is persons who are employed by Government. I believe that every representation, before the Law was drafted and after, have stated that they felt that this law should apply to Civil Servants. Obviously, the principle behind it being that all people being equal under the Law, one general law should apply to everybody. The feeling has been strong from the public, the feedback I have received, that something should be done in this area. Now, I appreciate that under the Constitution, the Civil Service is exempted and remains under the Governor who normally delegates this to the Chief Secretary in many respects and that there is a Public Service Commission.

I know that legally, there is no way that we could take and just apply this to the Civil Service. I believe, however, that sufficient has been said that the Chief Secretary realises that the principles similar to those in the Law should apply; it is obvious that all cannot apply.

As was done with the Labour Law, which went somewhat further really, than we can go in the Protection Law, if substantially the same principles are being applied, then I believe that we will achieve what is necessary from the feeling of the public and we will also remain within the Constitution and provide the independence to the Civil Service, which I think is crucial to any country. There are many areas that I find no conflict between the Civil Service following on its applications and promotions and indeed the policy of Caymanianization which has existed throughout just about all the Governments that I have known, provide one of the main criteria for carrying out the principles that are laid down in the Immigration Law.

I believe that while not being able to directly deal with the matter through this law, that in practice, the employment through the Civil Service and the employment in the private sector will come nearer together on the basic principles that are found in this law. The Civil Service is naturally covered by separate regulations and rules.

MADAM SPEAKER: Honourable Member would you take a suspension at this time? The House will be suspended for fifteen minutes.

AT 3:27 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 3:50 P.M.

MADAM SPEAKER: Third Elected Member for George Town continuing the debate.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Another area is Clause 44 that provides that there must be a reporting of a birth of a child on the Islands so that there can be proper immigration controls. Perhaps one of the most innovative but important sections is 77; this deals with marriages of convenience. For years now we have seen instances where persons are married and very shortly after they separate and go their way, but remain with Caymanian status which is acquired through marriage.

This section deals with where two persons wilfully enter into a fraudulent marriage with the primary intention of avoiding any of the provisions of the Immigration Law or with the intention of obtaining any benefit under the Law. It carries an offence of a maximum of one year and a fine of $10,000.00 maximum or both. I know that some of the representation criticised the wording of this, but believe me a lot of the time and effort was put in on it and it is not the type of clause that one can take as a precedent from elsewhere. Its aim is to stop the marriages of convenience and I hope that it goes a long way towards doing so.

As I mentioned earlier there is an earlier clause in relation to Immigration Board having the right, where in its discretion, it feels that the marriage has irretrievably broken down that it too may revoke status. Between the two of these, I believe that it probably goes as far as we can at present, to effectively deal with this problem. Another main area of problem similar to this is that of fronting. These laws do not cover that and in the upcoming Select Committee of this House, that will be dealing with the local companies control law on the trade and business. It will be dealt with under those.

In relation to temporary work permits, I would merely state a caution in relation to these that I believe the Board should monitor these very carefully because there have been times in the past when very large amounts of temporary permits were issued and that can throw the balance of Immigration out. For example, you may be relying on the grant of a permanent work permit and you may have substantial amounts of these temporary work permits out at the same time. It is even more important to monitor it now because the time has been extended up to three months and there is a power for a further extension for I think of three months as well, if the Chief Immigration Officer finds that the circumstances for the extension could not be foreseeable at the time the application was made.

The Immigration Board should be endeavoring to have a balance in the number of foreign persons in the Island residing and Caymanians I believe, have an overriding duty to see that the Caymanian race, if I may call it that, is protected and that we are not overrun with foreign nationals. I also believe that in the time of recession the refusal of new applications and the careful consideration or necessary refusal of work permits in areas where Caymanians are out of employment is one way of dealing with keeping down unemployment within the Islands. That is why I think the monitoring of the temporary permits now that they have been made longer becomes very crucial to the balance that we have overall on the control of work permits and foreign nationals here.

While I accept that we need foreign nationals in the Islands and indeed they have been built with the assistance of people from other countries, I believe that we have to monitor very closely this balance and the duty falls heavily on the Executive Council and the Immigration Board as it will now be called to see that in times when we have unemployment that the necessary liaison exists with the labour Board to see that work permits are not being issued unnecessarily and in categories that can be filled by Caymanians. Perhaps the one important thing that is not in this law and perhaps it is best dealt with administratively is that there has to be communication between the Immigration Board the Public Service Commission the Trade and labour Board and also the Central Planning Authority. There has been as I understand it, and understanding, you cannot necessarily call it an undertaking that from the administrative point of view, and I believe in relation to one of those , there is something in the Law from an administrative point of view, we will be having the necessary communications and liaison and necessary, actually having persons co-opted from these different areas who would either sit in on the Boards deliberations when relevant or in some way would be present to be available when needed to insure that we do not have a situation, whereby, for example, the Immigration Board refuses a permit for someone in the private sector and we find that a week or two later he turns up in employment with Government or vice-versa, Government does not employ someone and then they turn up with a Gainful Occupation License in the private sector.

Very important is the position when large projects are being dealt with such as hotels for example. I think that it is crucial that there be proper scrutiny and liaison between the Planning Board and the Protection Board and also the labour and someone out of the Executive Council of the Government so that we do not have a situation where the permits are issued by one body even if they do make it conditional on the permits from some other body such as planning, giving approvals subject to the Protection Board or vice-versa, but that there is liaison between the relevant bodies to ensure that a project is looked at overall and that there are proper communications between their respective bodies. This I think, cannot be overemphasized.

One of the biggest problems that we have, I think in areas of Government, from time to time, is a lack of communication. It is easy for this to happen because the Immigration Board is sitting as such as a monopoly. There is no other Immigration Board so the Planning Board and Government has to be looked at from the point of view that it provides the only services in certain areas and they have to be built in checks and balances to ensure that one arm of Government knows what the other arm of Government is doing. So, I would hope and I know that that understanding is there and that there is going to be the necessary liaison throughout the four important areas of Government that deal with labour.

Madam Speaker, this law is complex and it is important. I would have liked more time to have been able to get further feedback and consider the different important areas that we are changing. However, I will naturally, be supporting the Bill, I think that overall it is good. There are areas which I objected to which I mentioned but I accept the rule in a democracy that there are going to be times when not everyone can get their way, not even Executive Council from time to time. I too believe that in the final analysis, the

important aspect of Immigration is going to be how the Board is going to deal with Immigration itself. It is going to be how Executive Council deals with it. While this law provides the framework on which good immigration can be carried out, it ultimately rests very heavily and I repeat, very heavily on the shoulders of the members of the Immigration Board to continue to do their important job fairly and equitably in accordance with the Law and in accordance with the overriding policy relating to immigration to these Islands which is basically what the Government accepts and what it has published in relation to the private sector - that is, that Caymanianization of the work force within the service has to be one of the main considerations in dealing with persons who come to the Cayman Islands.

I realise also, that on the opposite side, the Board has to be fair in relation to its decisions made to foreign nationals because nothing would hurt us worse than having arbitrary or bad decisions made especially in relation to nationals of a friendly country. The balance is not an easy one but I believe Protection Boards in the past have done a good job and I believe that the Immigration Board, as it will then be called in the future, will continue to do a good job. I commend, as I did earlier, the Honourable Chief Secretary on producing this complex and difficult law and I know that it will be beneficial to the Cayman Islands as a whole. Thank you.

MADAM SPEAKER: Would any other Member wish to continue the debate? If not I shall ask the mover if he would exercise his right to reply.

HON. J. LEMUEL HURLSTON: Madam Speaker, I would like to thank members for their contributions to the Second Reading Debate on this Bill. It has been thoroughly debated and has been in the manner in which I anticipated it, very noncontentious. The matter being as complex as it has been acknowledged to be is not one that is readily going to be a panacea or a solution to everyone's problems, nor does it purport to contain any element of salvation although some members of the public have traditionally looked at immigration matters as being their first recourse in some instances.

The contributions I believe have identified a range of issues that were grappled with in the period of review, and they range from the question of structure and procedure down to the question of balance and integrity. Note has also been taken of a distinction between our complex piece of immigration legislation which grants the right to live and work in the country vis a vis the granting of nationality which is imposed under the provisions of the British Nationality Act. This, Madam Speaker, is what makes the administration of this or any such legislation more complex, because we are working with two separate pieces of legislation both of which impact upon a persons ability to legally remain and work in the country.

It is true that the public sector is in some respects regulated in a slightly different fashion than is the private sector for purposes of immigration control and that I fear is the traditional situation that one will find in most countries; that the public sector cannot always be regulated in the identical fashion as is the private sector. However, as was noted, there is an arrangement within the public sector whereby the Public Service Commission, attempts to regulate employment practices in the public sector, bearing in mind at all times the current policies as they relate to employment in the private sector, so that the public sector is very sensitive and conscious of the policies and wherever possible, these are applied within the context of the public service.

I am grateful that Members have noted that historically the Cayman Islands are known for their racial and social harmony and that this has contributed to the balance growth that we have experienced in the last quarter of a century and I have every confidence that that balance and harmony, if properly regarded will serve us well for the next quarter of a century and beyond. Madam Speaker, there is no doubt that it takes the expatriates and Caymanians working together for us to be completely successful and one cannot over-emphasise the importance of maintaining that balance.

One Member commented and took the point that perhaps insufficient time was given to the public to adequately and sufficiently digest the Bill. These comments have been made by other organizations and persons within the community and these have been noted by the Select Committee and by the Government. However, Madam Speaker, we are about seven weeks since the Bill was first issued to the public on the 19th of May and time is a relative commodity. The more time one tends to give, the more time one tends to want. There is really nothing of great substance that the Committee was minded to reconsider that would have taken recommittal of the Bill for further amendments at this stage, and it was therefore decided not to defer the bringing forward of the Bill until September because September has an agenda for itself which is already considerably crowded.

The inclusion of the new composition of the Board to not include three representatives from the private sector, as was suggested by the Third Elected Member for George Town, was considered and we decided to leave it with a Chairman, Deputy Chairman and six members, one each from the districts because when we get into selecting representatives of various professional or interest groups, we run the risk of those representatives feeling somewhat loyal to the organizations who were responsible for their nomination or selection, in creating a potential conflict of loyalty between the representative and the Board. We thought that perhaps it was better to leave the selection of the Board entirely into the hands of the Executive Council because at the end of the day, and this is something that I keep repeating, Members of the Board are appointed by virtue of their being Caymanians. This is where the responsibility must lie.

As long as the control for the growth and development of the country is made by Caymanians, then Caymanians have no one else to blame but themselves. There is every reason to believe that the Board will continue to discharge the responsibility with the forethought, the care and thoroughness that the present and past Boards have attempted to do. The fixing of quotas, Madam Speaker, whether by statute or by publishing directives, makes very little difference at the end of the day but it was decided

to leave it to the Executive Council to establish the quota to be published in the Gazette because in that way, the Executive Council of the day can have regard to the general economic situation of the country when fixing the quota.

On the question of liaison with the Central Planning Authority, the Public Service Commission and the labour Office, I can give the assurance to this Honourable House that as much coordination and interfacing as practicable and possible will be carried out as this law is fairly administered. I would just like to finally, Madam Speaker, explain that there is no need to fear that we are going to have a build up and a repetition of the kind of backlog that we are experiencing at the moment with long term residents because six years ago, or five and a half years ago now, the Government, recognizing that we were having an imbalance between our labour need and our population growth, introduced a new immigration policy that was aimed at balancing that problem.

In August 1987, the Government introduced some short term immigration policies that were designed to provide short term immigration or labour needs whilst at the same time preventing a build up of long term residency. This policy was reflected in what is now known as the short term work permits. These are permits that are granted for specific short lengths of time but in any event for not more than two years. At the end of whatever period the permit is granted for, the applicant must leave the Island forthwith, and must not return unless they have been absent from the Islands for a minimum of six months. That policy has worked well and will continue to be rigidly applied. That is a policy, Madam Speaker, that I hope is going to prevent a continuous build up of persons who are here for long periods of time on work permits and eventually exercise some moral expectation for preferential treatment.

The Cayman Islands, like the British Government, Madam Speaker, recognizes dual nationality and therefore does not require persons to denounce their existing nationality upon taking up the nationality of the Cayman Islands. We have to remain in tandem with the provisions of the United Kingdom Government in this regard and that we have no choice in the matter. Madam Speaker, I am confident that this is the best product that the Select Committee was capable of generating and producing under the circumstances. It is not perfect, but it is the best we could do and I commend it as something that is not a radical departure from the previous legislation which in itself is a tribute to the framers of the original Protection Law because it has served us well, it has not required radical reform and it will hopefully serve us well in many years to come. Thank you.

MADAM SPEAKER: The question is the Bill entitled the Immigration Bill, 1992 be given a second reading?

QUESTION PUT: AGREED. THE IMMIGRATION BILL, 1992, GIVEN A SECOND READING.

THE SUPPLEMENTARY APPROPRIATION (1990) BILL, 1992

CLERK: The Supplementary Appropriation (1990)Bill, 1992.

MADAM SPEAKER: The Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I move the Second Reading of a Bill entitled, The Supplementary Appropriation (1990) Bill, 1992.

MADAM SPEAKER: Would you like to speak to the Bill?

HON. GEORGE A. McCARTHY, JP. Yes, Madam Speaker. This Bill seeks to allow and confirm certain supplementary expenditure during the financial year ended 1990. Section 9 of the Public Finance and Audit Law 1985 provides that if at the close of account for any financial year it is found that expenditure carried to any head is in excess of the sum appropriated for that head by the Appropriation Law, the excess shall be included in a supplementary appropriation bill which shall be introduced into the Legislative Assembly as soon as practicable after the close of the financial year to which that excess expenditure relates.

Madam Speaker, it is in accordance with this provision that this Bill is being introduced to confirm excess expenditure against various heads amounting to $13,857,179.00 for the year ending December 31, 1990. Madam Speaker, a breakdown of the sum of $13, 857,179.00 is as follows by departments:

His Excellency the Governor	49,009.00
Auditor General	46,350.00
Public Service Commission	70,493.00
Finance Development	2,216,314.00
Banking Inspectorate	73,213.00
Customs	340,934.00
Legislative	184,993.00
Marine Survey	78,235.00
Registrar General	98,073.00
Statistics	50,771.00
Treasury	74,862.00
Judicial	142,803.00

Legal	114,148.00
Internal and External Affairs	231,447.00
Broadcasting	8,277.00
Immigration	266,843.00
Police	1,280,857.00
Prison	434,910.00
District Administration	558,508.00
Tourism, Aviation & Trade Administration	35,159.00
Fire	434,784.00
Tourism	131,604.00
Trade and Labour	34,690.00
Education, Environment, Recreation & Culture Administration	147,178.00
Education	2,311,945.00
Health and Social Services Administration	238,288.00
Medical Health Services	2,098,531.00
Social Services	150,846.00
Communication, Works and Agriculture Administration	44,352.00
Agriculture	207,930.00
Mosquito Research and Control Unit	187,791.00
Lands and Survey	137,441.00
Planning	62,015.00
Postal	936.00
Public Works	1,312,649.00
Total	$13,857,179.00

Madam Speaker, with the exception of the amounts totaling $390,578.00, all of the amounts comprising this sum of $13, 857,179.00 were approved at various meetings of Finance Committee during the course of the year. The expenditure of $390,578.00 which were not approved by Finance Committee were incurred by the following departments.

Public Service Commission	35,393.00
Prison	3,910.00
Health & Social Services Administration	187,652.00
Medical Health Services	70,631.00
Public Works	92,992.00

With the exception of the Public Service Commission, over expenditure was less than 1% of the respective departments budgets for the year. The excess by the Public Service Commission approximated 11% of its budget and was due to added recruitment costs. Given the explanation provided for the excess expenditure, I recommend to this Honourable House the Bill entitled, The Supplementary Appropriation (1990) Bill, 1992 which seeks to allow and confirm certain supplementary expenditure during the financial year 1990.

I thank you.

MADAM SPEAKER: Thank you Honourable Member.

The question is that a Bill entitled, The Supplementary Appropriation (1990) Bill, 1992, be given a second reading and as the hour is now late, the debate will take place on Monday. May I ask for the adjournment motion please?

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move this Honourable House do now adjourn until 10:00 on Monday, 13th of July.

MADAM SPEAKER: The question is the House do now adjourn until Monday morning 10:00. I shall put the question.

QUESTION PUT: AGREED.

AT 4:29 P.M., THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., MONDAY, 13TH JULY, 1992.

MONDAY
13TH JULY, 1992
10:08 A.M.

MADAM SPEAKER: Prayers by the First Elected Member for Cayman Brac and Little Cayman.

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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly and the Speaker that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings in the Legislative Assembly are resumed. Questions, Honourable Members. The First Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 143: Would the Honourable Member say how many Caymanian teachers are in training at institutions abroad at this time?

ANSWER: Two Caymanian teachers only are in training at this time. A further five teachers are scheduled to go off for training during the coming school year. These include two teachers who have received Commonwealth Scholarships.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you very kindly, Madam Speaker. I would like to ask the Honourable Member if there is any programme in place which concentrates on the recruitment of school leavers into the teaching profession and if there are any incentives given to teachers currently in the profession for further or ongoing education with a view of remaining in the profession?

HON. BENSON O. EBANKS: Madam Speaker, I gave a detailed answer to the first part of that question during the first part of this meeting. I think maybe we should try to understand what we are dealing with here, whether we are dealing with Caymanian teachers or Caymanians who are training to become teachers. I am not sure because it seems to be a mixture of both that the Member is asking about.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Madam Speaker, in light of the point just made by the Member, could the Member say how many Caymanians are actually doing training abroad?

HON. BENSON O. EBANKS: Yes, Madam Speaker. There are 10 abroad at the moment and eight scholarships have been awarded to commence this year making a total of 18 Caymanians to be trained as teachers.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: I wonder if the Member could say if the Government has any special disposition towards sending Caymanian teachers to a particular jurisdiction to be trained, or if the system still exists where Caymanians are allowed to go to any institution once it is accredited?

HON. BENSON O. EBANKS: Madam Speaker, the position is that scholarships will be granted to any institution once it is accredited, nevertheless, the Education Council will grant a full scholarship for students electing to attend the University of the West Indies as opposed to a partial scholarship.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say if the system has changed from how it was years ago in that Caymanians who were sent abroad to be trained as teachers, the emphasis was placed on teacher training. That is, acquiring proficiency in certain subjects that had to do with classroom management, etcetera, if this is still the case or has it changed because most institutions now grant a degree in Education? How does this differ from teacher training as we knew it during the days when Caymanian students went to Mico and Shortwood?

HON. BENSON O. EBANKS: Madam Speaker, the emphasis is still on teacher training. Nevertheless, as the Member would probably recognise, institutions such as Mico are specifically teacher training institutions and the systems today encourages a prospective teacher to obtain a degree and teacher training input as well.

MADAM SPEAKER: If there are no further supplementaries, the next question is No. 144 standing in the name of the First Elected Member for Bodden Town.

THE ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 144: Would the Honourable Member say what provision is made for the employment of returning Caymanian university students during their summer holidays?

ANSWER: The Personnel Department has had a long-standing policy of employing Caymanian university students on Government scholarship with Government Departments for the summer, as far as departmental budgets allow. As a refinement to the process of summer placements, this year (1992), in accordance with the intention stated in the November 1991 Budget Address, a more formal summer internship programme has been introduced, open to all Caymanian university students and involving both public and private sector employers. The aims of the programme are as follows:

(1) to provide Caymanian university students with structured, meaningful summer-work experience relevant to their studies;

(2) to offer the student interns vocational/occupation counselling in the context of the summer job performance as evaluated; and

(3) as a longer-term goal to establish, wherever possible, links with the interns' academic institutions to arrange for work experience gained to contribute to degree requirements.

The programme represents a new initiative in the area of human resource development from an economy-wide perspective.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you very kindly, Madam Speaker.
I wonder if the Honourable Member could say if the summer employment has to be applied for by the student or are there provisions made so that automatically students can be accommodated whether they apply beforehand or not?

HON. J. LEMUEL HURLSTON: Madam Speaker, the initiative lies with the students who must initiate the inquiry and express the interest in order to participate in the programme.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker.
I wonder then, if the Honourable Member is in a position to say if there is any liaison with the Portfolio of Education so that realistic assessment of the numbers of students which would be seeking such employment can be honed or calculated to the point where there are no significant numbers omitted?

HON. J. LEMUEL HURLSTON: Yes, Madam Speaker, there is continuous liaison and the programme in its first year has so far had a successful placement rate of 76%. Currently, 28 Caymanian students have applied and have been placed through the programme. A total of 43 university students applied, six subsequently advised us that they had secured jobs on their own. Discounting those six, the programme has therefore had a successful rate in its first year of 76%.

MR. ROY BODDEN: Thank you, Madam Speaker.
I would like to ask the Honourable Member if this programme is exclusively reserved for Caymanian students or is it also open to students who are the offspring of foreign nationals who have been working in this country or are temporary residents?

HON. J. LEMUEL HURLSTON: Madam Speaker, the programme is available exclusively to Caymanians. No non-Caymanians are eligible for this programme.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker.
Through you, would the Honourable Member say whether the programme also cover Caymanian students who may now be doing their A levels?

HON. J. LEMUEL HURLSTON: No, Madam Speaker.
The Personnel Department continues to offer A level students summer employment wherever the opportunity may arise. This particular programme is limited to returning university students.

MADAM SPEAKER: If there is no further supplementary, the next question is No. 145 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THE SECOND OFFICIAL MEMBER RESPONSIBLE FOR LEGAL ADMINISTRATION

NO. 145: Will the Honourable Member state the current number of Caymanian and foreign students enrolled at the Cayman Islands Law School?

ANSWER: There are 33 Caymanian students and 10 non-Caymanian students enrolled at the Cayman Islands Law School.

SUPPLEMENTARIES:

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker.
I wonder if the Honourable Member could say if there is at present a quota which limits the enrollment of non-Caymanian students in the law school?

HON. ANTHONY SMELLIE: Thank you, Madam Speaker. Yes we can respond to the Honourable Members supplementary.
The Legal Advisory Council took a decision that the number of places will be limited to the physical facilities available and that has been estimated at somewhere around 20 places. Of course the decision has also been taken that those place will be available, first of all, to qualified Caymanians.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker.
I wonder if the Honourable Member can say if there are any Caymanian students enrolled at the law school who are not articled to a firm, either to a private or public sector?

HON. ANTHONY SMELLIE: Madam Speaker, in that regard, a distinction needs to be struck

between the old degree professional qualification course and the new course. The old course, which was a five year programme required articles throughout the tenure of the course. In that regard, all the students except one had articles either in the private or public sector.

In relation to the new programme, that is a programme that is structured for a degree for the first three years, followed by a period of articles. In that regard we will not be able to know just how successful applicants will be for articles until after the first three years of the degree programme.

MR. GILBERT A. McLEAN: Could the Member say if any of the non-Caymanian students now in the law school, are doing articles at any of our law firms?

HON. ANTHONY SMELLIE: The answer to that supplementary, Madam Speaker, is no.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, has the Government given any consideration to expanding the accommodation at the school?

HON. ANTHONY SMELLIE: No, Madam Speaker.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker.
Through you, would the Honourable Member know how the breakdown of these Caymanians or non-Caymanians in courses were? If not, I would take the answer in writing.

HON. ANTHONY SMELLIE: That answer can provided. It answers as follows: In the programme the Diploma in Legal Studies, 13 students, nine Caymanian, four non-Caymanian. In the four year Liverpool Bachelor of Law Programme, there is one student, a Caymanian. In the Professional Qualification Course, this is the latter two years of a five year programme, there is one student, a Caymanian. In the five year Attorney at Law Course, there are 13 students, 11 Caymanians, two non-Caymanians, both of whom of course, require and have obtained Executive Council approval to enroll. In the three year Honours L.L.B. programme there are 15 students, 11 Caymanian and four non-Caymanians.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker.
I wonder if the Honourable Member is in a position to say whether the non-Caymanian students enrolled at the law school are the children of non-Caymanians who are working or residing in this society or whether they are persons who have enrolled from overseas, without having any connection to the Cayman Islands?

HON. ANTHONY SMELLIE: Madam Speaker, in response to that last supplementary, there is a mixture of both categories of persons, having Caymanian connections and having no Caymanian connections.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman

MR. GILBERT A. McLEAN: Thank you, Madam Speaker.
The next question is in two parts, as there seems to be a keen interest from the students in the society here to study law, has any thought been given to providing legal studies in night school and also, is it a fact that the school or the authorities connected with the school have received representation from various law firms, not to increase the number of lawyers here from the point of view that it is going to have a diminishing effect on the earning capabilities in terms of numbers with employers?

HON. ANTHONY SMELLIE: Thank you, Madam Speaker. As regards to the first aspect of that supplementary, the matter was considered, however, the decision was made not to offer night school for these purposes simply because of the limitations on physical facilities and the limitations in the faculty. As regards to representation from local law firms on representation of the numbers, there have been representations and they have been considered by the Legal Advisory Council. Those representations, I am advised, were to some extent taken into consideration when the quota which we mentioned earlier was decided upon.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Through you, would the Honourable Member say whether there have been problems with the students in getting articles with law firms and I think he mentioned earlier a quota of 20 has been put as a maximum at one time, is that what it was?

HON. ANTHONY SMELLIE: Madam Speaker, there have always been limits on the number of articles available. Much depends on the willingness of to provide articles and the quota which was mentioned

earlier is the number of available spaces for any first year intake.

MADAM SPEAKER: If there are no further Supplementaries, that will conclude Question Time for this morning. We next proceed to Government Business. Second Reading Debate of the Supplementary Appropriation (1990) Bill, 1992.

GOVERNMENT BUSINESS

BILLS:

SECOND READING

THE SUPPLEMENTARY APPROPRIATION (1990) BILL, 1992

MADAM SPEAKER: The question is open for debate.

It would appear as if no Member is willing to debate the Supplementary Appropriation (1990) Law, 1992. If not, I will ask the Honourable Third Official Member if he would like to conclude the Second Reading debate with further comments.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I would like to say thanks to Honourable Members for allowing this Bill. As I pointed out during its introduction, it is a standard procedure to deal with over-expenditures occurring within any given year. This would have been taken up with the various meetings of Finance Committee that were held. Therefore, there are not any items on there that are new other than the over-expenditure of $390,578 which fell outside the regular approvals of the Finance Committee meetings. The breakdown of this amount was given and also this was taken up separately during the Public Accounts Committee Meeting during the course of that year or in dealing with this account.

Thank you, Madam Speaker.

MADAM SPEAKER: The question is that the Supplementary Appropriation (1990) Bill, 1992 be given a Second Reading. I shall put the question.

QUESTION PUT: AGREED. THE SUPPLEMENTARY APPROPRIATION (1990) BILL, 1992 GIVEN A SECOND READING AND SET DOWN FOR THIRD READING (ref. S.O. 68).

MADAM SPEAKER: The House will now go into Committee on various Bills.

HOUSE IN COMMITTEE AT 11:37 A.M.

COMMITTEE ON BILLS

MADAM CHAIRMAN: Please be seated.

THE BAIL BILL, 1992

MADAM CHAIRMAN: The House is now in Committee to consider the Bail Bill, The Misuse of Drugs, Miscellaneous Amendments Bill, Juvenile Amendment Bill, Elections Amendment Bill, Companies Amendment Bill, the Merchant Shipping Bill, Immigration Bill and as is customary, the House I hope will agree to allow the Honourable Second Official Member to make any minor amendments to typographical errors etcetera in the bill. The first Bill is the Bail Bill (1992) and the Clerk will read the Clauses.

CLERK:
Clause 1 - Citation.
Clause 2 - Commencement.
Clause 3 - Interpretation.
Clause 4 - Bail in Criminal proceedings.
Clause 5 - Recognizance or security may be required.
Clause 6 - Surety or sureties may be required.
Clause 7 - Further requirements on the grant of bail.
Clause 8 - Conditions of bail.
Clause 9 - Decisions to be recorded and made available.
Clause 10- Person to be advised of any other right to bail.
Clause 11- Forfeiture of recognizance for security.

MADAM CHAIRMAN: The question is that Clauses one through 11 do form part of the Bill.

HON. ANTHONY SMELLIE: In respect of Clause 11, an amendment please. The insertion in sub-clause (1) line three, after the Word and Number Section (5), the Word and Number or Section 6, Words and

Number.

MADAM CHAIRMAN: Clause 11 is proposed to be amended in sub-clause (1) third line, after the Word and Number Section (5) the words "or Section 6." The question is open for debate. Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Madam Chairman, I just raise a few points on this that I had done a bit earlier. One of them is whether the word "written" could be put in, in relation to records. If Government is not so minded, I will not so move it. I think it was mainly in 9 (2) and a couple of the other sections. If they feel that this is going to be done in any event then it is not a point that I am really strong on.

HON. ANTHONY SMELLIE: I am sorry, Madam Chairman, I do not quite follow the Honourable Member.

MR. TRUMAN M. BODDEN: Sorry. Section 9, sub-section 2 for the word "record" where it appears in the third line to say "makes a written record." I know the court will, but I do not know if the Police Officer will or whether internally there may be Police regulations to cover that.

HON. ANTHONY SMELLIE: Would the Honourable Member be proposing that we have a regulation to require the Police to do that?

MR. TRUMAN M. BODDEN: If the regulations are going to do that, we need not do anything here, but I think it should be a written record by the Police.

HON. ANTHONY SMELLIE: So you would wish to have an amendment by inserting "written record."

MR. TRUMAN M. BODDEN: If the Crown is happy with that.

HON. ANTHONY SMELLIE: We have no objections to that.

MR. TRUMAN M. BODDEN: I would have to ask for leave, Madam Chairman.

MADAM CHAIRMAN: If the legal person is satisfied that we should make it a "written record," although I cannot see what other type of record would be there, if you are making a record....

HON. ANTHONY SMELLIE: I think it must be intended that it would be a written record.

MADAM CHAIRMAN: I would assume that.

HON. ANTHONY SMELLIE: The Honourable Member wants to have it expressed.

MADAM CHAIRMAN: I have no objection.

MR. TRUMAN M. BODDEN: I would so move it. Out of an abundance of caution I would so move it.

MADAM CHAIRMAN: Is there any debate put by Mr. Truman Bodden that in the third line of sub-clause (2) of Clause 9 the word "written" would appear before record of the decision.

MR. TRUMAN M. BODDEN: Madam Chairman, I would just like to second that to make certain that everything is in order.

MADAM CHAIRMAN: Certainly. I will now put the question and that I hope everyone understands what the proposed amendment is and I wish to ask for a vote on this.

QUESTION PUT: AGREED.

AMENDMENTS TO CLAUSES 9 AND 11 PASSED.

MADAM CHAIRMAN: The question is Clauses 1 through 11 with the amendments as have been agreed do stand part of the Bill.

QUESTION PUT: AGREED.

AMENDMENTS TO CLAUSES 1 AND 11 PASSED.

CLERK:
Clause 12 - Offence of not surrendering to custody.
Clause 13 - Arrest for failure to surrender to custody, etc.
Clause 14 - Arrest of persons on bail.
Clause 15 - Offence of agreeing to indemnify surety, etc.
Clause 16 - Subsequent applications for bail.

Clause 17 - Courts power to vary, etc., bail conditions.

MADAM CHAIRMAN: The question is that clauses 12 through 17 do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED. **AMENDMENTS TO CLAUSES 12 THROUGH 17 PASSED.**

CLERK: Clause 18 - Persons entitled to bail.
Clause 19 - General right to bail.
Clause 20 - Matters that may be taken into account.

MADAM CHAIRMAN: The question is that Clauses 18 through 20 of part 3 do stand part of the Bill. Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Madam Chairman, I had a question in relation to 19. In sub-section (a) where it says the court or officer is satisfied, the person if released on bail would fail to surrender, etcetera, I am just wondering because this is a fairly wide power, whether it is meant that a Police Officer of any kind will be exercising this right or whether perhaps through the Police Orders this would be restricted to police of a certain rank?

As it now stands, it could be a constable who was on duty his first few days, it is so wide. It is taking away or it is a refusal to grant bail upon the specific ground set out in 19 (a).

I have nothing with a constable granting bail or even a very experienced constable refusing bail, but it would worry me a little bit if it is the refusal of bail. I think it would be better with a more senior person is what I am saying.

HON. ANTHONY SMELLIE: Madam Chairman, this is a provision that sets out the General Right Bill, the General Entitlement Bill, and it requires a Police Officer or the court to grant bail to a person who is entitled unless he is disentitled on any other grounds which follow. I think the general intention is that a senior officer or rank of Inspector or above, would normally be the person charged with responsibility at this station, to take this decision where that person should be granted bail but we see no harm in proper circumstances with allowing a constable to grant bail. I think that this census sets out the general right to bail and not a disentitlement as such. It would be best left to the Police Officer to grant bail.

MR. TRUMAN M. BODDEN: The general right to bail is in the first two sentences of 19. I am not referring to that stage. I am actually referring to where the general right to bail is refused by a police constable. In fact, I think it is the equivalent of Section 4 of the English Bail Act of 1976. I am not too certain where they have put the exceptions in on it but I agree that any constable can grant bail because that is a general right, so I am only dealing with the refusal of bail but if you feel that in (a) and (b) which refers to an Officer, that it would be somebody senior who is refusing bail, presumably whoever is in charge of the night duty of the Police, I am satisfied if that is the case.

HON. ANTHONY SMELLIE: Yes, Madam Chairman.

In practice it is an Officer of the rank of Inspector or above who is responsible to assess these matters and the provisos which follow the word "unless" are identical to those in the schedule to the 1976 United Kingdom Law.

MR. TRUMAN M. BODDEN: I am satisfied with that, Madam Chairman.

MADAM CHAIRMAN: Mr. Haig Bodden.

MR. G. HAIG BODDEN: Madam Chairman, I am a little more difficult to convince. I know that at the police station, there is normally an Inspector in charge and I would think the least we could do in order to be fair to the person that has been taken up, is to say that the Inspector would be the person to make this decision. We have had, and personally I related in my debate on this Bill, one situation where I think the Police had gone wrong in the matter of refusing bail and while I believe that most Officers would use their discretion, if the Officer is a new recruit or constable, he can not be expected to function in the same manner as a senior Officer. My recollection is that most matters that appear to look like this, it has always been in the law that a gazetted Officer or a senior Police Officer or Police Officer of the rank of Sergeant or Inspector up alone would deal with this. I think we should make it explicit in the law.

HON. ANTHONY SMELLIE: Madam Chairman, I think facts of the concerns of Honourable Members are met by the Bill, we have not yet got to the schedule but there are consequential amendments to other provisions which are set out in the schedule, in particular to the Police law itself which is the law embodying provisions in relation to the Polices' functions in this regard. If we look at the schedule to this Bill, we see a reference and amendment to the Police Law. Section 34, of the Police Law is amended by omitting sub-section 2 and 3 and substituting the following provisions. These are the enquiries that we saw reference to in Clause 19. "(2) If upon such enquiry there is reason to believe that the person arrested has committed an offence such officer being

of the rank of sergeant or above may release the person on bail.". There will be and there presently are expressed provisions in the law to that effect, but as I said earlier, in practice, the responsibility are exercised by an Officer of the rank of Inspector or above.

MADAM CHAIRMAN: Would that meet the concerns of Members? Mr. Haig Bodden?

MR. G. HAIG BODDEN: Madam Chairman, it certainly does not meet my concerns, but I realize our inadequacies in changing everything that Government put forward but in four months time, I think we can change anything we want to change.

MADAM CHAIRMAN: If there is no further debate, I should put the question Clauses 18 through 20 do stand part of the Bill.

QUESTION PUT: AGREED. **AMENDMENTS TO CLAUSES 18 THROUGH 20 PASSED.**

CLERK: Clause 21 - Rules of court.
Clause 22 - Transitional provisions.
Clause 23 - Amendments to other Laws.

MADAM CHAIRMAN: The question is that Clauses 21 to 23 do stand part of the Bill. If there is no debate, I shall put the question.

QUESTION PUT: AGREED. **AMENDMENTS TO CLAUSES 21 THROUGH 23 PASSED.**

CLERK: The Schedule

MADAM CHAIRMAN: The question is that The Schedule do stand part of the Bill. Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Madam Chairman, I had a query in relation to The Schedule. It was in relation to Section 1, the new Section 3 (e) to the Police Law. It seems that there is power here to detain a person without any charge in connection with the offence; if it is necessary to secure or preserve evidence relating to the offence or to obtain such evidence by questioning him. What worried me with this section is that there is no limitation on it and I know that there was a section in the Police Law, I guess the equivalent of this, which originally had been put into use where people were leaving the jurisdiction and they could detain and hold for a period of time but I do not think it was meant to be used in an unlimited way in relation to persons who are here. I know there have been instances in the past where people have been held for periods of time, into days, under this sanction.

MADAM CHAIRMAN: Mr. Smellie.

HON. ANTHONY SMELLIE: Yes, Madam Chairman. I would first of all observe that the amendments are to sub-sections 2 and 3 only. So are the sub-sections of Section 34 have been preserved and I think therein would remain the basic provision to which the Honourable Member has referred. There are express limitations in 3 (e) of The Schedule. It relates only to a person arrested for an offence who was released on bail subject to a duty to report to a station. So there are expressed limitations under circumstances in which a person might be further taken into custody and questioned and it would of course, include circumstances where the person is not a local resident and might be prone to abscond.

MADAM CHAIRMAN: Mr. Truman Bodden

MR. TRUMAN M. BODDEN: Madam Chairman, while I know you can go for a writ of Habeas Corpus to the court if a person is detained for too long under these sections, it is a very archaic and quite difficult procedure. I am wondering then when the Police General Orders may not be able to deal with perhaps that someone arrested under this section should only be held for a reasonable time or something.

HON. ANTHONY SMELLIE: Madam Chairman, the remaining provisions of Section 34, I believe put an expressed limitation on the length of time. It might not do so in terms of days or hours but it makes it clear that a person in custody must be brought before the court as soon as is reasonably practical. I would make the third observation that these provisions would not in any way override the right of an accused person to remain silent and it would not run against the grain of the judges rules because they relate to circumstances only where the person has yet not been charged. So, they are intended to facilitate the investigatory process that must be conducted within the confines of the provisions which require Police to bring the person before the court as soon as is reasonably practical.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. Lastly on this, the period that worries me is if somebody is picked up late on Friday afternoon, he can be held there, questioned, and let us face it, two or three days in there with questioning weakens one's right to remain silent. This is the sort of situation that I was thinking but if you feel it is something that is working well and there are some General Orders or whatever to cover it, so be it. I believe one of those other sections also covered witnesses which was perhaps an even more

worrying section than this but it is not before the House now.

MADAM CHAIRMAN: If there is no further debate, I shall put the question that the Schedule do stand part of the Bill.

QUESTION PUT: AGREED. **AMENDMENTS TO THE SCHEDULE PASSED.**

CLERK: A Bill for A Law Providing for the Grant of Bail in Criminal Proceedings

MADAM CHAIRMAN: The question is the Title do stand part of the Bill. If there is no debate I shall put the question.

QUESTION PUT: AGREED. **THE TITLE PASSED**

MADAM CHAIRMAN: The next Bill is the Misuse of Drugs (Miscellaneous Amendments) Bill, 1992

THE MISUSE OF DRUGS (MISCELLANEOUS AMENDMENTS) BILL, 1992

CLERK:
Clause 1 - Short title.
Clause 2 - Interpretation.
Clause 3 - Section 2 amended.
Clause 4 - New section 3A.
Clause 5 - Section 5 amended.
Clause 6 - Section 6 amended.
Clause 7 - New Section 8A.
Clause 8 - Section 10 amended.
Clause 9 - New Section 13B, 13C, 13D, and 13E.
Clause 10 - New Sections 15A, 15B, 15C, 15D.
Clause 11 - Section 16E amended.
Clause 12 - New Section 16 EA and 16 EB.
Clause 13 - New Section 16 OA.
Clause 14 - First Schedule repealed and replaced.
Clause 15 - New Third and Fourth Schedules.
Clause 16 - Further amendment.

MADAM CHAIRMAN: The question is that Clauses 1 through 16 do stand a part of the Bill. Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. I have already expressed a few concerns during the January debate in the Second Reading. I only had just a few questions on this, one of them was Section 7 which is the new 8 (a). There is a reference to a corresponding law enforced in that place. My question is to the Honourable Attorney General, who I think would maybe speak to the Draftsman, whether corresponding law would imply that it was a law which had similar offence and a system that had similar procedures?

MADAM CHAIRMAN: The Honourable Mr. Smellie.

HON. ANTHONY SMELLIE: As the Honourable Member anticipates, it would have to do with similar subject matters but there is a specific definition in the Bill in sub-section 2. The proposed amendment sub-section 2. Clause 3 of the Bill sets out those proposed amendments and then on page 4, I am referring to the Green Paper, I think it might be easier for reference. It reads:

In this Law:

"corresponding Law" means a law stated in an certificate purporting to be issued by or on behalf of the government of a country outside the Islands to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances-

(a) in accordance with the Single Convention on Narcotic Drug signed at New York on 30 March 1961; or

(b) in pursuance of a treaty, convention or other agreement or arrangement to which the government of that country and Her Majesty's Government in the United Kingdom are for the time being parties.".

It therefore contemplates an arrangement for recognizing the laws of foreign states which we might very well have an obligation to already recognise pursuant to treaty or convention obligations.

MADAM CHAIRMAN: Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: It has been some time since we debated this, I see the reference I had was really to the definition of corresponding law. I think I had asked the question whether the (b) of 2, he was satisfied that those to which the United Kingdom is for time a party whether we should not have added "which has been extended or applied to us." I am sorry, that original question was meant to be general.

HON. ANTHONY SMELLIE: It would imply that they would first be extended to the Cayman Islands.

MR. JOHN B. McLEAN: Madam Chairman, I have a concern under 15(B) with regard to forfeiture of cash. Maybe the Second Official Member could enlighten me on this. I have a concern with regards to large sums of cash being taken away with regard to a drug deal, and kept say at the Police Station. We know the experience has been that moneys have disappeared after an arrest has been made at the Station and Government has been liable for it. Is there any way that we could spell it out whereby cash in large amounts could be sent over to the Treasury for safe keeping?

HON. J. LEMUEL HURLSTON: Madam Chairman, what happens in practice is that those sums of money are deposited into a bank account immediately. They are not held in storage because those kinds of transactions are quite distinct as compared to the possessions of a person who has been arrested and detained. A recent seizure of cash for example was deposited to a bank on a Saturday, the bank being opened specifically for the purpose of counting and receiving it, so whenever it is necessary, it is deposited to the bank immediately.

MADAM CHAIRMAN: Mr. John McLean.

MR. JOHN B. McLEAN: Madam Chairman, I wonder if the Member would agree with me that we have had an experience whereby this cash has disappeared, at least this is what we have been told? At least this is what I have been told that a large sum of money disappeared from the prison. If this procedure is in place, how then did the money disappear?

HON. J. LEMUEL HURLSTON: Madam Chairman, I was explaining the difference between money that is taken off of the person; an individual who is taken in for questioning and held in an Inspector's office in an exhibit store situation. That is the kind of opportunity that occurred not long ago and certain valuables belonging to someone disappeared but that was someone that was arrested and taken in and his valuables were put in an obviously insecure location. I was comparing that as distinct and opposed to cash that is confiscated in an operation. That cash is never held in storage like exhibits, that cash is deposited immediately to the bank.

MADAM CHAIRMAN: Mr. John McLean.

MR. JOHN B. McLEAN: Madam Chairman, I am satisfied if that is the way it is handled.

MADAM SPEAKER: Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. I think the Honourable Attorney General may have cleared this in the second debate, but under Section 10, the new Section 15(a) where the justice of the peace can authorise seizure and holding for up to three months without going before a court, whether he was satisfied that a person's right to go to the court was sufficient and I had one other one, I cannot remember what his reply was on this but further at sub-clause 7 of that same section, which says that "at any time while cash is detained by virtue of this section a magistrate may direct its release if he is satisfied that this detention is no longer justified; and he is authorised to do so by the justice or magistrate under whose order it is being detained." I am wondering whether the "and " should not be an "or". Failing that, the court could make an order and the constable could still hold the cash. I do not know if it is meant to be purely on authority saying that you may release it if you are satisfied or whether it is meant that the two would be separate.

MADAM CHAIRMAN: Mr. Smellie.

HON. ANTHONY SMELLIE: Yes, Madam Chairman. The inclusion of the word "and" there is quite deliberate. It is intended as a check and balance on the discretion of the Customs Officer in that regard and is indeed intended for his own protection. It provides a judicial check on the manner in which the money is returned and indeed, as to the return of the money itself how much of it is returned and so on. The numbering, the Honourable Member referred to it as sub-clause 7, I think in fact that it is sub-clause 8, and I can confirm as regards to what the other matter is but I do not remember that. This would in no way detract from the right of an individual to go immediately to the court for some kind of purgative remedy.

MADAM CHAIRMAN: If there is no further debate, I shall put the question that Clauses 1 through 16 do stand a part of the Bill.

QUESTION PUT: AGREED

CLAUSES 1 THROUGH 16 PASSED.

CLERK: A Bill for a Law to Amend the Misuse Of Drugs Law (Second Revision).

MADAM CHAIRMAN: The question is that The Title do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED **THE TITLE PASSED.**

MADAM CHAIRMAN: That concludes Proceedings Committee on the Bill entitled The Misuse of Drugs (Miscellaneous Amendments) Bill, 1992. The next Bill is The Juveniles (Amendment) Bill, 1992

THE JUVENILES (AMENDMENT) BILL, 1992

CLERK: Clause 1 - Short Title.
Clause 2 - Interpretation.
Clause 3 - Section 9 Amended.
Clause 4 - Insert Section 12 (a), inserted.

MADAM CHAIRMAN: The question is that Clauses 1 through 4 do stand part of the Bill. Motion is open for debate. Mr. Bush.

MR. W. McKEEVA BUSH: Madam Chairman, I had offered an amendment to increase the age of criminal responsibility from age eight to age 10. I do not think I can say any more on this item than I have already said and I think the House has spoken of this particular item many times and I will not hold up the proceedings by any further debate on this matter.

MADAM CHAIRMAN: Members have had circulated copies of the proposed amendments which is now before the Committee and debate can ensue thereon. Mr. Miller.

HON. D. EZZARD MILLER: Madam Chairman, the Government has not taken advice on this proposed amendment; would not like to see this amendment made in this fashion. The amendment is rather involved and the Government would be much happier to take it on board and have the opportunity to consult with the various agencies as enumerated by the Honourable Second Official Member in his contribution to the debate. The people who provide treatment tend to cut it not in the negative sense as Members that looked at it in the House, in that the children might be charged criminally at an early stage because as I understand it, the judicial process has to also determine that the child was mentally aware and knew that what they were doing was wrong.

The people in my Portfolio looked at it in a positive sense in that if something does happen to a child at that age, it gives them opportunity to intervene earlier with treatment and they would not like to see it just changed in this fashion. They would like to have time to consider it at length and look at the implications to positive treatments for the individuals as opposed to just looking at the negative side and raising the age barriers.

MADAM CHAIRMAN: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank You, Madam Chairman. I think the time has come for us to be realistic with regards to this age of criminal responsibility. We on the Backbench brought this motion some time ago to the Government and I might say that it is moving the age from eight to, for example 10 years, is in keeping with what is done internationally. Over the weekend, I was doing some research and I found out that even outside of the Commonwealth jurisdictions and in the United States the age of criminally responsibility begins at 10 years. I believe that in spite of what the Member has said, I believe that the time has come for us to be realistic and as far as I am concerned, I am really not convinced by the argument he has just given, although, I must say that I am not so dogmatic as not to allow his Portfolio time for further research and further thought into the matter.

However, I believe that circumstances, as far as our young people are concerned, are sufficiently urgent for us once and for all to move this while it is convenient, and while it is in keeping with international norms and standards, and while it is relevant and realistic for us to do so. I would hope that the Member reconsider because I believe that such a move can only in the long run affect positively our dealings and our provision of care and protection for these young people.

MADAM CHAIRMAN: Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. I support the amendment. While I have no problem with giving the Portfolio for Social Services time to consider this, I do feel that there is a definite distinction between criminal responsibility and assistance by the Social Services Department. If it is going to be based on that principle, why stop it at eight, why not go on to six and four? My argument is that they have to be helping people who are under eight years of age who have problems and there are ways we have of doing it without bringing them before a Juvenile Court. I would ask the Member to reconsider that principle upon which he seems to base this.

MADAM CHAIRMAN: Mr. Haig Bodden.

MR. G. HAIG BODDEN: Madam Chairman, for some time, this has been in the Juvenile Law and when the Government brought this strange law, the Backbench challenged this aspect but they would not change it. It is my understanding that the age in the United Kingdom is 10 and I believe that is the country we are following. Furthermore, as was brought out in the debate, the Chief Justice some time ago said publicly that he was surprised that the age still remained at eight which leads me to believe that he may have been putting some pressure on them to change it.

He went on to say that it cannot be that they are all angels, it is only the good common sense of the Law Enforcement Officers as to why we are not getting these eight year olds treated as common criminals. Regardless of what the Member may say, this is a matter that will have to change and as I said earlier, we will change it after four months. It will be a part of our platform to change it.

MADAM CHAIRMAN: Mr. Smellie.

HON. ANTHONY SMELLIE: Madam Chairman, I do not think any one contributing to this debate would pretend that this is an easy matter. The debate involves at this stage, two different aspects, first of all the age of criminal responsibility, raising that from eight to 10 and secondly the question of the age of discretion, raising that from 12 to 14. Those proposed amendments bring those two aspects into the fore. The concern seems to be that a child being deemed criminal responsible at age eight is being stigmatized as a criminal but there are other points of view. It may well be that the only thing at that age is being saved from by raising the age to 10 or other age of discretion to 14 would be the attention of the Social Services Department.

In reality, the way the law is required to work nowadays, the modern legislation, when a child of eight or for that matter a child of 12, is found committing an offence, the approach is not to treat the child as a common criminal, but instead to regard the child as a child in need of care and protection and if we were to pause to consider the matter from that perspective for a moment, there are other alternatives which the Honourable Member will need to consider and have discussed with the various persons responsible before this matter might be properly dealt with. It is true that in the United Kingdom and in many other Commonwealth countries, those ages are respectively nowadays 10 and 14, but there too the debate continues as to whether in fact they might be lowered and for the very reasons that we are now considering whether it is not important to have that earlier threshold of intervention to intervene before a child becomes hardened and the two years threshold after we are talking about, can make a lot of difference.

Now, in terms of the debate which has been going on, other alternatives have come forward and I will if you allow me, to take just a moment to refer to some other recommendations and I think that they might serve to highlight what the concern is and to focus the attention of Members specifically to the reason why it might not be the best thing to raise the ages. One recommendation is that it would be a practicable rule and one consistent with the policy of modern legislation to say that the Juvenile Court, the Magistrates or Justices may find that a child's guilt although he is not shown, may be filed as guilty although he may not have been shown to have known his conduct was wrong, if the soul purpose of finding the child's guilt is to impose reformative treatment.

Now that might be a provision which should be properly inserted in the law and if that is put into the law and taken into consideration with the rest of the scheme of the legislation it would go a long way to remove the concern that you are simply bringing the child before the court for the purpose of criminal responsibility and the finding of guilt. A further recommendation is to give the Juvenile Court the power to make order on the civil side. For example, to find that a child is in fact in need of care and protection or simply beyond control when he is brought up on a criminal charge. Now as the law presently stands, when a child is brought forward in a criminal charge, the Juvenile Court does not have that jurisdiction to overlap to the civil side.

It might be a sensible thing to do, to include such a provision, so that in an appropriate case, even though the child may only be eight, or 12 if you are talking about the age of criminal responsibility or the age of discretion. The court can say that they do not think this is an appropriate case for criminal treatment; to deem criminal responsibility but instead, we think this child is certainly in need of care and protection or beyond control and we will make the appropriate orders in these circumstances. With such a scheme in place, I think it would go a long way to remove the concerns of this Honourable House and I think it would also make it quite plain that the purpose of charging a child of that age or bringing a child of that age before the court is not simply for the purpose of applying or ascribing criminal responsibility.

Thank you.

MADAM CHAIRMAN: Mr. Gilbert McLean

MR. GILBERT A. McLEAN: Madam Speaker, I support the proposed amendment as I have felt from the beginning when the law was introduced in 1990, that in eight years really raises questions in anyone's mind as to how a child of that age could be held criminally responsible. Albeit, that there are children that there would be some instances where one could find exceptions to the rule. I believe to raise the age to 10 would see a child in a higher lever of physical and mental development where one could more appropriately ascribe criminal intent or activity.

I have heard what the Honorable Member for Health has said about it and I can see his concerns and certainly what the last speaker, Mr. Smellie, the Attorney General, has pointed out those two clauses, I wonder why they were not put in to the present amendment we are looking at because I think they are very sound and logical but the fact that they are not there gives even more strength that to at least making one small move to correct something which is quite glaring.

MADAM CHAIRMAN: Mr. Miller.

HON. D. EZZARD MILLER: Yes, Madam Speaker, in response to what the Second Elected Member for Cayman Brac has said as to why those kind of amendments are not in this Bill, was some urgency. There are a number of amendments scheduled for the Juvenile Law which are under consideration but there was some urgency in being able to get this provision of the cautioning of juveniles brought forward, that is why it is not in this form. I would also hasten to add that during the debate on this amendment, when Members raised their concerns about the age limit, other Members also raised concerns which they are concerns but there is really no hard evidence at the present time in any of my Departments to substantiate it. It was first raised by the Drug Advisory Council, that is that the drug traffickers in fact be using a certain amount of juvenile element in order to further their elicit cause. One of the concerns that the Portfolio has in this regard is that you would in fact be providing that element of community with a more mature and capable individual who would be exempt from the Juvenile Law and from any proceedings what so ever.

Even in the case of the amendment which is before Parliament in terms of a caution to juveniles, it would not be possible if the amendment would simply be putting and raising the ages without the other concerns as expressed by the Honourable Second Official Member.

MADAM CHAIRMAN: Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you Madam Chairman. This is really a question to the Honourable Mr. Ezzard Miller. If there is this worry about adults using children, we just passed a law that put life imprisonment on somebody who is intercepted with drugs in a boat, why not put that same penalty on adults who use children to push drugs?

MADAM CHAIRMAN: Mr. Miller.

HON. D. EZZARD MILLER: Madam Chairman, I personally do not have a problem for anybody trafficking in drugs but the amendment has not been possible up to this point, however, the Third Elected Member for George Town is opening to moving such an amendment himself in the sitting of Parliament.

MADAM CHAIRMAN: If there is no further debate...
Mr. Bush.

MR. W. McKEEVA BUSH: Madam Chairman, I have heard what Members have to say and I have particularly listened to the Second Official Member who is responsible for Legal Affairs and he raised some very important points but Government's whole approach to this matter has been one look. We are not supporting this matter! I can only say that all the points that were raised, if they so felt, that it would be not a bad thing to accept the amendment, then they could have added by way of amendments, all those things that were mentioned.

The one thing that the Second Official Member said was that he knew of evidence where some areas want to lower the age to what we have. I must say that in all of my research, I have not been able to find any evidence of this. In fact, at a recent conference in Barbados on children, the whole territory, the U.N.D.F. I think it is, sponsored by the United Nations Fund for Children, made recommendations for those territories that do not have as I am recommending, to bring it in line with the United Kingdom legislation.

I can only say that if the Government does not except it, one day we will get it. I have not been the only one, nor has this side of the House been the only people to recommend it. The Justices have talked about it at length. The Justices of the Peace, that is those who have to work the Juvenile Court, the Chief Justice has mentioned it and I really do not believe that the Member for Health wants to do anything about this because he has had sufficient time to consult anybody in regards to this. As far as the people who use young children for drugs, they can facetiously talk about raising the life imprisonment. As far as I am concerned that is all facetiousness because if they were really concerned, they would do it. They have a majority so they cannot just say to this side of the House, "you do it if you want." I mean what kind of Government is that?

MADAM CHAIRMAN: Captain Mabry Kirkconnell.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Chairman. I raised in my Second Reading Debate the fact that the matured age of eight was in the Penal Code from 1975. The fact that it appeared in the Juvenile Law in 1990, was it not a fact that you were criminally responsible from 1975, although it only appeared in our Juvenile Law in our 1990 (Revised) Law?

I share the concern of all the Members here for the protection of our juveniles and I read with keen interest what the Chief Justice had to say but I also noted that he said that none had been brought before the courts for criminal conviction so certainly, it has not hurt our young people at the age of eight. My mind says that maybe it has helped. He did not say that they had been convicted, he said that they had not been and maybe it was because of the care of the enforcing Officers. As we look at our civilized society, children of eight years today certainly are far more mature than they were a decade or two ago and now for us to be saying that a child of eight is not mature enough, we need to move to 10 when we have moved so far ahead here in the Cayman Islands, I really cannot understand. But I would be the first one to say that we should amend this if it was hurting our juveniles, but if there is an element that it may be helping, I really feel that we should be very cautious.

I listened very carefully to what the Second Official Member has

said and with his learned ability, I feel certain that it can be beneficial and they could be brought to the House at a very early stage for amendment, then I think we would be helping our juvenile situation in the Cayman Islands.

Thank you.

MADAM CHAIRMAN: Mr. Haig Bodden.

MR. G. HAIG BODDEN: Madam Chairman, the plain fact is that since this law has been put in, the situation in our juvenile courts has become much worse. I do not wish to prolong this, but just to give one statistic, I am reading here from the *Caymanian Compass* the 10th of January, 1992 and it shows that in juvenile courts, we have had 65 more cases involving juveniles than we had the previous year and out of the 286 cases we had, there were 263 criminal cases, 23 needing care and attention so it is no wonder that in the same paper that carried these very dismal statistics, the Chief Justice made this statement he made, and it is not as the Second Member has related to the House.

If you will permit, and I promise this will be my last statement on this matter, I will quote a few words that the Chief Justice Dennis Malone used. He said "I regret to say that the age of criminal responsibility remains at eight years of age. Happily, in 1990 and 1991 there were no prosecutions of children under the age of 10. Whether it was that the children aged eight and nine are all little angels or whether it was the Law Enforcement Officers took a benign view of their misdeeds, is not revealed by the statistics. If it was the latter, I think we should feel obliged to the Law Enforcement Authorities." I must support the amendment which is before the House.

MADAM CHAIRMAN: Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you Madam Chairman, I will be brief. I would just like to remind the First Elected Member for Cayman Brac, that not many years ago the United Kingdoms laws also stated eight years and the United States laws stated eight years as criminally responsibility and they amended it subsequently in the light of what they regarded as proper principles upon which to increase it up to 10.

MADAM CHAIRMAN: Mr. Smellie.

HON. ANTHONY SMELLIE: Some brief, final comments, Madam Chairman. In my earlier contribution, I did not mean to convey the impression that countries have reversed the process and lowered the age. What I did say was that the debate continues and I think the debate in Committee stage today is an indication of just what potential there is for debate on this subject. I would just like to emphasise the importance of not losing this two year threshold which we mentioned earlier because in the Chief Justices comments, he did recognise that no charges were brought against any child of the age we are speaking of and in fact I can tell Honourable Members that no charges have been brought in respect of any child under the age of 12. The important consideration is the ability to intervene where criminal action has taken place.

MADAM CHAIRMAN: I shall now put the question on the amendments. The first is the amendment Clause 3 of the Juveniles Principle Law and the other is to Clause 12 of the Penal Code. I would put the question please say aye. Those against, no. I am putting this on the proposed amendments which have been put forward by Mr. Bush. The amendments to the Juvenile Law and the Penal Code. Those in favor please say aye. Those against, no. The ayes have it.

QUESITON PUT: AYES AND NOES.

MR. W. McKEEVA BUSH: Can I have a division please?

MADAM CHAIRMAN: Certainly you may.

DIVISION NO. 13/92

Ayes: 8	Noes: 7
Hon. J. Lemuel Hurlston	Mr. W. McKeeva Bush
Hon. Anthony Smellie	Mr. John D. Jefferson, Jr
Hon. George McCarthy	Mr. Truman M. Bodden
Hon. W. Norman Bodden	Mr. Gilbert A. McLean
Hon. Benson O. Ebanks	Mr. Roy Bodden
Hon. D. Ezzard Miller	Mr. G. Haig Bodden
Hon. Linford A. Pierson	Mr. John McLean
Capt. Mabry S. Kirkconnell	

MADAM CHAIRMAN: The amendment has not been passed.

AMENDMENT TO INSERT NEW CLAUSE NEGATIVED BY MAJORITY.

MADAM SPEAKER: I shall now put the question on Clauses 1 through 4 of the Bill.

QUESTION PUT: AGREED **CLAUSES 1 THROUGH 4 PASSED.**

MADAM CHAIRMAN: That concluded the proceedings in Committee on the Bill entitled the Juveniles Amendment Bill 1992. The House will be suspended for 15 minutes.

AT 11:48 A.M. THE COMMITTEE WAS SUSPENDED

COMMITTEE RESUMED AT 12:12 P.M.

MADAM CHAIRMAN: Proceedings are resumed in Finance Committee. I am sorry, I am committing the whole House on Bills. The next Bill The Elections (Amendment) Bill, 1992.

THE ELECTIONS (AMENDMENT) BILL, 1992

CLERK: Clause 1 - Short Title.
Clause 2 - Commencement.
Clause 3 - Interpretation.
Clause 4 - Section 2 Amended.
Clause 5 - Section 3 Amended.
Clause 6 - Section 3 (a) Amended.
Clause 7 - Section 4 Replaced.
Clause 8 - Section 7 Amended.
Clause 9 - Section 11 Amended.
Clause 10 - Section 13 Amended.
Clause 11 - Section 18 Replaced.
Clause 12 - Section 19 Amended.
Clause 13 - Section 20 Replaced.
Clause 14 - Section 22 Amended.
Clause 15 - Section 23 Amended.
Clause 16 - Section 27 Amended.
Clause 17 - Section 28 Amended.
Clause 18 - Section 36 Amended.
Clause 19 - Section 38 Amended.
Clause 20 - Section 42 Amended.
Clause 21 - Section 44 Amended.
Clause 22 - Section 47 Amended.
Clause 23 - Section 56 Amended.
Clause 24 - Section 58 Amended.
Clause 25 - Section 67 Amended.
Clause 26 - First Schedule Amended.
Clause 27 - Second Schedule Amended.

MADAM CHAIRMAN: The question is that Clauses 1 through 27 do stand part of the Bill. That is open for debate. Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Madam Chairman, could we ask that Clause 19 which deals with 38 (c) and (d) if they could be put separately as they relate to a friend alone going in for the voting?

MADAM CHAIRMAN: Would you wish to speak to 19 because that has already been put inclusive, so speak on that now if you wish?

MR. TRUMAN M. BODDEN: Madam Chairman, I would like to vote against 19 (d) especially, but vote for the balance of it.

MADAM CHAIRMAN: O.K., sure, that is possible. Yes.

MR. TRUMAN M. BODDEN: So in my voting, I would be not agreeing on that aspect if it is not put separately and the arguments have been put on that.

MADAM CHAIRMAN: Any other comments? The question is that Clauses 1 through 18 do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED. **CLAUSES 1 THROUGH 18 PASSED.**

MADAM CHAIRMAN: Clause 19. The question is that Clause 19 do stand part of the Bill.

QUESTION PUT: AYES AND NOES.

DIVISION NO. 14/92

Ayes: 9	Noes: 6
Hon. J. Lemuel Hurlston	Mr. W. McKeeva Bush
Hon. Anthony Smellie	Mr. John D. Jefferson, Jr
Hon. George McCarthy	Mr. Truman M. Bodden
Hon. W. Norman Bodden	Mr. Roy Bodden
Hon. Benson O. Ebanks	Mr. G. Haig Bodden
Hon. D. Ezzard Miller	Mr. John McLean
Hon. Linford A. Pierson	
Capt. Mabry S. Kirkconnell	
Mr. Gilbert A. McLean	

MADAM CHAIRMAN: The result of the division, 9 ayes, 6 noes. Mr. Bodden was there another clause that you wanted put separately or was that the only one?

CLAUSE 19 PASSED BY MAJORITY.

MADAM CHAIRMAN: The question is that Clauses 20 through 27 do stand part of the Bill. I should put the question.

QUESTION PUT: AGREED. CLAUSES 20 THROUGH 27 PASSED.

CLERK: A Bill for a Law to Amend the Elections Law, 1983.

MADAM CHAIRMAN: The question is that The Title do stand part of the Bill.

QUESTION PUT: AGREED. THE TITLE PASSED.

MADAM CHAIRMAN: The Ayes have it. That concludes Proceedings Committee on a Bill entitled the Elections (Amendment) Bill, 1992.

THE COMPANIES (AMENDMENT) BILL, 1992

MADAM CHAIRMAN: The next Bill is the Companies (Amendment) Bill, 1992.

CLERK: Clause 1 - Short Title.
Clause 2 - Interpretation.
Clause 3 - Section 212 Amended.
Clause 4 - Section 217 Amended.
Clause 5 - Section 218 Amended.

MADAM CHAIRMAN: The question is Clauses 1 through 5 do stand part of the Bill? I shall put the question.

QUESTION PUT: AGREED. CLAUSES 1 THROUGH 5 PASSED.

CLERK: A Bill for a Law to Amend The Companies Law (Revised).

MADAM CHAIRMAN: The question is that The Title do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED THE TITLE PASSED.

MADAM CHAIRMAN: The Ayes have it. That concludes proceedings in Committee on a Bill entitled The Companies (Amendment) Bill. The next Bill is The Merchant Shipping Bill, 1992.

THE MERCHANT SHIPPING BILL, 1992

CLERK: Clause 1 - Short title.
Clause 2 - Interpretation.
Clause 3 - Liability in respect of a dangerously unsafe ship.
Clause 4 - Liability for the unsafe operation of a ship.
Clause 5 - Duties and offences in relation to passenger ships.
Clause 6 - Circumstances in which a ship must not proceed to Sea.
Clause 7 - Conduct endangering ships, structures or individuals.
Clause 8 - Seamen's duty not to combine for certain purposes.

Clause 9 - Duty to navigate carefully near ice.
Clause 10 - Duty to assist other ship in case of collision.
Clause 11 - Duty to assist persons in danger and distress at sea.

MADAM CHAIRMAN: The question is that Clauses 1 through 11 part 1 and part 2 do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED. **CLAUSES 1 THROUGH 11 PASSED.**

CLERK:
Clause 12 - Application of United Kingdom legislation.
Clause 13 - Regulations relating to the safety of ships.
Clause 14 - Regulations giving effect to the Load Line Convention.
Clause 15 - The Safety Convention And The S.G.C.W. Convention.
Clause 16 - Regulations relating to pollution from ships.
Clause 17 - Regulations relating to the manning of ships.
Clause 18 - Regulations relating to crew accommodation.
Clause 19 - Regulations relating to nautical publications.
Clause 20 - Regulations relating to official log book.
Clause 21 - Fees.
Clause 22 - General provisions as to regulations.
Clause 23 - Consultation with the Secretary Of State.

MADAM CHAIRMAN: The question is that Clauses 12 through 23 do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED. **CLAUSES 12 THROUGH 23 PASSED.**

CLERK:
Clause 24 - Authority to issue certificates.
Clause 25 - Production of certificates.
Clause 26 - Submersion of load line.
Clause 27 - Miscellaneous offences in relation to marks and particulars of loading.
Clause 28 - Duty to keep log book.
Clause 29 - Power to detain ships.
Clause 30 - Procedure on detention.
Clause 31 - Court of survey.
Clause 32 - Liability for costs.
Clause 33 - Power to pay compensation.
Clause 34 - Power to require from complainant security for costs.
Clause 35 - Action against ships which are not Cayman Islands ships.

MADAM CHAIRMAN: The question is that Clauses 24 through 35 do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED. **CLAUSES 24 THROUGH 35 PASSED.**

CLERK:
Clause 36 - Appointment of surveyors and shipping masters.
Clause 37 - Powers of surveyors and shipping masters in relation to ships.
Clause 38 - Appointment of inspectors.
Clause 39 - Powers of inspectors.
Clause 40 - Provisions supplementary to section 39.
Clause 41 - Inquiries and investigations into shipping casualties.
Clause 42 - Formal investigation into a shipping casualty.
Clause 43 - Re-hearing of and appeal from inquiries and investigations.
Clause 44 - Reports of shipping casualties.
Clause 45 - Liability of charterers and defence of the owner of a ship registered by virtue of a demise charter.
Clause 46 - Offences by officers of bodies corporate.
Clause 47 - Powers of arrest.
Clause 48 - Amendment of the Merchant Shipping (Submersible Craft) Law, 1991, and the Registration Of Merchant Ships Law, 1991.
Clause 49 - Application, repeal and amendment of provisions of the Merchant Shipping Acts 1894, 1970 and 1988.
Clause 50 - Existing secondary legislation.
Clause 51 - Repeal and commencement.

MADAM CHAIRMAN: The question is that Clauses 36 through 51 do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED. **CLAUSES 36 THROUGH 51 PASSED.**

CLERK: A Bill For A Law Relating To Merchant Shipping.

MADAM CHAIRMAN: The question is that The Title do stand part of the Bill. I shall put the question. That concludes proceedings in Committee on a Bill entitled The Merchant Shipping Bill, 1992.

QUESTION PUT: AGREED. **THE TITLE PASSED**

THE IMMIGRATION BILL, 1992

CLERK:
Clause 1 - Short title and commencement.
Clause 2 - Interpretation.
Clause 3 - Appointment of Immigration Officers.
Clause 4 - Establishment of the Board.
Clause 5 - Functions of the Board.
Clause 6 - Meetings of the Board.
Clause 7 - Duty of confidentiality.
Clause 8 - Remuneration of the Board.
Clause 9 - Appeal from decision of an Immigration Officer.
Clause 10 - Appeals from decision of the Board.
Clause 11 - Conduct of appeals.
Clause 12 - Decisions to be administrative.
Clause 13 - General provisions regarding possession of Caymanian status.
Clause 14 - Acquisition of Caymanian status by children of persons possessing such status.
Clause 15 - Acquisition of Caymanian status by grant.
Clause 16 - Procedure of the Board in considering applications for a grant.
Clause 17 - Evidence of Caymanian status by grant.
Clause 18 - Loss of Caymanian status.
Clause 19 - Revocation on conviction.
Clause 20 - Permanent residence.
Clause 21 - Right of permanent residence of certain British Dependant Territories Citizens.
Clause 22 - Persons entitled to permanent residence prior to coming into operation of this Law.
Clause 23 - Permanent resident not to engage in gainful employment.
Clause 24 - Permanent resident may be permitted to be gainfully employed.
Clause 25 - Loss of permanent residence.
Clause 26 - Persons exempted.

MADAM CHAIRMAN: The question is that Clauses 1 through 26 do stand part of the Bill. Mr. Bush.

MR. W. McKEEVA BUSH: Madam Chairman, you will note that I did not rise to speak on this Bill and while the Bill carries some areas of satisfaction for myself, I did not debate it in contempt for the Bill in its entirety because in 1988 I moved a resolution in this House which Government has not said it, but which I think was the basis on which the Government moved the resolution in 1989, and that sought to have status done away with and to bring a Bill that provides security of tenure.

This Bill has done nothing in that regard. It does not take care of those citizens in this country who do not know when they will be told that they will have to go. Therefore, Madam Chairman, I think the whole thing in my opinion, while I say that this carries some area, I wanted the House to know I did not debate it in contempt of the Government's actions.

MADAM CHAIRMAN: Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. I do not intend to go back to these different sections but I did object to several of the sections. I will be voting for it naturally, but my views in different areas have already been noted.

MR. ROY BODDEN: Thank you, Madam Chairman. I want to reiterate my position that I feel comfortable, generally speaking with the merits of the Bill. I just want to use this opportunity to re-emphasise points which I made because I believe that they are sufficiently important as to bear re-emphasis at this point.

The first is the one which I deemed the more important of the two. That is for there to be some form of companion legislation which clearly and unequivocally offers protection to Caymanian businesses from unfair competition. I am going to give an example of something that I am talking about. This whole notion of automobile repairs. I hear the perennial complaints from Caymanians involved in this area who are legitimate business people by virtue of the fact that they have registered their business and pay their annual company fees and some of them lease or rent premises. I hear of them complaining of unfair competition from persons who operate makeshift businesses under a tree or some other kind of temporary and esthetically

displeasing facility who pay no annual company registration fees, whose premises are not licensed and who, even in some cases, employ people illegally. It is unfair that Caymanian people should be subjected to this kind of competition when they are legitimate and legal entities. That is one aspect.

The other I mentioned earlier, and I will not elaborate on that only to say that we need to bring in some kind of legislation that attempts in some realistic and relevant way to tackle the problem of fronting. The second point which I wish to bring to the committee's attention has to do with this whole business of trying to accommodate peoples who have been here and have established their intention to remain here. I have noticed that the proposed law according to the report in today's *Caymanian Compass* makes reference to those people who have been here for 20 years or more. I would like to argue that there are those who have been here for a lesser number of years and I would take 10 as the ideal cut-off point, who have also demonstrated to be domicile here and I would like to know that those people who have been here for example 10 years; I think 10 is an ideal number, are not left out or squeezed out. It would only be those who have been here 20 years or more and I would stress that it would not be a process where these people would be automatically accommodated but where they have to go through some kind of interview and assessment board.

I wish to make another important point. I think that it should be a system which does not lend itself to any disparities be they regional or otherwise. That once we have set the norm and the criteria, whether these norms and criteria have to do with the fact that applicants are earning a respected income, the fact that they have demonstrated their intentions to be domicile here through the purchase of property here or through the establishment of a house or homes, or through the establishment of a business or all of these, we must then try to ensure that the decisions are fair, equal and equivocal across the board so that no one is eliminated because of ethnic background or national origin. Then, having done so, we have to be sure that we have a clearly understood cut-off point so that it is not ambiguous about any other people coming behind being able to accumulate the number of years that would qualify them for any such future consideration. In other words, we should make it clear that this is a clean up or as the paper terms, a sweep up and we are doing this to accommodate those people who, for what ever reason, were able to accrue these number of years and have been here for all this time and out of a sense of moral obligation or otherwise, we are accommodating them now. This will be the finale as far as accommodating people in such large numbers are concerned because while I am sympathetic, there is no way that we, in this small ship can take in all and sundry.

MADAM CHAIRMAN: Honorable Member, I have to ask you and the others, in future, that while in Committee on a Bill, it is clearly stated that there should be no discussion on general merits and principles of the Bill. That is a Second Reading debate which you are repeating on a few comments you made earlier but you must deal with details and I would ask other Members to bear that in mind, please.

CAPT. MABRY S. KIRKCONNELL: Madam Chairman, I refer to Section 15 (8). During the Select Committee stage I attempted to get this extended to grandfathers but I am grateful that we have been able to accomplish what we have. I think the problem that has been brought out why the grandfather in my opinion was necessary, was that the 1972 law was not properly advertised. We did not have as active a press as we do today and I would emphasise that feel for the Caymanians who were born overseas who did not know that they should have acquired Cayman status. They have children who are not able to acquire Cayman status from them, because they themselves did not get it from their father. I just ask the press that they properly advertise this and I bow to what you just said.

MADAM CHAIRMAN: I am afraid I am going to ask the press to not take notice of the press either; to ask any of the press to do anything while we are in the House or in the Committees, Honourable Members. If there is no further debate, I shall put the question that Clauses 1 through 26 do stand part of the Bill.

QUESTION PUT: AGREED. **CLAUSES 1 THROUGH 26 PASSED.**

CLERK:
Clause 27 - When work permit required.
Clause 28 - Application for work permit.
Clause 29 - Consideration of application for work permit by the Board.
Clause 30 - Grant Etc., of work permit.
Clause 31 - Temporary work permits.
Clause 32 - Work permits fees.
Clause 33 - Offence to engage in gainful occupation to employ persons in contravention of Part V.
Clause 34 - Duties of Chief Immigration Officers and persons arriving in the Islands.
Clause 35 - Duty of local agent of vessel to give notice of arrival.
Clause 36 - Inward passenger and crew manifests.
Clause 37 - Control of landing from vessels.
Clause 38 - Outward passengers and crew manifests.
Clause 39 - Government vessels.
Clause 40 - Government may issue entry permit.
Clause 41 - Duty to produce passport, etc.
Clause 42 - Certain persons deemed not to have landed in the Cayman Islands.
Clause 43 - General prohibition from landing in the Islands without specific permission of the immigration officer.
Clause 44 - Entry by persons other than persons of Caymanian status or exempted persons.

Clause 45 - Requirements to be satisfied by visitors.
Clause 46 - Safeguards regarding permission to land, etc.
Clause 47 - Disembarkation and embarkation card.
Clause 48 - Detention of persons who have been refused permission to land, etc.
Clause 49 - Duty with respect to remove other persons landing unlawfully in respect to whom permission to land is refused.

MADAM CHAIRMAN: The question is that Clauses 27 through 49 do stand part of the Bill. If there is no debate, I shall put the question.

QUESTION PUT: AGREED. **CLAUSES 27 THROUGH 49 PASSED.**

CLERK:
Clause 50 - Register to be kept and particulars furnished by hotel keepers and others.
Clause 51 - Re-entry permits.
Clause 52 - Offences relating to illegal landing and powers of arrest.
Clause 53 - Register of persons not of Caymanian status.
Clause 54 - Application of other Laws.
Clause 55 - Establishment of stop list.
Clause 56 - Prohibited immigrants.
Clause 57 - Prohibited immigrants not allowed to enter.
Clause 58 - Non-application of Part VII as respects persons possessing Caymanian status.
Clause 59 - Report preliminary to the deportation order.
Clause 60 - Power of Governor to make deportation order.
Clause 61 - Form of deportation order, power of revocation variation, etc.
Clause 62 - Service of deportation order and power to detain deportees.
Clause 63 - Power to comply with deportation order.
Clause 64 - Duty to afford transportation of deportees.
Clause 65 - Harbouring deportee.

MADAM CHAIRMAN: I shall now put the question that Clauses 50 through 65 do become part of the Bill.

QUESTION PUT: AGREED. **CLAUSES 50 THROUGH 65 PASSED.**

CLERK:
Clause 66 - Arrest of person contravening, etc., this Part.
Clause 67 - Evidence in proceedings taken under this Part.
Clause 68 - Transitional provisions.
Clause 69 - Proceedings to be sanctioned By Attorney General.
Clause 70 - Identification cards.
Clause 71 - Regulations.
Clause 72 - Directors to Board and Chief Immigration Officer.
Clause 73 - Power to put questions and require production of documents.
Clause 74 - Obstruction of persons acting in execution of law.
Clause 75 - Offences relating to false documents, etc.
Clause 76 - Punishment for offences against Law.
Clause 77 - Marriages of convenience.
Clause 78 - Offences against Law by corporations, liability of officers, etc.
Clause 79 - Evidence in proceedings taken under or in connection with Law.
Clause 80 - Savings.
Clause 81 - Consequential amendments.
Clause 82 - Repeal of Law 24 of 1984.
Clause 83 - Transitional provisions relating to gainful occupation licences.
Clause 84 - Conflict with other Laws.
Clause 85 - Savings of other Laws.

MADAM CHAIRMAN: The question is that Clauses 66 through 85 do become part of the Bill.

QUESTION PUT: AGREED. **CLAUSES 66 THROUGH 85 PASSED.**

MADAM CHAIRMAN: The question is that The Title do become part of the Bill. I shall put the question.

QUESTION PUT: AGREED. **THE TITLE WAS PASSED.**

HOUSE RESUMED AT 12:46 P.M.

AT 12:46 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:19 P.M.

MADAM CHAIRMAN: Proceedings are resumed. Reports on Bills. The Honourable Second Official Member.

REPORTS ON BILLS

THE BAIL BILL, 1992

CLERK: The Bail Bill, 1992

HON. ANTHONY SMELLIE: Madam Chairman, I am to report that a Bill for a Law Providing for the Grant of Bail in Criminal Proceedings was considered by a committee of the whole House and passed with two amendments.

MADAM CHAIRMAN: The Bill is accordingly set down for Third Reading.

THE MISUSE OF DRUGS (MISCELLANEOUS AMENDMENTS) BILL, 1992

CLERK: The Misuse of Drugs (Miscellaneous Amendments) Bill, 1992.

MADAM CHAIRMAN: The Honourable Second Official Member.

HON. ANTHONY SMELLIE: Madam Chairman, I am to report that a Bill for a Law to Amend the Misuse of Drugs Law, Second Revision is considered by a committee of the whole House and passed without amendments. Thank you.

MADAM CHAIRMAN: The Bill is accordingly set down for Third Reading.

THE JUVENILES (AMENDMENT) BILL, 1992

CLERK: The Juveniles (Amendment) Bill, 1992

MADAM CHAIRMAN: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Chairman, I beg to report that a Bill to Amend the Juveniles Law, 1990 was considered by a committee of the whole House and passed without amendment.

MADAM CHAIRMAN: The Bill is accordingly set down for Third Reading.

THE ELECTIONS (AMENDMENT) BILL, 1992

CLERK: The Elections (Amendment) Bill, 1992

MADAM CHAIRMAN: The Honourable First Official Member.

HON. J. LEMUEL HURLSTON: Madam Chairman, I am to report that a Bill entitled the Elections (Amendment) Bill, 1992 was considered by a committee of the whole House and passed without amendment.

MADAM CHAIRMAN: The Bill is accordingly set down for Third Reading.

THE COMPANIES (AMENDMENT) BILL, 1992

CLERK: The Companies Amendment Bill, 1992.

MADAM CHAIRMAN: The Honourable Third Official Member.

HON. GEORGE A. McCARTHY, JP. I am to report that a Bill for a Law entitled the Companies (Amendment) Bill, 1992 was considered by a committee of the whole House and passed without amendments.

MADAM CHAIRMAN: The Bill is accordingly set down for Third Reading.

THE MERCHANT SHIPPING BILL, 1992

CLERK: The Merchant Shipping Bill, 1992.

MADAM CHAIRMAN: The Honourable Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I am to report that the Bill for a Law entitled The Merchant Shipping Bill, 1992 was considered by a committee of the whole House and passed without amendments.

MADAM CHAIRMAN: The Bill is accordingly set down for Third Reading.

THE IMMIGRATION BILL, 1992

CLERK: The Immigration Bill, 1992.

MADAM CHAIRMAN: The Honourable First Official Member.

HON. J. LEMUEL HURLSTON: Madam Chairman, I am to report that the Bill entitled The Immigration Bill, 1992 was considered by a committee of the whole House and passed without amendments.

MADAM CHAIRMAN: The Bill is accordingly set down for Third Reading.
Third Readings.

THIRD READINGS

THE BAIL BILL, 1992

CLERK: The Bail Bill, 1992.

MADAM CHAIRMAN: The Second Official Member.

HON. ANTHONY SMELLIE: Madam Chairman, I beg to move that a Bill entitled The Bail Bill, 1992 be given a Third Reading and passed.

MADAM CHAIRMAN: The question is that a Bill entitled The Bail Bill, 1992 be given a Third Reading and passed. I should put the question.

QUESTION PUT. AGREED. THE BAIL BILL, 1991, GIVEN A THIRD READING AND PASSED.

MADAM CHAIRMAN: The Bill has accordingly been given a Third Reading and has passed.

THE MISUSE OF DRUGS (MISCELLANEOUS AMENDMENTS) BILL, 1992

CLERK: The Misuse of Drugs (Miscellaneous Amendments) Bill, 1992

MADAM CHAIRMAN: Honourable The Second Official Member

HON. ANTHONY SMELLIE: Madam Speaker, I beg to move that the Bill entitled The Misuse of Drugs (Miscellaneous Amendments) Bill, 1992 be given a Third Reading and passed.

MADAM CHAIRMAN: A Bill entitled The Misuse of Drugs (Miscellaneous Amendments) Bill, 1992 be given a Third Reading and passed. I shall put the question.

QUESTION PUT. AGREED. THE MISUSE OF DRUGS (MISCELLANEOUS AMENDMENTS) BILL, 1992, GIVEN A THIRD READING AND PASSED.

MADAM CHAIRMAN: The Bill has accordingly been given a Third Reading and passed.

THE JUVENILES (AMENDMENT) BILL, 1992

CLERK: The Juveniles (Amendment) Bill, 1992

MADAM CHAIRMAN: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I beg to move that a Bill entitled A Bill For A Law To Amend The Juveniles Law, 1990 be given a Third Reading and passed.

MADAM CHAIRMAN: The question is that a Bill entitled the Juveniles (Amendment) Bill, 1992 be given a Third Reading and passed. I shall put the question.

QUESTION PUT. AGREED. **THE JUVENILES (AMENDMENT) BILL, 1992, GIVEN A THIRD READING AND PASSED.**

MADAM CHAIRMAN: The Bill has accordingly been given a Third Reading and passed.

THE ELECTIONS (AMENDMENT) BILL, 1992

CLERK: The Elections (Amendment) Bill, 1992

MADAM CHAIRMAN: Honourable the First Official Member.

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that a Bill entitled The Elections (Amendment) Bill, 1992 be given a Third Reading and passed.

MADAM CHAIRMAN: The question is that a Bill entitled the Elections (Amendment) Bill, 1992 be given a Third Reading and passed. I shall put the question.

QUESTION PUT. AGREED. **THE ELECTIONS (AMENDMENT) BILL, 1992, GIVEN A THIRD READING AND PASSED.**

MADAM CHAIRMAN: The Bill has accordingly been given a Third Reading and passed.

THE COMPANIES (AMENDMENT) BILL, 1992

CLERK: The Companies (Amendment) Bill, 1992.

MADAM CHAIRMAN: The Honourable Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I beg to move that a Bill entitled The Companies (Amendment) Bill, 1992 be given a Third Reading and passed.

MADAM CHAIRMAN: The question is that a Bill entitled The Companies (Amendment) Bill, 1992 be given a Third Reading and passed. I shall put the question.

QUESTION PUT. AGREED. **THE COMPANIES (AMENDMENT) BILL, 1992, GIVEN A THIRD READING AND PASSED.**

MADAM CHAIRMAN: The Bill has accordingly been given a Third Reading and passed.

THE MERCHANT SHIPPING BILL, 1992

CLERK: The Merchant Shipping Bill, 1992.

MADAM CHAIRMAN: Honourable the Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I beg to move that a Bill entitled the Merchant Shipping Bill, 1992 be given a Third Reading and passed.

MADAM CHAIRMAN: The question is that a Bill entitled The Merchant Shipping Bill, 1992 be given a Third Reading and passed. I shall put the question.

QUESTION PUT. AGREED. **THE MERCHANT SHIPPING BILL, 1992, GIVEN A THIRD READING AND PASSED.**

MADAM CHAIRMAN: The Bill has accordingly been given a Third Reading and passed.

THE IMMIGRATION BILL, 1992

CLERK: The Immigration Bill, 1992

MADAM CHAIRMAN: The Honourable the First Official Member.

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that a Bill entitled The Immigration Bill, 1992 be given a Third Reading and passed.

MADAM CHAIRMAN: The question is that a Bill entitled The Immigration Bill, 1992 be given a Third Reading and passed. I shall put the question. The Bill has accordingly been given a Third Reading and passed.

QUESTION PUT. AGREED. THE IMMIGRATION BILL, 1992, GIVEN A THIRD READING AND PASSED.

THE SUPPLEMENTARY APPROPRIATION (1990) BILL, 1992

CLERK: The Supplementary Appropriation (1990) Bill, 1992.

MADAM CHAIRMAN: Honourable the Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Chairman, I beg to move that a Bill entitled The Supplementary Appropriation (1990) Bill, 1992 be given a Third Reading and passed.

MADAM CHAIRMAN: The question is that a Bill entitled The Supplementary Appropriation (1990) Bill, 1992 be given a Third Reading and passed. I shall put the question. The Bill has accordingly been given a Third Reading and passed.

QUESTION PUT. AGREED. THE SUPPLEMENTARY APPROPRIATION (1990) BILL, 1992, GIVEN A THIRD READING AND PASSED.

MOTIONS:

GOVERNMENT MOTION NO. 4/92

HEALTH CARE INSURANCE REGULATIONS 1992

MADAM SPEAKER: Motions. Government Motion No. 4/92. Health Care Insurance Regulations 1992. The Honourable Elected Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I beg to move Government Motion No. 4/92 entitled Health Care Insurance Regulations 1992 which reads as follows:

> WHEREAS section 22(3) of the Health Care Insurance Law provides that regulations are subject to the affirmative resolution of the Legislative Assembly; and
>
> WHEREAS draft regulations entitled the draft Health Care Insurance Regulations, 1992 were approved by Executive Council:
>
> BE IT NOW THEREFORE RESOLVED that the draft Health Care Insurance Regulations, 1992 made by Executive Council on the 23rd June, 1992 be affirmed by the Legislative Assembly.

MADAM SPEAKER: Would the Honourable Member wish to speak thereto?

HON. D. EZZARD MILLER: Thank you, Madam Speaker. These Regulations, like the National Health Insurance Law, is the product of many months, in fact, almost one year to date, and exhaustive consultations with the Health Insurance providers, the Committee established by my Portfolio and more recently the Health Insurance Commission under the chairmanship of the Superintendent of Insurance.

These discussions, have been both open and frank with much time being given for the Health Insurance agents to contact and discuss with their head office any recommendations before decisions were made. I wish to thank publicly all those individuals who gave up their time and knowledge to produce both the law, these Draft Regulations now before this Honourable House. I wish to deal in detail with the Regulations so as to give the public at large some understanding of what they can expect from the basic plan which these Regulations are made to control both what items make up the plan and what price it can be sold.

There are some important definitions in Clause 2, the interpretation section of the law, but before we deal with the details of the Regulations, let me assure the House that the Government has in fact, consulted as is required by the Health Insurance Law, such people as it reasonably considers represents the insurance industry providing Health Care Insurance in these Islands. They have been given a reasonable opportunity to respond to the Governor in Council, mostly through my Portfolio, before these Regulations were finalised. As I see it, the two important elements in the interpretation section is the definition of doctor and here a "doctor" is defined as: "a person registered as a health practitioner under the Health Practitioners Law, 1974, to practice in the health profession of medicine;". Not as some people have tried to make the public believe a doctor employed by the Health Services Authority. Doctor in this context refers to anyone licensed to practice medicine in the Cayman Islands.

Another very important definition is that of "health care facility" and this is what a health care facility is defined as: "in respect of a health care facility in the Islands, means a health

care facility operated by the Authority or licensed by the Governor in accordance to section 26 of the Health Service Law, 1991;". and as I go on to explain the Regulations as drafted , Members and the public at large will understand the significance of those two definitions because it does provide the portability that some people said does not exist. These Health Insurance Regulations under sub-section 3 prescribe health care benefits covered by the basic plan. It says:

"3. (1) Subject to the provisions of this regulation, the health care benefits to be covered by the standard health care insurance contract are:

(a) the in-patient benefits specified in Part 1 of the Schedule; and.".

This is what the Schedule says and this is the basic element of what the basic package which is to be sold at a rate set by this Parliament and that rate is also recommended in these Regulations. This is what that package covers in terms of the first Schedule - In-patient services, (that is while in hospital);

"1. Accommodation and meals
2. Full nursing service
3. Laboratory, radiological or other diagnostic procedures (including a biopsy together with any relevant report) necessary for the purpose of -

- maintaining health, or preventing diseases; or

- assisting in the diagnosis and treatment of an injury, illness or disability.

In lay-mans language, what that means is in a lab test, x-ray procedure needed while in hospital is covered by this benefit.

A drug, biological or related preparation -

- prescribed by an attending doctor; and

- administered in the health care facility.".

In other words, all medications that are administered to the patient while in hospital are covered. It does not cover what is commonly known in the industry as discharged prescriptions. In other words, a prescription which the doctor writes for the patient at the time of discharge which is usually a two week or a month treatment, depending on the disease, after the person has been discharged, is not covered.

"Use of -

- an operating room; and
- anesthetic facilities; and
- other facilities,

required in an operating procedure, (including necessary equipment and supplies)

- Standard surgical supplies
- Use of radiotherapy facility
- Use of physiotherapy facility
- An in-patient service rendered by a person who receives a remuneration for that service.".

Again, it is not limited to persons who receive remuneration from the Health Services Authority. If a private doctor charges the patient for a visit while the patient is in hospital that is also covered by the basic plan.

"- Use of a haemodialysis facility
- Treatment for alcoholism.". (while in hospital)
- Use of an ultrasound facility
- Use of orthopedic braces
- Maternity treatment.".

Those are the items that the basic plan covers while in hospital. That is what the $45.00 will buy each and every person who is insured to that level.

In addition, that $45.00 covers some out-patient benefits. These are covered in the second Schedule.

"A pathological study, an X-ray or other diagnostic procedure (including a biopsy together with the necessary report) -

- not obtainable or provided in a doctor's consulting room;" and".

In other words, the private physician who himself runs all these tests and X-ray equipment in this little back room and is not in a facility licensed under the Health Services Authority Law, it is not covered because the Health Services Law does not propose to license physicians offices, but any health care diagnostic facility or in-patient facility which is licensed, that is covered under this.

- as prescribed by a doctor; and

- required for the purpose of assisting in the diagnosis and treatment of an out-patient

The use of radiotherapy, an occupational therapy or a physiotherapy facility in a health care facility if prescribed by a doctor

The health treatment component of out-patient service necessary for the initial treatment of -

- an accidental injury suffered within 48 hours preceding the time of treatment; or
- an acute illness,

and the hospital component necessary to support operative or diagnostic procedure preformed by a doctor or under his direction (including the use of an operating room and anesthetic facilities, surgical supplies, nursing and the supply of a drug or a biological or related preparation -

- prescribed by a doctor on the medical staff of the health care facility; and

administered in the health care facility)

In other words, in lay-man's language, if the doctor prescribes a penicillin injection and it is administered in the facility as part of that out-patient treatment, it is covered. If he prescribes 28 penicillin tablets which he would go home and take one four times a day for seven days, it is not covered by the basic plan.

"A local ambulance service in an essential case and an air ambulance service to a place off Cayman Islands when certified by a doctor authorised by the Authority.

An X-ray of the breast under the prescription of a doctor

A doctor's consultation fee (subject to regulation 3(6)).".

And regulation 3(6) sets the amount that will be paid for a doctor's consultation fee under the fee schedule of the Health Services Law and it is presently set at $25.00. What that means to the man in the street is, if he goes to a private doctor and he has only a basic plan which he pays $45.00, that plan will pay $25.00 for that doctor's visit, not the $40.00, $50.00, $60.00, $70.00 or $80.00 that some private physicians charge in the private sector. The insured person, and if he is only insured for that basic plan of $45.00, if the consultant fee is $40.00 he will have to pay the extra $15.00. The basic plan will only pay $25.00.

The Regulation goes on to specifically exclude certain procedures from the basic plan and these are in a separate Schedule. "Cosmetic or plastic surgery unless necessary to correct traumatic injury or chronic disease.". For example, if one just wants a nose lift or some wrinkles removed from under the eyes because of age, that is not covered. However, if one gets in an accident and breaks ones nose or one has cancer of the throat, cancer of the face or cancer of the breast and reconstructive surgery is necessary as a result of that chronic disease it is covered. It does not cover a general physical examination. It does not cover:

"dental care, including a dental X-ray, extraction or filling except -

- dental surgery for the excision of impacted teeth or of a tumor or a cyst; or
- treatment of sound natural teeth damaged as a result of an injury.".

If it is necessary to remove a few teeth because of an accident, it will be covered under your emergency coverage in casualty in the operating room. If you just have a tooth ache and the tooth has decayed and because of the pain one wants it removed, it is not covered. Not covered is"

Treatment involving an examination of the eye for the purpose of fitting eye glasses or of the ear for the purpose of fitting a hearing aid except where such treatment is necessitated by damage to the natural eye or ear as a result of an injury.".

If it is necessary to treat ears and eyes in Emergency as a result of injury, it is covered. If you just want a routine eye examination to fit glasses, it is not covered under the basic plan.

Let me hasten to add here and now, that this law in no way prohibits anyone from buying the insurance necessary to cover these items which are excluded from the basic plan. It does not cover the provision of a medication of a patient to take out of a health care facility. That is what I was talking about earlier like discharge medications or if you go to the out-patient section of the hospital, or to your private doctor, and he prescribes a week or a month medication for you, that medication is not covered by the basic plan. It does not cover: "A diagnostic service performed to satisfy a requirement of a third party. A visit to a health care facility solely for the administration of a drug, vaccine, serum or biological product.". The law clearly sets out in those Schedules what is covered by the basic plan, and remember, this basic plan is in an effort to protect people from catastrophic loss due to illnesses which necessitate hospitalization. That is the primary objective of the National Health Insurance Law.

The Regulations do not place a limit on the amount of benefits in terms of the level of dollars any of those benefits. For example, some people who presently have health insurance have limit clauses in it which limit it to $150,000.00 maximum over three years. There is no limit in this Regulation. The Regulations talk about a health care facility, not the hospital operated by the Authority. It will be acceptable, yes at the two hospitals operated by the Health Services Authority both in Grand Cayman and the one in Cayman Brac, if in the event a private hospital is ever built, this basic plan, provided the owners and operators of that hospital will accept it, will cover anyones admission to that health care facility because it will have to be licensed by the Health Services, by the Governor in Council on recommendation of the Health Services Authority. Anyone will be able to walk into that private hospital and get the same benefit there as they would get by a hospital operated by a Health Services Authority to the level set by this Parliament for fees.

For example, presently rooms are set $250.00 per day. That is what you have covered, accommodation and meals. If you went to a private hospital and they were charging $500.00 per day and you had only the basic plan, the only coverage you would get is the $250.00 not the $500.00. You are covered to that same extent in overseas care. Once it is certified, by a doctor authorised by the Authority, to say that those services can not be provided in the Cayman Islands, you will get the same benefit there as you get here.

Because the Parliament is setting the menu for the items that will be covered, it is setting the price at which the items will be sold, that control is necessary to protect the insurance industries. Most of the institutions are not going to accept in any case the health insurance card that is sold locally for the basic plan. They will accept a patient referred through the Health Services Authority because the Government is guaranteeing the payment in the first instance to that institution. If you simply walk up to a private hospital in any town, U.S.A., in most cases if you only had the basic plan, they are not going to accept it without some kind of cash guarantee in the form of charge card or cash deposit and part of that is to make it more difficult for abuse of the system.

Other than the Schedules which prescribe the exact benefits under this plan, Clause 4 which sets the maximum premiums at which this can be sold is probably the most important clause in the Bill. Some Members have in fact doubted that any company would be prepared to sell this insurance at the rate recommended in this Bill. I have in writing from two companies that they are prepared to sell it at this premium. It is really not the duty of Parliament to get agreement from these insurance companies that they will in fact sell the insurance for that premium. The duty of this Parliament is to set what is a reasonable premium as determined by an actuary and recommended by the Health Insurance Commission because after all, this Parliament is mandating substantial premiums to these industries. The maximum premium that may be charged in respect of a person for a standard health care contract is as recommended in these draft Regulations where a person has attained the age of 65 years, $179.00 per month and in any other case $45.00 per month. In addition to setting those premiums, Government was concerned that in mandating this kind of insurance we did not allow the insurance companies to simply take the healthy people and not offer any insurance to those people who they now normally exclude, so the Government gave insurance companies, collectively, because they did set up a small association of the health insurance companies under the chairmanship of Mr. Harvey Stephenson, which met on a regular basis with first of all, the Committee my Portfolio set up to draft the Bill and later on with the Health Insurance Commission and representatives of my Portfolio in the drafting of the regulations.

We basically gave them one of three choices, to handle what I will call, for want of a better word, the high risk people. We told them they could set up a fund in which each would contribute a premium. They could quantify the number of individuals who are in the high risk category and if it was 100 and there were 10 insurance companies, each one would take 10, or they could offer a window of opportunity on a specified period in each year when they had to insure everyone who filled out an insurance form. The insurance companies opted to accept the establishment of a fund. Clause 4, sub-section 2 deals with this and it says:

> "(2) The maximum premium specified in sub-regulation (1) is assessed on the basis that 10% of each such premium collected by an approved insurer will be paid into a reserve pool to be administered by all the approved insurers and expended by them in respect of claims made on any of them by high risk insured people in accordance with the scheme agreed between those insurers.".

What that means is that $4.50 out of every $45.00 premium collected or $17.90 out of every $179.00 premium collected will be paid in to a fund which is to be administered by approved insurers under the guidance and inspection of the Health Insurance Commission. If I was a high risk individual, which that criteria is also set by the Health Insurance Commission, and I wanted health insurance, I would go to a company, fill out their forms, they would determine that I was high risk, they would collect my premium, because I am under 65 it would be $45.00, it would be paid into this fund and at any time I made any

claim to that insurance company, the claims would come from this pool of funds. We are trying to take care of everyone in the country, including the high risk people.

Now, because we are making it compulsory to have a certain level of health insurance, we have to control the insurance company and how or what happens when they terminate or decide to pull out of the Cayman market. Clause 5 deals with how a premium of a persons insurance can be cancelled and it says:

"5. ....the contract cannot be terminated by the insurer for the non-payment of premiums unless -

(a) the premium is 30 days or more in arrears; and

(b) the insurer has served on the insured person a written notice of the insurer's intention to terminate the contract unless the premium is paid within a specified period."

It goes on to provide that although most contracts in the health insurance business are on a monthly basis, it is not absolutely necessary to renew the contract as long as you keep paying the funds it rolls on up.

Then it deals with those insurers who cease to be approved. Either because their approval as an improved insurer by the Health Insurance Commission has been revoked or as happened recently in the Cayman Islands, the approved insurer withdraws from the provisions of health care insurance in the Cayman Islands. In either of those two scenarios, the person the insurance company must insure that any liability it has in respect of the health care insurance contract to which it is a party, is fully assumed by another approved insurer, so as to prevent what has happened in the most recent past here, where insurance companies may have pulled out and you had women who were seven and eight months pregnant and have been paying their premiums for years and now they are suddenly without insurance because no new company will insure them in the condition that they are in. We have put in a fine for that of $2000.00 per contract, so if they had 1000 contracts, the Members can compute what the penalty would be.

Then the Regulations list a series of documents to be submitted to the Commission because these documents such as latest audited financial statement, a copy of health care insurance contract, statistical reports are necessary for the actuary to use to determine the experience of the contract or whether the premium needs to be increased or not.

It details the records to be kept by the insurance company and Section 10 again deals with a very important aspect of the ability of the individual to assign his health care insurance to any provider, whether it is to his private doctor, to the private hospital or to the hospital operated by the Health Services Authority and that is the kind of identity cards that must be issued by the insurance company. This is that an approved insurer or an employer must issue an identity card to:

(a) each person insured by the approved insurer in respect of health care insurance; or

(b) each person covered by any approved scheme implemented by the employer,".

The Identity card must be in the form approved by the Commission.

It is intended that this card must carry three very important pieces of information. A photo identification of the individual holding the card so there is instant identity, yes, it is Joe Blow. You are looking at him, he is on the card. It must carry either a bar code or a magnetic strip that can be read by a computer to determine two things 1) what plan the individual has, whether it is a basic package, plus, plus, plus, or it is simply a basic package so that the health care provider will know what the insured person is covered for; 2) it must determine whether the insurance is current, that is the premium is paid up-to-date. In addition to that we expect the insurance company to issue to the health care provider an authorization number as most people do with their American Express or Visa Card which guarantees payment to the health care provider.

That is to prevent in the Billing interval someone's insurance being current to date but by the time you get the Bill to the insurance company it has lapsed and therefore you can not collect the funds. Once we have that authorization number, payment is guaranteed. It allows for the Superintendent of Insurance to appoint inspectors to go in and inspect records to show that employers are in fact complying with the law, they are providing a health insurance benefit to the employees, they are collecting the premiums and yes, they are paying them to the insurance company. That is the scope of the Regulations presently before parliament and what it is trying to do in providing our people with health care insurance at a reasonable cost which will prevent them from being wiped out financially in particular during hospitalization.

I recommend the regulations to Honourable Members.

MADAM SPEAKER: The question before the House is Government Motion No. 4/92. The motion is open for debate. The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I cannot support the regulations which are before the House because there are too many unanswered questions surrounding these Regulations. The Member continues to dodge any questions that are raised. In this very meeting I queried the fact that the local carriers had written to him saying that they could not meet his deadline in complying with his request to provide insurance at the rate set out in these Regulations. This is a serious matter. When the Member for Government stands before this

House and says, "I have it in writing from two companies that they are prepared to sell it for this premium." That statement may be true, but why does he not show it to us? Why does he not tell us or the public who the two companies are?

What I saw in the newspaper is that he refused to disclose the names of the two companies and it is my firm belief that those two companies are not registered to carry on business in the Cayman Islands! I hold the other Elected Members of Council guilty for perpetuating this fraud on the people of the Cayman Islands! They must be honest with the people because it is the people, as I will show later, that will suffer if we allow this Member to go on in the fashion that he has been proceeding so steadily, while they quietly smile. But they all are guilty. He says that it is not his business, or it is not Government's business, to have these companies ready to sell the insurance. Why does he feel it is not his business? Government is forcing the insurance! Government is mandating the insurance!

Now, we already have on our books mandated insurance in the form of the third party insurance for motor vehicles but it is all together different from this because Government does not seek to mandate the premium at which the insurance must be provided. That law states that there must be insurance on the cars or the motor vehicles and the public is free to go out and negotiate the best price they can get. This Member has gone one step further and said it must be provided at $45.00 per month for people up to the age of 65 and $179.00 for those people over 65. I do not believe a word that I hear from Executive Council anymore because we have had too many words that have not come to pass. We have heard about the Bodden Town Boundary being changed. We have heard from the Governor, certain statements that never came to pass.

I can not honestly stand here and accept this. I want to see, the public needs to see and they need to see before their representatives vote for these Regulations. It is my belief that this Member is not trying to provide, as he once said he would provide, quality, affordable health care for Caymanians. He went on to make a statement in the November 22 to 28 issue of the New Caymanian in 1991, to the effect that an added benefit to what he was doing would be to wipe out, or in his words, reduce the large Government subsidy for health services which is approximately $10.4 million, as budgeted in the 1991 Budget. I cannot accept that these Regulations are intended to give anybody any good care or affordable care when his stated purpose, if what the New Caymanian had was true, in the weekly issue of November 22 and 28, that an added benefit was to reduce the large Government subsidy for health services which is approximately $10.4 million as budgeted in the 1991 Budget.

The Member has cleverly worded the preamble to these Regulations and I would draw the attention of the House to it. He says after having sought the views of the Health Care Insurance Commission and such people as he reasonably considers represent the insurance industry, providing health care insurance on the Islands, having given then a reasonable opportunity to respond, he went ahead and make the Regulations. He said he consulted them. I guess the law requires that they be consulted, but the key words are "having given them a reasonable opportunity to respond, the Governor in Council has made the following regulations". In other words, using the dictum for the Member for Education, anybody can have it safe and that Executive Council will have its way.

It is my understanding that when these people were consulted, or when their views were sought, and they were given the deadline to respond, they responded to him saying that we cannot meet your deadline and the letter was signed by every carrier of health insurance in these Islands with the exception of Capital Life. It was signed by the major carriers. I would love to read the letter but it is in his possession. I would also like to give this House the name of the two companies that promised him that they are prepared to provide this insurance for $45.00 per month but he too has that under lock and key, and I am asking him to show it to us today because he did not take the bait last week when I threw it out, but I want it to come out today. We want to know who they are because the public are going to have to deal with them. Why is the Member hiding it?

I am not protecting anyone. I have never, if you are talking about myself, I have never sold health insurance and have no intention of getting into it. I have no axe to grind. We want to be certain that this deal is on the level. This matter of mandated rates is bad for this country. They have already spoiled the image of this country as a successful financial centre and the action of this Member will certainly further dampen our image. He himself mentioned about carriers that have left. It is not a good thing to boast! I wonder if he knows one of the most reputable banks in the world, a large French bank just left this Island because of the actions of this Government and has gone to Panama! God, we must be getting bad. When they have gone to Noriega. It is time that we improve our image and I call upon the Governor today to hold an election tomorrow.

No company wants to operate in a mandated rate climate. Will the banks operate next week or in September when they come with mandated rates for the banks? It is a known fact that these companies always withdraw from markets where they have been told what to charge. What will happen to this country? What has happened to every other one in the third world and the Caribbean? Quality carriers will remove themselves and the second rate carriers providing poor services will see this as a splendid opportunity to get rich and to gain a market share which they could never get under fair competition. Their attitude would be to write the business and we will deal with the problems later. The end of this scenario will be that this will become another nightmare created by this Government and dumped in the laps of the next Government and in the laps of the people of the Cayman Islands.

The Member, in introducing the Regulations made a lot of what he had put in the Regulations and the Law about what would be covered and what would not be covered, and that if a patient who was forced by the Government to purchase this insurance, decided to go to a private doctor, regardless of what the consultation fee was, this magnificent plan that he has provided will pay $25.00. What is going to happen to the people that choose not to go to his hospital in the swamp but decide to go overseas and

cannot get his blessing or the blessing of his authority which he has set up and to which he can get himself appointed at any time that is necessary? What will happen to them?

They told us about how he is going to handle the high risk cases. I wonder if he thinks that what he is doing is sufficient? I can only say, as I have said in other debates, that for the sake of our children and grandchildren, thank God, time is running out on these people.

MADAM SPEAKER: The Third Elected Member for George Town

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. The Health Care Insurance Regulations before this House are regulations that have worked in practice. They are regulations that are not good enough being left in the abstract or being left in a state where things are hidden and not outright and disclosed.

At the beginning of the Regulations there is a quotation that states that the regulations are made by virtue of power conferred by Section 22 (1) of the Health Care Insurance Law after having sought the views of the Health Care Insurance Commission and such people as the Member reasonably considers represents the insurance industry, providing health care insurance in the Islands. What would have been good is if the Member would have laid on this table, or let us have in some form what the views of the Health Care Insurance Commission and the health insurance industry in the Islands think.

The danger with this type of Section, is that while it appears to be complying with the democratic principles in these Islands, it fails to go sufficiently far that the benefit of the advice of the people sought can be made available under the democratic process to the people who ultimately must find insurance under this Law. I would have been interested in knowing the views of these people because they are the people who are going to have to deal with the running of the system and in practice they are the people who will ultimately decide whether this insurance scheme is going to work or not going to work. Making the Regulations is one thing, having acceptance and cooperation from the people who are going to carry it out is a totally different thing. You can not legislate for the latter.

The Member for Health has dealt in detail with different sections of the Regulations and I would like to comment on certain areas of these as well. I would like to make it abundantly clear that I agree with health insurance in principle. I said that when the law was going through and I repeat it here again, but it has to be set up in such a way that it is workable and it is fair and it is democratic. The definitions of doctor and health care that the Member dealt with deal with in the first instance, a health care facility, either operated by the Cayman Islands Health Services Authority, or licenced by it. Let us look again at the position that the Cayman Islands Health Service is in.

It is on the one hand providing the services through the hospital which it presently is doing and in the future will be through the new hospital. On the other hand, it is the party which has the licence of the hospitals. This in itself has to be a serious conflict because we are probably going to find at some stage that there may come a time when there will be facilities which cannot exist along with the Government facilities. What at that stage is the position of the Health Services Authority? We know that it is not going to be easy on the medical profession or the health care facilities to get along with the Member for Health and his Authority, so in my view we are going to see the type of conflict which is ultimately going to cause friction and is going to cause the Health Services within the Islands to be lowered or alternatively not to progress at the rate of development that it should.

Basically, what we are coming back to is a Government body and in fact a Member who is functioning as a Minister, as one of his booklets quite clearly defines him, who is exercising considerable amount of autonomy and has through the Health Services Authority and himself, the health care of these Islands. Without the necessary competition in any profession, I believe that standards ultimately will be lowered. For example, if you have one main health care facility, without sufficient competition, then I believe its standards are going to fall. He has prescribed and made mandatory the health care benefits. I had expected that the Member for Health would have come to this House in a position to say that these health care benefits, together with the fee that is going to be paid for premiums, is one that I have the acceptance of the insurance industry for, because how in the world is he going to mandate that insurance be taken out by people, when he, at this stage, is uncertain as to who is going to provide it?

I would have assumed if the Member has the cooperation and the undertaking of the insurance companies that provide health care in these Islands, he would have been able to come here and say, "Look, the people can go to these insurance companies and they will insure them." We must remember while he is not prosecuting for the next year, this insurance is mandatory. One is expected to go out and find insurance, pay your $45.00 and get your coverage! We have a bit of, I guess a hangover, of the socialist regime which has been dismantled worldwide coming in where the Government itself seems to me in a position where not only is it stifling any type of competition in this area, but it is also attempting to have the insurance companies themselves be told what they should do.

I believe that the provisions in the early part of this, dealing with consultation by him of the Health Care Insurance Commission, the insurance industry that provide health care insurance, must surely have been such that he would have sought and gotten the cooperation of them before he moved on with bringing in these regulations and moving on with the mandatory insurance. I once again stress this, the Government is saying you must insure for health purposes, yet the Government itself, at this stage, does not have the insurance facilities to do it. It appears that private sector companies that operate in this area are not cooperating with the benefits and/or premiums that are being set in these Regulations.

I understand the Member for Health wishes to keep the insurance premiums low, but I really believe that if he is going to intervene in a free market, then his intervention must be such as is reasonable to the people who are providing this facility. I would ask a question. Suppose when

the Government decides, it would not be this Government deciding, well, I am not to certain as to how they dealt with the question of prosecution, I cannot remember if the Law gave a one year period or there were sections to be brought in a year down, or whatever. What happens when the year is up, we still have people in this dilemma! The Law says you must insure and you do not have any private insurance companies who are prepared to insure them? It is really not a very happy situation.

Also, throughout this we have references to doctors who are authorised to do certain things. Presumably they are going to private doctors who can do some things and other doctors, who the Health Services Authority is going to authorise to deal with other aspects of these Regulations. One of these sections is Regulation 3 (3) (b) where if someone has to be sent off the Island then it has to be a doctor authorised by the Authority to do so. We then get instances where in the sub-regulation (6) of that same Regulation, we have the Member stating that the private doctors fees that are paid for under the minimum insurance will be $25.00 per visit.

My question is, is this practical or is the Member really driving people towards a State run, and I would say a Socialist system of health services in the Islands? It is all well and good to do this, but if things are not practical, then they are not going to work. I do not think it is right to do things in such a way that basically, many people and I say many people, because it will be many people in the Islands, are going to be first to stay within the Government's system because even though the insurance regulations could have provided otherwise, we do not have the cooperation that is necessary to have practical results.

In relation to the maximum premiums, this would be extremely good if we are looking at $45.00 per month for basically major medical health care. I notice the premium in relation to people over 65 years is considerably higher. I cannot remember how the Member disclosed that when the Law was coming up. There was talk about the $45.00, I know, but my question again is, is this practical? If in the final analysis, these amounts do not work out, even if insurers begin to insure people in the Islands and the amounts are too low, finally, there is going to be an adjustment. We know how the insurance industry works and it can not work at a loss. If there is a lot of reluctance around either one of these amounts, which apparently it must be around some of the amounts, then would it not have made sense for the Member to try to seek the cooperation and perhaps accept whatever reasonable advice his consultation with the two bodies has produced?

I understand the position in relation to producing a fund for persons who are high risk. I do not know whether the 10 per cent is sufficient or not sufficient but he states that there has been acceptance by the insurance companies that they will go the route of the fund. Once again, in relation to Regulation 5, which is termination of the insurance care by the insurance company, we have a position where in opening on that Regulation, the Member started referring to control of the insurance companies. Surely, at some stage he has to get into a position where he has cooperation of the insurance companies and this may have been Regulation 7, that he opened on that on which was where an insurance company ceases to be approved.

I guess one of the things that has made it difficult in bringing Regulations to this House that the Member has said he was bringing with the backing of the insurance companies and the health professionals, has been this obsession of his to control rather than cooperation. It is so simple to try to lead people where one would like them to go. It is extremely difficult to push them into a position where they do not wish to go. I do not really think that the Member understands too well the difference between the two.

MADAM CHAIRMAN: Would this be a convenient time to take a break? The House will be suspended for 15 minutes.

AT 3:48 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 4:09 P.M.

MADAM SPEAKER: The Honourable Third Elected Member for George Town, continuing the debate.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. The Regulation that deals with the right of insurance to continue is a good regulation as it continues without having to be renewed, provided that the prescribed premiums are paid. This is standard in a lot of contracts, I understand. The control, in relation to the perusing of the audited financial statements and the different reports by the Commission is one that is one that I believe is necessary. This type of perusing now goes on in any event in relation to insurance companies from time to time, and I think in relation to banks.

One of the very worrying things about the approach that has been taken in these Regulations, and one that I believe can cause a considerable amount of concern among certain persons in the financial offshore industry, is if there becomes a feeling by investors, (and I would include insurance companies, banks, whatever) that Government policy is to take and mandate maximum amounts for services that are being rendered, rather than having proper consultation and cooperation by the companies involved, then it is going to send the wrong signal to potential investors and potential companies that are coming here to do business. This is why I am prepared to accept insurance regulations provided that they are coming with some shown cooperation of the industry that is being controlled by them. In other words, I believe that if the feeling gets out that the Government of the Cayman Islands may be prepared to take and set mandatory amounts such as these premiums for services that are also mandatory under the Regulations and the apparent cooperation of those industries is not there, then I really believe it is going to be difficult in the future for us to deal with that type faction with relation to future insurers.

I have no problem with other areas of the Regulations such as

the documents to be submitted and the identity card which is usual in the industry that would be issued. What I am worried about is that today we are being asked by the Member for Health, to approve regulations which are mot practical and that they also, as I see it, are aimed towards wiping out competition in this Democratic society of ours.

In fairness he went through this in quite a bit of detail and explained areas of it and that is good, but what he has not been able to satisfy me on is, that at the end of the day, we are going to find that we have regulations coming into effect that are not going to work. I am not exactly sure, even though I believe that I know what the Member for Health meant when he said he was not going to licence doctors offices, I do not know whether that was meant to include the medical centres themselves or whether it is merely private practitioners offices, But I believe he has to be very careful when he begins to radically change the way that people have become used to and the way the medical profession has operated.

I believe that the choice, and it has to be a practical choice, I keep coming back to that, of a person to have the doctor of their choice is an important right in any free society and I am wondering whether it may not have been better to have tried to produce regulations that came more in line with what is presently the practice with regards for example the $25.00 for the doctors consultation fee, which we know in most instances is going to be considerably more. I am therefore of the view, and I would like this repeated as I did on the Law, that I am for proper Health Care Insurance. I would be prepared to support the Health Care Insurance Regulations which I was satisfied were practical. Despite what the Member for Health said, he has an overriding duty to the public if he is going to bring these in to say to the public who you can go to get the insurance.

I do not think it is good enough for him to take the approach he provides the Regulations, he does not provide the insurance and he does not have to say who is going to insure the people. Surely, if we are producing legislation in this place, people are going to be calling us up and asking us where do we go to insure? If the Member does not know then how are we to deal with the practical side of this? I think that he should have come here with regulations which would say look, you can go to these seven or none insurance companies that are going to provide the insurance. We are making it mandatory but the position is clear out there that you can get the insurance that is required under the Regulations and to say that the premium you pay is one which is practical now because it is supported by a majority of the companies in practice here. And we do know that the premiums at present from the companies who provide Health Care Insurance, even though they may be substantially more extensive in some areas, is substantially more than this.

I would say that the Member should take these back and get his homework done, get the cooperation of the insurance industry and the medical profession and then come back to us at a later stage when he has something that he can look at and ask in confidence that it is going to be workable. I am for Health Insurance. I would be happy to support regulations if I was certain that in practice they were workable but I can not support these regulations because I am not satisfied that these are practical and workable. If they are not, then the people of these Islands are going to suffer and we are going to then find that as the time runs out on the one year of the mandatory side of this, there are going to be amendments or changes or whatever to try to get something that is workable.

With these specific Regulations, especially what I have outlined in this, I cannot support these and would ask the Member to go back and try to come with something that is more practical and to stand in this House and give the assurances that people can go out and go to different insurance companies and get all of these things for the premiums and on the conditions set out in this. Thank you.

MADAM SPEAKER: If no one else wishes to debate Government Motion No. 4/92, I would ask the Honourable Member if he would like to reply thereto.

HON. D. EZZARD MILLER: Thank you, Madam Speaker. I have never listened to more rhetoric rubbish and lame duck excuses by the two Members who spoke on this motion in the history of my seven plus years in this Parliament. They have the temerity to suggest that I am not telling the whole story but that they are. They have produced not one shred of evidence to substantiate anything they have said. They claim to have knowledge of letters which they claim that I have and they do not have. If those two Members have been specifically lobbied, as they must have been to make the kind of contribution that they made by the special interest health insurers in this Bill and asked to deliver certain things, they should say so.

They are talking about, I must name the companies! Before I sit down on Wednesday, I am going to name a few companies and I am going to answer them in like manner as they have contributed to the debate so far. The Third Elected Member for George Town talks about my desire and obsession to control! Does that Member think for one minute that the public of this country, including the doctors and physicians and other medical practice in this country, has forgotten his eight years as the Member? I do more consultation with the people who are affected by my policies in one week than he did in eight years. I will never forget those unreadable, specifically designed in print so that people would not read them, medical policies that he published. Ambulance can not pick up dead people if they come and declare them dead at the house, they have to leave them behind. If you wish me to produce it and read it I will on Wednesday, the whole document.

That Member, the now Third Elected Member for George Town talks about consultation! He wrote the Pharmacy Law and never consulted the hospital staff, period. He dealt with a private pharmacist out in town. I should know, I was the Government's Chief Pharmacist at the time! I had to get a copy of the Law from my friend at Cayman Drugs. I will deal with their individual comments as my reply goes on. The Second Elected Member for Bodden Town should take off his dark shades because I believe someone has engraved on him on the inside of those shades, election, November 18th, you will be in power. That is all he is seeing. He is not concerned in the least bit with the health care of his people or the Health Insurance provisions. All

I have heard from him all day along on every single item of business in this Parliament is when they get here in four months, what they are going to do. He talks about he is worried about his grandchildren and children and their children. We continue, he has yet to convince the public once again, the opportunity to sit in the Glass House.

Check what was done by them from 1976 to 1984 in Health Care or anything else for that matter and see how much consultation they did or how much consultation they do now as Backbench Members unless the little special interest groups knock on the door. They do not think the $45.00 is adequate. They like to file amendments without notice to everything else. File and amendment. The $45.00 was not set by this Government or myself or anyone in my Portfolio staff. That was computed by one of the most experienced and respected health care actuaries in the world. He has been specifically dealing with Health Insurance Premiums for more years than I care to remember.

If you were listening to the two of them, you would believe that the Government just pulled this $45.00 out of a hat. The actuary came here, he looked at disease indices, graphics of the population. He looked at the cost of health care over the last several years, not just 1990 or 1991. He computed what the premium should be. Not a single Insurance Actuary of the companies locally have come back to me and said that they cannot afford to do it at that price. Not a single one and they had the figures from the 12th of January, 1992. One of them, who I will name when I continue to debate, has always objected to Health Insurance being brought in because it is doubtful whether his company can comply because they do not do group health. Should I continue to allow my people to be saddled with these high health insurance premiums set on the North American Market, when we are charging in most instances less than 50 per cent?

MADAM SPEAKER: It is now 4:30 Honourable Member, may we take the motion for adjournment?

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that this Honourable House do now adjourn until Wednesday the 15th of July, until following the conclusion of Finance Committee Meeting for which notice has been duly given.

MADAM SPEAKER: The question is that this House should now adjourn until Wednesday at the conclusion of the meeting of the Finance Committee which has been set for 9:30. I should put the question.

QUESTION PUT: AGREED

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL THE CONCLUSION OF FINANCE COMMITTEE ON WEDNESDAY, 15TH JULY, 1992.

FRIDAY
17TH JULY, 1992
10:09 A.M.

MADAM SPEAKER: Prayers by the First Elected Member for Bodden Town.

PRAYERS

MR. ROY 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings in the Legislative Assembly are resumed. Questions to Honourable Members No. 146 the First Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

No. 146: Would the Honourable Member say what is the income and expenditure of the Health Services Authority as it relates to the operation of the George Town Hospital from January to May, 1992; and what are the figures for the same period of operation of the Hospital during 1991?

Answer: The income and expenditure of the Health Services Authority are as follows:

	Jan/May 1991	Jan/May 1992
Income	656,818.00	1,425,775.00
Expenditure	4,509,621.00	4,775,157.00

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could explain the reason for the significant increase in income between January and May in 1991, and January and May of 1992?

HON. D. EZZARD MILLER: There were two main reasons, Madam Speaker. One is there is legal mandate now to collect at the hospital for services which are given and there has been much improvement in the whole financial systems in the hospital with computerisation etcetera and in addition to that central Government is paying for civil servants, their dependents, pensioners, spouses, prisoners, etcetera which category prior to that, services were rendered free.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I notice also that the expenditure has risen for the period in question and I wonder if the Honourable Member could say if there are any concerns firstly about the rise in expenditure and if there are any plans or any on-going review to monitor the expenditure to see that it does not rise out of proportion with the income?

HON. D. EZZARD MILLER: Madam Speaker, the same level of controls and mechanism put in place to improve the revenue situation have been put in place on the expenditure side to control it and reduce it as far as possible. I would just point out that that figure does include the five per cent given to civil servants centrally in January 1992 and it also includes Cayman Brac which was not accounted for at the hospital before and services like recruitment and advertising and stuff which were formally done by central Government through the Public Service Commission and personnel.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you. I would like to ask the Honourable Member if the improved revenue collection and fee collection means that those people unable to pay will be turned away? How are these cases dealt with?

HON. D. EZZARD MILLER: Absolutely not, Madam Speaker. In fact, we have gone as far as to recruit and place within the Health Services a Medical Social Worker specifically to deal with those individuals who are not presently covered by one of the nine categories of free services in the Health Services Regulations and who can qualify either by the means test or otherwise.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could explain to the Parliament how this system works in the event of an emergency if someone comes in in pain for example on an evening when the Medical Social Worker might not be working?

HON. D. EZZARD MILLER: Madam Speaker, all emergencies are handled as emergencies and medical care is given first and questions about affordability and payment are asked afterwards.

MADAM SPEAKER: If there is no further supplementary the next Question if 147 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 147: Would the Honourable Member say why did the Government not honor its undertaking in the Government Minute to use the Central Tender's Committee in awarding the hospital contract?

ANSWER: The Government did not give an undertaking in the Government Minute to use the Central Tenders Committee in awarding the Hospital contract. In the Government Minute on the Public Accounts Report, on the Auditor Generals Report, on the Accounts of the Cayman Island's Government for the year ending December 31, 1990, which was tabled in this Honourable House on March 16th, 1992, page 43, the following is recorded.

"The Government wishes to inform the Committee that the Deputy Financial Secretary, who is also Chairman of the Central Tenders Committee, sits on the Boards of many of the Statutory Bodies and that he has confirmed to the Government his support for the tendering procedure now being pursued by these Boards upon which he sits. Government will, however, in the future make it a condition of guaranteeing loans to Statutory Bodies, that they use the Central Tenders Committee as the agency which would consider and award contracts for works, materials and consultants costing over CI$100,000, in accordance with Financial & Stores Regulations.".

I contend, and this is supported by extract 5113 of meeting No. 149/92 of the Executive Council that the bids for the construction of the new hospital were not subject to the decision recorded in the Government Minute of the 1990 Accounts due to the fact that the tendering process for this project commenced prior to March 1992.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. Can the Member say what is so vastly different between the contract for $18 million for the building and the $1 million for the design, which $1

million was dealt with by the Central Tenders Committee?

HON. D. EZZARD MILLER: Two big differences, Madam Speaker. The Health Services Authority did not exist when the contract for the design for the Hospital was given. And the second reason is that the documents which were distributed to the five contracting firms who were pre-qualified to bid on the hospital clearly delineated what the procedure for the tendering process would be. That had been circulated at the end of January, 1992.

MADAM SPEAKER: Supplementary, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. The 1990 Government Minute was this not considered a considerable time before March 1992, and a decision taken on it? Long before the tabling in the House?

HON. D. EZZARD MILLER: No, Madam Speaker. In fact, the records of Executive Council would show that the Government Minute was considered by round-robin, one day before it was tabled in this Honourable House.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Was this held up so that these massive contracts could go through without being caught by the Central Tenders Committee which protects the public's money?

HON. D. EZZARD MILLER: No, Madam Speaker. That decision was made as to what process and who would be the tenderings committee was made two months prior to that and was approved by Executive Council and Madam Speaker, I certainly had nothing to do with holding up the Government Minute.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: The Central Tenders Committee comes into play to make a decision on bids when they are received. Is that correct?

HON. D. EZZARD MILLER: Yes, Madam Speaker.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. When were the bids received on the hospital building and was this after the Government accepted that these should go to the Central Tenders Committee?

HON. D. EZZARD MILLER: Madam Speaker, I think the date that the bids were received was the 14th of April, and it definitely was after this. However, the Member's fertile legal mind will tell him, and he will know, that he could not alter the terms of the tender document after it was tendered and that delineated what the tendering process was going to be.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Surely if the Tenders Committee, as you have mentioned, deals with bids when they come in and you mentioned these bids came in a month afterwards, then why did you not have the Central Tenders Committee sit on this, make a decision and the Hospital Authority merely follow the decision of the Central Tenders Committee, if you felt that was a technicality?

HON. D. EZZARD MILLER: It was not me who felt it was a technicality - and he knows that that was not legally possible and that we could have got into a lot of trouble if we had changed the terms of the tender document after they were received and I was not prepared to put the Health Authority to that risk. And, Madam Speaker, I hasten to add that the Central Tenders Committee and its members I do not think would have done any better job than the Health Authority Board did.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. Did you try to call through to the five people and say to them, 'do you mind this going to the Central Tenders Committee?' I am sure most of them would have agreed.

HON. D. EZZARD MILLER: No, Madam Speaker.

MADAM SPEAKER: The First Elected for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. The Member has said that there was a certain procedure for the tendering of this particular contract. Can he say who made these or organised these procedures?

HON. D. EZZARD MILLER: The Health Authority Board and it was approved by Executive Council.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: He says the Health Authority Board in his answer, Madam Speaker. Was he then Chairman, and was he not part of Executive Council?

HON. D. EZZARD MILLER: Yes, Madam Speaker.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, may I ask the Member if he will be using the central tenders committee in settling the disputes arising out of the hospital contracts. What I am talking about, is it is my understanding that the Hadsphaltic bid of the Cayman Brac hospital is less than the Hurlston bid and there may be litigation over it.

HON. D. EZZARD MILLER: Madam Speaker, if that is the case, that is a problem of the Health Authority Board and its legal firm.

MADAM SPEAKER: The Third Elected Member for George Town

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Did the bids have that this would also go to Executive Council or did you take it...

MADAM SPEAKER: Excuse me, Honourable Member, would you not say 'you'? The question comes through the Chair, would the Member please say whether 'so and so' and not 'would you say' please?

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Through the Honourable Speaker, would the Honourable Member please say whether the bids had any condition that this would go to Executive Council and if not, then what was the difference between putting it to the Central Tenders Committee or putting it to the Executive Council?

HON. D. EZZARD MILLER: Madam Speaker, the Member must not try to conveniently confuse the two issues. The question that I said the answer to what was approved by Executive Council, was the tendering process not the bids. The decision as to who was awarded the bid was that of the Health Authority Board and they made the announcement and everything else.

MADAM SPEAKER: The next Question is No. 148, standing in the name of the First Elected Member for Bodden Town.

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

No. 148: Would the Honourable Member state the extent of the problems being experienced with the sewerage line along the West Bay Beach?

WITHDRAWAL OF QUESTION NO. 148

MR. ROY BODDEN: Madam Speaker, I would crave the Chair's indulgence into withdrawing this question, as I understand that this may be a sub judice matter and the answer may lead us into foul territory.

MADAM SPEAKER: Is that your opinion, Honourable Member? Because I am sure that the Member for Communications and Works is prepared to answer the question were it. Were that the situation he would not be answering it. Honourable Member for Works and Communications.

HON. LINFORD A. PIERSON: Madam Speaker, I concur with the view expressed by the First Elected Member for Bodden Town after having discussed the matter with the Honourable Attorney General.

QUESTION PUT: AGREED. **QUESTION NO. 148 WITHDRAWN.**

MADAM SPEAKER: The next item is Government Business, Motions. Government Motion No. 4/92 Health Care Insurance Regulations, 1992, continuation of debate thereon. The Honourable Elected

Member for Health and Social Services replying.

GOVERNMENT BUSINESS

MOTIONS

GOVERNMENT MOTION NO. 4/92

HEALTH CARE INSURANCE REGULATIONS 1992

(Continuation of Debate thereon)

HON. D. EZZARD MILLER: Thank you, Madam Speaker. As I indicated on Monday afternoon when I started my reply on the National Health Insurance Regulations and the Motion, that they be affirmed by this Parliament, I am really sick and tired of the style and level of the debate of the Backbenchers in which they do not deal with the issue before this Parliament in any sensible way, but deal solely in their usual nasty personal way in trying to influence the public to believe I, and by extension the Executive Council of which I am a part, have some sinister reason for bringing these Regulations to this Parliament at this time. While I have never pretended to be a saint, if when I die I meet them, I will know it will not be in heaven.

Neither of the two speakers, that is the Second Elected Member for Bodden Town and the Third Elected Member for George Town, who spoke against the motion. . . and we know and we have been reminded on many occasions in this House that the six of them speak with one voice and often use "we" when debating issues to emphasise that their view is a collective view of the Backbenchers. They live by one creed - oppose the Government. That is their way to get to Exco or to be the Government. They have offered no constructive criticism on the Regulations. That is nothing new. I sent them a copy of the first draft with Regulations attached the 22nd of August 1991, and asked for input. No input whatsoever was received from any of the six Members. I got input from both Members for Cayman Brac, in fact the Second Elected Member for Cayman Brac kindly gave of his time and knowledge and served on the small committee to develop the law.

On Monday afternoon there was an unusual twist to the debate by the Third Elected Member for George Town. He was really laying it on me heavily until he was summoned to the Common Room during the afternoon break. Madam Speaker, I do not know whether they hog-tied him or set him straight, but his style of debate changed when he came back in the Chamber. I can understand his great concern and fear of control because he must be in a very uncomfortable position. He is now being instructed by people with fewer degrees, and obviously being told what to say. They now apparently control his every political move even to his votes for Executive Council, because he won a bet of $25 from me that he could stand in this House and say he was going to put the First Elected Member for West Bay and the First Elected Member for Bodden Town in his Executive Council.

Let me try and deal with the concerns as expressed by the Second Elected Member which he made during his emotional, senseless, baseless, factless outburst of words which was supposed to be a contribution to the debate. I have heard of second childhoods and I believe the Member is reliving his part, his past acting performance in plays for the Bodden Town Garden Party. Maybe the Bodden Town voters this year will give him the freedom to return to that glorious stage, because he was a good actor and entertainer in those garden party plays. He suggested an early election so that they could replace me in Executive Council and that is nothing new. They went up to my constituency and begged the people of North Side to vote for somebody other than me so that who they elect could help them replace the North Side representative in Executive Council by one or two from West Bay. I would like to remind him that he has to be careful when he gets emotional and talks about when he is going to form the Government, because his name was not amongst the elite named in my district as to who was going to be the Government. Let me remind him who they were - "Truman Bodden (and I am quoting, that is why I am using names, Madam Speaker), Tom Jefferson, John McLean, Roy Bodden and McKeeva Bush".

MR. W. McKEEVA BUSH: On a Point of Order, Madam Speaker.

I.... irrelevance if you want to know what the Point of Order is. I have been listening to this Member chattering over there and it has nothing to do with the matter before the House, even though he is replying. He is using it as a campaign platform. If that is not clear then I do not understand what he is debating now. That was a North Side meeting. What has that got to do with the Regulations, I cannot see and I say it is irrelevant.

MADAM SPEAKER: Honourable Member, I was listening very keenly to your speech and I would ask you to please get to the relevancy of the Health Care Insurance Regulations, if you would. Thank you.

HON. D. EZZARD MILLER: No, problem, Madam Speaker. The relevancy is that the Second Elected Member for Bodden Town proposed and the Third Elected Member for George Town suggested that these Regulations be withdrawn and put forward by their Government.

MR. W. McKEEVA BUSH: That has nothing to do with the North Side meeting.

HON. D. EZZARD MILLER: And, Madam Speaker, I cannot run that risk with the people of

this country because they were in power for many, many years and no Health Insurance Law or Regulation was brought forward. These Health Insurance Regulations, the need for such insurance and regulations is not substantially greater today than it was several years ago. That Member said he had too many unanswered questions on the National Health Insurance Regulations. However, in his lengthy debate he identified no such questions to be answered. He claims that I and the Government were trying to dodge questions from the industry. This National Health Insurance Law and the Regulations were drafted in full consultation with the Health Insurance Industry.

There are some members of that industry who, for their own commercial interests like certain parts of the Regulations, and were quite happy to recommend formats for the parts that they wanted - but not for the total picture. When the Government is mandating Health Insurance, this Government feels it has a responsibility to the people to regulate the cost of that insurance to state quite clearly, as these Regulations do, what is being covered, to what it is being covered, other legislations by this Parliament under the Health Services Authority fees and set the cost of those benefits for individuals. At $45 we are looking anywhere between $12 to $15 million in premiums for the insurance companies. Either myself, as the Member responsible, the whole committee that was dealing with the issue, the consultant actuary that the Government employed and the Health Insurance Commission met with any and everyone concerned, both individually and collectively.

We took the precaution of setting up the Health Insurance Commission Administratively before we could do it completely legally so we could start the consultative process. No-one was denied any information or requests. Some of these meetings, as the Second Elected Member for Cayman Brac can confirm, lasted several hours at a time. The public must be reminded that the Backbenchers had the same opportunity to give input to the legislation that was passed in March and to the Regulations. What did they do? Zero! Zilch! Nothing! But they come here and criticise what has been done. That is always easy to do, yet they claim they have the interest of the people at heart. Not many other matters which have come before this Parliament in recent memory are more important to the average Caymanian than National Health Insurance Legislation and these Regulations now before Parliament. Both speakers on Monday tried to refer to some letter given to them, obviously by some friend in the insurance business - particularly a friend in the health insurance business - to be used to try and detract from or to defer one of the most important pieces of legislation ever to come to this Honourable House in terms of its benefits to the people of this country. Let me put their's and the public's speculation to rest. Let me read the letter, Madam Speaker. It is addressed to myself as the Member for Health and Social Services, dated June 12th, 1992. It reads:

> "We the undersigned representatives of the under-stated insurance companies recognise your request for a response by June 12th, 1992, as to whether we are able and prepared to apply to be approved health insurers under the Health Insurance Law and the present draft regulations.
>
> We regret that despite our putting as much pressure as we possibly can on the companies that we represent we do not have the information advising the rate at which each company would be prepared to undertake the risk on the basic plan.
>
> Please be assured that our companies are giving this matter their urgent attention and we will communicate further with you when we are in a position to do so.".

It is signed by what I believe is Mr. Spencer Marshall, on behalf of Aetna Life and Casualty Company, Cayman Insurance Centre Limited - General Agent; what I believe is Mr. Harvey Stephenson, British American Insurance Company Limited - General Manager; Caribbean Home Insurance Company Limited, what appears to be a Mr. Jackson - General Manager; Group Hospital and Medical Services Incorporated, what I believe is Mr. Schofield; British Caymanian Insurance Agents Limited - General Agent. Mr. Colin Luke on behalf of Lloyds of London - Colin Luke and Associates, Lloyds of London Correspondent.

A cursory read of this letter . . . and the Second Elected Member for Bodden Town tried to make the public and the House believe that the request which I made and which they referred to in the first paragraph was a recent request and that I had not given them time to do so. They had five long months - not five days, not five weeks, Five months - to get me that reply. Let us look at the contents of this letter a little bit because as I said they were given the information in January as to what the consultant actuary had recommended. Nothing was hid from them. Those companies who have some local authority, like British American, had no hesitation in getting actuaries to the Cayman Islands to discuss. In fact, every time the group was asked British American showed up, not with one, but two and sometimes three. The others could never get their head offices to send the people down. And they are going around and stirring trouble by telling people they cannot get in touch with the actuary we hired. We never had him hired for life. We had him hired for a short period of time. They were made aware of when he would be on the Island, when he would be doing his work. They were given appointments privately to meet with the actuary. The actuary and the committee met them collectively.

Madam Speaker, these people are missing the point. The legislation does not ask what each one will sell the premium for as they referred to in the letter. The legislation authorises Parliament to set a premium after consultation with them and that has been done and I intend to demonstrate that to the public at large today. Since this letter, two companies have written to say they are prepared to sell the plan. That is what was contained in the final paragraph. "Please be assured that our companies are giving this matter their urgent attention and we will communicate further with you when we are in a position to do so.". But you see, somebody wrote this letter for a particular reason. The reason was identified in this Parliament last Monday. Up until that point I had negotiated and consulted with everyone of those companies on a basis of honour and confidentiality. This does not demonstrate good faith because there are no 'CCs' on the bottom of this.

So it had to be done for ulterior reasons but it is not going to achieve the objective of having those particular companies and it has been obvious around the table in discussions with the actuary, with the Health Insurance Commission, with the committee set up at the Portfolio to draft the Health Insurance which companies were not practicing the best and most equitable policies for the country.

I took the unusual step of giving each of the insurance companies a full copy of the actuaries report except his mathematical calculations. The committee that I set up could not get answers from the insurance industry around a table as to what they sold individual plans for. For me to get it I had to go and get different individuals to call the different companies because they would not give it for commercial reasons, they said, around the table and for their commercial posturing. What information did the actuary use in his review? He used the population, demographics as published by the Government Statistical Unit. Madam Speaker, information that they should have been using for the last umpteen years to calculate the premium being charged in the Cayman Islands. I do not want to believe that companies such as those were not using that information and what is more troubling is the obvious fact that they were not calculating premiums specifically for the Cayman Islands. They were using North American rates established on North American figures and prices and demographics and when that is calculated on a $500 hospital charge they were selling a premium to cover $25 dollars in Cayman. If they had not been using this information and their actuaries do not know what is going on, that can be the only logical answer. That is a serious miscarriage of justice to the people of this country.

The second published documentation that the actuary used was the Fee Schedule under the Health Services Authority available from the Legislative Assembly, published documentation, medical disease indices published in every annual report by the medical department. Public information - admission and discharge statistics from the hospital. Again published on an annual basis. Out-patients casualty statistics, again published annually. How can these people, even as recently as today's issue of the New Caymanian, how can this industry that has been operating here for decades be telling the local media they do not know what statistics Mr. John Rainier, the consultant actuary, used? My question to them is what statistics have they been using all these years to set premiums to be charged to people in the Cayman Islands? Their actuaries, the forms were given so they could fax it to their head offices, wherever they are. The menu for the basic plan as contained in these regulations, there have been one or two minor changes all of which should lower the premium that they would have calculated - like how we are treating overseas coverage, maternity benefits, how we are treating mental health, alcoholism and drug abuse. I also went the extra mile to supply them with copies of the Health Services Fees Regulations and told them where to get the other information. Because they cannot get some head office to commit to the expense to send an actuary to the Cayman Islands or even to make them spend the time up there in their office to calculate a premium in five months, their review should have caught one side of the six months of this exercise anyhow, unless they are not reviewing their premiums. Because if they had been doing it in the latter half of the year, it should have been caught last year. If they are doing it in the first half of the year it should have been caught this year. Even if we did not have this bill and these regulations they should have been reviewing the premium on what they were charging by their actuaries.

I do not want to believe that the profit margin is that high but if you base it on $500 a day and you are only paying $25, the possibility exists that there is no need to review it. No actuary gives his mathematical calculations because as I understand it that is the whole secret of actuarial science. I have willingly given them the Government consultant's actuarial report. None of them have offered to the committee or to the consultant actuary their previous actuarial reviews not even without the calculations. I believe from January until June is adequate time to review 16 pages of Regulations including the schedules and a fee. The Second Elected Member for Bodden Town relied very heavily on the fact that when the Government mandated car insurance they did not set the premiums. While that is true, Members should cast their imagination as to how much better off the people of this country might be today had the base price for third party car insurance been set by Parliament. Most of the public believe they would be a lot better off. I do not think this Parliament should make the same mistake of prior Parliaments and mandate insurance and not set the premium and control the quality by subsidiary legislation.

The Second Elected Member for Bodden Town claims that I am interfering in private commerce with these Regulations by setting the premium. He went on to suggest that in doing this we next regulate banks, interest rates, and disturb the stability of the financial industry. This Government does not see it that way. We regard this as a responsibility to the people we represent to provide the citizens of this country with adequate affordable health insurance. I hasten to add, the financial industry has more to fear from the previous public expression of their former leader, bend or break policy threat to the banks and which has raised its ugly head in this Parliament most recently in the debate on the Hospital Loan, about representation to the banks and failed threats from this Parliament.

What does the financial industry have to fear? Not this Government in the form of Health Insurance Regulations, setting a proper premium to give the people of this country adequate and affordable health insurance but they have to very concerned about that level of interference. If they will take that liberty with no authority as Backbenchers, imagine what they will do if they are ever given some authority to form Executive Council. To borrow their favourite phrase "God help this country". That Member, the Second Elected Member for Bodden Town, comes and suggests that I should deal on the level with the Health Insurance Industry. When he finds such eloquent and emotional ways to present the views of his special interest friends in the Health Insurance Industry by protecting their high premiums which they now charge, which from information they publish and statements they have made to me and the various committees are based on North American charges. He claims that such controls as a adequate and proper premium will only allow bad companies to profit. That is certainly not so in the regulations I have placed before this Parliament because for the first time after this House approves or affirms those Regulations the public will have protection from what has happened most recently with the withdrawal of companies from the business and leaving people unable to buy coverage at

any price from other local companies because of pre-existing conditions such as pregnancy for a good example.

You have some employers who have paid premiums for their staff for years and for that particular member of staff for all of seven or eight months and they are suddenly deprived of any coverage because they receive a letter in the mail saying your insurance policy is cancelled. Please bring your payments up to date. This is what section (7) of the proposed Regulations says:

"7 If -

(a) the approval of an approved insurer is revoked by the Commission; or

(b) an approved insurer withdraws from the provision of health care insurance, it must ensure that any liability it has in respect of any health care insurance contract to which it is a party is fully assumed by another approved insurer.".

If in a case like that the company wishes to withdraw from coverage in the Cayman Islands they must ensure that the people who have been paying them premiums for a long time and that their liability to pay for the benefit is assumed by another local company or other arrangements are made with the Health Insurance Commission to ensure that that coverage is available when the person needs it. Because that is all health insurance is all about.

All health insurance allows you to do is to pay the cost of your health care a little bit at a time. They have the benefit of having you pay prior to needing the service, not after the fact. There are other controls and protections in this such as that the company cannot cancel a policy unless it is more than 30 days overdue and they have so informed the individual in writing that if he does not pay it they are going to cancel it. They cannot have an insured a young person for 15 years and he suddenly has a heart attack and they have to spend $50,000 or $100,000 to make him well again and then two months later he is told, "You know we were quite happy to insure you when you were well but we really cannot insure you anymore". This man has been paying them hundreds of thousands of dollars in premiums. Those are the kinds of reasons why we need this Health Insurance Law and its Regulations.

The Second Elected Member for Bodden Town claims. . . and I have to rely on his claim in this matter because he is one of the more qualified and experienced insurance people in this country and has been a great benefactor from the insurance business. He suggests that what is being done for the high risk people is not enough. All I can say to him is that this Government was not prepared to put $10 to $15 million in the hands of health insurance companies in this country and let them exclude high risk people to be paid for separately by the tax-payers of this country while they insure the healthy people. The committee met with the insurance companies, we gave them three alternatives. They could set up this fund; they could collectively decide and quantify how many people were in the high risk category and equally allocate them between the companies. I would hasten here to add that the reason why I do not know who this Jackson is that signed this letter is because he has never come to one of these meetings we have had. To the best of my knowledge we were dealing with all the people involved in the health insurance in this country.

The third alternative we gave to the insurance companies was that they could offer a window of opportunity. That is for a specified period during the year anyone who came and filled out a form at their office had to be given health insurance. They opted for the first choice to set up this high risk pool, to manage it themselves under the supervision of the Health Insurance Commission. The percentage of the premium which was loaded on the premium to cover that risk by the actuary was 10 per cent. What that means is that $4.50 out of every health insurance premium sold in this country is going to go into a high risk pool and if someone is identified as being high risk, he will go to company "A" and apply for insurance, they will correct his premium and pay it into the risk pool, and when the person needs treatments or benefits, the insurance company will claim from that pool the cost of that individuals benefits.

It is $4.50 for the under 65 and $17.90 of the over 65, plus the whole premium that that person pays will go into that fund. It will be managed properly, accounts and actuarial experience will have to be submitted to the Health Insurance Commission. If 10 per cent turns out to be low, we have no choice but to increase but we will not know that unless we start the plan to put the programme in place. In that $45 is also a 15 per cent for the insurance companies for administrative cost and profit. That is not too small an amount to punch a couple of numbers on a computer once a month. Six or seven dollars once a month to punch something on a computer and have the tapes run a little bit that is not insignificant.

The Third Elected Member for George Town as well as the Second Elected Member for Bodden Town lamented the fact that the basic plan did not cover the spectrum of fees that exist for private doctors in the private sector. According to the information my staff at the Portfolio gathered this morning by calling every doctor's office registered here and asking what the consultation fee was, it varied from $25 to $90 for the consultation fee. In fairness to the health insurance industry if we are going to mandate the premium, we are going to mandate the menu of items covered. We should be prepared to mandate the prices and that is already done by Parliament and we are giving people total portability as to the level that that basic plan covered. Anybody can buy more coverage. There are no limits. What is proposed in this legislation is a minium standard to be sold at a maximum premium. Not the other way around. A maximum benefit to be sold at a minimum premium.

If we were to ever suggest to the private doctors in this country what their consultation fee would be, they would not accept it. We cannot get them to report STDs. We have no control over the charges that they make but if somebody wishes to go to a private doctor they will get the same coverage as if they went to the Government controlled price institution. If they went to a private hospital and they

had the basic plan, they will get the same benefit. Let me take the time here to correct, and for this I thank the Third Elected Member for George Town, this is the only good thing that he said in his contribution, this was strictly by accident because he was trying to say that the Health Authority Board was going to licence and control physicians offices. In trying to put that across, which is erroneous, but in trying to put that across he brought to my attention that on page 2, in the definition of health care facility where it now says in respect of health care facility on the Islands, means a health care facility operated by the Authority or licenced by the Authority, that second Authority should be Governor. He knows that the Health Services Authority Law, 1991 section 26 says:

> "26. (1) The Governor may, on an application being made to him, after consultation with the Authority, grant a licence for the operation of a privately owned health care facility at which patients are kept overnight, or at which obstetrical deliveries, or surgical operations, or health care programmes are carried out.".

We have specifically excluded what in the health care jargon is called, "a doctors office". Because no doctor should be carrying out these kinds of procedures in a straight consultation office. So he does not require a licence to operate that but if you have over-night facilities you are doing surgeries, etcetera, you have to be licenced by the Governor in Council. They are the necessary safe-guards and protections in the subsections of that Clause as to what happens if a licence is refused.

MADAM SPEAKER: Would this be a convenient time to take a suspension? The House will be suspended for 15 minutes.

AT 11:27 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:54 A.M.

MADAM SPEAKER: The Honourable Member for Health and Social Services, continuing.

HON. D. EZZARD MILLER: Thank you, Madam Speaker. When we took the break I was dealing with the concerns as expressed by the Second Elected Member for Bodden Town and the Third Elected Member for George Town as to the fact that the basic plan and its schedule is not extended to cover all private doctors consultation fees and I pointed out that the reason for that is because of the variation charged.

I have also seen evidence in the private sector which indicates that some private practitioners' fees vary considerably from what they charge a person who has no insurance to what a person with insurance is charged. I have seen evidence where fees have been agreed prior to knowing that the patient has health insurance and when the patient returns to have their health insurance forms completed, fees are in some instances, triple. That is not fair to the health insurance industry nor to the people of this country who have to pay a premium which is actuarially based on the experience of the plan. It is my understanding that the Cayman Islands Medical and Dental Society have adopted in maybe a somewhat modified form, the schedule of fees for doctors of South Florida. It might be advantageous to all parties, including patients and insurance companies if the Cayman Islands Medical and Dental Society, who like to publish things in the press, would publish that fee schedule so that the health insurance industries and the patients would have some idea of what the fees might be.

That lame excuse in that it does not cover the total spectrum of fees, I do not think is enough for the Backbenchers not to support these Health Insurance Regulations and in so doing, support these benefits for the people of this country. Let me turn to deal with the contribution of the Third Elected Member for George Town, who, in his normal boring way, and that is the only solace that I have in his contribution is that by the time he was half way through it most Members in Parliament were asleep and certainly the public would have turned off their radio. He tried to put forward the position that he agrees with national health insurance and he really could find no specific reason not to agree with these Regulations other than my personality and style. He does not like the way I bring forward the policies. He complains about my *modus operandi* and the records of the this Parliament will show but for his conservatism and non consultative record he has been called the David Duke of Grand Cayman.

It is easy for him to criticise me, and it might be a fact that I am difficult to get along with, but I am glad having worked with that individual when he was in Government that he has had a change of heart and personality - now that he is a Backbencher and has been given suitable doses of 'giggle water'. He claims that I am functioning as a Minister. How is it possible for me to function as something that does not exist in our system? If he blames that on my style, my first call to duty is not re-election but to get the job done that I was elected to do. He made several frivolous comments in his usual glib legal way which really do not deserve comment from me or the Government. Suffice it to say that both the public at large and in particular the ordinary Caymanians (I think the Backbencher calls them "little man" or "little people"), who cannot afford now to pay the high cost of individual health insurance plans being sold in this country at what, in my opinion are exorbitant prices based on charges in a North American market. Those are the people who will benefit from these regulations and the Health Insurance Law. For the first time they will be able to purchase an adequate level of insurance at an affordable price.

If he wishes to vote against these Regulations, having spoken so strongly against them and thereby deprive the people of this country of the benefits that they will obtain from these Regulations, that is his choice. I, however, would urge him to reconsider his position, give the people the

opportunity to get the benefits and let them be the judge as to whether it is a good plan or a bad plan. He also expressed concern that these Regulations were somehow going to radically change the way health care is delivered in this country. The only radical change these Regulations are going to bring about is to put affordable health care and health insurance within the grasp and reach of every Caymanian. It is not going to change the way the system operates and he referred to a particular clause in the Regulations that deal with overseas referrals and proposed that it should not be under the certification and control of the Medical Director of the Health Services Authority.

That control was one of the most important concerns of the health insurance industry. That is the way it has been for as long as I can find records of the Government being involved in overseas health care. Even in those policies that he wrote and published in 1978, that was the system. The same one where the ambulance could not pick up the dead people if they found them dead at the house. The system to this point has been whether the patient is seen by a private doctor or a Government doctor, if the patient can afford or has the necessary health insurance to meet the cost of the overseas care, they go on their merry way with their letter of recommendation from their private doctor or the public doctor. However, if the patient is not in a position to pay the cost of the health care, nor has adequate insurance and they wish to avail themselves to the interest free loans which Government have been granting, mostly on a promissory note to this point, that is the system. The private doctor has to refer them to what used to be the Chief Medical Officer, up until December 31, now it is the Medical Director of the hospital who decides strictly on clinical grounds whether or not the patient should be referred overseas. That is how they access the process, so all the legislation is doing is continuing what has been an accepted and workable and proven method of dealing with it.

If an individual has only the basic package, what they will get if they are referred overseas is what they would have gotten had they received the treatment in Cayman. We do not legislate the cost of health care in the North American or the European or the Caribbean market. That is in fairness to the industry. His concern that these regulations are going to somehow interfere with the choice of an individual has absolutely no foundation. The individual has total choice to the limit of the benefits he has purchased. That is very clear in the definition of doctor, who is defined, not as somebody employed at the hospital but as a doctor registered in the Cayman Islands. If the day comes that we have a private hospital we will be able to get the same benefit under the basic plan to the level of charges that this Parliament sets on behalf of the people that we represent.

For some strange reason he believes that if I take these back and carry them up to the Glass House for another six months, I am going to make a lot of changes and they are going to be brought back in a form that is acceptable to him. I have already spent one year and during that whole process, we have tried to solicit recommendations from him and his colleagues on the Backbench for one simple reason - to get the best possible plan for the people of this country and they have given none. We have worked extensively with the industry, who, I must thank for their cooperation in this matter and in the time and effort that they have put into bringing these Regulations forward. I think that is just delay tactics and the real reason is that he does not want this Government, and in particular, this Member, to get the political credit for doing what he should have done a long time ago.

In the absence of any identified weakness, any alternative price brought forward by the private health insurers, I really cannot see any point in withdrawing these regulations to some later date and deprive the people of the benefits in the interim period. He claims that he did not know whether any company would provide this insurance. In answer to questions and in debate, I said I gave this House the assurance that I had it in writing from at least two companies that they were prepared to sell this plan at the rate set in the Regulations. He would not accept that. He wanted to see it in writing. Well, I have the permission of one of those firms to table the letter that they sent to my office. This is what the letter says. "This is to confirm that British American Insurance Company is prepared to market the new health plan that Government is proposing as soon as it becomes law.". I will table this letter, so anybody who listened to him and said they did not know where to go and get the health insurance, now know where to go and get it.

I also have another letter from the company that the Second Elected Member for Bodden Town admitted had not signed the letter the 12th of June. This is what they say in their letter: "We are prepared to participate in this progressive plan at the rates quoted in the Regulation.". I am not going to table this letter because it contains other information which I regard as a commercial nature specifically only to that company and the Third Elected Member for George Town can rely on the one that I just tabled. Once one of the five will do it, the rest will soon fall in line - it was Capital Life. As I said, there has been much discussion with the insurance companies on these Regulations which are presently before Parliament. We have agreement on the package which Minutes will confirm. We have an agreement on the ID cards and the form they are to take. We have agreement on the controls, like the overseas care, as I explained earlier, and how can they can withdraw from the market. What information they must provide to the Health Insurance Commission so that the actuary will have those for his review.

Some companies have said in the letter of the 12th of June that they have been unable to get their Head Offices to confirm that they can sell the plan at that price even after putting as much pressure to bear as the local agents can. The law is crystal clear. The law came into effect as gazetted on the 15th of June, 1992. We have an undertaking from the Honourable Attorney General not to prosecute any employer for not providing the insurance for a one year period. That I think also extends to the insurance companies getting themselves qualified as approved health insurance companies.

On the 15th of July, 1993, if these companies have not been able to get their actuaries, wherever they are, to calculate this premium, if they have not applied to the Health Insurance Commission to be an approved health insurance provider in this country - and to do that you only have to do two simple things: (1) agree to sell the basic package at or below the maximum price set by Parliament, (2)

make the benefits assignable to the Health Care professional providing the service, meaning that patients will no longer need to go to their private doctor, pay the bill out of their own pocket, then go to the health insurance company to claim the money back. They will be able to go to the private doctor's office, hand in their insurance card, the private doctor or the hospital can check it electronically to make sure the plan is current, the premium has been paid, the benefit which the patient is seeking is covered, get an authorisation number and the patient can forget about it. The health professional will bill the insurance company directly.

Those are the only two things which health insurance companies are not doing now under their insurance licence which they will have to do as the law specifies prior to the 15th of July, 1993, or they will not be allowed to sell health insurance in this country. The penalty under the law is substantial. As I said earlier, these Regulations attempt to provide adequate, affordable, basic health insurance to the people of this country at a specified rate. There is no attempt here to mandate major medical, but simply to mandate a series of benefits that are specified in the Schedule. In layman's language, it covers hospitalisation and all services that you get while you are in hospital.

On an out-patient basis it covers a physician consultation fee at $25 and necessary diagnostic services. It does not cover things like medication, teeth, glasses, hearing aids, etcetera, unless those are the direct result of an injury and are treated through the casualty. It proposes to do that at a cost to people under 65 of $45 and for those people over 65 at $179. That is substantially less than any person over 65 can currently purchase this level of health insurance for. I encourage Members to vote for these Regulations because a vote against these Regulations, is a vote against providing for the people of this country a level of health insurance benefits that they need and the process required by law in terms of consultation with the industry has been done. Not in a rapid or frivolous manner as suggested by the two spokesmen on behalf of the Backbench but in a long consultative and thorough process with the cooperation of the health insurance providers because even in the letter which those two spokesmen relied on so heavily to demonstrate I did not have agreement, there is no indication that it cannot be done. The clear indication is that those companies have agreed in the committee but they do not yet have written confirmation from their head offices to do so.

I believe that this health insurance and these Regulations which up to this point have been opposed most strongly by the Backbenchers, is going to provide benefits to the people they claim to represent. I encourage them to smite their consciences, change their position and vote, "yes", for these Regulations. The basic plan offers what this Government sees as reasonable coverage to the people of this country at a reasonable price.

MR. W. McKEEVA BUSH: On a Point of Order, Madam Speaker, and for the sake of clarity. Will the Member explain to the House whether this plan covers medical care overseas?

MADAM SPEAKER: If the Member wishes to repeat that, I heard him say it originally. If he wishes to repeat it again, he may do so. Honourable Member would you like to repeat that?

HON. D. EZZARD MILLER: Yes, Madam Speaker. I will repeat it. But it is also in the Regulations that have circulated and I was quite clear. I said in reply to the Third Elected Member for George Town on his concern about the radical change and how we were handling overseas care that there was no change. If someone is referred overseas under the certification of an officer, a doctor authorised by the Health Authority to do so on a clinical basis, they will receive the equivalent benefit that they receive in the Cayman Islands.

To give an example for absolute clarity: A hospital room here is $250; if you are referred overseas you will get $250 for that room. Not the four or five hundred dollars you might be charged in Florida. That is the benefit that the $45 buys. Anyone who wishes to buy improved health insurance at a higher price can do so. That is no different from what prevails now for those people who do not have health insurance or cash in their pocket to go to Florida and buy whatever level of health care they need. I ask Members of the House to support Government Motion 4/92 which says:

> "WHEREAS section 22 (3) of the Health Care Insurance Law provides that regulations are subject to the affirmative resolution of the Legislative Assembly; and
>
> WHEREAS draft regulations entitled the draft Health Care Insurance Regulations, 1992 were approved by Executive Council:
>
> BE IT NOW THEREFORE RESOLVED THAT the draft Health Care Insurance Regulations, 1992 made by Executive Council on the 23rd June, 1992 be affirmed by the Legislative Assembly."

I am asking for that affirmation to be the corrected version. That is on page 2 in the paragraph that defines health care facility (the fourth line from the bottom), where it now says licensed by the Authority for that word Authority to be changed to Governor. That is the form in which I am asking the Regulations to be approved by this Honourable House.

Once again, I ask the Backbenchers to change their position. This is something that the people of this country needs. This is something that the people of this country want. This is something that is good for the people of this country. These Regulations will provide every Caymanian for the first time with the opportunity to purchase adequate, not total coverage, but adequate health insurance at an affordable price which will protect them financially from catastrophic illnesses in a hospital. I recommend these Regulations to this Honourable House and I encourage the companies who will have the opportunity to avail themselves to the income generated from this plan and to the profits however small or however great, to rush over to the

Superintendent of Insurance and apply to be approved insurers in this country and start providing this plan for the people of this country as soon as possible.

Thank you very much.

MADAM SPEAKER: The question before this House is Government Motion No. 4/92, Be it now therefore resolved that the draft Health Care Insurance Regulations, 1992 made by Executive Council on the 23rd June, 1992 be affirmed by the Legislative Assembly with the amendment as set out by the Honourable Member on page 2 definition of Health Care Facility in the fourth line, licensed by the Governor instead of the Authority.

QUESTION PUT: AGREED **GOVERNMENT MOTION NO. 4/92 PASSED.**

MADAM SPEAKER: The House will be suspended at this time until 2:15.

AT 12:30 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:19 P.M.

MADAM SPEAKER: Proceedings are resumed Private Member's Motion No. 7/92 Bodden Town Public Beach and Boat Ramp the First Elected Member for Bodden Town.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 7/92

BODDEN TOWN PUBLIC BEACH AND BOAT RAMP

MR. ROY BODDEN: Thank you, Madam Speaker. I beg to move Private Member's Motion No. 7/92 entitled, Bodden Town Public Beach and Boat Ramp, standing in my name and which reads as follows:

WHEREAS the Government has recently purchased Block 44B Parcel 25 in Bodden Town;

AND WHEREAS the residents of Bodden Town have requested the development of a Public Beach and launching ramp in this area:

AND WHEREAS there is an urgent need for this facility;

AND WHEREAS the current Members of the Legislative Assembly have impressed upon the Government that such a project would enhance the social life in the community;

AND WHEREAS many fishermen in this vicinity have expressed a need for a launching ramp in this area;

BE IT NOW THEREFORE RESOLVED that Government give consideration to the development of this project so that residents in this area may have the convenience of these facilities in the near future.

MR. G. HAIG BODDEN: Madam Speaker, I second this motion.

MADAM SPEAKER: Private Member's Motion No. 7/92, has been duly moved and seconded. Would the Member wish to speak thereto? The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. It is a well-known fact in the Cayman Islands that Bodden Town is the fastest growing residential area in this country, that is Bodden Town stretching from Spotts/Newlands up to the junction of Frank Sound Road. It is also a known fact that the people who live in what I call the central area of Bodden Town, that is that part of the community which has traditionally been the centre of activities, need certain facilities and amenities.

There has been over the passed years a growing number of young men who have bought boats and are buying boats which are used in part for recreational purposes and in part for fishing with a view to selling the fish when it is caught. One of the problems some of these young people have is that many of them do not have access to automobiles and trailers to tow the boats to other launching ramps which are some distance outside of this area. Not to mention the inconvenience when these users have time where they can fish or use their boats continuously for three or four days in a row, so that it is no longer safe for them to anchor the boats distances away where there are presently launching ramps and facilities.

Also, in time like this (the summer-time), there are a number of youngsters who will avail themselves of a facility of a public beach in this area and for the moment I suppose there are activities for these youngsters because I believe that this is a time when Vacation Bible Schools are traditionally

held and I notice that some of the churches in my community are holding these, but to the best of my knowledge these Vacation Bible Schools last only for about two weeks over the holidays. Some last only one week and so when Bible School is over there will be little or no organised activities for the youngsters to do. I am suggesting that the development of a public beach in this central area of the constituency would serve the public well in that, it is in an area where a minimum of supervision would be needed for youngsters using the facilities because it is sandwiched between two very important residential areas and it would serve equally the people who live on the western section of Bodden Town, as well as it would those who live in the eastern section, that is Gun Square and above.

There has been over the years a requested need for such a facility and indeed, this request is not out of kilter with what has been done in other districts and other areas. We, in Bodden Town, and certainly we, the representatives of Bodden Town in this Parliament, realise that the development of this project would further enhance the attractiveness of our community. I might hasten to add that it will not be a facility exclusively for the use of Bodden Town people. Indeed, the facility would be available to anyone from any other section of the Island who would wish to use the facility.

Now there could be a different number of ways that this facility could be developed. But the reason we think that the Government should develop it is that we believe by Government developing it, it will be developed at a faster pace and since it is an urgent need and an urgent requirement for this facility, we believe that route will be better. One of the problems in depending upon organisations in the community and country, like service clubs, is that there is already a heavy dependency on these and I must say that the service clubs do a marvelous job in coping but it seems that many organisations and many efforts depend on service clubs so we believe as this facility will not take an inordinate amount of money to develop and since the Government has already acquired the land, it would be good if the Government now could see fit to consider developing the facility so that the residence, and particularly the young people in this area, could have access as early as is possible.

I would hope that the Government could see fit to view this favourably and if they accept it, to accept it in good faith. That is not say yes, to the request and then file it in file 13 or the bottom drawer but, accept it in good faith with a view to analysing what the facility needs to be developed. We are not asking for them to begin on an elaborate scale so that we could possibly have it in the near future, the near future being around September and October. I would also hope that the motion does not generate the kind of argument where people have to get at one another's throats. It is a simple and straightforward motion. The Government need only say if they are accepting it and what they plan to do when they accept it and if they are not accepting it, I am a reasonable man, give me a good reason why they cannot accept it at this time. As for my part, I will endeavour not to play politics with it because I am here voicing a genuine need and an urgent request from my community and I would hope that the Government especially, views the motion in this light.

Thank you, Ma'am.

MADAM SPEAKER: Motion is open for debate. The Honourable Member for Communications, Works and Agriculture.

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. I rise to make a brief contribution on behalf of Government to Private Member's Motion No. 7/92. In the pre-amble to the motion it reads:

> WHEREAS the Government has recently purchased Block 44B Parcel 25 in Bodden Town;
>
> AND WHEREAS the residents of Bodden Town have requested the development of a Public Beach and launching ramp in this area:
>
> AND WHEREAS there is an urgent need for this facility;
>
> AND WHEREAS the current Members of the Legislative Assembly have impressed upon the Government that such a project would enhance the social life in the community;
>
> AND WHEREAS many fishermen in this vicinity have expressed a need for a launching ramp in this area;
>
> BE IT NOW THEREFORE RESOLVED that Government give consideration to the development of this project so that residents in this area may have the convenience of these facilities in the near future.

When I received knowledge of this Private Member's Motion I took the opportunity to meet with the First Elected Member for Bodden Town, the mover of this motion, and I requested of him that the motion be withdrawn mainly in view of the significant amount of work that this Government had already carried out in Bodden Town over the past three and a half years. I should in all honesty say that the mover of the motion seemed somewhat agreeable to this at the time but in discussing it with the Seconder, the Second Elected Member for Bodden Town, he would not hear of it. In his words, he felt that he would need this opportunity to speak about what Government had not done in his district. They refer to this as "pounding up" the Government Bench.

I will, as far as possible, follow in the same footsteps and follow the example that has been set by the mover, in making my comments as brief as possible and hopefully as non-controversial as possible. However, I will have to deal with some of the facts surrounding this motion. I am

aware that there are Members that will speak after me that will take the opportunity to do exactly what they threatened to do and that is "pound up" on Government. In the past three and one half years this Government has provided two boat ramps for use in the district of Bodden Town. One was built in Frank Sound, even though this is not technically located in the district of Bodden Town, it nonetheless serves that district. The other one is located at the end of Hirst Road in Newlands.

These boat ramps cost this Government, the one in Frank Sound cost $45,082; the boat ramp in Hirst Road $99,600 to construct that facility at a total cost of $144,682 in construction costs alone. The Frank Sound facility was completed in December, 1991, and the ramp at the end of Hirst Road is scheduled for completion by the first of August this year, though these facilities have been in use for several months. Phase II, of the project at the end of Hirst Road will provide an area for a community park and the picnic area. This area is some 23,000 square feet with additional landscaping, barbecue pits and a car parking facilities. This is planned for the Hirst Road facility. In addition to the $144,682 for the construction costs of the ramps and jetty, an additional total of $102,500 was spent on the acquisition of property that is $50,000 for the property at the end of Hirst Road and $52,500 for the Frank Sound property.

The total land cost and construction cost of the two ramps that have already been built in the district of Bodden Town is approximately $248,000. These have been built, as I said, in the past three and a half years. The amount of $248,000 for ramps is but one area of funds that have been spent in the district of Bodden Town over the past three and one half years. I am taking time to relate this to show that this Government has not in anyway neglected the district of Bodden Town, or any district as far as that is concerned. The above costs excludes funds spent on street lights, roads, the guarantee that this Government has put in place for the Water Authority Extension, from Spotts/Newlands into Pease Bay, the first $3 million of which, has already been spent out of the total for the water works of $8.5 million. This project is divided into three phases.

No one can truthfully and reasonably say that Bodden Town has not received its fair share of public funds. I am sure that the Mover of this Motion would agree, that over the past there and a half years, ever since I was elected to this position as Executive Council Member responsible for Communication Works and Agriculture, that he has received the full cooperation of my Portfolio even though, the seconder of the motion seems not to be aware of this. Therefore, it is puzzling to me what could be the real motive behind bringing this motion. In moving the motion I had hoped that the mover would have taken the time to tell this Honourable House and the listening public the real reason for bringing the motion and would have impressed upon us the need for this facility as a top priority.

He mentioned that Bodden Town is a fast growing residential area in this Island. This is recognised by Government and is precisely why instead of making provision for one ramp in Bodden Town during this term, Government has provided two ramps - one in the Hirst Road Newlands area and another in the Frank Sound area to provide the facility for this fast growing district. He also mentioned that there are a growing number of young men who have bought boats for fishing and recreation. I can only say that this cannot at all be a present day phenomena, as I would have thought that with the growth in our economy and the different life-style that the people are maintaining that there is perhaps less need for fishing in these Islands than ever in our history. So surprising to me if there was such an urgent need for this facility that previous Governments did not think of it before.

It was also mentioned that having the ramps in Frank Sound and Hirst Road would provide an inconvenience to the people of that district. I cannot accept that. He also mentioned that he felt that Government should be responsible for developing the beach property for the use the people for beach facilities and the general public. In discussing this with me I did in fact say to him, that I felt that since Government had gone to the extent of paying US$150,000 for that property and that we were just about four months away from our budget that perhaps it would be a good idea for him to approach one of the service clubs and see if they would have been willing to take it on as a service or community project. Many representatives in the past have done just this, if they are that much interested in the welfare of their constituents.

There are many groups other than just service clubs that would have been very happy to have taken on that project as a community project, but that would not have served the purpose because if that had been done, then this motion would not have been necessary. The mover, in particular, is well aware of how hard my Portfolio worked with him to try to acquire this land. It took us upwards of a year to acquire this property because of the problems experienced with reaching the proprietors who are living abroad. We have worked very closely with the mover of this motion. So as I said earlier, it is puzzling to me why he found it necessary, at this point, to bring this motion when in all of the other projects which I have helped him with, he has come into my office or written to me and we have worked together to accomplish those needs. I can truthfully say that this Government has done as much as could reasonably be expected to meet the requests of the Members for Bodden Town and in other districts within the Cayman Islands. But it seems to me that certain Members are expecting this Government to do within four years, what previous Governments have not done.

To reflect on economic growth of this country when much could have been done, this country has not seen a period in its history where the economic growth was greater than between 1975 and 1985, which was doing the same period that the United States of American experienced one of the greatest economic growths in its history. Many times the Second Elected Member for Bodden Town reminds me and this House of the wonderful position financially that the country was in during those days. The economic growth of the country during those days for which he can take no credit, because whatever happens within the economy of these Islands it is not because of any policy decisions made by any Government. It comes as a result of the vagaries within the economic structure of the United States. The ups and downs, we are affected by those ups and downs.

During 1976 to 1984, was one of the periods in this country's history when we benefited from the economic growth generated by the United States, yet, as good as the times

were then the Honourable Second Elected for Bodden Town, who was the Member responsible for Communications for eight years, did not find it necessary to provide facilities of this nature for his people during that time. He cannot in all truthfulness tell this House or the listening public that none of his constituents had a boat or needed to go fishing in Bodden Town. I cannot understand why it is only in the past three and a half years that this need has been known. Yet, in the past three and a half years, this Government provided two boat ramps in Bodden Town and in addition to that we have purchased the property for the third boat ramp which we intend to put in place next year when we are back in power.

As I said earlier, I know that other Members will be getting up to speak after me and I am thick skinned enough to accept that but no-one can get up and say that what I am saying is not the truth. That Member was in Executive Council for eight years and he cannot tell this country that the people in Bodden Town did not need a boat ramp during those eight years and why did not he provide those boat ramps? Repetition, Madam Speaker, bears emphasise, thus the reason for repeating myself. A rough estimate will reveal that Bodden Town did not fare too badly in the past three and a half years. I will give a summary of this, Madam Speaker.

Water extension from Spotts/Newlands to Pease Bay, that three phased programme will cost this country or the Water Authority of which Government has provided the guarantee, some $8.5 million. The road works that were completed to-date is over a million dollars and if anybody disputes that I have the list here I can read.

MR. W. McKEEVA BUSH: What does that have to do with boat ramps?

HON. LINFORD A. PIERSON: I do not suppose you would understand that. The road works pending for the Harvey Stephenson's road...

MR. W. McKEEVA BUSH: Madam Speaker, on a Point of Order.

POINT OF ORDER

HON. LINFORD A. PIERSON: Madam Speaker, I will not allow this Member to interrupt me, unless it is a proper Point of Order. He has been doing this too much this morning.

MR. W. McKEEVA BUSH: I am dealing....

MADAM SPEAKER: I will not have two Members on their feet. Honourable Member would you sit down until I have heard the Point of Order?

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. I am rising on a Point of Order of relevancy, Madam Speaker. The Member is now dealing with Harvey Stephenson road just now, he dealt with the Water Company. This is a motion dealing with boat ramps.

MADAM SPEAKER: Well I think the Honourable Member is trying to make a point and that is not a matter of a genuine Point of Order.

Honourable Member would you continue, please?

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. I was just trying to point out that nobody can reasonably say that this Government has not done a lot of work for Bodden Town over the past three and a half years. Thank you, very much.

With the ramps and jetties in addition to these figures that we have just mentioned, total $248,000. That is a lot of money that has been spent in one district and I will not say anymore on that. Despite the tough economic times that this Government has experienced it has attempted to address the pressing needs in each district in Grand Cayman, in Cayman Brac and in Little Cayman also. These Islands, like a number of other countries in the world today, are experiencing the worse recessionary period that has hit these countries since the Great Depression. But, I am pleased to say that even though we are criticised of taxing and spending, that we have tried out best to provide these Islands with the necessary facilities for growth.

The record of this Executive Council can stand the litmus test and compares very favourably with any predecessor Government. We, are doing our very best in the circumstances and within the financial constraints of Government. There is no Member in this House that can say truthfully that he has ever approached me or my Portfolio for assistance that we have not tried to help. Yet, some of those same Members are the ones that opposed every move that is made to get the funds necessary to carry out these works. I believe that regardless of the political rhetoric, regardless of the bad mouthing that is done in this House, that the public fully understands. No amount of that sort of bad mouthing can erase the good works that this Government has done and continues to do. It is because of our commitment to the people of these Islands, regardless of the district why this Government will continue to deal as equitably as possible within our financial constraints and with the limited funds available to us. It is thus because of this policy of Government why such a motion is unnecessary.

I am still prepared, as I have done in the past, to sit with the Member, the First Elected Member, the Second Elected Member or any Member of this House in an attempt to provide the needed facility within their districts because I am not a Member who only deals with parochial needs. I believe that the Government must represent the interests of all of these Islands and this is what we try to do. I would

be very happy to sit with the mover and seconder of this motion to see if we can still work out some way that they will be able to provide the needed facilities in that district to develop the beach. This can be done as a joint project with some community support, community help from the service clubs or other groups, together with the assistance from Government. All that is needed is for us, as reasonable men, to sit down and discuss these matters. It is not necessary to have to bring it to Government in the form of a Private Member's Motion.

As in the past, I will be very pleased to sit with the mover and the seconder of this motion or any other Member of this House who has a need in his district and try to do as much as we can within the financial constraints of Government to fill those needs. Thank you, Madam Speaker.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I was not in the least bit surprised at the vicious, untruthful and unwarranted attack by the Member for Communications and Works on me. I was not at all surprised of his remorse of conscience and his defending himself against blows which I did not cast. He knows when he is sick. It is untruthful to let the public believe that he discussed this motion with me. When he received this motion he saw the mover was the First Member for Bodden Town and the seconder was me. He saw that. Yet, he chose to call only the mover and ask him to withdraw it. I am a representative of the people of Bodden Town, although he and the candidate he is promoting in Bodden Town, Mr. George Ebanks, seems not to believe so. I have survived in Bodden Town ever since 1972 and I have lived there for the last 62 years and by the response I am getting, I think I will survive a bit longer.

The Member knows that my colleague from Bodden Town could not put this motion before the House by himself. So when he received it, if he wanted us, the Movers, to withdraw the motion, he should have had the decency and the manners to ask me to meet with him. He, or anybody else, can ignore me whenever they like. It does not bother me. I understand that he and other Members of Council are now fretting because the public does not give them respect. Well, you do not get respect that way. You earn it. Then he goes on in his campaign speech to pretend that this Member did nothing in Bodden Town in the eight years when he was in Executive Council. I am saying this for his benefit because other people know this (although he is too naive to accept it himself) that more money was spent in the Bodden Town district in the eight years when I was in Executive Council than in the eight years since and in the 300 years before.

I remember quite recently there was a big publicity in where he and other people got a lot of credit for the Water Authority and the sewerage scheme. It would not be here today if I had not been the original Member charged with responsibility, the one who sat on every committee when the law was drafted; who set up the original Authority; who built and opened the water reservoir in Lower Valley; who started the reservoir in East End; who started the work on the sewerage scheme although only the preliminary drawings had been done. As to my record on boat ramps the Member ought to be ashamed of himself not to mention that the Lobster Pot Ramp that he is now working at would not be in Government's hands if I had not been the Member in charge of Public Works at the time when the land was purchased and if I had not been in Executive Council when the land was purchased from Mr. Webber, I believe the owner was.

The first boat ramp there was put in during my time in Executive Council. Now this Member wants the public to believe that I had no interest in these things. I could go on and on. He said if we had interest we would get service clubs to develop the Bodden Town Beach. It was this Member Haig Bodden, that negotiated with the Leo Club to develop the Public Beach for West Bay and he and his counter-part in Bodden Town talk about I have provided no leadership. The Newlands Ramp he is now boasting about, one can ask the Member for East End if work was not started on that road for that ramp before we left Executive Council in 1984. Now this person who has come upon this scene at this late hour and who is moving across the screen with such a swift stride because tomorrow he will be gone, should know what I have done. He talks about we should have done this. Does he not now when we were elected in 1976, the total revenue of this Government was only $13 million? They are now working with revenue of $130 million and he talks about we should have done this! Not only that, when we arrived we found that the Member for Education who had proceeded us had destroyed this country, had put it in the same state perhaps nearly as bad as it is today and it took a couple of years to build up the reserves and to get back the creditability of the country before capital works could start.

In his attempt to help his candidate who is preaching the same story in Bodden Town that I have done nothing, he gets up and makes his political speech on this motion which is very necessary and sets him up to tell us - or not tell me because he did not choose to tell me - to tell my good colleague that he should withdraw this motion. Why should he? The plain fact is that the pressure is on us and on the Government at this time to provide a boat ramp in Bodden Town. This has been set out very clearly in the motion. The residents of Bodden Town have requested the development of a public beach and launching ramp in this area. There is an urgent need for this facility and current Members of the Legislative Assembly have impressed upon the Government that such a project would enhance the social life in the community and fishermen in the vicinity have expressed the need for the launching ramp in this area. He is talking about why I did not build it in 1976.

Is he from a foreign land that he does not know about the Cayman Islands? In Bodden Town in 1976 we did not have these Bertram boats and these heavy boats that needed launching ramps. They were little skiffs and little canoes and it was not until Haig Bodden and others like him had developed Bodden Town and this Island to where the populace could afford to purchase the type of boats they now have because everybody knows that the boat is an expensive item, just as expensive as a car today. While it is true that we probably could have used the ramp in those days the pressure was not there from the public. There were too many other things and we were not like this spend-thrift Government that tried to buy everything from one paycheck before the next election. We tried to provide the facilities as we could pay for them. So the matter of a

boat ramp is now in my opinion a matter that deserves urgent and important priority.

As far as my knowledge goes the request for a boat ramp in Bodden Town was first made to Government in 1984 by me in a discussion I had with the Member for Education and I even hate to relate this, because I have known from that day that would be the end of it. But for eight years an efforts have been made to get this boat ramp and the Member for Education and the Member for Communication have found one excuse after the other for not doing it. Now this Member tries to wriggle out of his responsibility by saying why did not somebody else do it when he has the funds. He just told us in this House last week that he had spent a vast sum of money improving the boat ramp in George Town. We found out that most of that money actually went on a private restaurant but nevertheless Government's money was spent in that area...

HON. LINFORD A. PIERSON: On a Point of Order, Madam Speaker, the Member is...

POINT OF ORDER

MADAM SPEAKER: Second Elected Member for Bodden would you sit until I have heard the Point of Order?

HON. LINFORD A. PIERSON: The Member is misinforming this House and the listening public. I showed him precisely how the $58,000 was spent and that none of that was spent on a private restaurant.

MADAM SPEAKER: Honourable Member that is a valid Point of Order raised by the Honourable Member because the House distinctly remembers that information given, that no money was spent. I would ask you in future not to say anything that is not true, please.

MR. G. HAIG BODDEN: Madam Speaker, I would invite the House to go down to that restaurant and to look around it and see what has been done there and find out who is telling the truth.

MADAM SPEAKER: The point that concerns us now is that the information given to the House was that no money was spent on the restaurant. That has to be accepted. Would you please proceed with your debate sir?

MR. G. HAIG BODDEN: In addition to the money spent there we see that money was spent at South Sound and while I do not oppose any of this, what the public must understand that the Member for Communications is spending the money in his district ignoring Bodden Town. If this is not looking political mileage, I do not know what is. He talks about the boat ramps that he opened in Bodden Town. He full well knows that the Bodden Town Members specifically requested the one that he has not done. This is where the most pressure is because this is where most of the people are living.

The last place in the world he should have put one was in Frank Sound in the heart of the replenishment zone where the people are going to pick up the young conchs and I understand other things, which perhaps he is aiding them with. The one in Newlands we appreciate it but here again they have gone over-board and spent $99,000 I believe the figure he gave us was. For what? Because some environmentalist in his Portfolio told him they must make a garden out of these mangroves. When the other Member from Bodden Town and I visited this area we were astonished to see how Government's money was being wasted. The Member who so glibly spoke about why we did not get this boat ramp in 1976 or some ancient time, should tell us why he did not get one in George Town in 1984 when he was a Member. For two reasons. There was no pressure for it and the Government of the day was looking at the Island instead of doing parochial politics to get re-elected.

Executive Council cannot blame the Bodden Town Members for what has not been done in the last eight years and particularly in the last three and a half years when they used the disgraceful Motion No. 3/90 to wrestle the finances out of the hands of the Elected Members of this Assembly. They are the ones that call the shots and they are the ones that spend the money. Perhaps if one looks at the second page of the Compass today one will see why we brought this motion and one will see clearly why we should not withdraw it because on page 2 there is an article that says Newlands Ramp closed. The substance of the article is that the Public Works has announced that they are closing the ramp for three days starting Monday the 20th of July, for paving. Although he and his counter-part in Bodden Town perceive me to be a fool, I am not fool. I know and the other Member for Bodden Town knows this would not have been paved this year if our motion had not come. He is only using this now to say that he is completing these two ramps for us.

I say this because I examined the 1992 estimates of expenditure for this country and I see in it that this Member had no intention of fixing the boat ramp in Bodden Town and for him to come here and talk about I would not agree when he did not even discuss it with me, I would not agree to withdraw it, has to be the height of foolishness. For those Members who happen to have the estimates with them, I would ask them to look at the Frank Sound Jetty and see in it that this Government has put into the 1992 estimates that they are going to spend $20,000 in 1993. I suspect by that time the Member will be into outer darkness where there will be weeping and gnashing of teeth and he will not know anything about it.

As for the Bodden Town ramp, I see that he is going to spend - these are his figures and they are contained in the estimates and you see I thought in the beginning when he put them in the estimates which came to House, I thought it was only a joke but I also examined the final copy of the estimates and the same figures appear there as well. In the estimates and in the final draft after the Finance Committee had gone through it I find these same figures that the Bodden Town Jetty he is going to spend $5,000 in

1993. There is another item that in 1993 on the Bodden Town ramp he is going to spend $50,000. Perhaps the sweetest part of this is that in 1994 for the Bodden Town Jetty they are going to spend $26,500. If this is not the height of hypocrisy! Of course they are going to do every thing in 1994 in Bodden Town that has been neglected. In 1994, and this is the last item I will mention. Bodden Town and Breakers Playfield they are gong to spend a magnificent sum of $200,000. But you know you can spend anything if you are not here. You can spend anything if you do not have it!

MADAM SPEAKER: Honourable Member have you reached a point where we might take the suspension?

MR. G. HAIG BODDEN: Yes, Madam Speaker.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 3:30 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 3:54 P.M.

MADAM SPEAKER: The Second Elected Member for Bodden Town, continuing the debate.

MR. G. HAIG BODDEN: Madam Speaker, in the matter of Government's capital expenditure I believe all districts were created equal but some of them seem to have become more equal these days. I feel it is the responsibility of the Government to examine the needs of the districts and to apportion the funds for capital works so that the most crying needs in each district are met. What would be a good policy would be for the Elected Members of Executive Council to meet with all the people's representatives in September of each year when they are drawing up the capital budget as a Government that I had been a part of did. Then you would find that works would be done not because a particular Member lived in a particular district and wanted a pet project for his district.

The mover of this motion outlined the usefulness of this ramp and I touched on what has been set out in the resolve section. I would like to emphasise that although the motion mentions fishing boats, that many of the young people who own boats now use them occasionally for recreation and for relaxation, some of them take their families out. On that side of the Island we are not blessed with easy access to the North Sound. Many of these boats are expensive boats and will easily be damaged if proper facilities are not there. This is all we are trying to bring to the Government. Perhaps if we had dreamed that the Member would have used this occasion to ease his mind of what has been bothering him, the pressure that has been building up over the last couple of weeks, we may have delayed this until September. Nevertheless the motion is here and we seek honestly to put forward the needs of the district.

It is strange that one who has been announced as a running mate of the Member for Communications had this to say in the newspaper a few days ago. "The Backbench would be more effective and would get more done if they cooperated with the Government". I do not know what he means by that but if it means that we have to get on bended knees I have no intention of doing that. I respect the Members of Executive Council; will make requests in the normal fashion but when these requests are denied I will make my reactions known. Furthermore, as far as the Member's concern is about Bodden Town I would like to tell him what I told him what I told an audience last night: "I have lived here all my life. My manner of life from my youth up yea know, so I cannot lie to you, I cannot tell you false stories."

I would like to close this debate by urging the Member for Communications to accept his responsibility to deal with this matter. He is the one charged with responsibility for the construction of boat ramps and while members in the electoral districts can seek his help we know full well that unless you are among the very fortunate we really have no power to spend the Government's money. We can only ask and hope that it will be given. Finally, I trust that the Member will have vented all his wrath and will not see fit to have such a venomous outburst against any other Member of this Chamber again.

MADAM SPEAKER: If no other Member would wish to speak I would ask the Mover if he would like to exercise his right of reply?

MR. ROY BODDEN: Thank you, Madam Speaker. I am left to wonder why, after I tried to explain the motive for bringing the motion and the motive was one which reflected a genuine need and concern as expressed to us by our constituents, our good friend the Honourable Member for Communications, Works and Agriculture let his emotions get the better of him, taking off on a tangent. In all candour it is true that that Member has been very receptive and very cooperative to the request that I have made on most occasions, and for that I am grateful and appreciative. It is also true that the relationship between that Honourable Member and ourselves, the two representatives from Bodden Town, have for the most part been cordial and respectful. There seems to be some attempt to drive a wedge somewhere between my colleague, the Second Elected Member for Bodden Town, and myself because I have noted that on motions which he has had occasion to second, the Government always seems to take the opportunity to go back into ancient history.

I do not know what happened in 1976, those were years in which I lived out of this jurisdiction. But what I know is this, my colleague the Second Elected Member for Bodden Town, is a representative of the constituency which I represent and I am bound because it is my wish and desire to

work with him and I will continue to do so. I am also bound to speak up for him when the necessity arises. We agreed that we were going to bring this motion and when I was approached by the Honourable Member for Communications and Works, I respectfully spoke to my colleague because he is the Seconder and he is the representative and sought his advice. I have to say that I value his input because he has been around much longer perhaps than I will ever be in these hallowed halls because I see my agenda as being not quite as long as his and I have other things that I would like to do. But while I am here, I have given the undertaking that I am going to work with him as I am supposed to do as our constituents expect us. I say again, we brought the motion out of a genuine concern expressed to us by our constituents and the concern and the need which we saw as existing.

I do not think it is in our place as the representatives of the people to undertake to request a service club to complete jobs and take upon themselves the obligations for which we believe the Government should take up and have responsibility. While I have to agree that some kind of joint effort between the community and a service club would be helpful, I think we would be out of order to do this without having some tacit agreement with the Government and without the Government whose responsibility this is, setting the stage and making the arrangement. I do not rule out the possibility of some kind of joint effort and I am in a singular strong position to do so because I work with some young people in Bodden Town who would be more than willing to help in this regard.

We cannot do this without the Government's consent and involvement for if we do we would be subjecting ourselves to the potential embarrassment which the Government would bring upon us because we do not know what plans they have after they have acquired and purchased the land. Suppose we go and do something which is entirely different and contrary to what they plan? So I do not believe it is the responsibility of the representatives to get the service clubs involved. If the Honourable Member wants to do something, he should take the initiative and then involve us as the representatives and we would be willing at that point. Certainly he could have mentioned that when he spoke about withdrawing the motion.

He could have elaborated on his idea of involving a service club but I have another fear about involvement of a service club because it is my vivid recollection that my colleague and I, the Second Elected Member for Bodden Town brought a motion here in November of 1990, asking for the establishment of some school bus shelters. The same Honourable Member after the motion was accepted unanimously it was his responsibility to work with the service clubs to get these things done and nothing has been done. So much so that I have been catching hell from some of my constituents because they see it as my responsibility for getting the bus shelters established because I told them that that is one of the things I would undertake to be done. So I am afraid if I accept this I will be in for more wrath from my constituents and going up for re-election that is something that I can ill-afford, especially that it is wrath that I will not be deserving of.

All politics are local. Take care of your constituents and they will return you to the Parliament and since I would like to be returned to the Parliament, I have to take care of my constituents. I have to represent the little man. The good people of Bodden Town deserve a public beach and a launching ramp and they have sent me here as their representative, I have to lobby and agitate for that and I thank heaven that I have a stalwart fighter like my colleague the Second Elected Member. I hope that thee Government will see fit not only to accept the motion but to act upon it because it was brought out of good intentions to address a glaring need. I, as tempted as I am, I will not degenerate into political one-up-man-ship and rhetoric. It is a style that I am not yet very familiar with and I am not sure that I want to become very familiar with that style.

I will only say that we, the representatives of Bodden Town, as well as other Members of the Backbench have to be careful because it seems to me that every time the Executive Council Members have opportunity they get up and say we are irresponsible and we have not done anything. The reason why we have not got things done in our constituencies is perhaps a reflection of the type of representatives that we are. Some Members of Executive even went as far as to say that they have a lighted playing field in their district and some of my young people had to travel there to play on it and I did not have anything. Well, Madam Speaker, we have a lighted hard-court. We do not have a lighted football field, but we do have two first division teams. One of those teams personally is my team, sponsored by the company for which I work. A team that I founded some 20 years ago and that I still work with. The other team is made up of guys who were sufficient in number to go their own way and form their own team. Happily for me, I have the respect of both teams and I am regarded as a patron to both of them.

Not only have I the respect but I have their political support any day the sun rises. One of these days through my striving we will get lights with the help of Government or without. I am also happy to say that I have never been too busy to find time to work with them on the soccer field and otherwise. Certainly, my presence and my attention given to these youngsters speaks for itself. I will continue to ask for public beaches and launching ramps and one of these days, just maybe, the shoe will be on the other foot and I hope that I will not be as insular and as ignorant as to try to get up and say we have lights in Bodden Town and they do not have them somewhere else, so the people from that other jurisdiction have to travel to Bodden Town to play.

I want to footnote this by saying that I try to be gentlemanly in here. But they taught me a thing or two at the Maxwell School and if I have to fight politically, I will fight and there is no question about my loyalty. I am a Backbencher, and proud to be one. I am a colleague of Haig Bodden's, and proud to be one. There is no way I would not be for my parents if when I make a decision anyone could change me or force me to divide my loyalties. As far as this motion is concerned it is entirely up to the Government. I have done my duty before God and my people and if the Government does not deal with the motion now and meet the request, we will get a launching ramp in Bodden Town in the near future.

Thank you.

MADAM SPEAKER: The question is Private Member's Motion No. 7/92 and I shall

now put the question.

QUESTION PUT: AYES AND NOES:

MR. JOHN D. JEFFERSON, JR.: Can we have a division, Madam Speaker?

MR. ROY BODDEN: Can we have a division, Madam Speaker?

MADAM SPEAKER: Certainly.

DIVISION NO. 15/92

Ayes: 6

Mr. W. McKeeva Bush
Mr. John D. Jefferson, Jr
Mr. Truman Bodden
Mr. Roy Bodden
Mr. G. Haig Bodden
Mr. John B. McLean

Noes: 8

Hon. J. Lemuel Hurlston
Hon. Anthony S. Smellie
Hon. George A. McCarthy
Hon. W. Norman Bodden
Hon. Benson O. Ebanks
Hon. D. Ezzard Miller
Hon. Linford A. Pierson
Capt. Mabry S. Kirkconnell

Absent: 1
Mr. Gilbert A. McLean

MADAM SPEAKER: The result of the division, six ayes, eight noes, the motion has accordingly failed.

NEGATIVED BY MAJORITY: PRIVATE MEMBER'S MOTION NO. 7/92 DEFEATED.

PRIVATE MEMBER'S MOTION NO. 8/92

HEALTH SERVICES AUTHORITY CONTRACT

MADAM SPEAKER: Private Member's Motion No. 8/92. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I wonder if the House would not take the adjournment at this time.

MADAM SPEAKER: Are you moving that motion?

MR. W. McKEEVA BUSH: Sorry?

MADAM SPEAKER: Are you moving the motion that the House should now adjourn?

MR. W. McKEEVA BUSH: Yes, Madam Speaker.

ADJOURNMENT

MADAM SPEAKER: Well it is not 4:30 but I realise that Members may be very tired having had strenuous Finance Committee. I will put the motion for the adjournment. The motion is that the House do now adjourn and the motion is open for debate.

If there is no debate I will put the question.

QUESTION PUT: AGREED.

AT 4:19 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., MONDAY, 20TH JULY, 1992.

MONDAY
20TH JULY, 1992
10:12 A.M.

MADAM SPEAKER: 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly.

APOLOGIES

MADAM SPEAKER: The Honourable the Second Official Member has advised that he will be somewhat late in attending but will be here eventually. Questions to Honourable Members No. 149, the First Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

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

NO. 149: Would the Honourable Member say what are the outstanding requests, estimates of cost and date of first request of all outstanding projects for the Bodden Town constituency?

ANSWER: Due to the diversity of requests made and the length of period to which the question relates, the Public Works Department is unable to provide me with a precise costing of projects requested in Bodden Town, at this time. There is no overall list maintained by the Public Works Department of all requests made to Government for projects in Bodden Town or in any other district.

Requests for projects include agricultural services, boat ramps, carparks, drains, land clearing, parks, playfields, street lights, roads, etcetera.

I have instructed the Public Works Department to let me have the requested information as soon as possible. In the absence of the precise costings requested by me, the Public Works Department has provided me with certain ballpark estimates in respect of the districts of Bodden Town and West Bay, which I would be pleased to provide at this time, if so required.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town, supplementary.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable

Member could shed any light on three projects which were requested earlier in my tenure? One of which has to do with a situation which exists in the Cumber Avenue area of Bodden Town and is caused by flooding during heavy rains. The second is the situation which exists out at South Cayman Palms where the houses at the lower end of the sub-division, because of an acute corner in the road, there is a danger that if there is an emergency and the Fire Department vehicles cannot negotiate the road because of this acute corner. The third has to do with a survey for which $50,000 was voted some years ago for the back-road.

HON. LINFORD A. PIERSON: Madam Speaker, it is my understanding that some preliminary work was done on the Cumber Avenue area but if there is a drainage problem there, this matter will be looked into further. As regards the South Cayman Palm and the survey that was being carried out, these matters are still receiving attention but as was explained previously in the House due to Government's financial constraints, we are unable to do all of these jobs at this time. However, I believe it might be useful to the Member and other Members of this House if I did, in fact, distribute this list that contained the ball-park estimates which were prepared by Public Works, he would be able to see the list of jobs that were requested and perhaps the status of those jobs.

MADAM SPEAKER: Thank you. The First Elected Member for Bodden Town.

MR. ROY BODDEN: I wonder if the Honourable Member would undertake to look into the matter of the flooding in Cumber Avenue and the acute corner situation which exists towards the lower end of the South Cayman Palms and if the funds permit, the survey of the back road, particularly the Cumber Avenue flooding. The acute road corner at the lower end of South Cayman Palms is a situation which I worry about frequently. The residents there are at a serious inconvenience and disadvantage.

HON. LINFORD A. PIERSON: Madam Speaker, as mentioned earlier, we are certainly monitoring the situation and we will be looking into these matters but I would not want to give the impression that we will be undertaking any repairs at this point in time due to, as I mentioned earlier, the financial constraints of Government. But we will try to do our best in correcting these matters.

MADAM SPEAKER: If there are no further supplementaries the next question is No. 150, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION, ENVIRONMENT, RECREATION AND CULTURE

NO. 150: Would the Honourable Member say what written guidelines and regulations exist for the mining and dredging of marl in these Islands?

ANSWER: Although the Natural Resources Unit and the Coastal Works Advisory Committee have established application and approval procedures for the offshore dredging of marl in the Cayman Islands, there are no existing written guidelines and regulations for this activity. It is hoped that this deficiency will be addressed by the proposed Marl Mining Study. The terms of reference of this Study call for the preparation of practical handbooks of criteria, guidelines and procedures for use by Government agencies in the review, consideration and approval of applications involving the extraction of construction and fill materials.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. Seeing that there are currently no written guidelines and regulations, I wonder if the Honourable Member could explain to us then how decisions are arrived at as to who will be given licences to mine marl?

HON. BENSON O. EBANKS: Madam Speaker, I wonder if I could have clarification from the Member whether, when he refers to mining, he is talking about on-shore mining as opposed to what I refer to as dredging when it is done off-shore because the two come under two different departments and I would like to know how to answer the Member.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. If the Honourable Member is in a position to explain how licences are granted for both types, I would appreciate that.

HON. BENSON O. EBANKS: Madam Speaker, the mining of marl, that is the on-shore mining falls under the jurisdiction of Planning, solely, and the Portfolio and I know that a moratorium has been placed on any granting of licences for that purposes since December, 1988. I believe that it is intended to leave that so, until the outcome of the study to which I referred. In the case of dredging, Madam Speaker, as I pointed out the Natural Resources Unit and the Coastal Works Advisory Committee have developed application forms which solicit as much information as possible about each project. This information is studied as best as possible and decisions

taken, permission is granted or denied on the basis of what the Natural Resources Unit think of the project when it is evaluated.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker, through you. Would the Honourable Member say why there is such a diversity in conditions relating to dredging? The off-shore dredging at the Whitehall and South Sound had no silt-screens, and those two were done by Government, the private dredging done at Red Bay in front of the bakery there, they had to have a silt-screen. Are there two different sets of rules, one for Government and one for the private sector?

HON. BENSON O. EBANKS: Madam Speaker, as far as possible Government is required to comply with the same rules and regulations or the same conditions that the private sector is required to follow. Nevertheless, the amount of work to be done obviously affects the degree of security, shall I say, including the silt-screen that is put in place on some occasions. It might have been that in one or more of the instances the Member is talking about, that the work turned out to be a little bit more than was originally estimated. But Government tries to practice what it preaches. In other words, to live by the same rules as the private sector.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: It is good to hear that Government tries to live by similar rules as the private sector but I would just like to refer the Member to what I have seen done and I do not even know who is doing it in front of the bakery, is very minor compared to what was done at Whitehall. While I appreciate what was done at Whitehall, it silted up for weeks, nearly into months. But I notice that there was a silt-screen at the smallest of these three projects.

MADAM SPEAKER: If there are not further supplementaries, the next question is No. 151, standing in the name of the First Elected Member for Bodden Town.

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

NO. 151: Would the Honourable Member say what is the number of permits issued over the past twelve months for the mining of marl and to whom were these permits issued?
(when I say mining of marl, I mean operations on the land)

ANSWER: The Planning Department has record of only one permit having been granted for the mining (i.e. removal and/or sale) of marl over the past 12 months. Mr. Harold (Jay) Bodden of Caymarl Ltd, was granted permission for the excavation of marl at the George Town Barcadere site.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say if there have been complaints of persons mining marl without a permit and if there have been complaints, were these complaints investigated?

HON. LINFORD A. PIERSON: The answer is yes, we have had complaints of illegal marl mining.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I would like to know from the Honourable Member if the complaints were investigated and what action or recommendations resulted from the investigation?

HON. LINFORD A. PIERSON: Madam Speaker, it might be helpful if I gave the Honourable House the detailed information on this. There were in fact, two complaints of illegal marl mining operations, one in respect of the Readi-Mix Development company on Block 13(d) Parcel 121, and 122. The other one was in respect of Mr. Melbourne Watler and Mr. Charles Watler's marl pit on Block 24(D) parcel 13 and 14. These matters are being closely monitored.

MADAM SPEAKER: If there are no further supplementaries, that will conclude Question Time for this morning. We will proceed to Other Business, suspension of Standing Order 14(2).

OTHER BUSINESS

SUSPENSION OF STANDING ORDER 14(2)

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move the suspension of Standing Order 14(2), in order to enable Private Member's Motions to take precedence over Government Business today.

MADAM SPEAKER: The Motion is as posed by the Honourable Member. If there is no debate I shall put the question.

QUESTION PUT: AGREED. **STANDING ORDER 14(2) SUSPENDED.**

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 8/92

HEALTH SERVICES AUTHORITY CONTRACT

MADAM SPEAKER: Private Member's Motion No. 8/92, Health Services Authority Contract, the First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I beg to move Private Member's Motion No. 8/92, standing in my name which is set out as follows:

> WHEREAS the Honourable Financial Secretary said on the 2nd July that the new hospital contract has not been awarded as of that date;
>
> AND WHEREAS the recent Government Minute laid on the Table of the House on the 16th of March, 1992 has recommended that projects of statutory bodies must go through the Public Tenders Committee;
>
> BE IT THEREFORE RESOLVED THAT the House agrees that no money is spent out of the $18 million for the new hospital until this contract has been awarded by the Public Tenders Committee.

MR. G. HAIG BODDEN: Madam Speaker, I second that motion.

MADAM SPEAKER: The motion has duly been moved and seconded and is now open for debate. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, there has been much talk about whether the hospital contract has been awarded as yet. On Thursday July 2nd, in an answer to a question, the Honourable Financial Secretary said that the hospital contract has not been awarded yet. I take his word to be true. Of course, it has not been awarded, even the Member for Education has said that contracts cannot be granted until money has been provided. The motion to get the authority, the $18 million which this motion talks about, was only passed on Thursday, the 2nd of July. In the events leading up to this resolution, the Member for Health has made it known in no uncertain terms that his preference for the contract is the company which was awarded (or he hopes will be awarded) the contract. It is not a matter of his personal choice for any company. We are not dealing with his money, nor are we dealing with the money belonging to any individual member of the Health Services Authority. This $18 million is big money. Big money which this Legislative Assembly has guaranteed by majority on behalf of the people of this country.

There are rules and regulations which are set down by this House for a Statutory Authority, namely, the Audit and Finance Law which governs finances and the auditing thereof. The Financial and Stores Regulations which is set up by this Audit and Finance Law says, and I quote on the relevant part of this Financial and Stores Regulations which deals with tenders, contracts and local and over seas purchases: "The principle governing the purchase of goods, works and services for Government departments and offices is that they must be acquired by the most economical means commensurate with quality and efficiency, so as to obtain the maximum value for the public moneys expended.". Indeed under section 38 (2) (e) of the Public Finance and Audit Law, 1985, the Auditor General has a duty so far as practicable to satisfy himself that this is so.

> "Moreover [goods, works and services] must be obtained openly and competitively so that not only do all potential suppliers of the goods, works and services have an equal opportunity to bid for public contracts, but the award of such contracts is seen by the community at large to be fair and equitable. To this end, except for purchase of minor goods, works and services not exceeding $10,000 (sic) [$1,000] in value, all goods, works and services required locally by the Government will be obtained by contract after public tender.".

The regulation then sets out the general procedure for Tender Committees. It says and I quote 8.4.1:

> "Tenders for Government supplies, works and services will be considered by the following Public

Tender Boards:-

(a) For contracts estimated to cost not more than $100,000 (sic) [$10,000], a Departmental Tender Board comprising the Controlling Officer as Chairman and two other officers of the department or office appointed by him.

(b) For contracts estimated to cost more than $100,000. . . a Central Tender Board comprising the Deputy Financial Secretary as Chairman and such other persons as may be appointed by the Financial Secretary (sic) [Governor].".

These provisions of the Regulations are saying in these chapters that under no circumstances are contracts over $100,000 to be given out to any company or to be given to any person without first going through the Public Tenders Committee. That is as clear as the day is long. Since 1989, when this whole fiasco began with International Healthcare Corporation every rule has been broken when it comes to the public money and the tendering of contracts. As a member of the Public Accounts Committee, we have laboured these three-and-a-half years to get the Portfolio's help to follow the proper procedure and they have continued flagrantly to abridge the financial rules as set up by Government. It is time that the Financial and Stores Regulations in this country be obeyed, it is time they be respected for what use are we to have such guiding principles set down in the law, if the Member for Health or any Statutory Body can disregard them as if they do not exist. It is time that we stop comparing what this Government should do as against what another Government might have done who did not have the Regulations to guide them.

It is time we stop hearing inferences about the Third Elected Member for George Town and other Members in previous Governments or anybody else. The finances today, in my opinion, and in the opinion of the Public Accounts Committee is being improperly used. As the administrations succeed each other some kind of tacit accord must exist between those leaving and those arriving. In other words, I forgive you if you forgive me. I say no. I want to see the correct procedure followed and there is no reason if everyone is as honest and clean as they have been screaming about, why this contract should not go through the Public Tenders Committee. The records will show that I have never been one to use my position as a representative of the people to favour any person or group of people or company or any group of companies for anything when it comes to Government contracts, be it Central Government or Governments Statutory Authorities which are inviting bids. It has been my position that they should go through the Public Tenders Committee which has been set up by the Audit and Finance Law through the Financial and Stores Regulations.

I believe it is morally right and legally proper that all contracts be scrutinised by the Central Tenders Committee so that everything is above board. It certainly would be good to make absolutely certain that these works are acquired by the most economical means commensurate with quality and efficiency so as to obtain the maximum value for the public's money which is to be expended as the Financial and Stores Regulations talks about. Much has been said in debates and on public platforms about the Hurlstone Construction Company and their bids of Government contracts. It is my opinion that whomever gets a Government contract must get it in the right manner, through the correct channels and in this case, the Public Tender Committee is the proper body to grant the contract under question, and then that company must do the job in the most professional manner which will save Government money and in the end have a quality facility.

These are my conditions. If the company who got the contract, happened to be Hurlstone Construction, so be it. Madam Speaker, then it would be our duty to see that we get quality work for money spent and as far as I am concerned I have seen their quality of work and I think it is some of the best in the country. I cannot knock them on that. What I hold to is that the Financial and Stores Regulations of this country cannot be side-stepped every time a Member wants to do a project. If the company is a good company and gives us value for money spent, then I am happy but the proper procedure must be followed. Madam Speaker, for what use are these Regulations which were made to hold everyone accountable if they are not adhered to. These are supposed to be the check and balance between those who would give and take a Government contract at inflated costs or perform a quality work less than favourable to Government.

The Regulations are also charged to expose the political directorate and any public servant who might abridge these Regulations. In this country such matters as granting of contracts must be seen to be like Caesar's wife, "above reproach". We have a system to guide us as a good check and balance. The Honourable Financial Secretary has said that the contract has not been awarded and if the Financial and Stores Regulations were not clear enough for those who might use that poor excuse, the Government says that they will send their contracts belonging to any Statutory Body to Public Tender for any works which Government must guarantee. This House has a responsibility through the Financial Secretary to see to it that the vast amount of money is public tendered and we must live up to that responsibility. I cannot understand, although there was some vague answer given the other day, for what reasons the Government Central Tenders Committee so far has not been allowed to deal with the tendering of so many million dollars for the building when in July last year Central Tenders Committee considered and awarded the bids for the design of the hospital to Ellerby Becket.

Why were they allowed to handle bids for the design for only a million dollars but not for the $18 million for the building? I do not care what excuse the Member might have, it is just not right. I believe the Member for Education in this instance, and more importantly I believe the Honourable Financial Secretary when he said the contract has not been awarded yet, why any Member of Executive Council would proceed to go on without the involvement of the body which is required under Law to scrutinise such contracts when we are dealing with so much money on the basis of some vague technicality bespeaks wanton disregard for Government's financial procedures and is a miscarriage of justice if ever there was one. The

Government might take a point to say we cannot now go to Central Tender's Committee because they went to bid already. That may be so in part because they did go to bid, however, inviting someone to bid on a piece of work is nothing legal and binding to say you have committed yourself at that point.

The only time the Government binds itself legally is the exact time when Government signs the contract. Then it becomes a legal matter and one which the Government would have to honour, not as a moral obligation, but as a legal obligation. At this point in time, this has not arrived according to the Financial Secretary and the Member for Education who said that no contract has been awarded. In several answers to questions in this House, the Member for Health sought to make the House believe that the Government Minute, which is the Government's response to the recommendations of the Public Accounts Committee did not give an undertaking to use the Central Tender's Committee when the hospital contract was to be granted. This is a blatant misrepresentation of the truth. Let me read what this said. This is taken from page 42 of the Government Minute which was laid on the Table on the 16th of March this year. It says and I quote:

> "The Government agrees with the Committee [that is the Public Accounts Committee] that the fair, open and competitive contracting procedures that produce good value from public procurement should also apply to Statutory Bodies. Government assures the Committee that it has no evidence to indicate that this is not now the case. The Government notes the wish of the Committee for guidance to be issued to the Statutory Bodies on this to ensure, without a doubt, that good systems of public procurement are in operation in this part of the Cayman public sector. The Government wishes to inform the Committee that the Deputy Financial Secretary, who is also Chairman of the Central Tenders Committee, sits on the Board of many of the Statutory Bodies and that he has confirmed to the Government his support for the tendering procedures now being pursued by those Boards upon which he sits. Government will, however, in the future make it a condition of guaranteeing loans to Statutory Bodies that they use the Central Tenders Committee as the agency which would consider and award contracts for works, materials and consultants costing over $100,000 in accordance with Financial and Stores Regulations.".

While the Government Minute was tabled on the 16th of March, it is a fact also that Government and the Member for Health were made aware of the wishes of the Public Accounts Committee whose report was tabled, I believe in December last year. Furthermore, even before the Public Accounts Committee Report on the 1990 Accounts of Government was laid, the Public Accounts Committee and the Auditor General made Government aware that Statutory Authorities, when asking for guarantees for large sums of money would have to go through the Public Tenders Committee. Because, we feel that the Financial and Stores Regulations were not being adhered to and we felt strongly that the Regulations were very clear and barred no-one from its application and that the fair, open and competitive contracting procedures that produced good value from public procurement should also apply to Statutory Bodies. So, Government has more than once and especially before the laying of the Public Accounts Committee Report in December last year, had noticed and had all the time in the world needed to adhere to what it said it would do about Statutory Bodies and contract. Certainly, as the Public Accounts Committee Report is laid, Government with its various departments involved starts its procedure on the Government Minute which must have been in December, last year, or at the latest, early January.

The Member for Health says that Executive Council agreed to the contents of the Government Minute on the 15th of March by round-robin. Surely, they knew and had time to consider the implications of the Minute prior to that date. Surely, the Member for Health who had to be concerned because of the issue of the new hospital was involved. It is pure trickery in trying to make this House believe that they were not involved with the process of the Government Minute before March 15th and that they let the Minute be tabled with the Financial Secretary alone agreeing to that undertaking which required them to go to Public Tender and to keep a hands off position on the contract for the hospital. Madam Speaker, I have resigned myself to the fact that we will get a new hospital building but I feel that the Government has a responsibility to see that the public's money is expended in the best way possible and they have ignored every regulation which was set as a buffer against improperly conceived projects. They have gotten around it, albeit by dubious means in my opinion, every Regulation which has been in place to see that there is accountability in public tendering in such matters even if those Governmental agencies which were set up to monitor projects of such magnitude, such as the Public Sector Investment Committee, have been ignored and their findings locked away and hid from the scrutiny of the watchful eyes of this Honourable House.

The question of the Public Sector Investment Committee and their scrutiny of that project is very much a matter of concern to me. We were promised that the Committee's finding would form the basis of a report on the project and then that report would have been laid on the table of this House, or otherwise, given to Honourable Members. The formation of the Public Sector Investment Committee arose out of the need to introduce a coherent systematic procedure for developing and analysing public sector capital investment projects. We know that the hospital project was screened by the Public Sector Investment Committee and we wonder why, and we keep asking for the report of the Public Sector Investment Committee. It is dishonest for Executive Council to keep it hidden from us in this Honourable House.

This motion is very plain. It says since the hospital contract has not been awarded, that this House agrees that no money is spent out of that $18 million for the new hospital until this contract has been awarded by the Public Tenders Committee. I leave the motion for this Honourable House to decide upon but I believe as a Member of this House and one responsible to the people of this country that the Financial and Stores Regulations must be followed. There must be accountability and that is what is the fundaments of democracy. If we in this House are a democratic House, adhering to those laws and acts which we have instituted then I say the Executive Council or any Statutory Body is not barred from following the Financial and

Stores Regulations which scrutinises and assures the public of this country that expenditure of their money is set on good, proper and fair grounds.

Thank you, Madam Speaker.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Madam Speaker, I rise to debate Private Member's Motion No. 8/92, Health Services Authority Contract. In this motion the first recital correctly states in my opinion, that on the 2nd of July, and I take the date to be correct, I do know that the Honourable Financial Secretary said that the hospital contract had not yet been awarded. I took his statement to mean that the Government had not yet entered into a contractual agreement with any construction company. That being the case what he said would have been correct.

I also understood in the course of the questioning of the Honourable Financial Secretary, which arose from a question which I brought to the House that a tendering committee had decided on which of five companies had bid the most favourable bid in their opinion. I think that committee was set up under the Health Authority and it comprised various people who have technical knowledge in this field. The company that was chosen as the preferred company to do the works which had been tendered was Hurlstone Construction Limited. I recall making the comment that if Hurlstone Construction could perform the works for what they said it could be done for, and the highest bidder stated what they could do it for, the difference between the two was so very wide that Government should be seriously admonished when dealing with bids and construction companies for if on the high part of the tenders there was such a vast difference of almost $4 million that those who bid so high were virtually attempting a scalping.

I expressed some doubt as to one being so low and the other being so high. However, the company that has decided they can build it for that amount of money, to the best of my knowledge stands prepared to undertake the works. Most Members who spoke on the question of the tender noted that it was too low. They did not believe it could be done for the amount that had been bid by the lowest tender. I would not want to believe that it could occur if this was re-tendered that another company might bid for a higher amount and because it was tendered through the Public Tenders Committee the higher amount would be taken as the more desirable cost for the works. This to my mind would obviously be the case since one would assume that the bidding process that happened originally would fall away in the face of the Public Tenders Committee taking on the task of re-tendering for this particular job.

In reply to the question that I put to the Honourable Financial Secretary he told this House that there was no process presently in Government whereby the public or other tenders became aware of how much was bid by themselves. He said that he intended to see that change in the Financial and Stores Regulations so that it would be public information. I totally agree with that and I commend the Financial Secretary for taking that position. In fact, the Financial Secretary in replying, affirmed the question that I put to him that perhaps the way the hospital was tendered was indeed setting a precedent as far as the public knowing what each one bid and each tenderer knowing what the other bid. I think we have come a long way in accessing information to the public. I have looked in the Financial and Stores Regulations and I note things that is contained therein. I do not know if the terminology has been changed in terms of the what we refer to it as the Central Tenders Committee, but I see it referred to in section 8.4.1. as the Departmental Tender Committee, the Central Tender Committee and the Main Tenders Board. I do not really know which is presently the correct term but I think we are talking about the same organisation.

One of the things that is noted in section 8.7.(f) is that the Tender Board need not accept the lowest or the highest tender, but if it does not do so the reasons must be recorded in the minutes of the meeting. I do not think that that bodes very well for public information. Let us say the Public Tenders Committee or the Public Tenders Board met and it chose the highest bidder. The only information the public would have about that would be if they could have access to the Minutes of the Board, which they cannot do. The only people who would know that they had chosen the highest bidder would be the members of the Public Tenders Board.

In (g) of the same section, it says: "The Secretary of the Tender Board will notify the successful tenderer in writing that he has been awarded the contract and will also notify the remaining tenderers that their bids have been unsuccessful.". The section goes on to state: "...the successful tenderer and the amount of the bid will be published in the Gazette.". It makes no provision for other bidders to know what their competition bid and it is treated extremely closed shop and secret. In (h) and I quote: "The minutes of Tender Boards and the details of unsuccessful tenders will be treated as confidential and information concerning them will be dealt with on a "need to know" basis. Apart from the information published in the Gazette in no circumstances will information regarding a tender, either successful or unsuccessful, be divulged to another tenderer.".

I have serious concern with that. In fact, until this matter of the hospital came up a week or more ago, I was unaware of the details of these particular regulations. For the amounts of money that the Government is spending in various projects, I believe it is absolutely necessary that, however many tenderers will have tendered for a particular job, they should have a right to now what the other one bid and definitely the public should have the right to know what the bids were, who bid because it is the public's money that is being spent. In the same section 8.7.(i) it says: "Successful tenders will be retained and filed with the subsequent contract documents. Unsuccessful tenders will be retained until the Board's minutes have been examined by the Auditor General, when they should be destroyed by the Secretary and a certificate of their destruction entered in the register kept in accordance with sub-paragraph (c) above.".

When I read these sections of the Financial and Stores Regulations it appeared to me that someone went wild with keeping secret what happens in the Tenders Committee. I can see no reason for it. I have heard many times in the past, many people speak about information to the public, freedom of information. I have myself, many Members in the Opposition have spoken about it to the extent that it has been advocated from time to time, the Sunshine Laws of Florida would be an appropriate type of Legislation for us to have. When I think that some of the largest sums of money that is spent by the Government goes through this Public Tenders Committee, which is in the hands of I understand approximately seven people, why on earth should the public not know this information. I make the point that if this tender was recommitted to the Public Tenders Committee, one would not know whether the Public tenders Committee accepted the highest bidder or the lowest bidder because all that happens in the Public Tenders Committee is confidential, secret and on a need to know basis.

I have had dealings with the Public Tenders Committee when I was in Government, as a civil servant, and since I have been in this House, I know that it took the Public Tenders Committee between itself, and the Portfolio of Tourism almost a year to have the bid for the Cayman Airways Study processed. I think it could create a most undesirable situation for the Public Tenders Committee now to be called in on the particular situation relating to the hospital. I draw my conclusions on the fact that some of the most emotional times that I have known in recent times has been the issue of the hospital. There have been demonstrations, there have been marches, as some people are more familiar with calling them and it has even brought Norberg Thompson into taking up the people's cause.

On that particular account I would hope that I would see a demonstration when we deal with the $17 million for Cayman Airways in another few days. My understanding is that the tendering of the hospital has gone through the process with persons and technically qualified to know what they were doing and what they were looking for. The public has been made aware of every bid that was tendered. We know the highest, we know the lowest. A company has been told that their bid has been successful, they are the preferred one. Undoubtedly that company now, by this time, should have taken certain major steps to have put itself in readiness, mobilisation or whatever the case may be on the basis that they expected the bill for $18 million would have been passed. It was passed.

I think the country on the whole, at least know what went on and to-date, as far as I am aware, their has not been proven that there has been anything illegal in that process. Three banks were named as being the lending institutions who would lend this amount, Barclays Bank, Bank of Nova Scotia and Canadian Imperial Bank, I would imagine have been approached and the banks I would think were expecting Government to proceed on in the process in an orderly fashion. The Government, having undertaken this the largest project that has ever been in the history of this country, has at stake the lives of us all, in my opinion. I have stated that I believe Government made a wise decision in taking on this project at this time. I still believe that.

However, the democratic has been fulfilled in this House where that money bill has been passed by a majority. While I think that Government is ill-advised and did not act correctly, if I am to participate in this democratic process of majority rule, I have to accept that it has been done. It is now, where I am concerned, at the stage where Government will be proven right and I will be proven wrong or vice-versa. The Government from my knowledge of the way Government operates, having been a civil servant, normally and (should I say usually or always?), strives to maintain certain credibility. That is why that it seems clear, policemen steal jewelry and monies put in their care, no-one is held responsible for it but the Government, to maintain its credibility, wants and needs to pay the person whose money and jewelry disappeared. Therefore, they take the people's money to pay it to maintain its credibility in the eyes of the world so that no-one, be that person who was released guilty or not, does not have the opportunity to say the Cayman Islands Government stole my money and my jewelry. Although in my opinion the police should have paid. If there were ten of them that had access, then ten of them should have had to have put together to pay that money.

So there is a question of credibility. In my opinion, this matter of this $18 million in this country has gone far and wide. Not just within the bounds of the Cayman Islands, but outside as well, people with investments here and otherwise. I think that the Government would be in a position to seriously have its credibility questioned if after all of this time, all of the emotion, all of the demonstration, all that has been said in this House and otherwise, should now stop this process to go through it again. I believe that that would do more damage to this country than it would do good. I can certainly uphold the process of Government following all of its obligations and all of its requirements in doing what it should do. I understand that in March the Government undertook to put or to tender projects through the Central Tenders Committee. That is an undertaking which they gave and I understand that prior to that the matter of the hospital was ongoing. At this time, I think it would seriously question Government's credibility if this whole matter was to be started all over again.

I do not take up for the Government for I have had my disagreements with the Government and its policies ongoing from the time I have been in this House. However, I have to accept that, while I did not create this present Government, I have to accept that it is my Government, as well as the Government of all of the people of the Cayman Islands. That being the case, I think it has come to where the Government now must carry on with what it has so far done and in this particular and outstanding case of the hospital it is a serious question here of the credibility of the Government and of the country. For the reasons that I have stated, I cannot therefore support this motion.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 11:31 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:56 A.M.

MADAM SPEAKER: Please be seated. Debate continues on Private Member's Motion No. 8/92. The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Thank you, Madam Speaker. Madam Speaker, the Government cannot support this motion. Firstly, the motion is based on an incorrect premise as the statements made in both whereas' are both materially and factually incorrect. Secondly, the motion in its resolve section attempts to do the impossible in that this Honourable House has no authority to impose on a Statutory Body what is in effect simply an administrative arrangement with no legal sanction. Financial Stores Regulations are not regulations made by this Honourable House but rules made by the Financial Secretary and there is still some debate as to whether they were ever brought into effect by a dated Executive Order.

It is my opinion and that was borne out in the remarks of the mover, that the sole purpose of this motion is to attack me and the member of the Health Services Authority personally. I invite the Opposition to have a field day. As for me, I will simply sit here and read a book and ignore their personal attacks. But there were a few comments made by the mover which I would crave the indulgence of the House to comment on. The Member moving the motion made a great deal out of rules for Authorities. Financial and Stores Regulations must apply to Authorities. All contracts must be let open and competitively, the Tender process. It is my understanding and I think records, both of this House and public statements by Chairman of Authorities will bear out the fact that all of the Authorities have granted large contracts without them being submitted to the Central Tenders Committee.

This is so in the case of the Port Authority with its expansion programmes, its building programmes, all done by the Board through the Board's competitive tendering process. It is the case with the Civil Aviation Authority in their most recent project, rehabilitation of the run-way and the parking apron at the International Terminal. Again, that was done by the Board through its own tendering process. But alas, the Water Authority of which the First Elected Member for West Bay is a Board member and therefore, part of the decision making process has awarded some $8 to $10 million in contracts without any kind of tendering process and they are entitled to that. That decision as to how they handle contracts and whether it is tendered or whether it is done by direct negotiation is done at the discretion of the Board.

Listening to the mover of this motion, and his great concerns for this tendering process you would think that with his intimate knowledge that the Board did that, this motion would at the very least had incorporated the granting of the Water Authority contract in it. Why the double standard? The members of the Health Services Authority Board are just as honest, have just as good a track record, are just as commercially capable and managerial capable, as are all those on the Water Authority. The Member started off by talking about the company that got the contract being my preference or my personal choice. There was a committee of the Health Authority Board of which I was the Chairman at the time that awarded this contract. The fact is that when the decision was made I was not even at the meeting, I was in Executive Council.

The Member went at great lengths to contradict himself and nullify his argument as to whether this contract was caught up in the Government's commitment in its Minute. The Government Minute is quite clear. It talks about in the future and when I answered a question in this Parliament last week, I included the extract from the Government Minute and referred to a decision taken in Executive Council which confirmed that that statement in the Minute did not apply to the George Town hospital because the process was on-going at the time. As to his confusion over why the Central Tenders Committee handled the contract for the design, everybody else in this country except him knows that the Health Services Authority was created by statute in this country on the 1st of January, 1992. That contract was awarded way back in June 1991. So how could that possibly be considered by something that did not exist?

I am convinced that the Health Services Authority Board acted in the best interest of the people of this country and I can see no value in submitting this contract to a committee which, as outlined by the Second Elected Member for Cayman Brac where he quoted the Financial and Stores Regulations to back up his statement, would forever conceal what went on in secrecy. The Health Authority published, not just the successful tenderer but the bids, and it did not use any fictitious names. It called the companies by their trading names as appeared on the tender documents submitted and it quoted the sum that each submitted for consideration by the Board. We had their permission to do so and certainly if we had inserted the incorrect figure for anybody this country would know about it before now. How will that Member know under the rules of the Central Tenders Committee, whether the Central Tenders Committee accepted the lowest bid or what bid? Because every project tendered by the Central Tenders Committee carries the caveat we do not have to accept the lowest of any tenderer and that is after they pre-qualify people.

This motion is nothing but a colossal waste of this Parliament's time. It has no effect even if it is passed and as I said, it was only brought, as was made clear by the mover by his contribution, to attack me and the Board members personally and they can have a field day. The greatest thing in the world, is a clear conscience. Thank you, very much.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, this motion has been seconded by me. The Government Member who objected to the motion said that the motion is not factual and that it asks the Government to do something that it cannot do. But I am left to wonder why he did not explain why it is not factual. The motion is quite factual. It claims that the Financial Secretary told the House at about the time this motion was tabled that the hospital contract had not been awarded. It also claims that the Government Minute, given out in March of this year had recommended that Statutory Bodies go through the Public Tenders Committee whenever they seek to give out contracts. And that too is factual. As for his third assumption, that this House has no right to

say to a Statutory Body what they must do in the regard of tendering contracts for which the Government has guaranteed the money is so silly an assumption that it should not be answered.

This Government has been called upon and has actually guaranteed a loan of $18 million and the Member has the nerve to say that the Government should not protect its own interests when the Health Authority is a new body, just set up, not well established financially, has no experience, no resources of its own but has the responsibility to repay this $18 million, which carries a Government guarantee. The Government does have a responsibility. Members of this House have a responsibility because it is the public's purse that will be called upon to make the payments. The consortium of banks would not lend the Health Authority the money. I saw a cartoon where somebody was offering a pair of cowboy boots as collateral but they would not lend on this. They wanted a Government guarantee and I maintain that as long as a Government guarantee is the component which ensures that the loan is made to the Health Authority the Members of this Legislative Assembly have a right to protect the people's money.

Last week I questioned in the House, but received no satisfactory answer whether there is at this time some dispute about a part of this contract, the hospital in Cayman Brac going to Hadsphaltic and whether the Hadsphaltic bid was lower than another company. And also, whether there may be litigation over this matter. This again is an additional reason why this motion should be brought so that the Government, in order to protect itself from criticism, and in order that they may not be called upon to guarantee indemnities, should use the Public Tender's Committee to make certain that everything goes according to the established procedure, as one Member talked about, if it is no more than to protect the credibility and integrity of this Government so as to prove to the world that everything is above board.

The Member just said something about Members have brought this motion to beat up on him or something like that. That is the third Member we have heard with that. One Member last week got up when nobody had spoken and imagined somebody was going to 'pound up on him.' The Member for Education always fears somebody is going to 'pound up on him.' Are they suffering from some kind of phobia? If you do your duty why should you fear ridicule? Why should you fear criticism? The purpose of the Backbench or the opposition in Government is to question the actions of Government, to make certain that the projects of Government are the best they can be, to make certain that the money is spent to provide the maximum benefit for the people of the country.

We have heard stories going around about equipment already arriving for the hospital and being stored in warehouses where they are paying rent. We would like to find out if the equipment contracts have gone out and why the haste in procuring the equipment before they have the building to put it in? What I cannot understand in this whole matter is why Executive Council, especially the Elected Members with long experience in Government, like the Member for Health and the Member for Tourism, can sit by silently and let the Member for Health and the newly formed Health Authority do what it now does. It is a travesty of justice and a travesty of the established procedures for the Government to depart from the established financial procedures and not follow to the letter the rules which provide the checks and balances that will guarantee that not only will public money be spent, but it will be spent to the best advantage.

Some weeks or some months before the loan bill came for the hospital, we had the assurance that when it came we would see the report of the Public Sector Investment Committee. It has never been tabled. My understanding is that that has been hidden because it does not agree with the project. Another sign that we need this motion because we do not know if the project is economically sound, if it is feasible. The Member tries to excuse himself by making reference to some other contract that may have gone out and may not have gone through the Public Tender's Committee but that is no excuse for him. Two wrongs never make a right and especially when there has been doubt surrounding a project, when there has been controversy surrounding a project, it behooves not only the Member for Health but the other Elected Members of Council to guarantee that not only is justice done, but that the public see that it is being done.

The Member in objecting to this motion tries to make us believe that the Government Minute did not apply to this specific contract because the process had started sometime before. My contention is, although he may have talked about this hospital before, when that Minute was published he could have arrested his onward plunge and if he had not known before he could, at that time, enforced the proper procedure. The very fact that he mentioned that the design contract had been given out through the Public Tenders Committee, should alert him that a precedent had been set. He claims that the Health Authority did not exist at the time but he knew full well that this small contract in comparison to the hospital contract had been put out through the Public Tenders Committee. There was a precedent in the matter of this hospital project where the initial contract went through the Public Tenders Committee and that was a project that cost a little over a million dollars.

Why does he feel now that the $18 million contract does not need to follow? Is it because that he, through the vote of the First Member for Cayman Brac was able to set-up a Health Authority and with the help of Governor Scott and the other Elected Members, get himself appointed the Chairman of that Authority. Why does he feel he can now bend the rules and disregard all the established precedents? Finally, when he had nothing to offer in this debate he closes by saying that this contract, the people are getting fair return for their money and goes on to talk about how they made public and they published all of the bids that did not succeed. I believe the people whose money is being spent, would be far more concerned in knowing that this was done in a matter that they were sufficiently satisfied had followed the established procedure, had produced the best benefit for the Government and they would be happier to know this of a certain, rather than being told that somebody else had failed to obtain the bid.

This motion is an excellent motion in that it seeks to protect the rights of the people of the Cayman Islands, rights that are disappearing day after day as this Government enforces its way, this is a good motion and I trust the Members of the House will see fit to support it.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. This motion deals with a problem that has been a continuous and consistent problem during the tenure of this Executive Council's office over the last three and half years. There has been a continuous move by the Elected Members, and in this instance I am referring to the Member for Health, but there have been problems of at least another one of the Executive Council Members in this area, but there has been a consistent move to get around any type of checks and balances that may exist for the protection of the public's money in relation to the award of contracts and especially large contracts by Government.

We have seen that this contract, which is the largest contract that this Government has put out for tender, once again circumvents what the Elected Members of Government now at least say they accept in principle, and that is that contracts in excess of $100,000, as stated by the Finance and Stores Regulations will go out to public tender through the Central Tenders Committee. I believe that the setting up of the Health Services Authority and other Government Authorities in the past three and a half years, have been set up intentionally with a view of circumventing the restrictive areas of Government that are providing the checks and balances and protection of the public's funds.

We know that they give extremely wide authority, as does the Health Services Authority Law to the Members who are involved and in fact, with the setting up of the Health Services Authority the law clearly set out that the Member could give directions and never for one minute, intended him to sit on the Health Services Authority. It would be stupid to have, as in this case, a Health Services Authority Board which is dealing with large contracts and as I will show at a later stage, the Member for Health sitting on the Board but he Member for Health is a man who must give directions to it, including directions on financial matters. This is an important aspect and it is one that I fought when it was going through this House.

Section 19, which I will read at a later stage, deals specifically with financial matters such as this. Not only is it I think wrong, but we should have had these Authorities being bound by the same rules and regulations that bind contracts in relation to Government. Section 19, subsection 3 states that: "19 (3) Without prejudice to the provisions of subsection (2), the Member may give general or special directions with respect to the accounting procedures of the Authority and the Authority shall act in accordance with such directions.". Well we know that while that, in my view, is totally wrong, if anyone should be given directions on contracts or on the finances of a Government body it should be the Honourable Financial Secretary. So parts of this have been removed from Government because we must not forget that the Health Services Authority has basically merely been the undertaker of what the Department for Health did in the past. It will receive the assets being the hospital and the other medical facilities which were Governments.

So even though there is this law in-between, in my view, it basically is Government's money that is being spent and therefore the necessary checks and balances that go towards ensuring that monies worth is being given and received under contracts with it should appear to be carried out. I do not know what the legal position of the contracts or the bids are but I did understand that there was no binding contract at the stage, when the loan bill to guarantee the $18 million came to this House. And indeed, it should not have been because this Honourable House accepted by a unanimous vote a motion which stated that public funds, and I am reasonably certain it included guarantees, should only be given by this Honourable House. In the case of contracts which had not been awarded, in other words the Government and the Health Services or the Authorities should not be committing to do something before Finance Committee or the Legislative Assembly had approved it with these large amounts. So I am assuming, unlike the Second Elected Member for Cayman Brac who said that he understood Government was legally bound. I am assuming that the Health Services Authority is not legally bound. If they are then obviously they must do what is lawful and carry out their lawful duties. But even if they are we are dealing here with principles and those principles have, in my view, been traversed to the detriment of the public.

What is to me once again only paying lip service to this whole question of checks and balances is that now the Member for Health says, yes, in future the Health Services Authority is going to be bound by the Finance and Stores Regulations. It is too late. We know that there is no way in the world the Government can hand out any further large contracts because there is no money at this stage to do it, so he can well at this stage, say yes, in the future I will do it because he knows in the future it is not going to apply. I believe that because the Elected Government had to know what the Public Accounts Committee's objections were to the procedures and their request that the Statutory Bodies should comply with the Finance and Stores Regulations, like everyone else, was laid on the table of this House, I would say about five or six months before these bids came in they had to know that their position was going to be that they would be accepting what the Public Accounts Committee recommended. Therefore, they should have stayed in-line with it.

I am not saying whether the procedure for the Health Services Authority carried out may not have been a proper one in the circumstances from their point of view. I do not now, I would assume they would have looked carefully at the contract. But what we are dealing with here is the principle that things should appear to be done and not just be an effort to constantly circumvent important matters such as this. What is, at this stage, important, is that the Elected Members of Executive Council agree that what they have done should not happen in the future. In my view, that means that they entered into these transactions well knowing that what they were doing was wrong. Because if they believed it was right then there would not have been this total and unconditional acceptance that the contracts go to Central Tenders Committee which have come about shortly after the tenders have come in and a decision has been made.

I would also like to refer to what the Member for Health said in reply to a question that he answered on July 17th. He said that the bids were received, he thinks, on the 14th of April and I asked him since these bids came in a month after the agreement by Executive Council to accept that

their Finance and Stores Regulations apply, why did he not then at that stage consider sending these to the Central Tenders Committee? He said that he felt it was a technicality and it was not legally possible. Perhaps the next question that was answered is most important. When I asked whether he tried to call through to the five bidders to see if they would agree this going to the Central Tenders Committee, his reply was no. So it really was not even in his mind to attempt to comply with what had been accepted by Executive Council a month before.

MADAM SPEAKER: Would this be a convenient time to take the suspension? The House will be suspended until 2:15.

AT 12:45 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:21 P.M.

MADAM SPEAKER: Please be seated. Debate on Private Member's Motion No. 8/92, continues, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. The Member for Health and I think the Second Elected Member for Cayman Brac also referred to the fact that the Finance and Stores Regulations do not make the tenders public. Well I do not agree with that section either, but the fact that the Member for Health has made the tenders public does not mean that he is following a principle that the public should know what is going on in money matters because time and again that Member has voted to lock down the Finance Committee and to have it in secret. Time and again, so let us not fool this House or the public that that Member believes in the principle that you must tell the public in relation to matters of money importance to them.

The circumvention of the checks and balances have taken two other forms and the Member has mentioned one of these forms. Firstly, we saw that the Elected Government said that professional services or services over seas were not subject to the Finance and Stores Regulations and that they did not have to go out to tender. That was the first move. As we know about half a million dollars of contracts dealt with by the Member for Health to Healthcare Corporation did not go to the public.

The second was mentioned by the Member and that provides what I would call a real classic circumvention of the checks and balances. It was the $8.5 million contract for the Water Authority which it gave out to a company that was going to do the laying of the pipe and the road work. I think it was Petroservicios Company. That did not at all go out to Public Tender, as the Member for Health stated. In my opinion that was wrong. But once again, the justification came on the basis that the Member for Communications and Works was not actually having a new contract but an extension of an existing contract. I have only had a brief glance in the Stores Regulations and I know that there are sections and variations and perhaps when that Member speaks, he can say what area of this it was done under but in principle it cannot be right to have a contract regardless of what size it was to begin with and you do an extension of it, in a totally different area for $8.5 million and do not go out to Public Tender. It has got to be wrong. Throughout the history of the three and a half years of the Member for Health and to a lessor extent, the Member for Communications, there have been technicalities or reasons why major contracts should not go out to tender.

I will be very brief on this but another type of irregularity was in relation to the contract dealing with communication equipment to the Motorola Company and the Member for Communications stated this in relation to it:

> "There were only two irregularities that may have occurred during these negotiations which were as follows: The Portfolio not re-submitting the final revised proposal to the Public Tender's Committee as requested, before the signing of the contract between the Government and Motorola on February 8th, 1990, and the order placed by the Police Department with Island Electronics for communication equipment for the amount of $168,646 was not sent to the Public Tender's Committee for approval. However, this order was cancelled. Also stated earlier, this order was approved without the knowledge of my Portfolio.".

When you find this amount of irregularities and circumventions of either the Public Tenders Committee or alternatively, going out for bids not in accordance with the Finance and Stores Regulations, I submit that it has to be a path that those two Members, the Member for Health and to a lessor extent the Member for Communications, have decided to take to avoid having the checks and balances which normally apply to public funds. Now the fact that the Member for Health has brought the Member for Communications into this, let me say that two wrongs do not make a right. If something went wrong with one of those contracts in the past, it does not make something going wrong with his, right.

The Member for Health has tried to bring the Health Services Authority into this by stating that the motion is against the Members of the Health Services Authority. Nothing could be further from the minds of at least myself, who is dealing with this matter, because it is not what the Health Services Authority has done, it is what the Member for Health has failed to do. We are lucky, I think, I am thankful that the Health Services Authority has some very good people on it or the Member may well have run off with the reins and did as he wished otherwise. Nothing here has any implications in relation to members of the Health Services Authority. What we are saying is that the Member for Health should have intervened long before this contract got to the stage of being dealt with on the bids and sent it to the Central Tenders Committee.

As to whether the Health Services Authority's decision is right or wrong, I can only assume they have dealt with it in good faith, but the point is the Member for Health should not

have let it get to that stage because he should have seen that the spirit and letter of the Finance and Stores Regulations relating to public bids, especially of this magnitude had been carried out. One other point is that we were told that the Public Sector Committee was going to look at this project and we have not had sight at all of what they said. Presumedly, if they had said that it was a good project, and move ahead, and they were satisfied it would have been laid on the table of this House, like all other good things are laid on. So one must assume that they went into it and went into it at a very late stage because we pressed through questions to find out whether the new hospital was going to it and kept being told that there was not sufficient information, there was not sufficient information on what not to go to them.

Now that they have sat, we have heard nothing more of it and I think that if that is set up as a committee which is to operate, then in instances of this sort we should know whether they have approved the conditions or disapproved or whatever has happened there because that is the only way that the information can become useful. I do not know if it was sent to the Health Services Authority either. I do not know if they had the benefit of the analysis that was done there but it obviously is a body that carries a lot of weight and can give a lot of good guidance on matters such as these. The Finance and Stores Regulations state in Chapter 8 that, and I will be very brief on this, I am reaching the end of my contribution: "Moreover [goods, works and services] must be obtained openly and competitively, so that not only do all potential suppliers of the goods, works and services have an equal opportunity to bid for public contracts, but the award of such contracts is seen by the community at large to be fair and equitable." They go on to say that contracts over $100,000 (I think that has been amended to a higher amount in relation to some contracts by Public Works) should go to the Central Tenders Committee.

As I understand the position now, is that unlike what the Second Elected Member for Cayman Brac said, there is not a legally binding contract (or there was not at least when the bill came for the guarantee before this Honourable House) for the $18 million. Therefore, it is a matter which can well be looked at by the Public Tenders Committee unless the Member an show some legal reason why this cannot be done. But even if it has reached that advanced stage, I submit that since the Government accepted that the Finance and Stores Regulations would apply to contracts being dealt with by all of the Public Authorities and Public Boards, that the Member for Health, not the Health Services Authority, had an over-riding duty to see that there was compliance with this and that these contracts went to the Central Tenders Committee.

There would have been nothing wrong with liaison between the Central Tenders Committee and the Health Services Authority. I see no conflict or any problem there and in fact the input of both into it would have, as the Regulations said, would have appeared to the public to have been more fair and equitable for the expenditure of the public funds. Now that all of the big contracts have been given, or promised or whatever stage they may have reached, this one of $18 million, the $8.5 million for the Water Company, and all the rest of those that have not complied with the Finance and Stores Regulations we now have the Government saying, yes, we are going to apply these regulations to the Statutory Bodies.

It is too late! This is the last of the big contracts and I am afraid that it slipped through the door and I honestly believe that in the end the public are going to be the sufferers for Executive Council Members, such as the Member for Health who is a big spender, and ultimately the public is going to pay for his big spending and the Government's big spending over this period.

I support the motion.

MADAM SPEAKER: If no other Member wishes to contribute to the debate, I will ask the mover to exercise his right of reply.

MR. W. McKEEVA BUSH: Madam Speaker, I listened to the two Members replying for Government, the Member for Health and the Second Member from Cayman Brac. I was not far off in my judgment as to the way the motion would end up. The creation of the Public Accounts Committee in 1860 was in the tradition of trying to get a Parliamentary Committee to ensure that the Executive does not exceed the ambit of the provisions (that is, the vote provisions) and to ensure the integrity of expenditure. The integrity of expenditure cannot be assured if the very rules by which the Health Authority is given permission to spend is abridged by the Member - the politician. From the different pronouncements of the Member for Health in different places, he seems to think that he has the right to do as he pleases in the Health Authority.

They have taken their election mandate to mean that they alone know the will of the electorate and the needs of the people; they alone speak for the people and so they can do as they please, when they please, and how they please with public funds. Is this from a fundamental ignorance of the proper rules and guidelines? I say, no. They know what they are supposed to do and what is expected of them. They are that smart. What this is, is an unhealthy and dishonest regard for the Legislative Assembly and the role it plays by the enactment of the Financial and Stores Regulations which are regulations made under the Audit and Finance Law and which ought not to be ignored.

The Member for Health blatantly disregards these Regulations and has set about his purpose well knowing that the ultimate action he would take in having the contract given to any one company would be wrong. He knew that we on this side of this House (most of us) would rail against this action because he well remembers our action when he ignored proper financial procedure before. We are concerned about accountability. He, however, regards himself as accountable only to a few people, and so for four years felt quite safe ignoring opposing views in this House. Like he says, he is not going to pay any attention to us. He is even going to disregard the rules of the Legislative Assembly's Standing Orders and read a book as he is doing right now.... And I call your attention to it. They are not supposed to do that! They should at least have the courtesy to the Chair - not to me, not to the Speaker, but to the Chair - to pay attention when a matter is on the floor of the House. And I call your attention to exactly what the Member is doing right now.

HON. LINFORD A. PIERSON: You all do it.

MR. W. MCKEEVA BUSH: The Member for Communications and Works said 'you all do it.' I know they all do it on that side of the House; they do it so that they will not have to listen because they simply have the votes, as I have said. I call the Chair's attention to it.

Here we are dealing not with a few thousand dollars as in the International Healthcare Corporation situation, but we are dealing with $18 million. In terms of the investment of that money we will have a say as a Public Accounts Committee, but a limited opportunity to see that expenditure is carried out satisfactorily. The very nature of Authorities is not altogether what I perceive to be the best when it comes to the role of Parliamentary scrutiny. The Authorities have a degree of autonomy and that is essential by the very nature of Public Authorities. The Members of Executive Council are very quick to remind us of this, while simultaneously denying through autonomy to the Authority in the case of the Member for Health being the Chairman. The only time we can have an input is when their reports are tabled and the Public Accounts Committee reports thereon. But the sad fact is that this is all after the fact of committing the country to large expenditures.

We can only have an input - that is if we, as a Public Accounts Committee get the opportunity to scrutinise the expenditure. This is patently unsatisfactory. It is unsatisfactory because it is this House which votes the expenditure of money. It is unsatisfactory because we have a body which is supposed to scrutinise the contracts by which money is spent. It is unsatisfactory because the Member for Health, as a Member of this House and a Member of the Executive Council, should not have been involved in the granting of a contract for a few thousand dollars (in the case of International Healthcare Cooperation), much less $18 million to a company in which the principals are, he says, his close friends.

At the least, he, Madam Speaker, should have distanced himself from any involvement with the bids. But the Member set out in a most deliberate manner - step by calculated step - to get to the point where he actually became involved with bids and what have you. From the day he had the bill to create the Health Services Authority, to the appointing of himself as the Chairman, he, in a very determined way, took everything through its stages until he announced in the papers that the contract was granted to the company. Then, after all that was done, he resigned and appointed a Chairman of the Health Services Authority. He even then came to the House defending the company when no-one said anything about it. But he is good at that; he gets up here and goes on this high-role about who is attacking him when nobody says anything to him.

Where, then, did the Member go wrong in his calculations? He never thought that the Financial Secretary would actually announce in this House that no contract was awarded yet. I note the Second Member for Cayman Brac sought to put a meaning to the answer given by the Financial Secretary. But it is very, very clear to even they who are now, all of a sudden, blind and will not do the right thing. The *Hansards* record that on the question the Honourable Financial Secretary said that the contract had not been awarded as yet. He said that several times - at least three times, Madam Speaker. So whatever meaning the Second Member for Cayman Brac wants to put to that answer he can go ahead. It seems that these days he is finding a lot of excuses for the Government.

The Member for Health did not figure into his scheme of things that the Member for Education would also say more or less the same thing. I know that he did not figure their admittance to the House that those contracts were not awarded yet because when each of those Members spoke that day, I looked at him (the Member for Health) and I saw his bewilderment as to what was happening. The Member for Education is quoted in the *Hansard,* and I read as follows:

> "The Third Elected Member for George Town said that why Government has come to look for this guarantee is because the Health Authority has issued a contract for which they do not have money to fullfil it. That is rubbish and I am sure the Member knows better. No contract has been awarded. What has been said is that these people were the accepted tenderers and if and when the money is provided by an act of Parliament which this motion is, then the contract will be awarded. Nobody has awarded any contract.". (1st July, 1992)

That was the Member for Education speaking on the Government Motion 3/92 for the $18 million. After all that, the Member then had to find some excuse because usually he would go to town in such a debate defending himself. We saw what he did here the other day - he came up with the usual excuse that the motion was only an effort to criticise him and the Health Authority Members. Has anyone criticised the Health Authority members? Nobody said anything about the members. I believe that we have some good members on the Health Authority, I am glad that the Member for Health has stepped down. We could not criticise the members of the Health Authority Board because they, as members, follow the directions given to them by the Member for Health. We see, as the Third Elected Member for George Town pointed out, that the Health Services Authority Law is very specific in some areas as to what the Chairman can do. So they had to go on his instructions as Chairman, or resign, as some members already did.

The Member for Health, speaking on the motion, started off in his usual manner by saying that the motion was not factual. That is his usual song whenever a motion is raised to put him in his place and try to get him to stick to the rules of law and proper procedure. The motion says that the Honourable Financial Secretary said on the 2nd of July that the new hospital contract has not been awarded as of that date. The *Hansard,* as I read just now, bears me out. What is his basis for saying that it is not factual? Is he saying that the Honourable Financial Secretary was not right; that the Honourable Financial Secretary told this House a lie? Is that what he is saying? I do not believe that is correct. I believe the Honourable Financial Secretary is telling the truth. But the truth hurts, you know. The Member says that the reason he cannot follow the Financial and Stores Regulations is because they are administrative in nature and not legally sanctioned. That is a lot of rot!

The Financial and Stores Regulations are very much backed by law; they are made under the Audit and Finance Law, which says in section 11 (1) and I quote:

> "Without prejudice to any other provision of this Law, the Financial Secretary may make such administrative regulations and give such administrative directions and instructions not inconsistent with this Law as may appear to him to be necessary or expedient for the better carrying out of the provisions and purposes of this Law and for the safety, economy and advantage of public moneys and public property.".

This, then, makes it so very clear that the regulations are very much lawful and should be adhered to. But to take it a bit further: In the debate on the Law in 1985, the Member for North Side in his contribution had this to say and I quote:

> "This bill, I think, Sir, will give needed clarity and direction. It will identify responsibility of officers involved in the financial sections of Government, it will introduce some responsibility accounting by defining areas of responsibility and authority and the accountability of the officers who are involved in the handling of the Government funds in either the areas of revenue or the areas of expenditure. I support the Mover's comments that the time has passed in Cayman where the colonial regulations were adequate to handle all the ramifications of the finances of this Government. Time changes, Mr. President, and we must change to suit the time.".

He certainly has changed to suit his time. I cannot see that we need any clearer indication of the need for responsibility in adherence to the regulations. But if somebody is not responsible, they will not adhere to rules and regulations, most times. To try to give credit to his disregard for the Financial and Stores Regulations he cites the other Authorities and their works, that is, he mentioned the Water Authority, the Port Authority and the Civil Aviation Authority. He went on to say that I, the First Elected Member for West Bay, was not being fair and consistent because as a member of the Water Authority I was party to the decision-making process when the $10 million for water works was given.

This is not the first time I heard that Member come up here and tell such unfounded lies. I saw that in a letter to the press some time ago which I attributed to him. But how dishonest can he be to try to make this House believe that I would do one thing and say another? I hold in my hand the Minutes of the Water Authority meeting referred to held on the 24th of May, 1991. I want to quote from those Minutes:

> "The Board was informed that the proposal to extend the water supply to Pease Bay had been reviewed by the Government economist and his report had been reviewed by the Public Sector Investment Committee. The Public Sector Investment Committee had viewed the project favorably and would be recommending to Government that subject to funding it should proceed.
>
> The Board also noted that there was no other qualified local contractor who could bid on the work. Following the discussion, the following motion was moved, that the water supply extension from Spotts/Newlands to Pease Bay be carried out by our existing contractor, Petroservicios, utilising the contract that was signed in June, 1987, and treating the work as an extension to that contract. This motion was carried with Mr. McKeeva Bush, voting against.".

That is very clear, Madam Speaker, and the Minutes are here for those who want to examine them. That Member should try and tell the truth; but if the truth is not in him, he cannot tell the truth. My actions on the Board are no different than what I am trying to accomplish here today, and that is that we must adhere to the Financial and Stores Regulations. Those Regulations were put there and they do not bar anyone or any Authority from following them but this Government consistently has refused to follow them. We know why. When we have the Member for Health authorising expenditure to a foreign concern who brings down his wife, brings down his brother, submits claims and stays in one of the best hotels on this Island, and then you have a fight between him and the hospital accountant, and the hospital accountant is kicked out. . . . These are the reasons why the Member for Health and his cohorts on Executive Council are not doing the right thing because when they have somebody that they want to give a contract to, they can find the means to do it. That is what they have done and this is not good for the country, this is not good for the country's money especially more so when we are dealing with $18 million.

The Member for Health should be ashamed of himself and if he had any shame he would get up in this House and ask forgiveness for his dirty attempts to smear me. I have never abdicated my responsibility to see that the country's money is spent properly - whether I am here on this seat or whether I sit in the Public Accounts Committee. My record will show that I have railed time and time again against the bad expenditure and the process used to get the money by this Government. It is one of the reasons that caused myself and them to split. I think that I am vindicated by his dirty remarks in the paper and his speech here today. But you let him read the book, he will get the *Hansards* (and the public is listening) and while the Members of this House might have to go with him or some of them, I am not wrong. The evidence is here.

The Member in his speech went on to say that the Government Minute was talking about the future. I contend that the hospital should fall within the purview of the undertaking in the Government Minute because the tender documents were only available in March, therefore they had ample opportunity if they wanted to do the right thing. You cannot do the right thing when you so desire to do the wrong.

I should go further and say that, giving the Water Authority its due, it has been in existence now for sometime, and it has proven to be run properly. Besides that, they submitted their plans and their projects to the Public Sector Investment Committee who vetted them and came back and said we agree that the project is feasible. Did he do that?

I understand that the Public Sector Investment Committee vetted the hospital project and that was promised time and time again by the Member for Education, by the Member for Health - the two Members who seem to be pushing this project most. Over the years they promised that the hospital project would go before the Public Sector Investment Committee. We were promised that we would have the report. Where is it? I am asking the Honourable Financial Secretary to let us see this report. I want to see it, I want to see the contents; I want to know whether the technical expertise, the technical people..., I heard the Member for Cayman Brac and the Member for North Side talking about that the Health Services Authority has technical people on it. I do not think there was as much technical expertise on the Health Services Authority who made the decision than those on the Public Sector Investment Committee. I am not saying that in any disparaging way. What I am saying is that the Public Sector Investment Committee is made up of senior civil servants in the Portfolio of Finance and Development - people who have expertise to vet such projects.

But you see, the trouble is that we have a Member for Health who believes that nobody can tell him anything. He knows it all! He is all things! The matter of secrecy that both the Member for Health and, especially, the Second Member for Cayman Brac based their opposition on the motion is absolute nonsense. The Auditor General of the country is charged with vetting and auditing all accounts and the amounts of money spent and where it was spent and who spent it. The Public Accounts Committee then has ample room to get the reports to investigate the matter. So when it comes to the secrecy of the contracts, I have never really been overly concerned.

During my time in this House it would not be hidden. It would not be hidden, but that again, if you listen to the Members, you know that they were making a strike against a particular person. We know that. That cannot help them. I contend these regulations are not adhered to simply because there are certain requirements contained in the regulations which they would have to follow. That is why. So they have this excuse: that the regulations do not apply to Public Authorities. That is why the Member for Health set himself up as the Chairman because there are certain things that he knew that he would have to do under the Regulations. But in the way the Government is handled, anything can happen. Anything can happen. If they did not like someone they fired them, or have them removed. This is obvious as with the Auditor General who was instrumental in doing several investigations in this country. But they had him removed, now they are bringing back one that they will be able to do as they please with, in my opinion.

The Second Elected Member for Cayman Brac seemed to believe that this motion - and this was what his opposition to the motion was based on - would create an undesirable situation if the contract were re-tendered. He went on to say that technical persons were being involved. The company started works. Madam Speaker, I wish the Second Elected Member for Cayman Brac was in his seat because I want to know how the company could start works. How does he know this and what works was started? He did not say. He said that the banks said they would lend and he seemed very content for the Government to be proven wrong or he be proven right. But that is not good enough for me. I have proven them wrong in many instances but it is the country that I am worried about - not me!

Remember 1989 and Cayman Airways? If they had followed our advice the country would not have this mess to deal with today. So I am not one of those who is satisfied to sit back and say 'I told you so', I would rather get up here and take the steps that I take (even though some people do not like it) because I know what is going to follow. I have said time and time again that their projects have been like mud! Everything they touch turns to disaster, except a few lights and a few roads, and that is not good enough for the country.

The expenditure is what I am concerned with and that is what the Second Member for Cayman Brac should be concerned with also. He went on to talk about emotions, and demonstrations have all passed now, he said. But, Madam Speaker, if this Member bases his support on such situations, that is his business; if he is concerned about credibility, that is another matter. That is something solid. Then he would want to see the Financial and Stores Regulations followed. I am not amazed that that Member opposed this motion because he has a tactic these days. He votes for one motion for us and one against Government, one for Government and one against the Backbench. I do not know who he thinks he is fooling because the public hears and the public understands. I am really tired of that Member getting up on this issue of who created this Government. I say again, that I supported the Members of Executive Council, I helped form Executive Council; but when they went from the straight-and-narrow way, I said I could not support them anymore. I do not sit with the Government and take files out of their office and let them believe that I am supporting them. I am a straightforward man. They know when I am with them or when I am against them. And the country knows it.

So why does this Member keep referring to who 'created' the Government? Did the Second Member for Cayman Brac not help create the First Elected Member for the Executive Council? He voted for him, and what bigger mess do we have in this country today than Cayman Airways? I wish that Member when he gets up to talk about who created this Government would really keep his mouth shut, if he has not taken his legal advice properly. I say to him again, if he wants to discreetly support the Government in certain places, let him do so. He is no problem to this Backbench. We are going to take a seat in Cayman Brac, one at least, and if he does not behave himself, we will get somebody else! And I say that on my own. But I have had enough now about who created the Government.

I knew that this motion would not pass and if the Member for Health thinks it a waste of time, that is his problem. I knew that he would have that sort of feeling. But, the facts are all there. The process might have been started but no legal commitment has been given. There is no legal

obligation on the part of this Government. I say when we are dealing with $18 million, this country and this Government, the Executive Council has a duty to see that proper procedures are followed. That is all this motion is dealing with. If they do not want to do it, well so be it. But when you talk about conscience being clear, that is what I have at this particular time. My conscience is clear but I am very much concerned that what is going to happen to the country's finances under the procedures that are being used, if followed, if continued, this country is going to end up in serious, serious trouble. I say again, to the Financial Secretary, please table, or let the Members of this House have, the Public Sector Investment Committee's Report. That is the honest thing to do.

Thank you, Madam Speaker.

MADAM SPEAKER: The question before the House is Private Member's Motion No. 8/92. I shall now put the question.

QUESTION PUT: AYES & NOES:

MR. W. McKEEVA BUSH: May I have a division please?

MADAM SPEAKER: You certainly may.

CLERK:

DIVISION NO. 16/92

Ayes: 6	Noes: 9
Mr. W. McKeeva Bush	Hon. J. Lemuel Hurlston
Mr. John D. Jefferson, Jr	Hon. Anthony S. Smellie
Mr. Truman Bodden	Hon. George A. McCarthy
Mr. Roy Bodden	Hon. W. Norman Bodden
Mr. G. Haig Bodden	Hon. Benson O. Ebanks
Mr. John B. McLean	Hon. D. Ezzard Miller
	Hon. Linford A. Pierson
	Capt. Mabry S. Kirkconnell
	Mr. Gilbert A. McLean

MADAM SPEAKER: The result of the division is six Ayes, nine Noes. The Noes have it.

NEGATIVED BY MAJORITY: **PRIVATE MEMBER'S MOTION NO. 8/92 DEFEATED.**

ANNOUNCEMENT BY MADAM SPEAKER
RE: DEPORTMENT OF MEMBERS

MADAM SPEAKER: Before I call the next item, I would like to make a few comments regarding Members' deportment in the House. The attention was drawn by the last speaker, the First Elected Member for West Bay, to the matter of some Members reading while debate or proceedings of the House go on. Now, Members are all aware of the Standing Orders which govern the proceedings of the House and also govern the deportment of Members debating and even those not debating. Standing Orders are made by the Members of the Legislature and I have deliberately refrained from remarking or calling a particular Member to task for reading documents in the House.

I think all Members have been guilty of this, but the Standing Orders say that any paper that deals with the Business of the House can be read by Members. Now I will leave that to their conscience and I know that in some instances official business has had to be dealt with by Members during sitting of the House. The majority of Elected Members of this House are not new Members; the majority have been here for at least two Sessions of Parliaments. That is at least eight years. I feel that in instances like that the Members should be responsible, and they know the Standing Orders and they should adhere to them. Members also know that it is their duty, as Elected Representatives, to deal with the Business of the House as efficiently, expeditiously, and courteously as possible not only to the Chair but also to each other.

I believe many of you know that often times there has been talking across the Floor, which can be disturbing to a Member who is debating. But that does not mean that Members can sit as mummies or dummies, you know. Things get a little bright when there are one or two comments but everything must be done courteously. So I am imploring Members, as I have said before the majority of Members have been here for some time and they are not new Members to conduct themselves in a seemingly manner as is stated by the Standing Orders.

Perhaps at this time it would be an opportune moment to suspend for 15 minutes.

AT 3:22 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 3:47 P.M.

MADAM SPEAKER: Please be seated. Private Member's Motion No. 9/92, West Bay Clinic Services, the First Elected Member for West Bay.

PRIVATE MEMBER'S MOTION NO. 9/92

WEST BAY CLINIC SERVICES AND IMPROVEMENTS

MR. W. McKEEVA BUSH: Thank you, Madam Speaker.

I beg to move Private Member's Motion No. 9/92, standing in my name which is set out as follows.

WHEREAS the state of the West Bay district Clinic is not good and needs much improvement;

AND WHEREAS the district representatives have been asking for such improvement;

BE IT NOW THEREFORE RESOLVED THAT Government consider putting in the services and making the necessary improvements to the Clinic before the end of the year.

MR. JOHN D. JEFFERSON, JR.: Madam Speaker, I beg to second the motion.

MADAM SPEAKER: The question before the House is Private Member's Motion No. 9/92, which has duly been moved and seconded and is now open for debate. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, to say that the state of the district clinic is not good, is very correct. The district clinic dates back or is now being housed in a building that was used as the primary school in the days when the Town Hall was the senior school. Back in the early 1970s the JCs upgraded the clinic or upgraded the building and therefore Government housed the clinic in that building. There has been some minor renovations over the years. In my time in this House I have asked many times and in different ways that the clinic be upgraded but nothing has happened. I felt that the need for a better service, in as much as their could be 24 hour service available, there needs to be a proper waiting room, proper toilet facilities and there is no reason why in this modern age and the age that many people are talking about, new technology, why a district the size of West Bay should not have a clinic where persons could utilise a bed over night if necessary. I think that this request is reasonable and therefore I ask the House to give it favourable consideration.

MADAM SPEAKER: The Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, Government cannot accept this motion. Thank you.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I rise to support Private Member's Motion No. 9/92, requesting improvements at the West Bay Clinic. I am not surprised that Government is not accepting this motion because irrespective of our requests and irrespective of whether it is a good request and will benefit our people, the mere fact that it is a request from the Backbench Government seems always bent denying those requests.

I do support this motion and I do not think that Government would have had to spend a whole lot of money in order to upgrade and improve the services that are available from the clinic. They could take such steps to do such things as improve the lighting within the clinic, they could increase the number of days that a doctor visits the district so that it will reduce the need for persons from the district of West Bay having to travel all the way to George Town to see a doctor. I would also like to see that the clinic is improved to the extent where maybe an extension is added to the clinic, where two or three beds can be put for over-night observations as far as patients are concerned, if that is considered necessary.

I believe because West Bay is probably the second largest district in this Island, that the time has come now where the demand would justify a 24 hour service offered by that clinic. I think also that just general maintenance around the building would go along ways in improving its appearance; seeing to it that the building is painted on a regular basis and maintained. I also believe that the time has come (as the Backbenchers did in the 1990 Budget) for us to maybe consider putting an ambulance service in West Bay which could be maybe housed at the clinic and would be in a position where they can handle the transportation of the sick from the district of West Bay.

The district does handle quite a number of patients per week and as a result it does reduce the number of persons who have to travel from the district to George Town and I believe that this need could also be further reduced if we took steps to improve or expand the services that are offered by the clinic in the district. I believe it is also important just for the appearance as well that the grounds are properly kept, that is the weeds are pulled, they probably could even add a little flower garden around the place to improve the aesthetics of the building and its surroundings. This does not cost a whole lot of money, Madam Speaker. The mere fact that it is a request from the Backbench Government sees fit not to support the request. I believe it is reasonable, I think it is necessary and when the vote is put, I will be voting yes.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I support this motion with regards to the improvements for the West Bay Clinic and must say it was refreshing to find out that the Government has at last run out of excuses and have simply said, "no", we will not do this thing. There was no circumlocution in the answer at all, just a plain "no" which leaves me to believe they have checked the votes on this side of the House and know exactly how they will go.

It is also good to know that this minority Government comes to an end in two months time and that this House, this present Legislative Assembly will be dissolved in September and we hope that the new House made up of 18 Members will find amongst the Members a majority willing to examine the requests from the representatives of the people and willing to help with these requests. Perhaps one may say it is not necessary for the Backbench Members to move such a motion as the motion that has been moved. Well this would be true if the Government was being run in a spirit of cooperation where at least once a year, when Government's capital budget was being prepared, if the Elected Members of Council would sit down with the representatives of each district and try to determine what has to be done in each district.

The Government can continue to harden its heart against certain Members of the Backbench but like what has happened in my district over the last few years, when they refuse requests from the representatives it is not really the representatives that they hurt. It is the people who would benefit from the services that the representatives request. Whatever improvements are done to the clinic in West Bay or to a clinic in any district would benefit the people of that district. We understand that the Government has a serious money problem. But it is a problem which not only they have created, but they have developed over the last four years. Now it is coming to a climax. A problem over which they apparently know longer have any control.

Nevertheless, life goes on in these Islands and the representatives must seek to put before Parliament the needs of the district. If the Government seeks to ignore these requests and as the Member of Health used a laconic "no", to this motion this is their fault. The present Government has an attitude problem which is becoming more manifest as their days draw to a close but the motion before the House is a reasonable request put forward by the two Members in a straightforward fashion not seeking any glory for themselves but seeking rather to plead the cause of the people who need this service. I support this motion and will give it my vote.

MADAM SPEAKER: The Honourable Member for Education.

HON. BENSON O. EBANKS: Thank you, Madam Speaker. Madam Speaker, I will not be supporting this motion either and I want to make it clear that it is not because I do not wish improvement health facilities for West Bay, but because I regard it as unnecessary and impractical. Any plans for expenditure that are not in place now cannot be reasonably expected to be done by the end of the year as called for in this motion. That is why I say it is impractical, Madam Speaker.

Also, if Members cast their memories back to when this House accepted Government's Healthcare Services and Facilities Plan in 1990, in that it stated that all district clinics would be upgraded to healthcare centres. That is an integral part of the Health Services Facilities Plan and if Members studied the financial projections that accompanied the bills seeking the guarantee for the money to build a hospital they would have seen that those financial projections included money for the construction of a new clinic in West Bay in 1993. Additionally, the Member for Health, in his winding up debate on that motion, pointed out that it was the intention of the Health Services Authority that an ambulance would be placed in West Bay by August of this year. Therefore, it is my view that what can be done to upgrade the clinic facilities in West Bay in the remaining months of the life of this Government is already entrain and therefore this motion is really spinning ones wheels and therefore, I will not be able to support it.

MADAM SPEAKER: If there is no further debate I will ask the First Elected Member if you would like to exercise his right of reply?

MR. W. McKEEVA BUSH: Madam Speaker, even if the Government did not complete the project before the end of the year, the Government could certainly make a start. To hear them say they cannot accept the motion is not at all surprising to me. As for the last Member speaking, the Member for Education, it does not surprise me that he would take that route because the Member for Education had more time than any other Member in this House to upgrade the district clinic because he had responsibility for health longer and more years than anybody else in this House.

Certainly the Government could, if it wanted to, get going on some of the things I mentioned but certainly for such matters where they need to improve lighting, it certainly cannot take large expenditure and certainly for them to give the place a little better atmosphere, cannot take a lot of expenditure. The Member for Education talked about no time to do these things, impractical he says. But that was the same thing he said in regards to the road works. The Member for Education is also the Second Elected Member for the district and certainly if he had the concern for people that he should, he would have seen that the steps that we have been calling for ever so long, would have been taken before today.

Now, I know that Government has said that they intend to do some works in West Bay as far as the ambulance is concerned this is something that we have talked about for a long time in Finance Committee as far back as when the East End ambulance was given priority or we voted money for East End. We at the time asked for a district clinic so the Member for Education cannot take any credit for that as he is trying to do now. Back in 1990, maybe 1989, they said that further services at the district as far as the

clinics was concerned will be introduced based on the needs. I am speaking from the *Hansards* of the speech for the Member responsible for Health and they said that they were going to develop the district clinics but they have had ample opportunity to do it. They have been doing everything else.

If they are so concerned about the needs of the people as far as their health is concerned, why not do something then? Why wait? The other day when I could offer no rebuttal in this House, the Member for Health said that I had done nothing in regards to getting the clinic upgraded. Well, you know what I feel already about his blatant misrepresentations of the truth but I hasten to add again, I really do not expect any better because in the Budget Debate of last year on the 3rd of December, I had this to say. Here again, I was labouring on the point that they had promised to do something about the district clinic for so long. I said, the district clinics need attention and what is happening? I doubt if the Member has even paid a visit to the constituency to see the conditions under which his nurses and his doctors have to work.

Four million dollars spent on consultancies but we cannot put the district clinic in a condition in which people can feel comfortable when they go there. That was in December last year. I have never abdicated my responsibility to the people I represent. In February of 1988, this is a letter I wrote to the Honourable Benson Ebanks, Health and Social Services, George Town, Grand Cayman:

"Dear Sir,

Re: West Bay Works

This is to remind you of our conversation regarding the different works for our district. As you are well aware the election is upon us and several different projects which we consider to be of importance in the last election have not to-date been started. Among these are - the upgrading of the Post Office; the new field in Birch Street Hill; the upgrading of the district clinic; the Bosun Bay to Barkers Road; the community centre; the school rooms and hall.

These are just some of the projects which we considered are major to the district. These need to be given priority and I trust that you will take these in hand as quickly as possible.".

That was a letter in February of 1988, to the then, Member for Health and Social Services, Mr. Benson Ebanks. Another letter on December 20th, after we won the elections, this time to the Honourable Ezzard Miller, Health and Social Services, George Town, Grand Cayman.

"Dear Sir,

Re: Works for West Bay

This is to remind you of our discussion and plans for the year ahead. Paramount to arresting the social deterioration in the country is an overall plan of action to attack the evils of drug abuse in the absence of good morals in the country. to remind you these are the things which I see would help in the districts: Social Services in the districts; social workers in the districts instead of the Tower; renovation of the health clinic with services improved.

If we can make a start on these projects then I believe that some of the problems which we are experiencing will be lessoned.

I trust that you will soon get going on the above mentioned matters.".

Madam Speaker, these letters are all here for the House, if they want. No one can accuse me of not doing my duty but let us look at the Government, let us look at their actions and what they say. This is a report of the Executive Member for Health with the headlines, the kid gloves are off and I want to quote, he said:

"Backbenchers had urged North Side voters to support Mrs. Edna Moyle, so their group could put West Bayer MLA, McKeeva Bush into Executive Council. 'What good it will do you to replace me with McKeeva in Executive Council is beyond me,' he commented. The district's sole Member of the Legislative Assembly he is the first North Sider Elected to Executive Council. 'Other MLAs were jealous of what he had achieved,' he said.

Mr. Bush had a post office planned for West Bay two years before North Side's was started. Now North Side's is finished, opening formally 1st of July, and West Bay's is not even on paper yet.".

Madam Speaker, this is indicative of that type of representation, and indicative of why we cannot get our post office. . . nor have we gotten our district clinic through the attitude of that man over there. This is why we cannot get anything done because they have been stifling every project that we have brought forward. I have been in this House for eight years and I have done my utmost to try to get Government to do things in West Bay. And how much have we gotten? How much have we gotten, Madam Speaker? If it were not for the Member for Tourism we would not have gotten the Fire Station, and when we worked on the budget in 1989, we took over the budget and we voted some money for the Town Hall and upgraded that

properly. We worked with the Government and they said they would improve the clinic but it has not been done. These are the reasons for those kinds of pronouncements.

If it takes me getting into Executive Council, I hope that God will help West Bay to get those things done. I am not going to belabor the Motion, the services are needed, as the Third Member for West Bay has pointed out, and myself, and we have been pushing for these things as I have read from the letters to those Members. But, if they do not recognise it, and they will not do it, especially if we prompt them by resolutions where the public can judge for themselves. Thank you, Madam Speaker.

MADAM SPEAKER: The question before the House is Private Member's Motion No. 9/92.

QUESTION PUT: AYES & NOES:

MR. W. McKEEVA BUSH: May I have a division, please?

MADAM SPEAKER: You certainly may.

CLERK:

DIVISION NO. 17/92

Ayes: 7	Noes: 8
Mr. W. McKeeva Bush	Hon. J. Lemuel Hurlston
Mr. John D. Jefferson, Jr	Hon. Anthony Smellie
Mr. Truman M. Bodden	Hon. George A. McCarthy
Mr. Gilbert A. McLean	Hon. W. Norman Bodden
Mr. Roy Bodden	Hon. Benson O. Ebanks
Mr. G. Haig Bodden	Hon. D. Ezzard Miller
Mr. John McLean	Hon. Linford A. Pierson
	Capt. Mabry S. Kirkconnell

MADAM SPEAKER: The result of the division is seven Ayes, eight Noes. The Motion has accordingly not passed.

NEGATIVED BY MAJORITY: PRIVATE MEMBER'S MOTION NO. 9/92 DEFEATED.

MADAM SPEAKER: The next item is Private Member's Motion No. 10/92, the First Elected Member for Bodden Town.

PRIVATE MEMBER'S MOTION NO. 10/92

GOVERNMENT TEACHER'S COTTAGE IN BODDEN TOWN

MR. ROY BODDEN: Madam Speaker, I had hoped that in light of the fact that the hour is now getting late that the Chair, and I crave the Chair's indulgence that we could request the adjournment, Ma'am. I must say that it probably would be in the best interest myself because I was not expecting the motion to be called. So much so that I have not even requested of the Serjeant to provide me with a copy of it. So in any case, Madam Speaker, I will have to request an adjournment, however temporarily.

MOTION FOR ADJOURNMENT
(4:23 P.M.)

MADAM SPEAKER: Are you moving that motion?

MR. ROY BODDEN: Yes, Madam Speaker.

MADAM SPEAKER: Is there a seconder?

MR. W. McKEEVA BUSH: Seconded.

ADJOURNMENT

MADAM SPEAKER: The motion has duly been moved and seconded that the House should now adjourn. This will be until Wednesday morning. I shall put the question.

QUESTION PUT: **AGREED.** **AT 4:24 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., WEDNESDAY, 22ND JULY, 1992.**

WEDNESDAY
22ND JULY, 1992
10:13 A.M.

MADAM SPEAKER: Prayers by the First Elected Member for Bodden Town.

PRAYERS

MR. ROY 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings in the Legislative Assembly are resumed. Presentation of Papers and Reports, The Development and Planning (Amendment) (No. 2) Regulations, 1992. The Honourable Elected Member responsible for Communications, Works and Agriculture.

PRESENTATION OF PAPERS AND REPORTS

THE DEVELOPMENT AND PLANNING (AMENDMENT) (NO.2) REGULATIONS, 1992

THE DEVELOPMENT AND PLANNING (TREE PRESERVATION ORDERS) REGULATIONS, 1992

HON. LINFORD A. PIERSON: Madam Speaker, in accordance with Standing Order 18 in section 35 (3) of the Development and Planning Law (Revised), I beg to lay on the Table of this Honourable House the Draft Development and Planning (Amendment) (No. 2) Regulations, 1992, and the Draft Development and Planning (Tree Preservation Orders) Regulations, 1992.

MADAM SPEAKER: So ordered.

QUESTIONS TO HONOURABLE MEMBERS

MADAM SPEAKER: Questions No. 152, the First Elected Member for Bodden Town.

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

NO. 152: Would the Honourable Member say what the present amount of funds allocated to the construction of agricultural feeder roads is?

HON. LINFORD A. PIERSON: There is no specific amount of funds allocated for the construction of agricultural feeder roads. However, under the Agricultural Development Plan (that is farm development) a sum of $50,000.00 has been allocated in 1992 for infrastructural development which includes roads.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could outline to the House the procedure to undertake when one requires an agriculture feeder road to be constructed?

HON. LINFORD A. PIERSON: Madam Speaker, the procedure would be for the representative to approach either the Portfolio or the Chief Agricultural and Veterinarian Officer and an investigation would be done to see the merits or demerits of the request for the project.

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say if the proposal needs to be a formal one, that is, one which sets out the request in writing along with relevant backup material, such as any necessary commitments to easements from persons whose property the road is passing, etcetera?

HON. LINFORD A. PIERSON: Yes, Madam Speaker.

MADAM SPEAKER: If there is no further supplementary that concludes Question Time for this morning. The next item Government Business, Bills First Readings.

GOVERNMENT BUSINESS

BILLS

FIRST READINGS

THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL, 1992

CLERK: The Merchant Shipping Act 1988 (Amendment) Bill, 1992

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

THE LOAN (CAYMAN AIRWAYS) BILL, 1992.

CLERK: The Loan (Cayman Airways) Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a first time and is set down for second reading. Second Readings.

SECOND READINGS

THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL, 1992

CLERK: The Merchant Shipping Act 1988 (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable Third Official Member.

HON. GEORGE A. McCARTHY: Madam Speaker, I move the Second Reading of a Bill entitled the Merchant Shipping Act 1988 (Amendment) Bill, 1992. Legislation relating to ship registration in the Cayman Islands can, broadly speaking, be divided into two categories; Legislation relating to the registration of ships in the Cayman Islands, as contained in the Merchant Shipping Act, Cayman Islands Order, 1988, and legislation relating to the control of ships and their crews, which are either a) registered in the Cayman Islands or which have a connection with the Islands and are not registered elsewhere; or b) come into the Cayman Islands territorial waters and which are now provided for in the Merchant Shipping Law, which was recently passed by this Honourable House.

George Town, Grand Cayman has historically been a port of registry for British ships pursuant to the Merchant Shipping Act, 1894. Until 1987, however, broadly speaking, the only legislation enforced in the Cayman Islands related to the registration of ships, although distress signals and collision regulations which implemented an international convention were enforced by virtue of the extension to the Cayman Islands of a United Kingdom Legislative instrument, the legislation did not relate to the control of ships. This position was unsatisfactory because ships could be registered in the Cayman Islands and yet, in relation to their physical condition and operation, fell below accepted international standards. Such standards are now substantially set out in a number of international treaties. These are the Load Line Convention, which provides for the assignment and marking of load lines on ships; the Safety of Life at Sea Convention (SOLAS), which provides for the safe construction and operation of ships; the Prevention of Pollution Convention (MARPOL), which provides for the construction and operation of ships so that they do not pollute the Marine Environment; the Standard of Training Certification and Watchkeeping for Seafarers Convention which seeks to ensure that watchkeepers are properly qualified.

The effect of this unsatisfactory situation was that, a) the Cayman Islands had a bad reputation within the international shipping community for the state of its ships, and b) ships registered in the Cayman Islands were being subjected to survey and inspection in U.S. ports to the great inconvenience and expense of the owners concerned. So, these concerns could only be alleviated if ships could obtain certificates issued by the Cayman Islands Government under the Load Line, SOLAS and MARPOL Convention showing that they complied with the requirements of the Convention. For these reasons it was decided by the Government that steps should be taken to properly control ships registered in the Cayman Islands and to make them adopt acceptable standards. This required two things - legislation implemented the provision of the International Conventions and two, the setting up of a Marine Survey Department that was able to implement the legislative provisions. The Marine and Survey Department has now been established. Legislation adopting and implementing the Conventions already mentioned has been in place and, by way of this consolidation bill which has been set down for a Second Reading by this Honourable House, is to be codified and updated by short amendments.

The Government is now, by way of this piece of legislation, that is, the Merchant Shipping Act, 1988 (Amendment) Bill, introducing the remaining legislation to properly regulate the ships on the register. Until 1988, Part 1 of the Merchant Shipping Act, governed the registration of ships in the Cayman Islands. Part I of the Merchant Shipping Act, 1988 substantially altered these provisions. The 1988 Act was extended to the Cayman Islands in 1988 pursuant to an Order in Council.

In 1991, the Cayman Islands Registration of Merchant Ships Law, was passed. This provided that ships demised charter to a person qualified to own British ships, could be registered in the Cayman Islands. It also made certain modifications to the provisions for the registration of other ships. Because of the form in which the 1988 Act was extended to the Cayman Islands, it is extremely difficult to ascertain exactly what provision as to the registration apply in the Cayman Islands. This is because it is necessary to read the 1988 Act, together with the Order in Council extending it to the Cayman Islands. Moreover, the 1988 Act as applied in the Cayman Islands needs certain technical amendments to Section 3 (1) (f), Section 5 (5) and Section 7 (3) to correct errors in the Order in Council and to provide that ships owned by EC nationals and companies are qualified to be registered in the Cayman Islands.

In view of the above, it is proposed that a new law be passed, the Merchant Shipping Act 1988 (Amendment) Law, which makes the necessary amendments and then re-enacts the Merchant Shipping Act, 1988, and Part I of the Merchant Shipping Act, 1894 by reference to a Schedule in which the Law is set out. This, of itself, will make the legislation more accessible. However, it has the further advantage that these provisions together with the provisions of the Registration of Merchant Ships Law, passed in 1991, can be put together in a single law and published by the Governor pursuant to the provisions of the Law (Revision) Law.

It is not only proposed by Her Majesty's Government that the Cayman Islands opens its Shipping Register to European Community members, but this is also a requirement which Her Majesty's Government has placed upon the other dependent territories. Compliance with such requirement by the Government of the Cayman Islands, through the form of an amendment to the Merchant Shipping Act, 1988, Cayman Islands Order, 1988, is in the long-term financial interests of these Islands. Broadening the ownership qualification in this manner, can only lead to a wider shipping market for these Islands, and hence new business.

This Bill seeks a) to make technical amendments to the provisions relating to the registration of ships under the Merchant Shipping Act 1988, as it applies to the Cayman Islands and b) to reproduce by way of a Schedule, the present law relating to the registration of ships contained in the Merchant Shipping Acts 1894 and 1988, as they apply in the Cayman Islands.

The purpose of the Schedule is to make the law in a form that is readily accessible to the public. This Bill is comprised of four Clauses and one Schedule. **Clauses 1 and 2** contains the Short Title and provisions for the commencement and interpretation. **Clause 3** contains amendments to the provision of the Merchant Shipping Act 1988. **Clause 4** and the Schedule re-enact Part 1 of the Merchant Shipping Act 1988, which subsidiary provisions and Part 1 of the Merchant Shipping Act 1894 in the Cayman Islands and set out the re-enacted provisions as there amended by Clause 3.

The amendments as proposed above, will have the overall effect of codifying the present Law on the registration of ships in the Cayman Islands. This will be a welcome improvement for legal firms who can now, with certainty, advise their clients of the present law governing their registration of ships in the Cayman Islands. The amendments and codifying are also welcome by our Registrar of Ships, who now has more regulatory control over ships registered in these Islands and who will find the legislation more accessible.

These amendments as contained in the Merchant Shipping Act 1988 (Amendment) Bill are in the best interests of these Islands. They have my support and I hope that Members of this Honourable House will, in turn, give their support to this Bill. Madam Speaker, however, at this time I would crave your indulgence to request that this Bill should not proceed beyond the Second Reading. The reason for this is that the Bill seeks to amend an Act of the United Kingdom Parliament. This cannot be effectively done without ratification by an Order in Council adopting the Bill after it has been passed through this Honourable House.

That Order in Council will be sought and it is expected will be made, but final confirmation of this is awaited in writing from the Legal Advisors of the Foreign and Commonwealth Office. Accordingly, the Third Reading of this Bill will be postponed to a subsequent meeting of this Honourable House by which time that confirmation will be available. Thank you, Madam Speaker.

MADAM SPEAKER: The question before the House is that a Bill entitled the

Merchant Shipping Act 1988 (Amendment) Bill, 1992, be given a Second Reading. The Motion is open for debate. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I support this Bill, as I have on the previous seven Bills prior to this, other than one which we opposed, that was the guarantee of the hospital. This Bill, itself, is one which I think the United Kingdom obviously requires. They did certain amendments in their 1988 Shipping Act and since ours must stay substantially in line with the United Kingdoms, except in relation to areas that the Government has been able to negotiate out of, such as crewing arrangements, then we obviously will have to keep up with both the Conventions and the subsequent amendments that may be made to the United Kingdom Legislation.

The impact of opening it to the European Community, is one that I am not certain what will be the effects. However, if - along with this relationship now that we are building with the European Community - we can see further positive results coming as a result of the European Economic Community, then I believe that it will be worthwhile.

One thing that worried me for many years when I was in Government, and we laboured with the question of whether we adopt a shipping register the same as the previous Government adopted, and that we presently have, because of the high cost of carrying out the provisions of the shipping registration. We had to look at it as an economic proposition, whether there was a possibility of making a profit in the long run at least, because in the short run we knew that it appeared not to have been profitable.

This legislation is one of the few new measures of revenue-raising which does not wholly and directly impact upon local persons, generally. It affects persons who have ships only. It was one which I still question as to its final financial feasibility. At present I believe that it continues to run the Department at a considerable loss and it is one that becomes more and more complex as more amendments go through. Earlier we approved a series of International Conventions ranging into areas which I know are necessary, such as pollution, but if this Registry becomes so complex that there is difficulty locally with the easy processing of documentation, especially on first registry of ships, then I do not believe that it is going to succeed from a financial point of view. I want to be careful what I am saying here, because what I am saying is something that I genuinely am worried about.

When it comes time to register a vessel, it is a lot more difficult now in relation to surveys, it is extremely costly at times where you have to fly a local surveyor part way around the world. I know some distance has been reached in relation to accepting Lloyds and ABS and Bureauveratos and the other bureaus abroad in relation to this in the issuing of certificates. But, it still worries me that many of us who practice law locally are finding it to be so complex many times, especially on questions which go beyond registry which many times we do have to answer, that it is just becoming very difficult to administer locally. I do not really see a way of making it simpler, because, obviously, we have an extremely complex piece of legislation in the Merchant Shipping Acts, that now affects the country, i.e., the United Kingdom Shipping Acts, and naturally these have been adopted. So when I refer to that I realise a lot of this has been adopted but a good example is that there are about nine folders on Laws, generally, it is now a folder and a half on Shipping Legislation and Conventions alone.

I really do not know what the answer is and I am really not saying it is the fault of the Government, and especially not the fault of the Honourable Financial Secretary or anything, but I am expressing my concern that if there was some way of reaching a simpler approach, at least to pleasure vessels, perhaps, we may be able to build up under the minimum tonnage fees, some good revenue there.

I realise the problems these days with drugs, and having the Caymanian flag on a vessel that may be seized abroad, and the embarrassment that goes there. That aspect of the Registry that is cleared up, I think is very good, and I wholeheartedly agree with it.

I support this as I have supported the past Shipping Legislation but I am genuinely worried that I do not see this, at least not in the next few years, paying for itself. Now the Government may put it on a different basis, that it is a necessity because we are a British territory, or whatever, but I do not know what the answer to it is, because we do have to adopt the United Kingdom legislation on most of these things and I would really just say ask the Financial Secretary to keep it under study, the whole of the legislation, as best he can with a view to seeing where we can increase the fees coming to Government under this.

Thank you.

MADAM SPEAKER: If there is no further debate, I would ask the Honourable mover is he would like to exercise his right of reply?

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I must say that I can well understand and sympathise with the views expressed by the Third Elected Member for George Town because when I took up office on the 1st of April, and I saw the volumes of legislation, especially in relationship to this law and the other law that was passed recently, it became a bit discouraging. There was a conference that was held shortly following that in Bermuda, and when I went there I expected that quite likely we would be in a separate category. There were five territories represented; the Cayman Islands, Bermuda, Isle of Man, Gibraltar and the Turks and Caicos Islands. Everyone was complaining as to the high cost of the running of their registers.

Bermuda took the view that as an off-shore territory, while they may be breaking even on it at this stage, they had not invested in it to the level as we have done in the Cayman Islands. Also, they felt that although it is likely, during the course of any given year, that they may not break even or sustain a loss, they regarded it as one of the packages of services that was available to anyone coming to Bermuda to do business in terms of looking at the other financial facilities that were available. It is quite true that the Marine

and Survey Department has been operating at a loss for quite some time but when we are looking to establishing or broadening our revenue base, it means that we will have to explore a number of avenues. Some of them will be successful, some of them will not be so successful. The question is, at what point do we drop an exercise or activity and say well, all right let us move on to something else. I think, basically, we have come a long way with the Shipping Registry and, according to our legal advisors and what seems to be happening in the U.K., there is a possibility that we may in time have a turn around in this situation.

It is very difficult at this time to predict what the effects will be in terms of opening up our register to EC nationals, but by doing this, basically, we are hoping to attract some of the European business and all of the countries that were represented in Bermuda felt that this was a very good move. In fact, we took a position that we were going to move in unison on this in putting forward our position to the U.K. Government. Again, the economic viability of the running of the register, I commented on that earlier, and given my background I do not like for anything to operate at a loss. Often times we know that we will have to entertain loss leaders, if there is a view that there could be a change around. As I said, I cannot really see the future with a crystal ball, and I would not attempt to do this. I am just hoping for the best outcome.

In terms of the legislation becoming more complex, it is so complex as it is that this is what we are now trying to see if we can make some inroads into, in terms of simplifying the understanding of it, at least codifying everything that exists into a central piece of legislation that will give us direct reference to the other legislation to be looked at, rather than going from A to B, and for B saying that you should go back to A, and then A saying you should go back to C, because it is a maze as it is now, it is so complex.

In terms of what the future holds, I am sure if it is seen where we are not getting anywhere with this and it becomes more cumbersome, in terms of having to comply with the legislation in terms of the U.K., copying or adopting on our books what they have enacted by way of legislation, we may have to give favourable consideration to the process outlined by the Third Elected Member, whereby we may probably have to restrict our registry to dealing with other categories of vessels. But again, we are at a stage now where it is very difficult to say exactly what the future holds on this. We can just anticipate the best and I thank Members for their support.

MADAM SPEAKER: The question is that a Bill entitled, The Merchant Shipping Act, 1988 (Amendment) Bill, 1992 be given a Second Reading.

QUESTION PUT: **AGREED.** **THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL, 1992 GIVEN A SECOND READING.**

THE LOAN (CAYMAN AIRWAYS) BILL, 1992

CLERK: The Loan (Cayman Airways) Bill, 1992.

MADAM SPEAKER: The Honourable Member for Aviation, Tourism and Trade.

HON. W. NORMAN BODDEN: Madam Speaker, I beg to move the second reading of a Bill for a Law to Confer Power to Raise a Loan not Exceeding CI$16.8 million for the Recapitalisation of Cayman Airways Limited. A Bill which has been shorty entitled the Loan (Cayman Airways) Bill, 1992.

The purpose of this Bill is to authorise the Government to borrow an amount not exceeding $16.8 million to be used to recapitalize Cayman Airways Limited. Section 3 of the Bill states that: "Any amount borrowed under the authority of this Law must be applied to the recapitalisation of Cayman Airways Limited.". Therefore the use for any other purpose is prohibited.

Section 4, states that the terms and conditions must be approved by the Governor in Council and makes provision that once agreement has been concluded between Government and the lending institution or institutions concerned, that the Honourable Financial Secretary must, as soon as possible thereafter, table a copy of the said agreement in the Legislative Assembly. The last section, section 5, states that principal and interest payments are to be charged against the general revenues of the Cayman Islands.

This is a short but extremely important bill. It is of crucial importance to the survival of the national airline, Cayman Airways, and therefore of equal value to the Cayman Islands. I believe that the success of this Bill is necessary for our continuing stability and orderly development, and that the decision taken by this Legislative Assembly on this matter will determine the future course of our tourism industry in Grand Cayman, Cayman Brac and Little Cayman.

I believe that the decision taken on this Bill will also determine the level of investor confidence in these Islands because it will have a direct bearing and effect on the guarantee of dependable air transportation to and from, and between, the three Cayman Islands for residents and visitors alike.

Finally, the outcome of this Bill will decide the future dependence on jobs for Caymanians in the airline business. This Bill comes at a time when Government is admittedly heavily committed to continuing infrastructural development; committed to projects which are vital and necessary to not only providing, but also to maintaining, a good quality of life for all who live in these Islands, as well as the hundreds of thousands who visit us annually.

No one is more mindful of Government's commitment than I am, but I maintain that of equal importance to our country is the survival of the national airline, a venture which Government entered into 24 years ago through a partnership arrangement, and for which it assumed full responsibility in 1977, over 14 years ago.

I have said it many times before from different forums, and will repeat it here again. In my opinion, Cayman Airways should be considered an essential service and treated as such. It should be viewed as part of the country's infrastructure for which Government holds the responsibility for continuing orderly development. This view has obviously been shared by many others, and others before me, because through the years every Government has rightly attached great importance to Cayman Airways and its survival; assisting the airline to exist through the provisions of guarantees of loans and the provision of an annual operating subsidy which has often proven to be inadequate.

Now, having said that, I do not mean to infer that the airline must be simply content to lean on Government and to expect automatic hand-outs just because it is called the national flag-carrier. Absolutely not. The airline must be efficiently managed so that the amount of financial assistance required from Government is kept to a bare minimum, an amount that can be clearly identified and fully justified by Cayman Airways.

While I believe that the efficiency of management is styled, and its decisions will always be debatable, I have to say that I also believe that through the study that was commissioned by this House and debated in September last year, that through the follow-up assistance from other airline consultants, which is still in progress, and through Cayman Airways' management and staff efforts and determination to help the airline survive, some encouraging progress has been made, especially within the past six months, that is to say, January to June, of this year.

I am not here to say that I have agreed with everything management has done, nor that mistakes have not been made, as I am sure that there can, and will be errors in judgment and forecasts or projections that do not materialise as planned, that this happens in Cayman Airways just the same as in any other company or operation, or indeed, Government itself.

But I am here to say that I believe, sincerely, that the Board of Directors, the management and staff of Cayman Airways, have fought a good fight to bring the airline through the most difficult and challenging period ever witnessed in public air transport since the Wright Brothers became air-borne at Kitty Hawk, North Carolina. And that through the combined efforts of all parties concerned, the airline is still serving us today, even if at a high cost.

Furthermore, I am here to say that many of the recommendations made by the consultants have been put in place, and that this recapitalisation plan will help others to be implemented as early as possible. I am here to say that we have a new Chairman of the Board who is experienced, well equipped and totally dedicated to helping Cayman Airways survive.

I should also make the point that the indemnity for Board Members will help Government to recruit additional successful business people from the private sector and the efforts of the management and staff of the company are beginning to produce desired results. There will always be battles to be fought but the survival of Cayman Airways must remain our goal.

Regardless of whatever arguments may be used against this Bill and against Cayman Airways, in the final analysis it must be accepted that the reasons for which Cayman Airways was originally established are the same reasons why it must continue, these are just as valid today as they were 14 or even 24 years ago. I referred to them at the beginning of my presentation, so I will not itemise them here again. But, suffice it to say, the purpose of Cayman Airways is guaranteed air services to and from and within these three Islands. This, in my opinion, is what Cayman Airways is all about - a guarantee for the Cayman Islands. And, for the reasons already listed, we could add the need for Cayman Airways in emergencies such as a hurricane, as we experienced some years ago. To keep our supply lines open to an Island country, such as ours, for the transportation of food stuff, medicine, passengers and mail.

I have mentioned these proven facts of necessity because in times like these, the need for a national airline is often naturally and rightly questioned, and, of course, needless to say, many solutions to the problems of Cayman Airways are offered. Nevertheless, I do believe that there is one area in which we have general agreement, and that is that the Cayman Islands must never again become totally dependent on foreign airlines to provide all of our air service needs.

There are some foreign airlines serving and willing to serve Grand Cayman, and I believe too, to be fair to them, that they have their place in our tourism development. But it is not for them to totally dominate or control air services to and from the Cayman Islands, and I believe that the day that our total dependence is placed with them, that is, only foreign airlines, it will be a retrograde step for our country. Surely, they will serve us when the going is good, but which of them will guarantee air services to and from and within the Cayman Islands without a cost to Government. None of them, I daresay. None of them will serve Cayman Brac and Little Cayman without a Government guaranteed subsidy, anymore than they will provide services from the United States to the Cayman Islands at a loss to any of their companies. They will not develop new routes to generate new tourism business to the Cayman Islands and I believe that any day their routes to Cayman prove unprofitable, they are not totally dependent on the Cayman Islands, as with Cayman Airways, they have a vast route system and they will better utilise their aircraft more profitably elsewhere as they have done in the past with other Caribbean countries. All we will see then is the tail end of their aircraft with their company's logo disappearing over Northwest Point, and Caymanians and other residents of these Islands will be left to fend for themselves.

I say this with due respect, but surely it must remain fresh in our memories how quickly, and at what short notice, Pan American World Airways disappeared from the Cayman scene. We have also witnessed how often Eastern Airlines pulled in and out of Grand Cayman and finally suspended services altogether. We know that in 1991, especially, tourism in many Caribbean destinations suffered severely due to the lack of air services. Services in which they had come to depend were either curtailed or discontinued by U.S. airlines in difficulties.

It is also a fact that while our tourist air arrivals in 1991 were down some six per cent, others were down 16 per cent, and over 20 per cent in some cases. I do not want to belabour this point, but no one need believe that, if Cayman Airways is closed down today, these Islands will still receive the high quality prime-time scheduled services and air fares that are being offered by U.S. airlines if they ever had a monopoly in the Cayman market. As simple as it may seem to some, the presence of Cayman Airways here today preserves and ensures these benefits for the Cayman Islands, for the travelling public and for our industries of tourism and finance.

On the other side of the coin it is true that over the past 24 years, but especially over the past two, Cayman Airways has suffered heavy losses. Losses which have forced the airline to call on Government, its sole shareholder, for increased financial assistance in one form or another. No attempt is being made to deny this. This fact has been established, headlined and highlighted from every possible forum time and time again, and especially during this Legislative Assembly Meeting.

The airline's financial statements which were tabled present a dismal picture and, admittedly, this is a serious situation which has developed and which must be effectively addressed but many of the contributing factors are obvious to those who will accept them. It should be understood that Cayman Airways is not immune to the environment in which it operates. It does not exist in a vacuum and is, therefore, susceptible to the same set of circumstances and conditions that cause other airlines to succeed or fail or experience severe financial problems.

So, it is widely known what the airline has cost, and is costing, the country. But this should be examined in light of the benefits the airline has also provided. This must be balanced against the airline's continuing contribution to the country's development which cannot be ignored. Studies by airline experts have recently established and identified these benefits with some degree of accuracy.

During Question Time the House was told that over the past 24 years Government has contributed financially in the form of subsidies and equity for a total of $26.4 million to Cayman Airways. This is, of course, apart from guarantees which were provided. However, it has also been established that Cayman Airway's contribution to the Cayman Islands' economy is in the range of $40 million a years.

The year 1991 has been, and will be, referred to time and time again, and will be remembered in the airline industry for generations to come. The turbulence and turmoil, in fact, started towards the second half of 1990, continued all through 1991, and has not yet settled down. While 1991 alone cannot be blamed for all that has happened to many of the major airlines around the globe, especially in the Unites States of America, through occurrences last year, the crippling airline conditions that developed caused by unusually high operating costs and plunging load factors brought to a head the serious financial difficulties that many troubled airlines had been facing for some years.

Nineteen ninety-one brought events that definitely made a bad situation worse for the majority of airlines, and Cayman Airways was no exception. As was said in the industry, 1991 sealed the fate of the flying wounded. The difficulties which emerged that finally led to the demise of Eastern Airlines, of Pan American World Airways, of Midway and just recently a few weeks ago Braniff Airlines; difficulties that caused airlines like Trans World Airways, Continental Airlines, American West, to file bankruptcy; difficulties which caused U.S. airlines alone to lose $6.5 billion in one year - which was more than all of them combined ever made in their entire history. These conditions could not have been foreseen two years ago, and perhaps would not have been believed by the most informed and experienced airline industry analyst.

Closer to home, Cayman Airways - plagued with financial troubles from its inception - continued to struggle on with high lease payments on an aircraft with far more seats than it could fill; dealing with, what I would consider, an un-sympathetic aircraft leasing company; increasingly high operating costs, specifically for aircraft payments on fuel; and with stiff competition from U.S. airlines, at a time when the fear of flying and the lack of disposable income forced the travelling public to postpone vacation plans indefinitely, Cayman Airways saw its market share reduced from 73 per cent to 44 per cent, and its load factors plunge from 70 per cent to 40 per cent.

It is common knowledge that the results were devastating to Cayman Airways and this is clearly set out in the Audited Financial Statements for the financial year ended June 1991 where its operating loss was four times that of the previous year. In other words, the airline lost over $8 million in fiscal year 1991 on its direct operations, whereas its operating loss for 1990 stood at US$1.9 million.

To further aggravate the situation, in 1991 there was the cost of terminating the Boeing 737-400 aircraft lease with Guiness Peat Aviation which was a total of $5.3 million, which comprised of the penalty of $3.5 million plus aircraft rental, maintenance checks and other costs including legal fees.

This item brought the total loss for 1991 to $14.3 million and caused the airline's external auditors to draw attention to the fact, in their report, that at the 30th of June, 1991, the company's current liabilities exceeded its current assets by $16.5 million, and its total liabilities exceeded its total assets by $11.8 million, therefore, the company was technically insolvent.

They went on to state that in view of the significance of the excess of the company's current liabilities over its current assets and the company's inability to generate sufficient cash flow to meet its liabilities, the company is wholly dependent upon the financial support of the Government of the Cayman Islands, if it is to be able to discharge its obligations and continue as a going concern. In my opinion, this was a fair statement and sound advice, and the only logical position that the external auditors could take in view of the circumstances.

This, Madam Speaker, summarizes the serious plight of the airline and makes the position clear, and that position is that if Cayman Airways is to continue to operate a means

or method must be found to enable the airline to pay at least some of its accumulated debts and regain some semblance of credibility with the suppliers and trading partners.

Logically, no airline, no company can continue to pile up losses and accumulate debts year after year without reaching the point where it has to at least service, as I said, some of its debt or either be forced to close down its operation.

This is the stage that Cayman Airways has now reached after 24 years of service and the Audited Financial Statements of Cayman Airways have religiously been tabled in this House on an annual basis with the exception of 1991 which was tabled a few weeks ago during this Meeting.

It is no secret and comes as no surprise that part of the reason why Cayman Airways is still flying today, is because the Cayman Islands Government, as its sole shareholder, holds a high reputation and good image in the business world. The airline's suppliers have continued to provide services to Cayman Airways with the expectation that Government will do what is necessary to protect its investment and, at the same time, help the airline to honour its commitments.

Cayman Airways is still flying today because Government and Finance Committee came to its rescue in 1991, in a bigger way than ever before, by providing a loan and guarantees or Cayman Airways would have been forced to fold its wings and go the route of Eastern Airlines, Pan American, Midway, Braniff and all the other airlines that went under in 1991 and early 1992.

Cayman Airways is still flying today because the Board, the Management and staff, with useful advice from consultants, have taken steps to effect improvements and made sacrifices in a valiant attempt to turn the airline around and head it in a different direction. This effort is continuing on an on-going basis. I must say here that all the staff of Cayman Airways, both air crew and ground crew, have made a genuine attempt and have made concessions to assist the airline through a dark and difficult period so that Cayman Airways can continue to operate; and so that the country will continue to be served; and so that they in turn will continue to have jobs with an airline which they love and have helped to build.

This same level of cooperation and dedication must continue if Cayman Airways is to survive. Every single employee of the national airline shares a solemn responsibility for the success or failure of the airline, not just senior management or the Board or Government because we all know that it takes a dedicated team to win.

One cannot just focus on where the airline is today, or just the occurrences of 1991, and start apportioning blame without giving due consideration to all that has been done by Government, by the airline itself, by this Legislative Assembly, and by Finance Committee, in helping the airline to survive through these many years.

In March of 1990, a motion which was brought by the Second Elected Member for Cayman Brac and Little Cayman, calling for a study of Cayman Airways, was unanimously accepted. The study was conducted by the consultants SH&E and Aer Lingus and the reports were tabled and debated in September 1991, less than a year ago. In my view the reports were balanced, timely and fair. They produced valuable information and helpful recommendations, some of which have been implemented, others are being further refined and researched and the process is continuing, as I have pointed out.

In my opinion, for the first time the position of the national airline was properly and thoroughly documented and I believe that the study will continue to prove beneficial, both to Government and to Cayman Airways for years to come. This, in my opinion, is certainly a move in the right direction.

I would like to review here the recommendations made in the reports referred to which were accepted by the Portfolio of Tourism, Aviation and Trade for implementation over a period of a year.

1) To develop and draft for discussion a new mission statement and objectives for Cayman Airways. The statement to be agreed between the Cayman Islands Government, the Board of Directors of Cayman Airways and Senior Management.

2) To establish and formally document the relationships and responsibilities between Government, the Board, and senior management.

3) To develop a Five Year Business Plan for Cayman Airways.

4) To prepare a detailed annual business plan in conjunction with the rolling three to five year high-level economic plan.

5) To prepare a plan with accompanying manpower requirements and related costs using all human resources currently available in Cayman Airways, in order to provide management support units and committees recommended in the following areas:

a) Provide for divisional heads reporting directly to the Managing Director, Heads of Marketing, Finance, Operations, Maintenance, Personnel and Administration.

b) Establishment of a Marketing and Sales Planning Department.

c) Establishment of a Business Planning Unit.

d) Establishment of a Finance and Expenditure Committee.

e) Establishment of a General Management Committee.

f) Appointment of a Contracts Manager.

g) Appointment of one over-all Reservations Manager, reporting to the Head of Marketing.

6) To conduct and prepare a detailed review of functions and job specifications.

7) To undertake a detailed review of salaries.

8) To review and regularise all contractual agreements and prepare detailed specification of ground-handling requirements for each station.

9) To establish consistent scheduled planning procedures.

10) To provide a close analysis of the inter-Island service and advise on the alternative service arrangements as suggested by SH&E, provide cost comparisons with services currently provided.

11) To develop and draft a mission statement and objectives for the joint working relationship between Cayman Airways and the Department of Tourism.

12) To pursue the recommendation of partial privatisation and provide a plan of how this may be accomplished.

During Question Time, I informed the House that six of these recommendations have been implemented which were the Mission Statement; the formal documentation of the role and responsibilities between Government, the Board and senior management; the production of an Annual Business Plan; the detailed review of functions and job specifications; consistent, scheduled planning; and a mission statement on objectives for the joint working relationship between Cayman Airways and the Department of Tourism.

In early 1991, there was the Gulf War and its aftermath, when the airline business took a sharp and serious turn for the worse. This spread concern and almost panic in tourism and aviation circles throughout the world and survival became the name of the game with all airlines in all countries. At that time, Cayman Airways' Management, provided a plan and the Board approved it. It was a plan to reduce expenses and help the airline survive this crisis. The plan called for four main items.

1. A change in aircraft from the Boeing 737-400 to smaller, less expensive aircraft.

2. A reduction in staff and a cut in salaries.

3. An increase of $60 in international airfares to Cayman Brac and Little Cayman.

4. A reduction in advertising expenses.

I think that we all know what happened. The plan was only partially implemented. First of all, the two Boeing 737-400 aircrafts were changed in 1991 for smaller, less expensive equipment. This was a brave and bold, but necessary decision and, admittedly, it was costly. But it undoubtedly would have been far more expensive not to have taken that action because otherwise, Cayman Airways would not be operating today. Secondly, the advertising budget was reduced practically to zero. Thirdly, the proposed increase in international airfares to Cayman Brac was not supported by Government and by some Members of the Backbench because of concern for the adverse effects this could have on tourism to Cayman Brac and Little Cayman. Fourthly, neither was the lay-off of some Cayman Airways staff and a reduction in salaries supported.

It will be recalled that I received representations from Cayman Airways' staff who were naturally and rightly concerned about their jobs and salaries. I invited all Elected Members of this House to attend a meeting, and they agreed, and they attended several meetings with the staff of Cayman Airways, at that time. Both sides of this House, agreed to do all possible to maintain the status quo within the airline; we agreed to do all that was possible to protect the jobs for Cayman Airways' staff and to do whatever was necessary to avoid a reduction in their salaries so that hardships to many Caymanian families would be avoided.

In order to compensate for the proposed cost saving measures which were not accepted, the airline had to seek increased financial assistance from Government. This was accomplished through a loan and Government guarantee for an over-draft facility for the airline, so an upheaval in the company and the country was averted. The staff themselves, as I pointed out earlier, also cooperated with the company and agreed to concessions which helped to ease the situation and the airline was allowed to struggle on.

All that I have related took its toll on the airline and contributed to the stage that has been reached today where the level of financing proposed in this Bill has become absolutely necessary. Today, what is being asked of this Legislative Assembly is of equal, or even greater, importance to Cayman Airways, to its staff and the country, than a mere cut in employees' pay because, without this level of

financial assistance, the airline cannot continue and Caymanians will lose their jobs, not just a cut in pay, and the country will lose the benefit of guaranteeing their services from its main tourism marketing tool - Cayman Airways.

I believe that the same willingness to help Cayman Airways, its staff, our tourism industry and, indeed, the country, should prevail amongst the Honourable Members of this House in dealing with this Bill. To be honest, I must tell you that I did not much relish the thought of having to bring this matter to this Legislative Assembly, especially at this time on the eve of a General Election. But, as the elderly gentleman said, with determination, in the *Royal Star Reader*: "I have done my duty ever, Tried to do it just and right, Now I am old, I still must do it, Curfew must be rung tonight.". I have decided that I must do this for all those who still believe in Cayman Airways, and I must do this for all those who still depend on Cayman Airways. I am not admitting to being old, I am just making the point that it is my duty and I believe it is right.

I mentioned earlier the involvement of consultants in the airline, which was accomplished through the close cooperation of all Members of this House, and I commented on their recommendations and that of their status. Let me also point out that many of those recommendations are related to and directly dependent upon the success of this Bill. The consultants have stated, and, in fact, recommended, that apart from an annual operating subsidy which must be kept to a minimum, and which the airline must justify, that is, substantial capital injection will have to be made in order to stabilise the airline and allow it to continue. Those are the words of the consultants.

They have also advised on the strengthening of management which forms part of this package. The consultants also stated that once these measures are taken it is not inconceivable for the airline to reach a break even point within two years, or at least contain its losses to a reasonable and sustainable level. The studies have also established, as I earlier mentioned, that Cayman Airways produces an incremental benefit to the local economy of $40 million per year. They have also established that the present annual cost to Cayman Airways of providing the inter-Island service is $1.5 million, but that, in the absence of Cayman Airways, the need for the service to Cayman Brac and Little Cayman would still exist and the cost would double to approximately $3 million per year.

They have established that without Cayman Airways between 27,000 and 30,000 visitors a year would be lost to the Cayman Islands Tourism Industry because tourists would not visit the Cayman Islands as no non-stop services from U.S. cities would be available except from Miami, Florida. There can be little doubt that this substantial number of visitors represents the difference between the profitable operations and possible financial failure for many tourism and other businesses in the Cayman Islands.

It has also been estimated that without Cayman Airways, the Department of Tourism would have to add at least $600,000 a year to its budget to pay for services that are now provided at a concession by Cayman Airways. Additionally the Cayman Islands, as a tourist destination, would lose the benefit of the Cayman Airways advertising budget which, under normal circumstances, stands at around CI$2 million per annum. Whenever a company (I suppose the same as an individual) gains the reputation of not being a financial success, it becomes difficult to convince others that a change is being made for the better, that some improvements are, in fact, evident. But this must not deter us from endeavouring to reach our goals and accomplish our mission. So it is with Cayman Airways.

Over the past year, the airline developed a plan for providing a market-driven, rather than an operational-driven schedule, aimed at capturing a greater market share and thus improving its revenue-earning capability. Included in the plan is the aim to improve the standard and quality of reservation services being offered to the travelling public. This area has been accomplished because there is evidence of a marked improvement there. Although it was not possible to fully implement these measures until the early part of this year, I must say that some improvement is being realised, and I would just like to give an example.

Based on the airline's performance during the first quarter of 1992 and the company's forecast for this calendar year (to which it seems to be tracking fairly closely), it appears that, barring any ill-effects of the second American Airline's flight in Miami, Cayman Airways this year will improve its performance by approximately 50 per cent in comparison with the year (1991). That is, it will cut its operating loss by some 50 per cent. In other words, in 1991 there was a loss of over $8 million compared with $4.8 million projected loss for the year 1992.

Price Waterhouse, the Airline's external auditors have prepared an analysis of this information and have supported these forecasts and projections as being fair and reasonable. It must also be remembered that there were extra aircraft lease costs incurred during the early part of this year to replace the loss of the 737-300 and, also, the second 737-400 was not returned to Guiness Peat Aviation until February of this year. The rest of the year 1992 will show a substantial reduction in expenditure on this item of aircraft lease payments alone, as the company will be operating one Boeing 737-400 and three 737-200 aircraft as of September of this year as its total fleet complement.

The latest information shows that May and June results this year were encouraging and that for the first half of this year there was an improvement of $1.5 million or 40 per cent over the same period in 1991. For example, for January to June 1991, the loss was $3.8 million, and for January to June 1992, the loss was reduced to $2.3 million. The passenger load-factor also increased from 40 per cent for the first half of 1991 to 61 per cent for the first half of 1992. One does not have to have a crystal ball, but this trend is expected to continue and, if this is the case, the airline could be well be gradually turning around and making a recovery from 1991 and even the slightest sign of improvement has to be encouraging.

The Government has given much thought and careful consideration to the Cayman Airways problem. Some months ago, it set up a sub-committee of Executive Council to review the situation and make recommendations as to what could be done. Input was solicited and received from Government's finance officials, from the airline consultants, and from the Chairman and Managing Director of the Airline. The alternatives and options have been examined and further thought is still being given to possible

steps that can be taken to further reduce losses. But, based on the information produced by the sub-committee and the advice of airline consultants, both past and present, it has been decided to immediately put in place a package of measures to assist Cayman Airways so that the airline can continue to serve these Islands. After weighing the advantages and disadvantages, it was decided that this was the best course that could be taken at this time.

First of the all, the package is comprised of an increase in the annual operating subsidy from $2 million to $4 million for the year 1992, which coincides closely with the airline's projected loss for this year and this has been already approved by Finance Committee, that is, the increase in subsidy. Second, that an immediate capital injection of $16.8 million be made by a Government loan, financed through a bank, or banks, at the best possible terms. Third, that as part of the recapitalisation plan and in accordance with consultants' recommendations, the management of the airline be strengthened by the immediate employment of a Vice-president of Finance and Planning, to be followed by a senior Vice-president of Marketing and other managerial appointments as considered necessary by the shareholder to strengthen the airline.

It is, of course, recognised that while this financing does not achieve the optimum position for the airline, it will go a long way towards alleviating the company's under capitalisation and correct the fact that the airline has been under subsidised for many years because of operating some routes that are unprofitable to the airline, but necessary, beneficial and vital to tourism and the country's economy as a whole. The availability of these funds will enable the airline to start reducing its accumulated debt, its accounts payable, which are due to the Civil Aviation Authority, to other Government Departments, advertising and other bills which are long overdue.

Secondly, it will help the airline to reduce to some extent its bank over-draft and other commitments, some of which were already guaranteed by Government and the prior approval of Finance Committee. It is also expected that this financing will help to place the airline in a stronger negotiating position with Guiness Peat Aviation and it will provide desperately needed working capital in order to, as stated earlier, help the airline regain some degree of credibility with its trading partners. It is Government's view that this action is absolutely necessary to recover the present situation. It will provide a more secure future, both for the national airline and the tourism industry, which is so important to the country's economy.

This recapitalisation plan forms a major part of what is needed. It is accepted that management and staff of the airline must continue their efforts to make the airline more efficient and cost effective. But without this financial support that is now being sought, I have to repeat that nothing can be accomplished and our air services will be brought to a halt. I do not believe that we can afford to allow this to happen because the price the country will have to pay in the end will be far higher than this or any other assistance the airline has been provided with so far.

Undoubtedly, many differing views and opinions will be expressed as to what caused this situation to develop and what would be done to correct it. But at the end of any discussion, regardless of how well reasoned and justified, one must face the harsh realities that the airline business is a complex, vulnerable, high risk business, directly affected by fluctuating market conditions to which its ability to respond effectively to determines its success or failure. The inherent nature of this business makes this no simple task.

The change of aircraft from the Boeing 727 to the Boeing 737-400 will no doubt be raised once again and there is no denying that this has contributed to Cayman Airways' financial problems, because the decision to get out of the lease arrangement with Guiness Peat Aviation was costly. But when the decision to change aircraft was made back in 1989, market conditions were strong and promising. The Unites States economy was prosperous and buoyant and so was our own. The business out-look for all airlines was good and Cayman Airways faced less competition. The events that followed in the airline industry, which forced so many airlines out of business, produced a glut of aircraft on the market at cheaper rates and better terms and conditions in 1991 that were unheard of in 1989. This changed the whole picture. It is an accepted principle of business that all companies base their decisions on forecasts and projections calculated at prevailing market conditions. At times these are not realised for various reasons, and are quite often beyond the company's own control and this, in my view, is what happened in this case. Hindsight is always 20/20, as they say. It will also undoubtedly be claimed that the airline should not have been expanded as it has in developing new routes and that the airline should be down-sized.

There are, I believe, two sides to this equation as well because the benefit that this has produced for tourism cannot be ignored or over-looked. Over the past six years tourist air-arrivals have increased from 148,000 to 253,000, an increase of 70 per cent and there can be no doubt about the role that Cayman Airways has played in this development from which the entire country has benefited. Without Cayman Airways' expanded route system in opening up new markets we definitely would not have witnessed the level of tourism growth and development that we have. Without Cayman Airways' guaranteed air services we would not have attracted the many new large prestigious hotels, first class restaurants and luxury quality condominiums that we have over the past six years, nor would we have witnessed the level of investor confidence in other areas which have all helped to provide a high standard of living in the Cayman Islands.

It will be recalled that consultants have established the big loss to tourism without Cayman Airways' non-stop services. Presently the only route, apart from the inter-island service, that is producing a loss is New York, which has been recently combined with Baltimore. The operation of this route has been analysed and while the airline itself could realise a saving of approximately $1.5 million per annum, tourism would stand to lose between $3.5 and $5 million a year in business which would not come to the Cayman Islands due to the loss of the service. This matter is still under consideration but I use it as an example.

It is also the fact that if we pull out of New York, we will lose what has already been invested there in route development and when the United States' economy improves, we

may wish to go back in and will have to pay a higher price at that time. The consultants in their report on Cayman Airways' options also pointed out that very few airlines have been successful when down-sizing. They stated that the principal problems relate to the minimum level of over-head necessary to support any airline, no matter what size it is. In addition, when down-sizing airlines usually lose revenue before they are able to reduce expenses. Furthermore, they stated down-sizing may be feasible for the airline, that is, Cayman Airways, but loss of routes, particularly New York, could be damaging for tourism.

After taking all facts, figures and information into consideration, and apart from the need for this financing, if this is finally put in place, the other most serious contributing factor to Cayman Airways' problems, and greatest threat to its future, remains the excess capacity being provided by United States' airlines and the fierce unfair and predatory competition that Cayman Airways has to contend with from them. This, coupled with a weak U.S. economy are the prime threats to Cayman Airways' survival and consequently continue to be of serious concern to Government and the company.

We have constantly taken up with the United Kingdom Government and have been involved in talks with the United States Government on our objections to unfair competition, our objections to excess capacity, and we have been asking since 1977 for a fair and equal opportunity for Cayman Airways. We are not the only country asking the Americans for this, for their own national airline, recent press reports bare this out - France, Italy, Germany, and even the United Kingdom are prime examples. The matter of air services has been a contentious issue ever since Bermuda II was signed in 1977, at which time all the rights of British Dependent Territories in the Caribbean were traded with the U.S. by the United Kingdom and which, I must point out, the Cayman Islands protested in 1977, as well.

It is true that both the United Kingdom and the United States Governments have attempted since 1982 to correct the unfair and serious imbalance in favour of United States Airlines which was created in 1977. But their offers have proven to be inadequate and unsatisfactory attempts have been addressed since 1982 through short-term moratoriums which creates a hassle and produces extensive negotiations each time this type of agreement has to be reviewed. We find that this is becoming more and more expensive to conduct and very often, regrettably, seems to be unproductive. We are placed in the difficult position of, first of all, having to convince the United Kingdom Government that we have a case worth hearing and then, secondly, we have to convince the Americans. This places the Cayman Islands Government in the position of each time having to ask for mercy, rather than having our rights demanded and protected. Government and Cayman Airways have provided both the United Kingdom and the United States Governments, documentary evidence that excess capacity is being provided by United States airlines swamping the routes with service and has been guilty of illegal fare practices to the detriment of Cayman Airways.

Discussion is continuing on this matter at the highest possible Government levels but I must say that, disappointingly, nothing to date has been decided that will bring much needed relief to Cayman Airways. I want to further state here once again, that we expect that the British Government will take the necessary action to address this issue and have it corrected as a matter of urgency and priority because, after all, this intangible situation was created by them and we expect them to correct it. At the time they obtained protection from U.S. airlines providing excess capacity on the North Atlantic for their own national airline, British Airways, similar protection was not afforded or extended to the Cayman Islands or Cayman Airways.

In 1990, when the present moratorium was being negotiated, the Cayman Islands requested that the Miami/Cayman route be limited to three flights for each side but the United States held firm for four flights and in the end the United Kingdom Government gave in, in order to have the agreement signed. This moratorium will expire in March next year and we have been seeking for almost a year now to have it revised and renewed. But so far, in spite of our many efforts, and I must say, strongly supported by the United Kingdom Government, this has not been achieved. But very definitely, in my view, this state of affairs cannot be allowed to continue.

To be frank, Cayman Airways is caught in the cross-fire of great giant airlines with which it cannot hope to compete and which are jeopardising its future and the Cayman Islands are left to the mercies of super-powers who have other priorities than to be bothered or concerned with our problems. Yet, they expect to receive our full cooperation whenever they call on us. As they say locally, "they have bigger fish to fry." I do not want to become carried away and to seem too negative, but in dealing with this matter I had to think to myself it is no wonder that some small countries become disillusioned and resentful. In my opinion the only obvious and right solution is for the Cayman Islands to be removed from the Bermuda II Air Services Agreement altogether and have that replaced with a separate document for the Cayman Islands with the United States. I must say that we have made these representations to the United Kingdom Government and expect them to negotiate this for the Cayman Islands which, in my view, is not unreasonable when one considers the hardship and expense it has helped to inflict on Cayman Airways and the Cayman Islands Government.

Now, turning to Government's finances. What effect will this Loan Bill have on Government's debt servicing? This is a question that will naturally be asked by most people. I understand from the Honourable Financial Secretary, Government's financial advisor, that if the usual two year moratorium is obtained as part of the terms and conditions of the $16.8 million loan for Cayman Airways, it is estimated that Government's debt servicing payment, including this amount for the year 1992, will stand at five per cent of local revenue. That is taking payment of interest only for the first two years, 1992 and 1993. In 1994, when payments on principal and interest will have to commence, the percentage will then be increased to seven per cent at that time. It is my understanding that this is well below the acceptable level of 10 per cent which, it is generally agreed, should not be exceeded.

So, providing recurrent revenue projections are realised (which I understand are reasonably forecast), this loan spread over 10 years should not place an unbearable debt burden on Government. In any event, as part of this exercise part of the amount of $16.8 million will be used to pay off

some amounts already guaranteed by Government. I need to make the point that this will not be totally in addition to some of these amounts. Government has also made enquiries into the availability of these funds and has received an indication of willingness on the part of a consortium of local banks to provide the loan funds.

In conclusion, there can be no question that Cayman Airways has passed through, and continues to pass through, some turbulent times. There is no doubt that there will be other storms ahead in its future. Nevertheless, on balancing the pros and cons in considering the benefits of having our own national airline against the disadvantages of doing without it and depending on others, I believe that it is in the interest of the Cayman Islands that we all agree to do whatever is necessary to stabilise and to save our national airline - Cayman Airways.

Madam Speaker, I have tried to present this Bill in a fair and factual fashion. I have endeavoured to establish need in a reasonable way and I have attempted to realistically stress the importance and value of Cayman Airways to our country. I can now only trust that we will look beyond the cloud of political controversy, which I believe has followed Cayman Airways from its inception, and see the wisdom of supporting this Bill for a Loan to help our national airline survive. I therefore, now leave this Bill to the will of this Honourable House.

Thank you, Madam Speaker.

MADAM SPEAKER: The question is that a Bill entitled The Loan Cayman Airways Bill, 1992, be given a Second Reading. Before the debate commences the House will be suspended for 15 minutes.

AT 12:02 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 12:27 P.M.

MADAM SPEAKER: Please be seated. Debate on the Second Reading of the Loan Cayman Airways Bill, 1992. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. The Bill before this Honourable House is one to raise CI$16.8 million, or approximately US$20 million, to recapitalise Cayman Airways. I believe that all Members in this House support, and are sympathetic to, Cayman Airways Limited and want to see it continue. We, as Backbenchers, supported measures brought in 1989, 1990, 1991, 1992 and as recently as Friday last week in the secret meeting of Finance Committee.

That support was clearly brought out in many position papers issued and signed by us as Backbenchers which normally began and/or ended with these words, "We support Cayman Airways and we wish to see it continue successfully fully recognising its importance and contribution to the Cayman Islands." I believe that the money which Cayman Airways has recently received is sufficient to keep it going for some months to come. I have had to think long and hard in relation to this Bill and I have had to weigh many things, including the national interest of this country, in reaching a decision on this loan of $16.8 million.

On nearly all of the previous occasions that we approved subsidies and/or guarantees for Cayman Airways there have been promises that the reports, which the experts SH&E and ASI submitted, would have been substantially and effectively carried out. On many of the more recent occasions we have approved this upon that basis and the undertakings given to us that these would be done. It is therefore with regret that I am not in a position at this time to support this amount of money before this House in the light of many reasons which I will give over the length of my debate.

What I have noticed is that the Member for Tourism has not said precisely how the $16.8 million is going to be spent. I am not going to stand here and give an open check of $16.8 million to be put into the capital and/or loaned. It seems as if it would be a loan rather than a capitalisation with what the Member has said to the Directors and Management of Cayman Airways and in the light of the failure to carry out the reports by the experts which could have saved this country millions on top of millions of dollars. The package that the Member mentioned for correcting the losses, in my opinion, leaves out two of the most major recommendations given by the experts. Those I will deal with at a later stage.

I fully support the staff of Cayman Airways. I believe my duty is to the country first, to the staff of Cayman Airways second and, notwithstanding what the Member has said here, Cayman Airways will go on. I have no doubt about that. But at this time and with what I can see, I am not prepared to put $16.8 million as an open check into Cayman Airways. I have heard in debates as to how Cayman Airways could not have foreseen many of the problems which arose. I would like to just quote from one of the Executive Council Members, from the 10th of August, 1989, at a public meeting in which he said: "I have seen where Mr. Truman Bodden wondered whether the company had thrown away $14 to $16 million. Obviously, ladies and gentlemen, he has not understood one single word of the information that has been published including what he published. You know, ladies and gentlemen, there are none so deaf as those who refuse to hear.". I stand here today with a very eerie feeling that three years ago, nearly to this day, I was battered about for predicting that the airline, if they went through with the purchase of the 737-400s, would be throwing away $14 to $16 million.

Today we are looking at a loan of $16.8 million. The reason why I have brought this out is, clearly, that I believe if the proper steps had been taken, and taken early enough, we would not have had what I call a national financial disaster on our hands, because the nation will pay for the $16.8 million. I believe that to understand the position it is necessary to see where the problems have arisen and I will be suggesting what I see personally as solutions to these problems, accepting the fact that I do not have all the information that I may need in relation to parts of these. The reasons, and I should point out as the Member for Tourism quite rightly has said, the substantial losses in the last two and half years have been the most major. In

fact, I will show that the losses which occurred in the accounts ending in June 1990 and June 1991, the two years were actually more than the previous 16 years of the company's existence.

I am going to show that one of the main problems Cayman Airways has, has been the changing of the jets to the 737-400s and the subsequent expansion that has taken place against the reports which were given by the experts in relation to expansion, both of the number of jets and the different cities that it now runs. The reasons for change back in 1989, when the 727-200s were sold and the 737-400s were leased, were basically that D-checks and engine checks would have to be made on the 727-200s. This varied in estimates between $6 million and $9 million in total. That is correct, I have no problem with those figures. Also, the engines were old and too noisy and they would breach the noise regulations in the United States. Another reason that was given was the higher fuel and higher maintenance cost and landing fees by the 727-200s. Another reason that was given was that Government would not have to guarantee the leases of the 737-400s.

I must point out here that the changing of the jets is only one of the main areas that has created this horrendous debt. In relation to this, the sale that was made on the 727-200s, I believe that aspect of the transaction was good at the time and the money's worth that was received was reasonable. The problem arose not too much with the sale of the jets then, but the decision of the Board of Directors, as I understood it, and the Executive Council in the leasing of the 737-400s and the subsequent changes that have followed.

To deal firstly with the reasons put up in relation to the 727-200s - if $6 to $9 million had been spent on D-checks and engine maintenance it would have increased the value of the asset. The value of those jets would have increased by that amount. It would not have been lost because those were under capital leases and, as we know (and I will deal with that in detail), Cayman Airways received US$12.5 million for them and the Government received a further US$5.2 million which were the proceeds of the sale of the BAC-111s which were in a different company.

At present, and the Member for Tourism answered this in a question, we are doing the D-checks and the maintenance of the engines by the provision of a sum per hour on the jets that we now lease. The 737-400s specifically, I think were in the area of US$255 an hour. While we would not do the D-checks and the maintenance on jets, which we de-facto owned, now we are doing D-checks, or paying I should say, even though we do not do them. We are paying for D-checks, we are paying for maintenance on jets which we only lease. Money that is gone forever. The lease payments and the amount paid on the D-checks we are doing for foreign owners of jets, which we refused to do on our own.

In relation to the noisy engines, the 737-400 is obviously, as they put it, a state-of-the-art jet. It is probably one of the best jets and most up-to-date jets that flies. The problem did not come out of that area. But today we have been forced to go to 737-200s, some of which are older than the 727-200s that were sold. I think at the time one was maybe nine years old, and the other one 10 or 11 years old. The engines are older on some of them than on the 727-200s. Where we had JTD-Dash 17 and Dash 15 engines on the 727-200s (quite new engines in fact), we are dealing I understand with some of the engines on the 737-200s which are now Dash 9. It is much noisier and burns more fuel and this has been an impact beyond the -400s on the finances of Cayman Airways. I understand that the noise regulations that were put up as a reason for selling the jets, the 727-200s, will probably not affect even the older 737-200s we have until nearer to the year 2000.

It is correct that there was higher fuel and higher maintenance costs and landing fees on the 727-200s than on the 737-400s. When you realise there was in excess of $5 million difference in lease payments, I will show from the accounts that this sum far exceeded the savings on these factors.

Today the experts recommend that we fly the 737-200s which have exactly the same problems and some of them more serious problems from the point of noise regulations in the U.S. and fuel burn than we had on the 727-200s at that time. Basically the 737-200 is a shortened version of the 727-200. It carries about a third less passengers, has one less engine - to put it in simple words - it is basically a shortened or sawed-off version of the 727-200 that carried 160+ passengers.

It is correct that it was not necessary to put a guarantee on either the 737-400s or the 737-200s, we now have the lease payments by Government, whereas there was a guarantee on the 727-200s. The difference is very simple. We were, in effect, buying the 727-200s, we are purely leasing all jets that we now have. It is like going to a bank and asking for money to buy a house. If you put it in a company they are going to ask you to guarantee it. If you go to the bank and say I want a much less amount to pay my monthly rental, you do not have to guarantee it. In any event, I want to set the position clear on that. When the 727-200s were sold, the guarantee as at December 1, 1990, which was a bit after, was $9,279,000.00. The maximum it ever was $14 million. It never, and could never, have exceeded $14 million.

We know that they were sold for $12.5 million with a further $5 million released to Government, and I will explain why that went to Government rather than Cayman Airways at a later stage. I do not believe that Cayman Airways' problems arose either from the use of the 727-200s or from the sale of them. As I said earlier, I feel they got a reasonable price. I have no fault with the type of aircraft. The 737-400, as I said it is a very good aircraft. I believe that the statement by the Managing Director for the time, Mr. Cruickshank, when one of the 727-200s left, that "there goes half of Cayman Airways' problems", was surely, in retrospect, a joke. The accounts clearly show that there was nowhere near the sort of operational problem with them for the several years they were here as there have been since that time of the sale.

What is significant is that in 1996, we could have actually owned the 727-200s and if the stage came where things got to be a problem, such as during the crisis in the Gulf, because the payments were so low, the hours put on them could have been vastly reduced and/or one could have been parked part of the time. We were paying low lease payments as against high lease payments, as we have at present.

A lot was said back in August of 1989, and I would like to refresh

the memory of this House with some very brief statements as to the position at that time. On the 4th of August, 1989, the *Caymanian Compass* carried a headline which I will come to, and it said this: "'I support what has been done with Cayman Airways', Captain Mabry said. 'I supported it in Finance Committee. It's a move in the right direction [and these are very important words] it's the best financial position Cayman Airways has ever been in', he said of the cash generated by the lease arrangements with Alaska Airlines for the two 727s. It was headed,'Country before self' says Capt. Mabry.'".

In relation to this also, on the 11th of August, there is a statement on page one of the *Caymanian Compass* by the Member for Communications, Works and Natural Resources and, basically, I will read from this. "He said he would advise the 'lawyers and others on the Opposition Bench who are putting themselves out to be financial experts not to mislead their people. If they do not understand the details of the arrangements entered into by Cayman Airways then they should say so or at least keep quite, but to deliberately tell the deal is a bad one when an analysis of the terms show otherwise, is less than honest and it is not fair to you, the people.' He said there was really no issue but just a 'power hungry bunch of power politicians out to grab power...'".

The understanding of the changes that I feel are unnecessary have to be looked at in the light of where Cayman Airways has come from. This has been dealt with by the Member for Tourism and, therefore, where I believe it should go, and how it should go about achieving that.

To put beyond doubt that the full Executive Council, not just the Member for Tourism but the other three Elected Members of Executive Council, was fully behind this move the Member for Tourism on the 30th of August, 1991, said in the same *Caymanian Compass* Newspaper: "I thank my people on the Executive Council who believed in the recommendation and gave it their help and support.". The position in relation to what surrounded the controversy, and Government Motion 3/90, at the time in 1989 is perhaps one that I realised then this country would probably never forget. But I realise now that the country is going to pay for and is going to pay for dearly.

MADAM SPEAKER: The House at this time will suspend until 2:30.

AT 12:57 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:35 P.M.

MADAM SPEAKER: Please be seated. The Third Elected Member for George Town, continuing the debate.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I did mention before the break that I thought that the Member for Tourism may have said that the money was going to be loaned to Cayman Airways. I found out what I said was not correct. In effect, the loan is going to be under the Bill to the Government. What he said was correct in that respect. It is going to actually go into capitalising it, and I apologise for that.

I would like to point out that in relation to the changes that were made, which I will go into the reports on, I believe that where the wrong decisions were made were at the Executive Council level and the Board level. As I said before, I think a lot of the technical decisions made by the Committee with the pilots on it, were decisions that were good. It is a good aircraft, it is technically good and the problem came when a decision had to be made on the cash position with the airlines, and that was made at a high level at Executive Council and the Board.

I would like now to go on to deal with one of the main reasons, as far as the finance goes, why the 737-400 was chosen. This does not involve the technical side of it now. It was stated in the *Caymanian Compass* on Friday, 11 August, 1989. This was a statement made by the Member for Communication and Works when he said words to this effect: "He said the good reasons why CAL should consider leasing the 737-400"... was among other things (and I am quoting here) "the fact it was highly recommended to Cayman Airways in the report prepared by Swissair in 1985.".

A similar statement was made by Mr. Neil Cruickshank, Chairman of the Board, on the 4th of August 1989 in the *Compass* (page 2) when he also said: "After due consideration and based on ALL the facts and figures presented, including previous studies done by independent groups, including Swissair, the Board recommended that we sub-lease the 727 fleet and lease the new B737s in their place.". The last statement on this to show this was a fact at the time that the most important basis was the Swissair Group Report, was stated once again by the Member for Communication and Works on the 10th of August, 1989 when he said and I quote: "The most important point though about this aircraft is that it was recommended by the Swissair Group that came to Cayman to conduct a study to determine which was the best aircraft for the Cayman Islands.".

I would like to now go into the Swissair Report. This was a report conducted in 1985, by Swissair. March 1985, was the date of the report, shortly after the then new Government came in. It is correct that throughout they refer to the pros and cons between the 727 and the 737, but it is a fact that they never recommended the 737-400. That is borne out on Annex B of the Report on the Direct Operating Cost under the heading 'Aircraft', and the comparative study was done between the 727-200 with the JT8D-15 engines, which is one of the type we had then. I think the other one was the 737-217 with JT8D-17 engines.

What they recommended was the 737-200 as the alternative to the 727-200 and the other one was the DC9/82 which was an aircraft similar to the 737-200. This is very important because, as I mentioned earlier, I will show that the wrong decisions were taken at the Executive Council level and the Board level, not on the different committees involving Cayman Airways' staff or Cayman Airways' pilots,

whatever, which dealt a lot with the technical side mainly.

The basis, and as the Member for Communications and Works said it was a most important aspect, was that someone, including the Member for Communication and Works, either did not fully read this report or misunderstood it because the statement that was made was totally incorrect. In fact the 737-400s were not even being built and flown at the time. The Member for Tourism, sometime further on in a statement he issued, dealt with the matter clearly. This was sometime afterwards, and I am just dealing with statements by the Chairman and by the Member for Communication and Works.

If this report had been properly read then the conclusion that we are at now with Cayman Airways (that it would be better to operate 737-200s), could have been taken then. What is significant in this is that the Chairman at the time, Mr. Vassel Johnson, was then a Member of Executive Council and he decided not to follow the report, for whatever reason, at that stage. The subsequent Chairman, whom I think did an extremely good job, Mr. Arthur Hunter, also dealt with this report and, for whatever reasons, he did not decide to change the aircraft either.

It is really four years after the report that we find the Chairman and the Member for Communications and Works basing the decision to purchase the 737-400s wrongly on the Swissair Report. I pointed this out subsequently (not just now), and at the time people seemed to have taken me lightly, as they seem to have done throughout. The comparison brought out clearly that if there are falling numbers of passengers you are better off with a smaller aircraft, less engines and, therefore, lower fuel.

I will go on to develop what I think was another problem. When we took too many points there were substantially the same number of passengers being spread over more aircraft coming from different areas, therefore the need for the smaller aircraft that subsequently came about. In fact, Swissair pointed out at page 4: "A decisive fact in this decision is under what conditions the present 727 lease could be terminated and a contract for another aircraft type could be negotiated. Our calculations are based on the lease price (as supplied by KX [Cayman Airways] Management) for the 737, about 9 per cent higher than the actual 727 lease price.". Obviously, I support the recommendation in this report. It has now come to pass. I believe that, unfortunately, a lot of emphasis was put on this and it was either not understood or it was misinterpreted somewhere along the line.

I would like to go on now to deal with one of the five books of reports that were produced, and I will be dealing first with the "Simat, Helliesen & Eichner Incorporated (SH&E) Financial Feasibility, Subsidy, Route Value, and Future Development of Cayman Airways", because I submit that there are portions of this that are very important as recommendations that should be followed, and that I would like to see the Member for Tourism include in the package that he is proposing.

At page 3, and I am merely going through the report here to deal with a wide range of things which I will come back to and deal with from my own point of view. They said, referring to the subsidy side:

> "2.0 SUMMARY AND CONCLUSIONS
>
> Based on its own evaluations as well as a review of consultant ASI's work, [which is the Irish Airline's report] SH&E believes that absent partnerships, CAL will never have sustained periods of profitability. However, it should be successful in reducing annual losses to $2-3 million.
>
> When adjusted for growth and/or inflation, the annual subsidy would grow from $1.25 million to $1.7 - $1.9 million. Adjusting for both growth and inflation would result in a subsidy of between $2.0 million and $2.6 million.".

That is clearly something the country can afford. I think it is clearly a part of their conclusion that was not achieved because certain things were not done. They stated also at page 4: "Status quo is an unacceptable option. Downsized survival is possible, but unattractive particularly for tourism interests. A three-aircraft rationalized fleet (and eventually four aircraft) is sensible.". They go on to elaborate saying it becomes sensible after consolidation if Government is prepared to take the heavier losses.

At page 7 of SH&E's report we find a paragraph which says this: "CAL's estimated FY [financial year] 1991 net losses are $7.9 million excluding subsidy. This corresponds to an extremely high 19.5% of pre-subsidy revenue. To frame the magnitude of this loss, consider that for an airline the size of Pan Am, a loss margin of 10% (one-half of CAL's loss margin) would result in an approximately $350 million loss. Another way of looking at CAL's projected FY1991 loss is to portray it as $22,000 per day or over $20 per passenger.". We know that with the GPA the loss in that year doubled to $14.2 million. They obviously by using that were very alarmed by the loss that was projected.

At page 12 of SH&E's Report they said this: "Another measure of subsidy is how much CAL needs to break-even. In FY1991, this was $7.9 million. In FY1990, this was $2.9 million. These numbers need to be adjusted to reflect the result of current market conditions and to weed out reasonably avoidable inefficiencies. SH&E estimates that this would result in an annual subsidy need of $2-3 million. Based on these factors, SH&E recommends an annual subsidy of $2.5 million plus or minus $.5 million.".

I have no problem with a subsidy of that size. The problem we have, as I will show at a later stage, is that the losses in the financial year ending June 1991, together with the GPA settlement, reached some $14.2 million. They went on in this to deal with other aspects and they set out the different principal options that were open to Cayman Airways and they said as follows:

> "6.2 Principal Options

Principal options include:

- status quo
- down-sized survival mode
- three aircraft rationalized fleet
- four aircraft rationalized fleet
- non-equity partnership
- partial privatisation
- full privatisation.".

They went on to say that: "A down-sized survival mode involves elimination of one -400 with -200 and -300 aircraft while maintaining existing routes. A four-aircraft fleet will permit expansion of tourism benefits, new routes (probably Chicago and Ft. Lauderdale), but will also result in increased losses.". This is very important. They warned that increasing the fleet to four would result in increased losses. They went on to say at page 19: "The status quo is an unacceptable option. There is no reason why CAL has to lose as much money as it is. Therefore, this option should be discarded.". (They did go on to state the problems of a down-sized survival mode and they said this and the Member for Tourism correctly read that). "A down-sized survival mode could be successful.".
(here they are talking about reducing from three aircraft to two aircraft, because we have to remember when this was done Cayman Airways only had three aircraft)

"However, few airlines have been successful when downsizing. The principal problems relate to the minimum level of overhead necessary to support any airline no matter what size it is (e.g., managing director, head of maintenance, accounting department, etc.). In addition, when down-sizing, airlines usually lose revenue before they are able to reduce expenses." Here is the important part at page 20: "A three-aircraft rationalized fleet (including other SH&E/ASI recommendations) is a sensible option that should permit stabilization of CAL. However, it will not capture the benefits of aircraft ownership or feed and will leave CAL as a small entity without the support of an influential partner. A four-aircraft rationalized operation may eventually make sense. However, it would probably result in increased losses and should not be attempted until the airline is stabilized.".

That is their recommendation. That recommendation is one that Cayman Airways has not followed and I will show that it has created the biggest loss of any of the recommendations in this that have not been followed. The unfortunate thing about this is that the staff has suffered, their salaries have been frozen, their salaries have been cut, they have done this, they have done that, and the problem cannot go away with reducing staff salaries. The problem cannot go away with small cuts because of the size of the losses by having an aircraft fleet that is too large as recommended by the experts.

Lastly, at page 20 the experts recommended: "Based on the above, SH&E recommends that CAL pursue fleet rationalization (initially at a three-aircraft level).". In another one of their reports it will be seen that they said that a fleet of three aircraft of 737-200s or one -300 was what was ideal for Cayman Airways. I therefore submit that, based on the reports of the experts, Cayman Airways should not have expanded its fleet to four aircraft, and by the looks of it there is a fifth one floating around somewhere out there being repaired, which I understand goes back. If it had remained at three aircraft and tried to get the three smaller aircraft, then we would not now be faced with what in two years is in effect about a $20 million loss when you take into account the GPA settlement.

There is obviously, in my view, and I believe the Member for Tourism in replying will probably deal with this, I would say, because I share blame with Executive Council and the Member for Tourism in this, in our efforts to put Cayman Airways at arm's length from politicians we lost sight of the fact that the Board of Cayman Airways does not answer to the public when it spends its funds. Most companies which have Directors normally have their major shareholders as Directors. Therefore, when money is spent, or wasted, it is their money that is being wasted. This check and balance we do not have at present in Cayman Airways. I support it and I must admit that I felt that a period of having Cayman Airways with a Board that was going to make decisions on a purely economic basis should have been good. I will show that actually, in two of the three years that we have accounts (the 1990 and 1991 accounts), with this independence the Board took decisions which lost this country about $US20 million, which was more than all of the years of Cayman Airways prior to that put together.

I do not know what role was played by Executive Council in breaking this recommendation by SH&E, but this is where the problem has come in. When I deal with routes I will show that the Board's view that they were ready to take on the big boys, the bigger airlines, was the wrong basis upon which to proceed with Cayman Airways.

I would like now to go on to deal with some areas that relate to this. I would like to move on to just one area of the accounts that will bear out what the experts said about expanding routes and expanding the number of jets creating further losses, which has come to pass. From the Audited Accounts we find that CAL's revenue moved from $23.2 million in 1984, through the years up to 1991 as follows: $28.9 million; 1987 - $32.9 million; 1988 - $36 million; 1989 - $40 million; 1990 - $40 million; 1991 - $41 million. What has increased excessively and totally out of proportion with the revenue has been Cayman Airways operating revenue, that is the payment for the jets making up the main part of the flying or the operation side.

In 1984 this moved down and stayed substantially at about $8 or $9 million, dropping in 1989 to $8.7 million. This was when we still had the 727-200s. In 1990 it moved to $13.6 million, and in 1991 it moved to $17.3 million. There lies, in my view, Cayman Airways' major, major problem. The answer for this is found in the 1990 Audited Accounts at footnote 12. It will be shown that the increase was

substantially from 1990 to 1991, and we have to appreciate this is from June 1989, to June 1990, which had partly the 727s but also partly the 737-400s. It went from $8 million in 1989, to $13.6 million in 1990, to $17.3 million in 1991. Auditors only footnote significant matters, and at page 10 paragraph 12 of the 30th of June 1990 Audited Reports, it said this:

> " 12. Flying Operations
>
> Flying Operations for the year ended 30 June 1990 include an amount of $5,093,000 (1989 NIL) in respect of the rental payment expense relating to the operating leases on the new 737's. There was no comparable expense in the preceding year since the leases on the 727's were accounted for as capital leases with the resultant expense items being depreciation of flight equipment under capital leases and interest on capital lease obligations.". *(Cayman Airways - Annual Report 30 June 1990, p.10)*

The net loss for the year 1990 was $2,617,570. In the footnote, once again, deducted from the $12.5 million proceeds was $3,254,059 which the auditors subsequently restated (as being so important) in the accounts under restatement of a balance sheet. Obviously this is a serious matter to them and was, for [in the Footnotes to Financial Statements 30 June 1990 p. 10] the "Write down of the Shorts SD3-30 of $773,288"; "Costs associated with the introduction of the 737-400s $1,473,596", and "Cost of inauguration of the New York route of $1,007,175" - $5.871 million.

We know that the difference between the cost of the 727-200s, which had annual leases of about $2.2 million, and the 737-400 leases, which were approximately $7.3 million, was approximately $5 million. So there is no way that the savings in fuel, the savings in landing fees, and whatever, could off-set the cost of the leases that Cayman Airways had taken on. Therefore, it is my view that the problems that Cayman Airways now has are shown, through the accounts, to be directly related mainly to the leasing of the 737-400 jets and the cost of the New York route, several million dollars were spent on that, at least $1 million in that year and I think some of it in other years. We had the revenue remaining static which means substantially the same amount of people were being carried on jets the size of the old 727-200s from more points over longer miles for the same revenue.

Regardless of what may be said, the financial decision, not the technical one, to change to the 737-400s was bad. I know that SH&E in their report has tried to cover as best they could (and I will go back to that) by saying it was right at the time, even though it was wrong shortly after. I submit that a decision that is wrong shortly after is not a good decision even if it was right at the time. It is a bad decision. And, as I pointed out, if I could figure out that the losses could reach $14 to $16 million by my method of calculation I cannot understand why everybody else looked at this as a sweetheart deal, a good deal, or whatever it has been referred to.

After deregulation the airline business has become the most volatile that exists and no-one in their right financial mind is going to go into long purely lease arrangements of very expensive aircraft over 12 or 14 years. It is hard to run the airlines except on the basis of short-term commitments. People may ask, "why did we take a decision to purchase the 727-200s at the time we did?" Airlines were failing all over the place and I will deal with that later on.

We bought aircraft from Air Florida, which had gone bankrupt at the time, and we got an extremely good deal. We ultimately saw that the country got back $12.5 million to Cayman Airways and $5.2 million to Government because of Cayman Airways' holdings which held the aircraft and which were paid for at the time they were sold. They were owned aircraft. We owned all aircraft that were run during the first eight years that I was involved with Cayman Airways. But the market changed and no longer was there regulation in the market.

We know that the only time in the history of the airline that it was in a good cash position was when the $12.5 million was received. In answer to a question that was asked in this House, and answered by letter, the Portfolio of Tourism said, and this was borne out in the newspapers by public statements: "As of June 30, 1990, Cayman Airways does not appear to be bankrupt. On the contrary, for the first time in recent history it shows a net worth in excess of approximately CI$2.9 million.". (which is approximately US$3.5 million). So Captain Mabry's statement that the airline was in a good position after the sale of the 727s is correct. The problem arose because Cayman Airways took a bad decision along with all the members of Executive Council, to lease and it was a straight lease of the new 737-400s.

What I cannot understand is how the situation could have deteriorated between June 30, 1990, to the stage that it has now reached. I know that at an early stage Management, and I believe the Board, realised they had made a mistake with the leasing of the 737-400s, back as far as early in 1990. Why not at that time take a decision to get out then, rather than $20 million further down the line? I do not know the reason. It could well be that the decision to separate Government from the Board went too far and something like this should have been arrested by Executive Council and stopped at least a year and a half, to two years before it was stopped.

I would now like to show one other aspect, and I have a copy of this for the Member. I do not mind laying this on the Table because it is a lot of figures relating to what I have extracted from the accounts, and I will give the Member a copy of this because if anything I say, as I am dealing with a lot of figures, is incorrect, I am prepared to correct it. I am big enough to deal with this. What this shows is, firstly, the trading profit or deficit, the second column shows the net profit or deficit, the third column shows the payments on the 727-200s and the last column shows the net position before payment on the 727-200 jets. Because of it I would just, perhaps, lay a copy on the Table that Members could have a copy.

I only have Cayman Airways' accounts back to 1983 at present with me, it shows in 1984 there was a trading deficit of $313,000 and a net deficit of $2.4 million but there was a payment of $1.79 million on the 727s which left, after that payment, a net position of $640,000. The important parts begin to arise from here on. Under the trading profit from 1985, Cayman Airways' Accounts went into a trading profit, very small, but in 1985, $461,000; 1986, $818,000; 1987, $859,000; 1988, $731,000; 1989, $2,723,000; and then in 1990 it went into a trading loss of $1.9 million, and in 1991 a trading loss of $8,088,000.

So that during these years since 1984, by and large, Cayman Airways showed a trading deficit. It paid on average between $1.5 million to $1.7 million a year in payments, what I would refer to as technically, on the purchase of the 727-200s. When that was taken out in most of the years a net position exclusive of assets, because these were jets that were being lease-purchased under capital lease, it showed a net profit position.

From 1984 to 1989, which would have been six years, payments made on the 727s were $9.78 million. There was a trading profit of $5.59 million. So Cayman Airways, as I will go on to show was, as the Member for Tourism and as all Members pointed out, after the sale of the 727-200 jets, was in a good position. In 1990, when we take the net deficit of $2.6 million, add to it the extraordinary expenses on the introduction of the new jets, inauguration of the New York route and right down to the Shorts we have a $5.8 million loss and, in 1991, we have a loss of $8 million, and including the GPA settlement was $14,310,000.00. When this is added together it brings us to the stage where in two years, 1990 and 1991, the financial years, Cayman Airways lost $20,181,685.00 compared to the previous 16 or 17 years of an accumulated loss of $19.7 million. That is frightening. My submission is that it should have been stopped long before it got to this stage. If a bad decision was made it must be corrected and corrected early.

I would like to deal with one other aspect to this, and it relates to what was referred to by the Member for Tourism, and was found in a question which he answered in the House this time. It was this: "The amount of funds provided by Government to Cayman Airways Limited from 1968 to the end of May 1990 - 1992 are as follows.". Those funds work out to subsidies and what is shown as equity, of which, I think in fairness $3.5 million was at that time a loan, and it was subsequently turned into equity of approximately $14 million of cash which is loans, equity and everything that Cayman Airways has received from Government down to the end of 1984. However, between 1986 and 1992 we put, and I say 'we' because part of this time I voted for these subsidies, we put in 1986 $2.5 million; 1987 all the way down to 1991 $1,050,000 each year; and in 1992 with what has been approved we know has been $4 million this year which works out, when we add the $12.5 million received for the sale of the jets, to approximately $24,950,000 that has been put in this short time.

For the years 1968 to 1984 from the formation of it, the 16 years before, approximately $14 million in cash was put in Cayman Airways, and from 1985 to 1992 - $24,950,000. We are now asked for the equivalent of $US20 million which will bring this up to $44,950,074. That is an amount, with the losses, that I feel has to be corrected. With the $20 million, we will have injected US$44.9 million into Cayman Airways between 1986 and now. These figures I am taking from the figures given by the Member for Tourism. At some stage we have to come to grips with this problem. I honestly believe that one of the things that has to happen is that we have to go back to the original concept of Cayman Airways, which I will deal with under the Mission Statement that the Member has issued, and get back to a stage where we have a rationalised smaller fleet of jets that is making a much smaller loss in the competitive market that we now find ourselves in.

MADAM SPEAKER: Would you take a suspension at this time? Proceedings will be suspended for 15 minutes.

AT 3:30 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 3:53 P.M.

MADAM SPEAKER: Please be seated. The Third Elected Member for George Town, continuing.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I would now like to go on to deal with another one of the reports, quite a very bulky report, but I only have a few areas of reference to it. It is SH&E's Report on the Economic Contribution of Cayman Airways to the Cayman Islands Development.

This deals in considerable depth, and I must say it has more graphs, pie-charts and information than I think I have ever seen in any report other than another large one here. It attempts to put an amount on Cayman Airways' contribution to the Cayman Islands development, mainly in the area of tourism, but also it quantifies it in relation to other areas such as employment and the indirect contributions that follow from tourists coming to the Island.

Cayman Airways, and I point out here that what I have been saying is that I want to see Cayman Airways continue even though the scenarios they are putting relate to the position if Cayman Airways was not flying at all. What I am referring to is a somewhat smaller Cayman Airways, probably one less jet. At no stage have I referred to Cayman Airways not operating. This says at page 17: "SH&E has forecast a decline of 27-30 thousand annual visitors in the absence of CAL. This represents a decline of 12.2-13.5% in visitors.". We are looking at a situation where Cayman Airways' contribution, over-all - and this is not the amount of passengers it brings to the Islands, I need to point that out - is 12.2-13.5% of the overall visitors that they feel would not come if Cayman Airways did not fly. The justification on that is set out and they have quantified and used several methods by which to reach the different amounts that they have come to.

At page 19 we find that, and I am reading from this: "Combining

the above figures results in an estimated visitor spending level attributable to CAL of $21-23 million per annum." Further down it deals with CAL's local expenditures. "CAL spends in excess of $40 million annually. Much of that is overseas; and some of the Cayman Islands expenditures is in US dollars (e.g. fuel). However, as noted following, CAL has approximately $10 million per annum of CI $ expenditures. This is very high quality expenditures as half is for salaries and a large portion of the remainder is for the salaries of other local companies." As shown in Table 4.22, CAL's local expenditures in Cayman dollars have an incremental benefit to the Cayman Islands of approximately $8.5 million.".

This is obviously significant and has to be weighed against the cost of subsidising CAL. The table that sets this out is Table 4.20 and it shows an average per diem expenditure in US dollars of $130 per day and CAL-attributable visitor spending of $21-23 million, as I mentioned earlier. I agree with the Member for Tourism that this airline, Cayman Airways, is important to tourism and that its importance as to its present size, has to be weighed against the losses that it incurs annually.

I believe that with what I will be suggesting, Cayman Airways will continue to contribute to tourism. It will continue to reduce down its losses and the overall effect on tourism will only be minimal and it basically will deal with a concept that I will like to develop later on in that I believe Cayman Airways' role should not be one of a competitive airline fighting the larger airlines, but a different role of a support airline to keep tourism moving while minimising its losses.

The next one that I would like to go to is, once again, a very thick booklet and it is SH&Es report on "Cayman Airways Routes and Aircraft", dated August 9th, 1991. In this we have a wealth of information, most of it given by Cayman Airways but collected by them or given by Government. It shows immediately before the report the numbers in money, passengers, load-factor of Cayman Airways at the time. What is significant here is the amount of revenue that each route brings in compared to the profit or losses that each route generates. Over this there is a further factor that the Member for Tourism has mentioned and that is that we have to look at the amount that stopping a route would detract from the routes contribution before taking out the direct expenses.

At that time we had Miami, which was showing revenue of $16.8 million; Houston - $3.3 million; Kingston - $3.7 million; Tampa $1.8 million; Atlanta $1.6 million; New York $4.3 million; Cayman Brac $1.2 million. The load factors throughout, with the exception of Atlanta and New York, were substantially between the high 50s to the early 60s which, as I understand, the break-even load factor has to be somewhere in the area of 55 to 60 per cent for Cayman Airways.

As we go on we find that the indicators for profit for July to December 1990, and I believe, in fairness, taking half a year when you have cycles is not as true a forecast as taking the full year because it is cyclical. In fact, this period July to December is the least profitable half of the year. So that has to be taken into account in what I am reading from here.

At that time the net profit or loss of revenue we had on these routes was as follows: (this is coming from Table 4.5) "Kingston, Jamaica was showing a profit of $463,072, 14 per cent of revenue; Tampa was showing a loss of ($291,996) which was -24.7 per cent loss; Atlanta ($525,029) which was a -57.8 per cent loss; Miami ($545,940) a -5.5 percent loss; Houston ($606,956) a -29.9 per cent loss and New York was ($1.436,755) or a loss of -75.3 per cent..." on the route. At this time all routes in the United States according to this chart were showing losses with New York showing a horrendous loss of 75 per cent of the total revenue on that route, followed next in dollars by Houston and Atlanta.

What is important, and this is why the Miami/Cayman, Cayman/Miami route is so important, is that despite having the bulk of the revenue as I mentioned of some $16.8 million and being by far the largest route, the loss percentage was very small, a half million dollars and only about 5.5 per cent of the overall revenue.

Another chart shows the break-even gap and I do not intend to go into that, but obviously on the routes such as New York fares would have to be increased very substantially to break-even when its loss is 75 per cent of the revenue coming in. When this report was written, obviously most, or all, of the routes were just about in place at the time. At page 22 the consultants, SH&E, said this:

> "There are few if any additional routes that CAL could fly in the next four years that would provide additional profits. Nonetheless, CAL should examine new route possibilities for several reasons:
>
> - it may be forced to accept additional aircraft;" (which we know it had to do).

A lot of the information in the Tables comes out in very short sentences in the report, and at page 40 we find these statements which I think have some importance on this. I am quoting from this: "Another way of looking at the question is to ask how many passengers could be lost before the cost savings of the -200 are fully lost. Table 5.15 demonstrates that CAL could lose as many as 19 passengers a flight. This is a very large number which represents 21% of CAL's average load.". They go on to set out the fact that a refurbished 737-200 would not affect the US market very much and that since the Caymanian people flying it are substantially low compared to the number of North Americans flying it, the impact of losing a lot of the local market would be very little.

But they go on to say this: "However, even if some Caymanians avoided CAL, there would be little damage to CAL's economics. Forecast displaced passengers represent a very high 40% of resident passengers (28% after load balancing). In fact, CAL could lose 95% of its passengers before fully offsetting the -200's cost savings. However, even with load balancing, CAL would suffer displaced passengers on approximately one-third of its -200 flights. Since CAL is a government-owned airline with a tourism objective, it may desire to choose an additional option consisting of one extra weekend round-trip..." (I am not too certain in the

quote there where that goes).

Moving from page 40 and going to page 32 of the Report, we have these quotes that I feel are relevant. "As shown in Figures 4.29 and 5.10, the -300 and -400 have sufficient range capability to serve all of CAL's current routes. The -200 can serve all of CAL's routes except for New York.". As I understand it the route that is longest and would require a -300 or a -400 aircraft, which are the most expensive - the -400 is more expensive than the -300 even though I think we have a -300 at a very good rate of about $100,000 on short term - the route that requires the longer range of aircraft is only the New York route. This follows on page 35: "The -200 or the -300 are good, acceptable, and close options as the third aircraft in CAL's fleet. Economic risk and reward criteria would slightly favour the 737-200 option.".

At page 38 it continues: "The pros for the -200 are few, but powerful: cost savings./1 Relative to the -400, the -200 has lower lease costs, lower flight attendant costs, lower airport/enroute costs, and lower insurance costs. Even after higher fuel and maintenance expense, the -200 will have considerably lower plane-mile costs and slightly lower seat-mile costs as used in CAL's system.". That statement shows that the question of lower fuel costs, less staff, cockpit, flight attendant costs and airport costs are - in this instance between the fuel efficiency of the 737-400 and the less efficient 737-200 - weighed clearly in favour of the 737-200 which is the aircraft that was recommended in the Swissair Report. At page 42 of this Report SH&E make this recommendation which comes after consideration of the routes, consideration of the aircraft, consideration of fuel factors, staff factors, mainly the direct operating expenses. They said: "Thus, SH&E's recommendation is that CAL remain at its current fleet size (subject to being relieved of current expansion obligations) until the airline has stabilized. At that time, addition of a fourth aircraft is recommended if the Cayman Government concludes that it wishes to risk increased airline subsidies in exchange for projected tourism benefits.".

That recommendation in the route study is one that I think cannot be over-stressed because the experts recommended that Cayman Airways should remain with its then current fleet size of three aircraft, and they must realise that the losses were going to ultimately have to be picked up by the Government in this Honourable House because they point out clearly that after stabilisation of Cayman Airways - which I submit Cayman Airways never even got a chance to stabilise before there was an expansion - the fourth aircraft is recommended only if the Cayman Government concludes that it wishes to risk increased airline subsidies. Nothing in the world could be more clear than that.

What I would be interested in finding out is why in the world the fleet of Cayman Airways has just been expanded? Temporarily, at one stage, there were actually five jets or one chartered jet on rent/lease, when it was made abundantly clear that taking that course was going to involve increased losses and therefore increased subsidies.

At present we know that in reply to a question the Member for Tourism stated that we have the B737-400 leased from ILFC for a 12 year period with monthly payments of $316,000; one 737-200 leased from ILFC until March, 1994, with an option to purchase or extend, with a monthly payment of $100,000. I would be interested to know what age these were and what the price was, but the other B737-200 is leased from ILFC until September 1994, the monthly payment is $75,000, and a 737-300 leased from Air Invest BV, until September 1992, and the monthly payment is $100,000, and one B737-200 is leased from CIT and the lease can be terminated during the first year and 90 days' notice given, and the cost of that aircraft is $105,000. It should be noted that this aircraft is presently not in service and as such is not incurring any cost to Cayman Airways.

I hope that Cayman Airways' Board, or its management, are not (in their wildest dreams) expecting to expand Cayman Airways now to five aircraft against the very clear recommendations to remain at three, and preferably three of the small aircraft. The fact that it is not in service only means that they have to do repairs to it but it is something that is leased and it must be for more than a year because the Member stated that it can be terminated during the first year on giving 90 days' notice.

So once that year is up, presumedly Cayman Airways is locked into a lease for a fifth aircraft. I cannot really see how Cayman Airways got to this stage with leases because at one stage, before the adjournment of the GPA leases (because that is all I can call it - an adjournment - they may come back in two years' time) we would have had seven aircraft which were under some form of lease.

Some of them, I agree, were on the ground. This one is on the ground, we are not paying on this. Some of them that were on the ground we paid on, and I cannot understand that, and this had nothing to do now with the early days of the 727s and the sales or anything else. These are recent things in the last, I guess, year or so that we suddenly found Cayman Airways going into an increase of aircraft to where there does not even seem to be enough points that these five aircraft could run to and be full; not if the number of passengers and the revenue is remaining substantially the same as it was before. Up goes the flying operation costs to $17 million from $8.5 million and this is the reason for it.

While it may be taken that we have that jet on the ground being repaired, who is repairing it? I understand, if I am wrong the Member, I am sure, will correct me, that we have our own people doing the repairs. Are we going to be reimbursed for these amounts? Is time running against us for the year while it sits on the ground to get repairs? The biggest question I have, because I have said many times to the Member, I have said it to the Chairman of the Board, to some members of the Board, and I have said it to the Managing Director, the one thing that cannot be cut short on is ensuring that we have full and absolute safety on all aircraft and perhaps that is why it is grounded. But how could we lease an aircraft that as we get it, it is going to have to sit on the ground? Obviously somebody on this aircraft made a bad decision in entering into it. I see the question does go on that the lease can be extended after the first year for two years at $105,000 a month. So we got it at a lower payment.

Repairs to aircraft do not come cheap, and I must say that the Member for Tourism will have explanations for some of these things. But I really believe that if we take and move

the fleet to five aircraft we are going to continue to sustain losses along the lines of what we have now. While we can hope that more passengers will fly, that we will pull out of the recession (which we ultimately will), that the North American continent will pull out of it. I do not think you can take and lease jets and increase the fleet on that basis. At least these leases are of much shorter term so it gives Cayman Airways flexibility to subsequently reduce its number of aircraft if it does not need them.

If we are now running four aircraft to the same points and we are not filling them, we add the fifth aircraft, we are going to be running five aircraft carrying less passengers per aircraft, unless there is a new route that perhaps I do not know about, or perhaps the Member for Tourism might know about, because it seems to me that the changing of aircraft and the leasing of aircraft in Cayman Airways in the last year or so has become one of musical chairs - one day it is Av Atlantic, the next day it is CIT, there is one from Air Invest. Some of these names are unknown to me and I can only hope, and I say this very clearly, any money that is needed from this House to ensure the safety of aircraft, as far as Truman Bodden goes, you have my vote for it.

I hope there is no cutting of corners in that respect and I do not believe there is. I have no evidence of that. I am just saying this is the one thing that all Members of this House have consistently said that Cayman Airways should be careful of. One other point on the question of routes that I would like to mention is that it seems to me that there has been a lot of competition on the Miami route. The real loser to Cayman Airways is not the Miami route, and it is no better or no worse now than perhaps it was sometime ago in terms of the revenue brought in. But I point out, and I know this would have been urged with the talks in the United States, they are probably flying more miles, flying longer periods for the amount of revenue that is coming in and that is where the competition has come in.

MOMENT OF INTERRUPTION

MADAM SPEAKER: It is now 4:30. I would ask for the adjournment motion..

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10 o'clock tomorrow morning.

MADAM SPEAKER: The question is that this Honourable House do now adjourn until 10 o'clock tomorrow morning. I shall put the question. Those in favour please say Aye...Those against No.

AYES.

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

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., THURSDAY, 23RD JULY, 1992.

THURSDAY
23RD JULY, 1992
10:05 A.M.

MADAM SPEAKER: Prayers by the Honourable First Official Member.

PRAYERS

HON. J. LEMUEL HURLSTON: Let us Pray.

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

Bless our Sovereign Lady Queen Elizabeth, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess of Wales and all the Royal family. Give grace to all who exercise authority in our Commonwealth that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly. The first order for today, Private Member's Motion No. 10/92, the First Elected Member for Bodden Town.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 10/92

GOVERNMENT TEACHER'S COTTAGE IN BODDEN TOWN

MR. ROY BODDEN: Thank you, Madam Speaker. I beg to move Private Member's Motion No. 10/92 entitled Government Teacher's Cottage in Bodden Town, standing in my name, which reads as follows:

WHEREAS Bodden Town has been cited in the most recent census as the fastest growing constituency;

AND WHEREAS there is a glaring need for an improvement in the Government services currently offered in the constituency;

AND WHEREAS some members of the community have expressed their opposition to the divesting of Government properties;

AND WHEREAS the present teacher's cottage while not being used for a residence for teachers could be used to house other public service persons, for example, social workers, which the district urgently needs.

AND WHEREAS as the representatives of the constituency we can see that this property can enhance the future development of this community if it is retained by the Government.

BE IT NOW THEREFORE RESOLVED THAT Government reconsider its intention to sell this valuable and important property;

AND BE IT FURTHER RESOLVED THAT in future developments of this nature Government consults with the relevant representatives prior to offering such properties for sale.

MR. G. HAIG BODDEN: Madam Speaker, I beg to second that Motion.

MADAM SPEAKER: Private Member's Motion No. 10/92 has been duly moved and seconded. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. The question of the dispensing of such properties falls within the domain of the Government. There is no dispute in that fact because that is one of the responsibilities and authorities which the Government has. I contend however, that in situations where incidents like this occur it is a violation of a fundamental principle of representative Government, that these kinds of decisions are taken without the Government having the decency to consult with the representatives of the people. In this case, I realise that this property was up for sale when I passed and saw a 'For Sale' sign on the property.

It was also around that time that I was approached by some of my constituents voicing their objections to the sale of this property, and upon investigation I found to my dismay that the property had been exclusively listed with one Realtor.

Madam Speaker, I raise the concern because there is a need in Bodden Town, as the Motion states, for further development of the Government's infrastructure, especially seeing that in Bodden Town we have the fastest growing residential area in this country. The Teacher's Cottage, as I understand it, is currently on rent which means that the Government is deriving some form of revenue from this rental. Generally speaking, from the road the property is not in a bad state, or any state of disrepair. I believe that it would be an asset to the Government, and a step in the right direction, to retain this property because we have certain needs in the constituency, some of which have been well elicited over the past four years, others of which have been elicited prior to this time. One of the glaring needs which we have, and one in which I see this Teacher's Cottage playing a prominent and important part, is the provision of Social Workers in the district on a residential basis.

There are certain peculiarities. If, as I understand it, the Government is divesting of some properties because they are in a generally dilapidated state, why does the Government not sell the Teacher's Cottage up by the Annex Football Field which is a shame and, as far as dilapidation is concerned, the consummate example. Why are they not selling that one or putting that one up for sale? And I understand that sometimes that particular premises is used as a dispensation point for illegal drugs. Why is that one not also up for sale? Why is that the one in Bodden Town, which is bringing the Government revenue, which is not in a dilapidated state, and which can serve in a viable and growing community, why is that one for sale? Is this another political move?

This whole business violates the fundamental principle of democracy as we know it because, I am saying again, while I respect the Government's right and responsibility, and while I admit it is within the ambits of their authority, common decency would dictate that when they are selling property in a Member's constituency they would at least call the Member and say, "I would like to put you on notice that this is the Government's intention.". How am I, and other representatives, to be able intelligently and honestly to deal with our constituents when we are not aware of these happenings? You mean, I have to learn, like everybody else, read it in the newspaper or see the Realtor's sign? Or hear it on the marl road? I am not challenging the Government's authority to sell the property, I am saying they should have been decent enough to say, "We would like to inform you that this is our plan as regards this property." Then I would be in a position, when my constituents approach me, to tell them, "Yes, the Government has taken this decision based on this, this or this." It is in no way detracting from the power of the Government or from the authority of the Government or from the respect that the Government is due.

Now, I understand that some time in March, during my absence on a Parliamentary Seminar, a decision may have been taken to divest of some Government properties. That is, some properties that I have been made to understand were in a dilapidated state. However, my information did not detail that the property in Bodden Town was specifically mentioned. I was not at that meeting and I learned of its goings on subsequent to my raising this issue. It strikes me also that while my colleague, the Second Elected Member for Bodden Town, was at that meeting he had no specific knowledge of the Teacher's Cottage in Bodden Town being one of those properties that was going to be put up for sale, because in his usual responsible way he would have mentioned it to me. Upon my learning of this decision I asked him and he said that he had no knowledge that the Teacher's Cottage in Bodden Town would be up for sale.

So, Madam Speaker, I am trying to establish a point of serious concern, a fundamental principle that has been breached. I think, while this Motion relates to a specific case, the Motion has principles of general applicability in that it should be a sort of caveat that the Government, in situations like these, should brief the representatives of the various constituencies, not because the Government will have to seek our approval but because it is common decency and decorum in these cases to so do.

Then I have to stress the point that the constituency of Bodden Town is in need of a greater Governmental infrastructure. Our Post Office, for example, needs expansion, our clinic needs expansion, and we have been trying for several other things; a public beach and a launching ramp. But now to dispose of one of the few pieces of property that the Government has in Bodden Town - where it strikes me that the Government should, by virtue of the fact of the growth of this constituency, be seeking to expand its services - is not good logic. That is all I have to say in my introduction.

MADAM SPEAKER: The Honourable Member for Communications and Works.

HON. LINFORD A. PIERSON: Madam Speaker, I rise to give my brief contribution to this Motion and in the process to present Government's position on it. But, Madam Speaker, before going into details

on this Motion, I cannot but express my concern and surprise at the adversarial language and statements and approach from the First Elected Member for Bodden Town, and I have no doubt that this will be carried through by the Second Elected Member - if experience in this House has anything to do with it.

Where is the statesmanly approach that this man usually shouts about in this House? Madam Speaker, We have not seen it here this morning.

MR. ROY BODDEN: *(interjecting)* And you will not see it again, either.

HON. LINFORD A. PIERSON: But, Madam Speaker, we can give as good as we take. I do not want to hear, when I am finished, anybody getting up shouting about vicious attacks on them and preempting what they are going to say, because the reason why sometimes we anticipate and preempt certain Members of this House is because they are transparent - we can see right through them - and the experience of this House proves that their behaviour will not change because the question can be asked, "Can a leopard change his spots?"

The Mover of this Motion is completely out of order. He has used the phrase throughout his presentation of the 'lack of decency' on the part of Government. As usual that Member was carried away with his own rhetoric. I repeat, as I have done before, that he seems to like the sound of his voice. But nobody listening to him is going to believe that the Government is breaching any fundamental right in this House or outside. He is totally out of order. Before dealing with the notes I have made. . . because I had hoped that the Member would have gotten up with a very decent presentation but, no, this is an Election year and it would not have suited him to have gotten up here in a decent manner. He talks about decency, well, I wish he would show it to other Members of this House and show a bit of respect also because we are all working toward the same common goal, and that is to do the very best we can for our people.

If that Member had been so concerned about what happened when he was off in London, he would have checked with his colleague when he got back. Also, I went to that Member and pointed out to him where the Minutes reflected what had happened. The questions that had been asked, which I will go into in more detail, by the Second Elected Member for Bodden Town, his colleague, during his absence. But that had no effect. The purpose of this Motion is exactly what he did this morning, and that is to electioneer. Yes, and as one of his colleagues just said, to pound upon Government. But the listening public is aware of what is going on. Why is it that he is finding it necessary at this point to come forward with certain recommendations for the use of that property, and could not have mentioned it before? He has found my office when he wanted street lights, when he wanted roads, when he wanted other things done in Bodden Town.

The Member, in his presentation, has stated that the major need for this property, even though he admits that it is not being used as a place for a Head Teacher - no Head Teacher is in it, it is being rented to somebody else - that the major need for it is for Social Workers. Yet, I want him to get up when he is replying to me and let me know what other provision he has put in place for Social Workers for his district? Now he is looking for accommodations for them. He is putting the cart before the horse. In the preamble to this Motion the Mover and seconder, that is the First and Second Elected Members for Bodden Town admit and state that the Teacher's Cottage is not being utilised. Now he is saying that it is being rented, and he suggests it be used for other purposes for which no established needs, to my knowledge, except that he is now saying that it could be used as the accommodation for Social Workers who have not yet been appointed. It seems to me that this Member is grabbing at straws. He has not submitted any fundamental proposals for the use of this property. This is just another electioneering strategy of his.

Another part of the Motion, the preamble, states that the property can enhance the future development of the Bodden Town community if retained by Government. Yet, I have not seen or heard, even in his presentation, any specific plans for this particular property. He has not presented to my Portfolio or, as far as I am aware, to any other Member of Executive Council any specific fundamental proposals for that piece of property. If he has I would like him to remind this Honourable House of when, and table the written proposals so that all Members can see them.

Earlier this week, when we were discussing another Motion brought by that Member, the Second Elected Member got up after me and told this House and the listening public that I had lied, I had not told him to withdraw that Motion. Well, I leave that lie to his conscience. In the resolve section of the Motion the Mover and seconder refer to the property in question as valuable and important yet, to date, I have not seen or heard any justification to support the value or major importance of this property to the district of Bodden Town.

In the second resolution to the Motion the First and Second Elected Members for Bodden Town complain that Government fails to consult with them prior to reaching a policy decision to dispose of certain Government properties which, in effect, questions the division of power. Whilst I have no objection to the suggestion by the Mover and seconder, it must be clearly understood that this is not a requirement and Government did not breach any protocol in this matter. Having established those points, I now wish to comment briefly on Government's policy decision taken in disposing of a number of surplus houses. But, before doing so, I would point out that the question of Government's selling off some of its surplus houses was fully aired, as I said earlier, in the March 1992, meeting of Finance Committee following a question raised by the Second Elected Member for Bodden Town, the seconder of this Motion. With your permission, I wish to refer to an extract of the Minutes of that meeting as it is most relevant to this Motion.

In Finance Committee, Mr. Haig Bodden, the seconder of this Motion and Second Elected Member for Bodden Town, asked the question. He said:

> "Madam Chairman, I wanted to ask the Member, [referring to the Honourable First Official Member] if it is correct that the Government has been selling off some of the staff houses rather than

refurbishing them and if this is so, is this being done to strengthen the cash flow position rather than looking at the long term interests of the country?

[Madam Chairman, referred the question to Mr. Hurlston, the First Official Member. His answer was:]

"Madam Chairman, the Government is considering disposing of a number of surplus houses as a result primarily of the decision to get out of the housing business. Under previous contractual arrangements the Government was responsible for assisting in finding housing accommodation for over-seas contracted officers.

That policy has changed and in lieu of housing and gratuities which were previously part of overseas contracts, the Government has now substituted a 15 per cent Contracted Officer's Supplement which is paid monthly with salary and this Contracted Officer's Supplement is used by the contracted officers to find private housing.

That decision resulted therefore, in a number of Government properties being surplused to requirement and where alternate uses have not been proposed, those remaining surplus units will be disposed of in order to not have high, on-going maintenance costs for unoccupied houses which deteriorate very rapidly.". *(Finance Committee Meeting 6th March 1992)*

Madam Speaker, I will pause here. In his statement, the First Official Member, and I will repeat that, invited in that statement any proposals that were deemed necessary or forthcoming. He said: "...in a number of Government properties being surplused to requirement and where alternate uses have not been proposed, those remaining surplus units will be disposed of...". We got no proposal, no alternate proposal, at that point from the Second Elected Member for Bodden Town. Yet, in this meeting of the House, the second to last meeting of this term of Government, we have this Motion coming forward. What is the purpose of this Motion? I do not need to answer that, I am sure the Members of this House and the listening public will know that it is political in nature.

That Member, during the March Sitting of this House, if he had any alternate uses in mind, could have come forward then and told this House. He could have approached me. He could have written to me, because he has written several letters, he and the First Elected Member for Bodden Town, to my Portfolio. Why did he not write at that time, like other people did, suggesting alternate uses for these buildings and not leave it until it has now gone through the process where real estate agents are in the process of selling the building?

I will read a little bit more of what Mr. Haig Bodden, and I refer to Mr. Haig Bodden because I am reading from the Minutes of Finance Committee and that is how it is recorded here, but he is the Second Elected Member for Bodden Town and the seconder of the Motion. He went on: "Madam Chairman, will the Member give the Committee the assurance that Government will seek to get the best value for any property which it sells rather than offering it to their supporters, as has been alleged in the past?".

The First Official Member answered by saying: "Madam Chairman, the decision of the Executive Council was to secure the best value on the open market for any property which Government would intend disposing of. That matter will be handled by the professional heads of departments in the Lands and Survey Department.". That is exactly the procedure that has been followed. This is exactly what we did. The fact that the First Elected Member for Bodden Town was not at that meeting in March is none of our concern in Government. He opted to go on some course in London, which is his privilege. But he cannot expect that the workings of this House can be held up to convenience him. If he was not here, he read the Minutes of Finance Committee, or he should have. Then he should have come back at that stage when he read them and further discussed this matter.

As can be seen from the questions asked by the seconder of this Motion, his main concern at that time was whether Government would sell any of the properties to our supporters, not in securing the Bodden Town Teacher's Cottage for the purpose he now states. Further, he appears to have been satisfied with the answers provided by the Honourable First Official Member. Why the change of heart at this stage?

In that Member's debate, the Second Elected Member for Bodden Town, on the Motion dealing with the Boat Ramp for Bodden Town, he accused me of not showing him the courtesy of asking him to withdraw. I have cleared that already, Madam Speaker. That Member admitted to me that his problem with that particular issue was that I did not reach him and the Mover to discuss it at the same time. But he could not dispute that I had spoken to him about it and I hope that when he gets up to debate this he will admit that I spoke to him about withdrawing that Motion and did not tell a lie, as he accused me of.

In the answers provided by the Honourable First Official Member to the Second Elected Member for Bodden Town in March this year, this Honourable House and the listening public were advised of the reason why Government formulated the policy to dispose of certain surplus houses, and I trust that those reasons and the policies are clear and there is no misunderstanding in why this was done. However, for the benefit of the Honourable Members of this House and the listening public, I will basically reiterate Government's position.

1. The decision to dispose of a number of surplus houses came as a result, primarily, of Government's decision to get out of the housing business.

2. Under previous contractual arrangement Government was responsible for assisting in finding housing accommodation for over-seas contracted officers. The policy has changed. Government has now substituted a 15 per cent Contracted Officer's Supplement paid monthly, with salary, and this supplement is used by contracted officers to find their own private housing.

3. This policy of Government resulted in a number of houses becoming surplus to Government's requirements and where alternative uses have not been established the remaining houses are recommended to be sold.

4. Also a consideration of Government to get out of the housing business, was due to the high-cost of maintaining these houses.

The decision to dispose of certain units came about as a joint effort of the Personnel and Management Department of Government in consultation with the respective client departments. The involvement of my Portfolio came about as a result of the fact that the sale of Government property falls under my Portfolio and this is the reason why I am replying to this Motion. As can be seen from the Minutes of Finance Committee in March it was the First Official Member of Government that answered those questions because Personnel and Management falls under his Portfolio.

The policy decision did not, therefore, come about from either Elected Member of Executive Council, initially. I feel that it is important to make this distinction in view of the question asked by the Second Elected Member of Bodden Town in the March sitting of Finance Committee when he asked the First Official Member, and I quote: "Will the Member give the Finance Committee the assurance that Government will seek to get the best value for any property which it sells rather than offering it to their supporters, as has been alleged in the past?". I do not know whether our corn is being measured by his bushel, but I can assure him that this Government operates on sound principles and this sort of thing does not exist in this Government. The matter of the disposal of these surplus properties is being handled through the Lands and Survey Department which has been authorised to select a real estate firm to secure the best value on the open market for any property disposed of.

The Mover of this Motion alluded to an *exclusive* agent for this sale and, by extension, I got the impression that he was saying that this real estate firm was selected by Government. If that is what he intended to put across, he is totally wrong. The selection was done through the Lands and Survey Department. They handled it exclusively. Neither my Portfolio nor any other Portfolio of Government, had anything to do with the selection, and I would like to make that point abundantly clear. As stated earlier, Government has not yet been given, even in the presentation made by the Mover of this Motion, any valid reasons why its policy to dispose of the properties in question should be altered, especially when one seriously considers the rationale behind this policy decision.

It should also be made clear that the list of houses and properties for sale are basically small areas scattered all around the Island. But, nevertheless, Government has decided on retaining some of these properties for specific uses which have been long established. I should also mention that the Mover and Seconder of this Motion should know that Government (and this was mentioned to them, at least to the seconder of this Motion), that I am the process of investigating the possibility of securing property next to the Bodden Town Post Office for the purpose of expanding that Post Office. So, when they get up in here and try to tell the public that nothing is being done for the Bodden Town district, I am sure that the public knows better.

I wish to reiterate that Government does not consider that any protocol or fundamental right was breached in not consulting with the Bodden Town representatives prior to offering the Bodden Town Teacher's Cottage for sale, especially in view of the fact that the building is no longer used by Government and that no valid alternative need have been established by any Government Department or indeed by the Mover of this Motion. Madam Speaker, the piece of property that we are talking about is known as Block 44(B) Parcel 83. It is a three bedroom house in Bodden Town which is located on a quarter of an acre, .25 of an acre. The valuation that has been placed on this is $65,000.

Even though Government has taken this decision to sell this property, I am sure that even the Mover and seconder of this Motion will recognise that we cannot move that three bedroom house to another district. If it is sold for $65,000 - hopefully, to one of their constituents - they will be able to use this. I am sure that there are no doubt a number of his constituents, like in the case of George Town, that need housing. I would suggest to the Mover and the seconder, that perhaps they should assist one of their constituents who needs this property badly, to secure it. It is primarily because of Government's interest in protecting the assets of Government and ensuring that these are not allowed to unnecessarily deteriorate why Government agreed upon a policy to dispose of those properties including the Bodden Town Teacher's Cottage, which had indeed become surplus to Government's needs.

I have heard mention made of Government disposing of its valuable assets. Well, I would like to make it quite clear, in the event that any other Member decides to try and establish that fact, that when they are trying to make that point that they state categorically the value of this and the loss of this property as an asset to Government. Give us their justification in making such a statement because this property, like many others, had become a liability because of the very high maintenance cost that Government has had to expend on those properties being disposed of. If that had not been the case, then I can assure you that the valuation on that property would have been much more than $65,000.

It should be noted that these properties are available for sale and may well provide much needed accommodation to some families. Already we have had a number of requests

by constituents (I know in George Town this has been the case) that have approached the Lands and Survey Department, even my Portfolio, and I have referred them to the Lands and Survey Department because Government is not involved in the sale of these properties. It is being done, and when I said Government, I want to make it quite clear that I am referring to the Executive Council. We wanted to distance ourselves from the sale of any of these properties to avoid any misunderstanding, similar to the one alluded to by the Second Elected Member for Bodden Town, that Government would be involved in providing any of these properties for supporters. I have had people phone me on this, Madam Speaker, and I have told them that, regretfully, I cannot assist them and I have told them of the procedure that they have to follow.

It is, therefore, against this background, and primarily in view of Government's policy on housing accommodation, why the decision was taken, for quite some time now, to dispose of surplus Government houses. There is no truth that we intentionally disregarded the position of representatives of the Members for Bodden Town. This is not correct. Rarely does the Executive Council, in dealing with any matter that involves any of the districts, go to their representatives first to concur with them or to get their permission as to what should be done.

More than that, if indeed we had breached any fundamental rights or protocol, we could have been told long ago about this, because it was in the March meeting of this Honourable House when that issue first appeared in this House, there was ample time for the Second Elected Member or the Mover of this Motion, the First Elected Member for Bodden Town, to have approached me or any Member of Executive Council requesting that this property be held. But even if it had been done at that stage and Government felt that it was in the best interest of this country and of Government that this property be disposed of, that would have been the decision taken.

As stated, I am not quite sure of the motive for this Motion, especially bearing in mind that it is coming to this House on the eve of an Election. But, regardless of the motive, I feel that this Motion is misplaced, I feel that this Motion is unnecessary. Accordingly, on behalf of the Government I am unable to accept this Motion. Thank you.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, as the Seconder of this Motion, I would like to reinforce the case put forward by the Mover. A case in which he simply stated that there is objection in Bodden Town and from the Bodden Town representatives to the sale of this property. I would further like to add that it is not too late to stop the sale. It is never too late to mend. It is only those who are hell-bent on destruction that cannot stop themselves.

The Member replying for Government tries to make the public believe (that is if they had not listened to the First Member for Bodden Town) that no case was put forward. Why? This building should be retained by Government. The Motion itself sets out reasons why it should be retained. It says, it can enhance the future development of the community, it says it can be used for other public service persons, for example, social workers, which the district urgently needs. So how can the Member get up and try his disappearing act, I would call it, to make unwary people believe that no reasons have been put forward for the preservation of this property?

He also knows that the Youth Services Review, which was done in December 1991, suggested, to quote the title of one section, "To Decentralise the Department of Social Services Based on the Six Legislative Districts", and this alone points out the need for a building in each district in which the social workers would live or work. In fact, the report goes on to say that the implementation, which should have been done in one year, would cost about $10,000 per district, which means that the report did not suggest that Government go out and acquire new properties, but, rather, use existing properties like the Teacher's Cottage which he has now abandoned to the real estate market.

Also, another place in that report which we have referred to by implication in our Motion, suggests that a full time paid administrator and volunteers use existing civic centres and I think even suggested church halls, so that lack of transportation would not hinder youth participation. Naturally, if the workers were going to live in the district, this house would be an ideal starting place. It has been suggested in that report that that side of the social work programme, for which this house in question could have been used, should have been implemented within six months - from December 1991. But the Executive Council, the Elected Members, have no intention of doing anything for the benefit of the youth of this country. They tend to ignore and destroy the implements which could be used for these projects.

I see the sale of this building as Government's attempt to get a little cash - selling off the assets as they did the assets of the airline - to make themselves look good while they are here. Dissipating the assets. The other Member for Bodden Town mentioned that the Teacher's Cottage in George Town, the one by the Annex, is in a far worse state of disrepair and that cottage has not been sold, or is not listed on the market, and he tries to justify the fact that he has singled out a certain real estate agent to handle the business, and wants to believe it was the work of some Department. But, in Bodden Town we have reputable real estate agents in the persons of Mr. Bert Watler, and Mr. Rudy Watler, and if he was going to sell a Bodden Town property, why did he not give these brokers an opportunity to list these Bodden Town properties? And is it not true that Mr. Desmond Seales, will be $6,500 richer when the Member for Communications has sold off this Government asset?

The Member from Government accused the Honourable First Elected Member (and I speak of him as an honourable gentleman) of using an adversarial approach. But I say it takes two to make a quarrel. The Honourable Member for Communications and Works quarrelled with me and I had not yet spoken in this debate. Last week he initiated a quarrel with me, and he renews it again today, just the

same as he went on Island-wide television this week and berated Mr. Attlee Evans because he dared to speak out against the Government. This man is suffering from a serious problem where he is definitely in a fighting mood, and we will say that he viciously attacks us. He does! He continues to viciously attack us before we even speak. He dreams up and he starts his quarrel and he wonders if a leopard can change his spots. He should know by now that it is impossible.

He claims that the Mover was out of order in his presentation. You, Madam Speaker, are the sole judge of whether the Mover is out of order, and never, in my many years here, have I heard a presentation made in such an orderly, concise and polite manner, although he had an adversary of mean temper to deal with. He continues to say that we must show respect. I have told that Member and his other colleagues that is not the way to get respect. You must *earn* respect if you want it. People do not show it to you. You earn it and you get it because "honour and shame from condition rise, act well your part there all honour lies." If he wants respect, work for it. So far he has done a poor job and he cannot find it.

He tries to make the public believe that I was happy for Government to sell off this Bodden Town cottage. I knew nothing about it. Never in my wildest dreams did I believe the Government would carry out such a dastardly act. So it is blatantly untrue for him to say that I was at a meeting in March and knew they were going to sell the Bodden Town property. He claims - and I do not know why he referred to last week's debate because that matter had been closed - but he said I got up after him and told the public that he had lied. What I said in my debate was that he spoke to the First Member for Bodden Town about withdrawing the Motion and ignored me because he knew when he received the Motion that I had seconded the Motion. But, when he made his presentation he put it in such a way that the public would believe that I had been solicited to withdraw the Motion and that solicitation did not come until after he found out that I was not about to withdraw it because he had chosen to ignore the representation from Bodden Town.

He says that we have not shown the value or the importance of the property. Would a person be so silly? Why does he think we have brought the Motion? Is he still in that dream world that he entered Executive Council with four years ago? Certainly, as to the value, I heard him quoting something about $65,000, which must be the price that he has agreed upon with the seller or the buyer. He says it is not a requirement for him to discuss these matters with the representatives. Is this man running a dictatorship? I want to show you, the Members of this House, how this man runs hot and cold all at the same time by referring to the Minutes of that same Finance Committee meeting which he quoted from. On page 14, he was talking about a different matter but dealt with the specific issue of protocol and this is what he had to say. I had made a statement, which I quote:

> "Madam Chairman, I wonder if the Member will meet with the representatives of the districts before he brings this paper [which was a paper regarding roadworks in the districts] because what has been happening recently is that when people approach the Member for Communications he sends them to the district representatives letting them believe that we can fix the roads and he is just trying to shift the blame onto us. He knows full well that we can do nothing, I am tired of these games.".

Hear, the reply of the Honourable Linford A. Pierson, when he propounded his thesis on protocol. He said:

> "Madam Chairman, it is not a game. It is just that, whether the Member is aware of this or not, they are representatives from various districts and he happens to represent Bodden Town. If somebody calls me from Bodden Town on a particular matter I feel it is protocol that they should go through their representatives and this is the only reason why they are referred to their representative, not to play games.". *(Finance Committee, 6th March, 1992)*

Here in March he told us it is protocol for the matter to be referred to the representatives and now the man that blows hot and cold - as he did over the hospital - over protocol, and says that it is not protocol. He does not need to refer the sale of this valuable property to the Bodden Town representatives. So let us hear no more about protocol. He set the protocol for district matters and today, whether he is hot or cold, he has broken it.

In that Finance Committee meeting from which he chose to read select paragraphs, he tried to give the impression that the Member for Bodden Town was agreeing with Government's policy of selling off these properties. My feeling on the matter, which is made clear in the Minutes, was that if the Government was selling a property, the Government must get fair value and must not sell it. I said that in the Minutes, and I will read that from page 6: "must not sell these houses as they have sold other properties in the past - to their friends and their political supporters for peanuts.". I did not endorse the sale of this property in Bodden Town. On page 6, I asked this question, these are the Minutes of the Finance Committee March 12th (sic), 1992: "Madam Chairman, I wanted to ask the Member if it is correct that the Government has been selling off some of the staff houses rather than refurbishing them and if this is so, is this being done to strengthen the cash flow position rather than looking at the long term interests of the country?" *(Finance Committee, 6th March, 1992)* All I want to know is if the sale is justified. I believe the time comes when teacher's cottages and other Government buildings should be sold by the Government. Every building reaches the end of its life and usefulness and it should be disposed of. But the Government must decide whether at any given point in time, a particular building should be sold or should be repainted. He tried to build his case upon this statement of mine, and I quote the statement: "Madam Chairman, will the Member give the Committee the assurance that Government will seek to get the best value for any property which it sells rather than offering it to their supporters, as has been alleged in the past?". *(Finance Committee, 6th March, 1992)* This is not encouragement to the Government to sell property off as the

Member tried to make this House believe. This is an attempt by me to make certain that if the property is being sold, the Government and the public as a whole get their fair value.

Now, he tells all of this nonsense about how we only bring this at election time. He should have told the House when Mr. Desmond Seales put up that sign on the Teacher's Cottage, because the first day I knew about it was when I received a phone call asking, "Do you know that Desmond Seales now owns the Teacher's Cottage and is selling it?" It only went up a couple of weeks ago, just before we brought the Motion. So the timing is not because it is election time. The timing was dictated by the Member for Communications, because if he had not chosen this time to sell off the property we could not have brought the Motion. We know the reason that he chose; we saw him and other Members of Council digging into every little piggy bank the Government has over the last couple of weeks trying to scrape up every penny to get them through until November - and this is just another attempt, in my opinion, to piggy bank and get some small change. This cannot help the deficit they are going to have this year.

On that day in Finance Committee, I asked this question of the Member: "Can the Member say how many properties, if any, have been sold recently, that is, within the last three years, including the Cayman Airways properties?" The answer was, "No, Madam Chairman, I do not have access to that sort of detailed information at the moment." So it is simple: The Member from Bodden Town and I just did not have the information on what the Government had sold, on what they were about to sell. When I asked the question about the properties, the Member could not answer. I really did not expect him to be able to answer it at the time. No attempt was made to forward the information to us. So how are we going to know what is going to happen? How are we going to know what they are going to do next? I do not think the Member for Communications knows from one day to the next what he is going to do anyhow, so how could we know that a few weeks ago a for sale sign was going to be placed on this building?

This action of the Government to sell a property that I understand is in very good repair is a last minute death bed action by the Government to get some cash. The fact that he has chosen to do it on the eve of an election is not our fault. He has made it clear to us that as representatives of the district, he expects that we will be brought into these matters which affect the district. Even if he tries to silence us by his bombastic approach, we will continue to do our duty which is to raise questions about the matters that concern our districts. I would like to say that, although our heads are now bloody, they are still unbowed.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 11:28 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:53 A.M.

MADAM SPEAKER: Debate continues on Private Member's Motion 10/92, the First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I rise to support the Motion before the House. I think that the Members from Bodden Town are taking the right position in trying to stop the sale of that property. It seems though every time we bring a motion to the House, or raise a matter, the Government is quick to say it is political and when Executive Council replies, they make more political noise than anybody else.

I think that the Government ought to stop and consider what use the building could supply. I remember the teachers' cottage in West Bay, and if we had sold that teachers' cottage then Government would have had to find or build - and I think, in the case of West Bay, they would have had to build - a facility to house the Sunrise Training Centre. Everybody now is talking about decentralising Social Services to the districts and I believe Government must stop and consider the few buildings that Government owns in our districts. Rather than selling them, I think they need to improve upon them and offer services where those services can be offered. The other point is I do not believe that Government is getting its value when they sell a three bedroom house on a quarter acre property for $65,000. Especially, one in that location.

Therefore, I can support the Motion and I also call on Government to reconsider - I am not saying all that they plan to sell, but some of the places that they plan to sell could be put to good use by a well thinking and caring Government that looks into the future.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Madam Speaker, I rise to support this Motion which is before the House, Private Member's Motion No. 10/92 which deals with Government teachers' cottage in Bodden Town. It is said that life follows a cycle and it is also said that what goes around, comes around. Indeed, this particular house has seen the cycle come right around from 1989 to now, when certain of Government's assets are being disposed of by the present Government. They are being disposed of in a manner, without any agreement or approval from the other Members of the Legislative Assembly, other than those who sit on the Executive Council.

It is very relevant to these times, that the matter should arise to focus attention onto the occasion when in 1989 this Government made one of the biggest mistakes in its life's history when it disposed of the two 727s owned by Cayman Airways. That matter (or matters relating to or stemming from that decision), is being debated right now in this House in the terms of indebtedness. On principle, I can support this Motion because I believe it is necessary for all Members elected by the people to be involved

when the Government is purchasing assets, when monies are being expended and, in the same way, when assets are being disposed of.

In September 1989, I actually brought a Private Member's Motion, immediately following Government's action of disposing of the jets owned by Cayman Airways. It is very brief and I would just like to read it because I think it bears very strong relevance to what is being done right now. It was headed, "Disposal of Government's Assets." It was Private Member's Motion No. 22/89 and it read:

"PRIVATE MEMBER'S MOTION NO. 22/89

DISPOSAL OF GOVERNMENT ASSETS

WHEREAS it is desirable that the public and all Elected Members of the Legislature should know and approve of the proposed sale of Government's land or the assets of corporations owned as to fifty (50) per cent or more by the Government, which are held in trust for the people of the Cayman Islands;

BE IT NOW THEREFORE RESOLVED THAT there shall be no sale, mortgage, charge, exchange, lease or grant of any assets of a value of CI$100,000 or more by the Cayman Islands' Government, without a prior resolution of the Legislative Assembly authorising the same;

AND BE IT NOW FURTHER RESOLVED THAT the necessary amending legislation be introduced at the first meeting of the Legislative Assembly in 1990.". *(September 14, 1989 - Hansard, page 816)*

Madam Speaker, the sale now is of Government's assets in the term of Government's houses which are owned by the Government. I was a civil servant when a lot of these houses were bought by Government many years ago. They had to be bought because Government was in a contractual situation with non-Caymanian persons for whom they had to provide housing. It was part of their contract. We now hear that that policy has changed. However, the fact that that policy has changed is no excuse, or reason enough, that Government should dispose of the houses which it owns. These houses are, and certainly should be, revenue earning.

I believe in state capitalism and I have no compunction whatsoever about recommending to Government that they rent their houses, as done by anyone else in the private sector. Based on the fact that rent can be set at reasonable rates and, indeed, it can reflect the true value of rent in any given area in the Islands, I think that it is wise for Government to retain its houses. This is not to say that Government may not find that some houses have fallen into disrepair. I can think of one teachers' cottage where, to me, that certainly looks to be the case, but there are others where that is not the case.

The former teachers' cottage in East End is used for another purpose, one which serves the district well. Had Government disposed of it they would have had to build a building to use. The one in North Side, where I once resided, that is not on a small piece of ground, for sure it is valuable land and I do not know if Government still owns it. But the teachers' cottages, on a whole, represent an element of culture value in this country. Teachers were highly respected persons of the community and for the head teacher of any school they had the opportunity of residing in a house, in that district, provided especially for that purpose.

One might say now there are more Caymanian teachers and they have their own homes. But that is not true in all cases. I think that there are still some head teachers in the schools of the Cayman Islands who are non-Caymanian. So, the teachers' cottages can be used for the purposes of offering housing to teachers.

I am aware that Government policy long before this time changed where the main teachers' cottages were changed to Government-owned houses. That, to the best of my knowledge still exists and it puts Government in an ideal position to be able to assign these houses to social workers (as the Motion has suggested), to the police officers, you name it - there are all sorts of officers of Government, Government employees, who reside in various districts in these Islands. I do not believe that the Member has presented a very valid argument for disposing of the teachers' cottage in Bodden Town. I have not been inside that teachers' cottage to know what state it is in, but from the outside it still gives a very good appearance. It is pretty much centrally located in Bodden Town proper, and certainly it appears to me to be one of the buildings that could be retained.

It has been mentioned by another speaker and I, too, share the view, that for that building on a quarter acre of ground, with three bedrooms, being sold for $65,000, that is going real cheap. The only way that I could believe it could be put at that value is if the interior is not in a very good state of existence. But that is a low price. I wonder if that is determined by the Lands and Survey Department which, in my belief, aims at bare-bone evaluations. That would not necessarily take into account to the same extent what a real estate broker would offer that house for.

I wonder, too, if the real estate agency has specifically set that price to sell the house, or whether the house could be sold for a larger amount (if the market made it possible) where the Government would receive more money than what has been stated by the Member for Communications, and where the seller would indeed attract a higher commission?

I see the Member motioning, Madam Speaker. I would give way if he has some information on that.

HON. LINFORD A. PIERSON: Madam Speaker, I thank the Member. He was questioning whether this price that I gave earlier was the only price that Government may be ready to consider. This is, indeed, as he mentioned, a valuation prepared by the Lands and Survey Department. The real estate agents have been told to get the very best price possible. As a matter of fact, I know that they have in certain cases even taken more than one deposit on the same property to ensure that they get the very best price possible, but not to go below the valuation that has been prepared by the Lands and Survey Department.

MADAM SPEAKER: Thank you, Mr. Pierson. The Second Elected Member for Cayman Brac and Little Cayman very kindly gave way to you for your explanation. Please continue.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. The explanation given by the Honourable Member does shed some light on what the position is in regards to the arrangements for sale.

Evolving out of this debate on this particular Motion, the question of Government's policy at this time on housing has been discussed. I, as one Member in this House, do not agree, and I have stated it more than once, on this 15 per cent that is paid to contracted officers over and above their basic salary each month, called a Contracted Officer's Supplement, I think is the term. The reason I do not agree with that is the fact that if the contracted officers can receive such extra consideration, up to 15 per cent, there is no reason whatsoever that each and every single employee, particularly indigenous employees, should not have similar considerations.

I have heard various reasons and excuses given here in this House on behalf of Government why this is done. I think it is an unfair act, and I certainly believe if civil servants on a whole were as organised in bargaining as they could be, such a thing would not be allowed to exist. I think it was fairer when houses were used for the housing of Government employees who were on contract from overseas, than to pay this amount which some say reflects the pension which they will not get. And now we also hear that the 15 per cent is to cover housing.

The term that has been used here is that Government is selling off its surplus houses. Again, I say that there should be no surplus houses. If there are some which have fallen into a state of disrepair to the point that it is better to sell them than to try to retain them and fix them, I can understand that. But the concept of surplus housing, really, to me, does not reflect truth of accommodation and the need for accommodation in this country, now. Some hovels are being rented for prices that are ridiculous and the sanitation and all the rest of it is in the worst form, as I think all of us know. So there is no question in my mind that the houses which Government owns could be rented, and should be rented.

Thinking of life being a cycle, and what goes around, comes around, it is not inconceivable that Government could well find itself in a position, in the near and immediate future, where they would need to get back to the original situation instead of attempting to find the money to pay to contracted officers - 15 per cent over and above their basic salaries. I worked in Personnel for a number of years and I assisted there from time to time with housing for Government. During those times the Government had in place an arrangement with the Public Works Department. There were people who took care of maintenance and it more or less functioned like a unit. I wonder if that no longer exists. If it could be done, in the days that I am thinking about - 10, 15 years ago - why now, when there is better equipment, when there are more persons hired, is this so impossible to do?

I believe this is a reasonable and timely Motion, one, as I have said, which brings into focus another act of the Government that has proven quite financially disastrous. I am wondering if this is not following that particular trend. I do not think it is too much to ask the Government to reconsider the selling of the teachers' cottage in Bodden Town and I would certainly hope that in the scheme of things it would not consider selling the relatively few houses which it owns in Cayman Brac.

So, I support the Members from Bodden Town in this request, and I think that the Government, in all reasonableness, should reconsider this matter. This house could be taken off the list of those that are being disposed of and, surely, the resolve which asks that representatives of the various districts be consulted when houses in their districts are being disposed of, could certainly not be more reasonable. I remember when the Motion that I brought in 1989 was debated. The Government's response was that it was the business of the Governor in Executive Council to dispose of Government's assets. The name of the particular law does not come to mind right at the moment, but I think we are talking about a principle and not what is set down in some law which was done 25 or 30 years ago, as the case may be.

I think the time is now and I believe that Government needs to very carefully examine disposing of any assets which it has now, particularly those which are revenue earning. So, Madam Speaker, I can very easily support this Motion and I trust that the Government might have a change of heart in this particular respect.

Thank you.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I support this Motion, and I was really surprised to see the attack that the Member for Communication and Works levelled at the two Elected Members for Bodden Town. It must be obvious to the public, and to Members of this House, that while we support most laws and most motions that are brought here - we supported seven out of eight laws so far this time, and opposed one - when we put up motions, Government accepts none: none this Legislative Sitting, none the previous Legislative Sitting. What will be interesting is to see whether the Member for Communication and Works launches the same attack on the First Elected Member for Cayman Brac and Little Cayman, when he asks for the land for his

swimming pool.

I am going to be brief on this, but we have a situation here where Government is selling property because they feel that the property is run down as regards repairs. How does a property get run down? Government has failed to repair it. This is the basis of the problem. Money has been spent on roads and new hospitals and everything else, and apparently no money was spent on these nine or 10 houses to try to keep them in repair. They are to blame to begin with.

Instead of appropriating a little bit of money to repair them, they are going to sell them and we know what is going to happen to the money because no money stays in the kitty. In fact, very little borrowing power is left to the Government now. I would rather see the assets remain because at least we know they are there to support the houses and, whatever, to support he massive loans that this Elected Government has put on the country.

On the principle of selling, generally, I disagree with it, I disagreed with the sale, I would say, of the 200+ acres of land when the lease was increased by 30 or 40 years for US$2 million. It was really a pittance for giving away Government's largest land-holding for another four decades, away from any generation that both the Member for Communication and Works or I may be able to see get the benefits of it. In fact, I believe $1 million of that was over 10 years. On the question of getting the best value, it is highly unusual in this day and age to give out an exclusive to one real estate agent. Normally it is put on multiple listings - whomever can sell it for the best price - and that is where I think it would have been fairest. I do not understand why an exclusive was given out on this.

So I support this Motion. The sale, I think, has been brought about through Government's lack of interest in houses such as this, which I think they are going to still need. Despite the efforts of the Member for Communication and Works to pass the buck on to the First Official Member, we know that the four Elected Members of Executive Council make the policy of this country. They make the decisions, they are a majority in the House. I would hope that the Member for Communication and Works would put this on the same basis as he is going to have to put the swimming pool in Cayman Brac and change his mind and support it, rather than attacking the two Members who are trying to do something for their constituency.

Thank you.

MADAM SPEAKER: If there is no further debate, I would ask the Mover if he would like to exercise his right of reply?

MR. ROY BODDEN: Thank you, Madam Speaker. I have a mouth full, so I would crave the Chair's indulgence. I do not know if it is because of his dwindling political fortunes that the Honourable Member replying for the Government saw fit to take such an approach in his reply. He seems to have taken umbrage to the fact that I said it was a gesture lacking in decency and decorum that the Government did not see fit to consider consulting with the representatives. And, Madam Speaker, I will repeat that because I believe that to be so.

I quite specifically laid out that I did not expect the Government to change its mind or to ask us and make the decision based on our reply, for I realise that they have rights and authorities. But I still say it would have been considerate to have informed us. So, Madam Speaker, my position on that particular note remains unrepentant. Madam Speaker, I want to say something else and I want to tell that Member, since he was a little hot under the collar, that he can get hot under the collar, or he can get cold under the collar, because he will go down in the history of his tenure as being singularly responsible for giving away the most Government property of any Member in the history of the Government of this country who inherited his Portfolio. Let me remind him that it was he who gave away the 208 acres to SafeHaven for US$2 million - $1 million down and $1 million over 10 years, interest free. And it was he who told the Member for Tourism, Aviation and Trade, that getting rid of the two 727-200s would enable Cayman Airways to make $2 billion profit, and I could go on. So, if he wants to be political, I can assure him that the institutions I attended, prepared me no less than he is prepared.

Madam Speaker, I like to say that in here I always extend the velvet glove, but behind my back I hold a mail fist too, and I will use that when it is necessary. And let me say, in case it is misunderstood, that I would like to be returned here just as much as anyone else because I have an agenda to complete for my constituents and if it takes politics in this Chamber to do so, I am going to do it. I was not sent here as a delegate, I was sent here as a representative of the Bodden Town people, and I have to account for them and, by Jove, I will fight for what I believe in, and that is exactly what I intend to do. That is why, Madam Speaker, I brought this Motion!

SOME MEMBERS: That is right.

MR. ROY BODDEN: The Member said that there are no records of my suggesting alternatives. If, the Chair would so indulge me, I would grant an adjournment so that I can go home and fetch my files and lay on the table of this House where, on three occasions, I brought to the attention of the Government valuable properties in Bodden Town and encouraged the Government to acquire these properties - one being the cemetery, the other being the property of Mr. Elwood Levy, and the third one is the property of the O'Connors, down at the lower end of Gun Square. Further, Madam Speaker, I suggested some things that the Government could do with those properties after they acquired them.

So if that Member tried to cast slight on my responsibilities during my tenure, I can say that he has to preach harder to convert anyone because my files speak for themselves. In reference to his referring to me as a leopard, Madam Speaker, let me say this, I have never been so carried away with myself that I set myself up as any paragon of virtue and enlightenment. But, if I am a leopard, that Honourable

Member must be a chameleon, and leopards eat chameleons. Madam Speaker, Let me tell you what disturbs me about this. The Honourable Member has said that the property is listed with an agent who, to ensure that the property is sold, takes deposits from more than one person. If that is not unethical, I am not from my mother! What kind of business is this? I mean is the Government into encouraging these kinds of shenanigans? I would have thought better, Madam Speaker, and if that Member was so interested in me helping my constituents, he would have listed this property or told me to arrange it so that it went through the Housing Development Corporation, so that some deserving Bodden Towner, would have been able to afford it. Why did he not do that? You know why? Because the Housing Development Corporation would not have taken deposits from more than one person, at the same time.

In the Motion, I said the property could be used as a residence for social service workers in the constituency. The records of this Honourable House show that when the First Elected Member for West Bay moved a motion requiring social service workers in the districts, I supported it. The residence could also be used to house police officers. It could be used to house teachers, as it was originally intended, or it could be developed into a public library which our constituency so greatly needs, or a day care centre, which we do not have presently in the constituency. Madam Speaker, if I were a Member of the Government there is no way in my sane mind that I would agree to the disposal of this property because there are myriads of uses to which it could be put.

I would just crave the Chair's indulgence to revert to the Minutes of that Finance Committee Meeting to show that what the Honourable Member, in replying for the Government, tried to portray was not exactly as the events transpired. The Honourable Third Elected Member for George Town asked the Honourable First Official Member, "Would the Member say how many of these houses Government was proposing to sell?" The Honourable First Official Member replied that he believed the list was in two parts, "...when I saw it last. There was a Schedule of properties that Government did not intend to dispose of and would be retaining these for alternate uses and there was another Schedule of properties that the Government was proposing to dispose of. My recollection was that there were less than 10 properties on the list of buildings to be disposed of.". *(Finance Committee 6th March 1992)*

Who decided these 10 properties? And the Honourable Member in replying for Government, failed to answer my question as to why the old dilapidated, drug ridden, drug infested property at the Annex is not being disposed of? Why? Because I know the history of that, being a frequent patron of football games. Why is that not being disposed of? That is not earning revenue for Government, the teachers' cottage in Bodden Town is earning revenue for Government and it is in a respected area of the community.

Madam Speaker, the truth is that I have to say I am disappointed because I expected better. I expected better because that Member has the ability and the capacity, when he is so disposed, to be as genuine and to be as understanding and, even to be as nice as anyone in this House. Relations between he and I since my tenure here have been nothing but cordial, respectful and understanding. But maybe, Madam Speaker, it is as I say, the pressure of having to be on the downside is getting to him and causing him to be aggressive in his frustration because he was always accustomed to riding the crest of the political wave.

I stand by my Motion and I stand by everything I have said in that Motion. If his reply was an attempt to put me down, was an attempt to destroy me in the eyes of the other Members of this House, or in the eyes of my constituents, he has to try harder, much harder. While it is true that I can play the political expediency game as well as anyone, this is not one of those cases. I have too much respect for the Chair, and too much respect for my Honourable colleagues. When I brought this Motion here, it was because I thought that the Government was making a wrong move and I brought it in the hopes that the Government would have done what the Motion asked - reconsider the sale of this property. I would be willing, and I am still willing, to get together with the Member or the Government to discuss ways in which this property could best be utilised in our constituency. As a representative, that is part of my responsibility.

I underscore a point made in the presentation that I am not expecting the Government to consult with me prior to every decision. Far from it, I know the lines of authority. I am simply saying it would have been considerate to approach the Members, the representatives of the people, as I think they should do in all areas, in all constituencies where these kinds of decisions have been taken, and brief them and ask them what are their dispositions regarding these. That is the essence of representative Government and it has nothing at all to do with the Government being powerless or the Government lacking in authority. Rather, it has to do with consideration, decorum and common, plain, down to earth decency.

Madam Speaker, we are reminded. History teaches us many lessons. These things are cyclical, what goes around, comes around. I hope that when the tides have turned, and the responsibilities for these kinds of decisions will fall to Members on this side of the House, that we exercise more maturity and more consideration. And we will. As for me, Madam Speaker, I will continue doing as best I can to represent the good people of Bodden Town and, under the circumstances, I am not easily deterred because time is fleeting and I am confident that my record, when it is examined, or when the chronicler chooses to pen it, will be as good as any. And I have no regrets and I have no fears. I have only respect. Respect even for the Member, although he took the Motion out of context. When I go to the coffee room at the break, I will sit beside him and be my usual civil and understanding self and will discuss and discourse with him in the normal friendly tones that I do. I regret that he cannot see fit to accept the Motion.

I would like to thank all the Members of the Backbench, who so eloquently put our case forward and supported me in this Motion, and I hope that the hard heart of the Honourable Member replying for the Government can be softened before it is too late.

I rest my case, Madam Speaker.

MADAM SPEAKER: The question before the House is Private Member's Motion No. 10/92.

QUESTION PUT: AYES & NOES:

MR. ROY BODDEN: May I have a division, Madam Speaker.

MADAM SPEAKER: You certainly may.

CLERK:

DIVISION NO. 18/92

AYES: 7	NOES: 8:
Mr. W. McKeeva Bush	Hon. J. Lemuel Hurlston
Mr. John D. Jefferson, Jr	Hon. Anthony S. Smellie
Mr. Truman M. Bodden	Hon. George A. McCarthy
Mr. Gilbert A. McLean	Hon. W. Norman Bodden
Mr. Roy Bodden	Hon. Benson O. Ebanks
Mr. G. Haig Bodden	Hon. D. Ezzard Miller
Mr. John B. McLean	Hon. Linford A. Pierson
	Capt. Mabry S. Kirkconnell

MADAM SPEAKER: The result of the division is 7 Ayes, 8 Noes. The Motion has accordingly been rejected.

NEGATIVED BY MAJORITY: **PRIVATE MEMBER'S MOTION NO. 10/92 DEFEATED.**

MADAM SPEAKER: At this time the House will be suspended until 2:15.

AT 12:44 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:21 P.M.

MADAM SPEAKER: Please be seated. Government Business, Bills, Second Reading Debate. The Third Elected Member for George Town, continuing.

GOVERNMENT BUSINESS

BILLS:

SECOND READING

THE LOAN (CAYMAN AIRWAYS) BILL, 1992

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Yesterday, I tabled a sheet of paper that contained four columns of information relating to Cayman Airways, and I also gave the Member for Tourism one. I would like to point out that many of these figures are rounded off, many times to the thousands, because basically the amounts involved are into the millions and the dollars and cents on the small level do not matter that much. So, there will be areas where I merely rounded out, especially the net position, to the thousands.

I would now like to continue to deal with an area that I was dealing with yesterday afternoon, and I have been told by the Member for Tourism that I can refer to the report on forecasts for the area ended the 31st of December, 1992, and Review of Operations for the three months, the 31st of March, 1992 by Price Waterhouse. Naturally, if he had told me otherwise, or that any of this may have prejudiced Cayman Airways, then I would not use it, but it seems to me to be common information that would be available.

This shows, in Schedule 1, the forecast of Cayman Airways' operations for the next year for three months of actual figures which are January, February and March, and the other nine months are forecasts. The first significant thing on this is that in an effort to reach the net loss result of $4.861 million we have an increase of revenue from $41.6 million to $54 million.

Yesterday I pointed out that Cayman Airways' revenue for the last three years has been literally static. It has gone from about $40 million to about $42 million in three years. I have my doubts, at a stage where the North American continent and the Cayman Islands are still in an economic recession, that there can be an increase of this amount. Indeed, the accountants, Price Waterhouse, stated at page 5 (and I am reading from the report under Summary Of Forecast, Results of Operations):

> "As shown in Schedule 1 of Appendix A, the expected loss for the year ended 31 December 1992 is $4.9 million. Management is forecasting a 33% overall increase in passenger revenues, with a 15% increase in operating expenses over the 1991 calendar year. The growth in revenues are primarily

attributable to increased capacity of the airline and improved schedules on several routes.".

The second paragraph states:

"In the period 1 January 1992 to 31 March 1992, passenger revenues have increased 25% while costs have increased by 21% over the same period in 1991. The largest increases have been in rental and maintenance of aircraft; management does not forecast this trend to continue through the balance of 1992.".

I just point out there, the revenue itself is down by 8 per cent and the expenditure is up by 6 per cent. Therefore, the forecast here for those first three months differs by 14 per cent, made-up because revenue is less by 8 per cent and expenditure has increased by 6 per cent. If that target is not reached in revenue and if we have an increase of the expenditure at the rate of 6 per cent over the year, then Cayman Airways has another disastrous year on its hands. The approximately $5 million loss projected is considerably less ($3 million less) than it was the year before, but with the projections already out for the three months by 13 per cent and, indeed, the Honourable Financial Secretary's predecessor in no way used a 33 per cent increase in revenue for the Government because it is probably not realistic at this time.

What is also significant about this is that we have seen the aircraft rental, estimated for this period, increased by $1,867,000.00. We have seen an increase in the maintenance reserves (these are what provide for the paying of the D-checks and the C-checks and the maintenance of the engines) by $5.5 million. Commissions have also increased by $1.26 million on tickets sold.

We are looking at projections of expenditure of $57 million which, I should point out, is up by $7 million over the disastrous year of 1991, and we are looking at revenues which are supposed to go up by $12 million. I have to look at this with some skepticism. Even though I respect the fact that Price Waterhouse has checked these, their checking of this is really only as good as management's forecast, and with the first three months off by 14 per cent I would think that they may have been a bit more conservative. Another thing that is very important in this is the point that has been made by the Member for Tourism, is that the forecast (and I am reading from it):

"The forecast does not reflect the impact of the expected additional daily American Airlines flight between Grand Cayman and Miami. Management has estimated that the effect of this increased competition will impact current year losses and cash flows by $3.0 [million] to $3.8 million"." *(page 3)*

This is a foreseeable expected increase in the loss.

So if American Airlines gets in, we are looking at losses substantially the same this year as they were last year, because it will be another $3 million to $3.8 million. That surely has got to be very worrying to the Member of Tourism and to the Board. What worries me even more with management's forecast is that for the year ended June 1991, management forecasts that they would end with a profit of $864,637 and, in fact, we know that they ended up with a net loss of about $8 million and with the GPA. (Guiness Peat Aviation) it was $14.3 million. These forecasts, given that there has been the war and there have been all of the other things, were actually out by $8 million.

So I do not put much reliance on this because the airline industry carries no insurance that things will always be equal. It is a very volatile and highly deceptive industry, therefore it has to be taken on the basis that one cannot, as this forecast has done, count on everything coming out favorable for Cayman Airways. If American Airlines puts in the extra flight and it appears (from what they say in this that it may well go in), then we are really looking at an $8 million to $8.5 million loss for this next year. That is also very frightening.

Yesterday I read a couple of earlier statements made by the Member for Communications and Works in relation to the Swissair Group, and I pointed out that from these statements it appeared that he relied upon the Swissair Report as the most important point recommending the 737-400s. The Member did speak to me during the break and, if I may, I would like to very briefly refresh his memory in relation to what I said here, because I do not want to feel that I may be quoting something that he is denying. This is what I read. It came from the *Caymanian Compass* of Friday 11th of August, 1989, page 2. He said, and I am reading part-way down the paragraph, relating to Swissair: "...the fact that it was a new plane as opposed to the 727s which were fast becoming obsolete and therefore more prone to accidents, and most importantly, the fact [that] it was highly recommended to Cayman Airways in the report prepared by Swiss Air (sic) in 1985.". He went on to say that he was "...'tired of hearing the single entry bookkeepers from the Opposition Bench trying to explain to you the people things they do not understand.'" *(Caymanain Compass - August 11, 1989)*

The other quote that I read was this. It came from the meeting that Executive Council held in West Bay on the 10th of August 1989, and it was this: "The most important point, though, about this aircraft is that it was recommended by the Swissair Group that came to Cayman to conduct a study to determine which was the best aircraft for the Cayman Islands and they came out in support of the 737.". Note that these two quotations carry substantially the same words - one says, "most importantly"; the other one says, "the most important point"; and it says "about *this* aircraft", referring to the 737-400, "is that it was highly recommended" he says, in one, "by the Swiss Air (sic) in 1985"; and the other one he says "it was recommended by the Swissair Group that came to Cayman." I submit these two statements are abundantly clear, that what the Member is saying is the Swissair Report recommended the 737-400s and, as a background to that (and I will let him have copies of his statements), what I have drawn from them is in a very clear English meaning. As the public and this House know, the difference between a 737-200 and a 737-400 is like the difference between chalk and cheese,

or between a normal car and a Rolls Royce.

The 737-400 is a totally new breed of aircraft, totally computerised, entirely different engines. They are a new generation of planes, and bear no similarity to the old generation which was the 737-200s and the 727-200s both of which are similar in age. I would now like to deal with a few areas, and this goes on to what the Member spent some time on yesterday relating to the Bermuda II Agreement and the air-rights of Cayman Airways. The Member mentioned a bit of the history of this, but I will be brief on it because I think a couple of areas need to be stated.

After the Bermuda II Agreement was negotiated, back in the 1970s, I think it was 1975 or 1976, or 1977, it formed an agreement between the United States and the United Kingdom and her colonies, and we obviously got a bad deal in it. After that, a side letter was signed which allowed Cayman Airways to fly as the sole carrier to Miami and one airline to fly as the sole American carrier. There was reciprocity of airlines at that stage, and that was honoured for quite a few years - four or six, I do not remember. Four to six months before it expired there was a renegotiation and the new agreement that the Member, sometime back, attempted to renew came into force. Two things happened. Cayman Airways took more points, more cities to fly to in the United States, perhaps two or three. If I may just read from the *Hansard,* this is what Mr. Norman said;

> ". . . new negotiations with the United States on air services routes have gained the airline route rights to five United States cities, instead of the two it previously held. This is a facility enjoyed only by much larger countries which are able to offer the United States much more in exchange than we have.". *(Hansard 30th May, 1989, page 599)*

So it was an extra three points. This was back in May of 1989. We terminated the first agreement a few months earlier and the new agreement was negotiated, which is the four flights each to Cayman Airways per day, and four flights to the United States carriers. This has obviously created a lot of concern for Cayman Airways and for the Member for Tourism because it is a Government to Government negotiation, rather than an airline to Government negotiation, even though the Airline is involved and has its representatives, I would believe, at these meetings.

I would like to look at what may seem somewhat strange in an approach, but what I have been informed of, and I believe it is substantially correct, in relation to the importance of these rights. Firstly, as I understand it Cayman Airways originally was formed to be a small airline with two planes and, as the reports of the experts have submitted and recommended, should remain at three small planes now, in a position where it is not out competing with the big boys. When that actual decision to change to that different role was taken by the Board of Directors (and when I refer to the Board and the Managing Directors, I by no means refer to Mr. Leonard Ebanks who recently has taken over as Managing Director, this would have been Mr. Cruickshank and to the Board as it then existed). Actually, none of my previous statements referring to the Managing Director would have been to Mr. Leonard Ebanks... I am sorry, he is the Chairman of the Board, the Managing Director is Mr. Thompson.

On the 1st of October, 1990, in the *Caymanian Compass*, after Cayman Airways had taken delivery of, and had settled in with, the new 737-400s, Mr. Charles Glidden, the Press and Public Relations Manager, said this, "Cayman Airways now realises it can compete with the big boys." That is a very significant statement because I submit that that is a change in policy from what Cayman Airways was intended to be.

The area that I would like to go on to develop on this is that at present, if Cayman Airways is to be a carrier which, instead of remaining small and providing a means of the licenses to support any emergencies that the Cayman Islands may have, such as the withdrawal of a United States carrier (at which time it could go in and charter or lease aircraft to keep the Islands moving) if it is to be a competitor of the big American airlines, then I submit two things have arisen as a result of this. One of them is that Cayman Airways has found out that it is very costly to take on the big boys. In fact, the public of this country cannot afford it. The second thing is that we have had a period of regulation on the routes to the Cayman Islands upon which the carriers from the United States now fly.

One may ask oneself, 'why are the United States airlines so interested in coming and flying to the Cayman Islands with very few passengers to what they carry elsewhere?' The reason is, because of the regulation of fares on these routes, it is probably one of the most lucrative routes which carriers fly in a competitive stage. This, therefore, has done damage to the Cayman Islands. What has to happen, is that we have to accept that there is a conflict between the present aims of Cayman Airways and the present aims of Tourism, Aviation and Trade to promote tourists. On the one hand, Cayman Airways needs to carry as many passengers as it can for profit and to compete with the big boys and, on the other hand, Tourism is trying to get in as many tourists as it can to the Islands on as cheap a flight as they possibly can.

When we have a position where the United States' airlines (and the Member quite rightly pointed this out) are cutting fares in the United States on routes which come into the Cayman Islands, passing through another United States route - so from a United States point to a United States point, they are cutting fares - it means that the Cayman Airways does not have those benefits.

What I understand is that the normal yield fare is presently about US$0.127 per seat mile. Where this would yield a promotional fare of approximately US$115.90, at present some of those fares are in the area of US$158.00 and at times they go up to US$266.00. This means that the carriers can operate with a much smaller load factor and be a bigger problem to Cayman Airways. So the protection that we get (and I had two or three years when similar letters were enforced, but in those days it was only one airline), we have on the one hand a conflict between Tourism and Cayman Airways. That conflict is not going to get any better

unless Cayman Airways goes back to basics without trying to protect itself by higher airfares. It can get to a stage where it can fly to Miami from Grand Cayman with fewer aircraft, on fewer trips and it can probably fly with a higher capacity because the competition is faced with a situation where they can only carry so many and no more.

There are people who are going to fly Cayman Airways, I always do as often as I can. I believe that I am right in saying that there would be a lot more tourists in the Islands and they would be a lot happier. Our hotel occupancy would therefore be considerably better if we could find a way of having reduced airfare for people traveling to the Cayman Islands. In fact, one of the things constantly leveled against us as a tourism point is the fact that we are very expensive.

This may seem to be a different approach to this, but I believe that we have to reconcile the conflict between Tourism and the statement that Cayman Airways is putting out on its aims, which I will come to a bit later on. Another area is, as the Member mentioned quite rightly, that they spend $2 million a year on Tourism but that promotion is mainly in the area where Cayman Airways flies to. Sometimes that would be better spent going and producing tourists from other areas such as Europe or the Far East, so that we would spread our risk in tourism and not depend so heavily on North America.

Here is a conflict again because if tourism does that, and a lot more people are coming in from Europe and passing through the Miami gateway, which is most competitive with United States' aircraft, Cayman Airways would stand to lose. So, I submit that the whole question of the four flights from Miami and the problem of American Airlines will become less, it will not go away, if Cayman Airways gets back to basics and the reason that it was originally set up for - to be a small carrier in a position with the necessary licences to fly in the event of a United States' carrier withdrawing - and not to be in there, as it now states, to compete with the "big boys".

There are two other significant things showing the volatility of the airline industry. For example, British Airways, I understand, has just bought shares in U.S. Air. They have a right to fly in here, and this is not a right that will depend on the United States, it is a right that they have under the Bermuda II Agreement from the United Kingdom. Today in the newspaper (and I merely refer to it because it is unfortunate), we see that tourism is down for June this year over last year - and we know that the number of tourists by air were not good at that time. I go back to this, I believe that with the Member leaving Cayman Airways totally to do its own thing and run itself, this conflict has now broadened to where it has to be reconciled by Government.

I believe that tourism would benefit considerably more and our hotels would be more filled if there were more competition and more flights. We would see, in a deregulated situation, as it is in the United States, that the competition would drive down the fares. That, as I said, impacts on Cayman Airways with five aircraft, the same way it would with two aircraft, but the impact is a lot less because I believe that we can always fill the two or three aircraft that were recommended. I would like now to go on to deal with the Government's finances as the Member for Tourism raised, and the impact of this loan on it, just to show where we were some years ago because this has a bearing on the present day.

Back in 1984, which is always a relevant point that, especially, the Member for Education and the Member for Communications and Works like to go back to, was a time when, as the Swissair Report stated, Cayman Airways also had problems. In Finance Committee on the 29th of November 1984, (and this would have been immediately after the new Government took over) the Minutes had this to say:

> "He stated, [this being the Chairman] that the Member of the Portfolio of Tourism Aviation and Trade, the Chairman of Cayman Airways and himself looked at some information passed to them by the Managing Director and ascertained that the accounts payable are approximately $4.8 million.". *(page 1 Finance Committee Minutes 29th November, 1984)*

This is very important because at that time the payables to creditors were considerably small - $4.8 million. What they did at that stage was to transfer approximately half of that. They took $2,462,000 out of the general reserves and transferred it into Cayman Airways. As of June 1984 Cayman Airways (before this was transferred) showed a difference between assets and liabilities of US$7.4 million. However, in those days subsidies were not given, it was either a loan or it was investment in capital. Into that, the accounts clearly show at page 2 in the audited accounts that there was the sum of $3,750,000, which was a Government loan, and $1,789,544, which was the accrued interest and payments to Government. So that was money Government had already put in - it did not come into the cash situation at all - which left a true difference between assets and liabilities of $1,967,009.

One of the Members stated the drastic position Cayman Airways was in at that time. That, I submit, was the position then, and one thing is certain - there were only $2.4 million of payables at that time. The Government's position at that time is also relevant, as is the Government's position at this stage. Indeed, the Member for Tourism dealt with this in depth. In 1984, and this is from page 42 of the Statistical Abstract 1990 of the Government, the total Government debt was $18.9 million and the Government's reserves were $11.3 million. A difference of only about $7 million between what the Government owed and what the Government had in cash. We must remember that the reserves were actually $2.4 million more when we left, but the new Government decided to transfer the $2.4 million from the general reserves. That could be done in those days because the financial position of the country was good. That deteriorated and then it increased back, in 1988 (which is when the present Government took over), to where the total Government debt was $25.1 million and the Government reserves were $19.8 - once again a very good position. Indeed, I give credit. There were two Members, who are now in this House, who were in Executive Council then, the Member for Tourism and the Member for Education. Since then they have received advice, I am sure, from a quotation by who was then the sole certified accountant in the House. We do have a second one now in the House in our new Financial Secretary.

What has happened is that at present the Government's

financial position, as dealt with by the Member for Tourism, showed contingent liabilities of $71,251,061 as of March 31, 1992, and direct debts of $13.8 million, and direct obligations for Statutory Bodies of $23 million. As we know since that time we have had a further $18 million that has been guaranteed for the new hospital, that has to be added to this. Presently we are looking at Government having to service direct liabilities of $37 million with the contingent liabilities having moved to $89 million, which was the new hospital loan.

Part of those contingent liabilities, that were set out in the question by the Honourable Financial Secretary, of $16,034,000 odd dollars is being converted to direct liability of $16.8 million by this loan bill. So the direct obligations of Government are going to go up by approximately one-third when this loan bill is passed and will then stand at approximately $54 million. And I forgot to say we have just transferred from the reserve $3.5 million, so the reserve has now dropped down to approximately what it was seven or eight years ago, but the debt has now spiralled to where the direct debt is going to be about $54 million and the liabilities are going to remain at approximately $72 million.

Whenever debt is taken on, Madam Speaker, it has to be paid for - we have to pay interest, we have to pay principal on it. The Member for Tourism has dealt with this and stated, and I must say the Member for Tourism has been quite fair and considerably brave because I know bringing this to the House has obviously had to take considerable thought, he has stated that the servicing of the debt will be approximately 5 per cent with interest only, moving up to 7 per cent when principal has to be paid in two years' time. If at present the servicing of the direct liabilities of $37 million is 4.4 per cent - we have to remember that much of this is at very low interest rates, we are now going on to commercial interest rates - then I submit that when you add one-third onto that, that the servicing is probably going to be a bit more than 6 per cent of the total revenue. I would like to point this out. As I understand it, the 10 per cent rule for the servicing of a debt by Government is 10 per cent of the recurrent revenue, not the total revenue which includes loans.

I wonder if, at some stage, either the Member or the Honourable Financial Secretary, if he speaks, could perhaps let us know that, because there is a considerable difference between the recurrent revenue and the total revenue, especially when there are large borrowings as the total revenue includes the loans. What I would like to point out is that at present the recurrent expenditure of the Government, for the first time in the history of these Islands, has now reached a stage where it has exceeded on two occasions, or is substantially equal to, its recurrent revenue. This is where the problem comes in, in relation to the servicing of long-term debt.

The statistics of Government, the Abstract of 1990, at page 40 shows that at no time in the history has there ever been a stage where there can be no contributions from recurrent revenue to capital. The importance of this is that all capital must therefore be financed by this Government. Therefore, we go on every year for capital expenditure adding more debt, which adds more to the recurrent expenditure and, ultimately, we get like Jamaica, Trinidad, and the rest of the countries. We cannot make enough surplus between recurrent revenue and recurrent expenditure to pay the debt, and it snowballs.

Even as far back as 1970, and I will be brief on this, we had the recurrent expenditure far less than the revenue and, indeed, where this picks up in 1980, there was recurrent revenue in excess of expenditure in 1980 of $9 million; in 1981 of $16 million; 1982 of $1.2 million, and that is the year we put the money into Cayman Airways. At that stage we injected about $9 million or $12 million. In 1982 was when we capitalised Cayman Airways in the area of, I think, $8 million in capital. I do not know when the loan of $3.5 million went in.

In 1983 there was a surplus between recurrent expenditure and revenue of $10.6 million; 1984 - $9.7 million, and it went all the way down; 1985 - $7 million; 1986 - $7 million. In 1990 recurrent expenditure exceeded recurrent revenue by approximately $1.2 million. In 1991 what I have here only shows an estimate of a $.5 million difference between the two. The significance of this is that there comes a time in anyone's life, including Government's life, when it can no longer afford to take on large loans because it has a snowballing effect - you borrow to pay for interest and principal returns and, sooner or later, it gets away from you.

Madam Speaker, we have gone from, when this Government took over three and a half years ago until now, a situation to where the difference between debt and cash reserves was only $7 million, to a situation where the difference between the cash in the reserves and the direct obligations are now approximately $45 million, when this bill is passed. On to that we have had the contingent liabilities move up to $70 million. That is a situation that cannot go on, regardless of where the spending is coming from - whether it is for Cayman Airways, whether it is for roads, regardless of what it is for - the figures no longer work out. We just cannot go on spending at the rate we have been spending.

I would now like to move from there onto the last main area that I have, which is dealing with the report of Aviation Services of Ireland, the Irish Airlines' Report *(A Report on the aspects of Cayman Airways, carried out in 1991 by Aviation Services of Ireland on behalf of the Cayman Islands Government)*. It is a small report but it is a very important and significant report because it deals with just about everything other than aircraft (it actually deals with aircraft but another report dealt mainly with that). I think this report brings to bear very clearly a phrase that was used many a time, especially by the Member for Communications and Works when he kept stating, he was the only one certified accountant in the Legislative Assembly, "Ladies and gentlemen, that is me." You can fool some of the people some of the time, but not all of the people all of the time. Obviously he fooled a lot of them back in 1989.

This report has in it a series of different things and I do not intend to try to go through every section, but some are important enough that they bear clearly on this. Their recommendations are summarised beginning at page 3 and under paragraph 3.1, under Main Conclusion and Recommendation, it says this:

"3.1 Given the airline's poor financial performance over the past year we believe that the correct strategy for the airline in the immediate future is to consolidate and optimise its present position in terms of market share, load factor, revenues and costs. In pursuance of this strategy every effort should be made to contain major financial and marketing exposures such as would be created by further fleet expansion i.e. the 4th aircraft due in February 1992. This should not preclude longer term planning for improved operating circumstances.".

This is a recommendation that Cayman Airways has not followed. It is their main conclusion and recommendation. It is the only one recommendation under the most important heading in this report - that in the immediate future Cayman Airways is to *consolidate*. That does not mean expanding, and that has been pointed out clearly in this.

I submit that what the Board and the Managing Director have done to cut costs (which I do not agree with the harshness, I would put it, that has been meted out to most of the staff of Cayman Airways - the freezing of salaries and that sort of thing), if they had done this we would not be standing here today with losses as high as Cayman Airways is showing. We have to get back to basics. Cayman Airways cannot compete with the big boys, it must consolidate and rationalise its position. One of the things that has been done is in paragraph 3.2.1. They stated:

"3.2.1 Overall management

1 We found a lack of consensus among the parties we spoke to as to the main mission and objectives of the airline and recommend that an agreed mission statement be drawn up between Government, Board, and Senior Management.".

That has been done and, indeed, it has been made public. That Mission Statement states:

"To support the national economy by ensuring continuity of access to the Islands through the provision of a safe reliable, efficient and high quality air transportation product to the tourist industry and to commerce.

Provide good quality employment using Caymanian human resources wherever possible.".

[I agree with those two. The third paragraph is:]

"To seek out in the longer term profitable diversification opportunities in order to underpin transport operation.".

That I do not agree with. I do not believe that the Government can afford for Cayman Airways to diversify with the losses it is making. The next paragraph is:

"Cayman Airways should be operated as profitably as possible or at least maximise its efficiency so that dependence and the financial support of the Government is minimised.".

[That is good. The next policy is:]

"Be committed to a policy of managed growth in order to develop a critical mass and achieve economies of scale.".

That, Madam Speaker, takes no account of the losses of Cayman Airways to expand its routes and to expand its aircraft, and this is obviously what has been happening with the competition of fighting the big boys. The airline is committed to a policy of growth which is totally against what the experts and, especially, what I have just read about consolidating its business. This is what it is all about.

Lastly, which I guess was less important:

"To seek to develop in the longer term the concept of a Caribbean hub, in order to capture a share of the North American/South American over-fly traffic.".

That is a dream. It is not even a pious dream at this stage. We are trying to set up a hub the same as the big boys do - American Airlines. We do not have the resources and the money especially in this country to try to set up a hub to assist other countries.

On that aspect they have started on this route because Cayman Airways went out and leased a jet to fly to the Turks and Caicos Islands. The net figures on that show that the bottom line is that we are losing money on that route even though they show a small contribution from it to the present size of the airline, before putting in expenses beyond the direct operating expenses.

I found two things objectionable to this. Firstly, we are flying in there at an overall loss, and I believe one of those jets is used quite a bit - several days a week - to fly there. But on top of that, here we are in a financial centre providing the main airline to keep our competitor in the Turks and

Caicos Islands going. They are direct competitors to the private financial industry here. I wish them all the best, but I do not believe that the people of this country want us to take a loss and put their money into promoting one of our competitors - better they as a Crown Colony, than perhaps a country which is not a Crown Colony - but that, I submit, was wrong and this was the beginning of setting up a hub, I think, for the Caribbean.

I believe that the Mission Statement should have set out in it the main recommendation that I have just read from the Irish Airlines' experts. It should have started by stating that Cayman Airways' aim must be to *consolidate* and *economise* Cayman Airways' operations with a view to reducing the level of Government subsidy, and then go on to dealing with supporting the economy. It seems to me that the experts ASI, and SH&E, understand what Cayman Airways' basic aim has always been - and that is to give a guarantee to these Islands that there will be a continuity of air service in the event of having one of the larger airlines withdraw.

In other words, it would provide a smaller service, hold the licences in the event of an emergency, it could go out there and add another jet if it wished on a short term basis. It would naturally lose when it increased jets, but on an emergency basis, for perhaps six months, this can be done. In fact, it had to be done before. I think that the Mission Statement should put the reins on the expansion of Cayman Airways and follow the reports to consolidate and rationalise the operations.

They (ASI) also stated at page 4:

> "2 We also find a lack of clarity in responsibilities between Government, Board, and Senior Management,... ".

That has always been a problem, not only under this Member for Tourism. Even though I supported the Member for Tourism when he said that Cayman Airways must operate as an independent airline, the Board should be independent, I have come to re-think that that was wrong because the airline, as I showed, lost more in the three years that it was operating with an independent Board of Directors than it lost in the previous 17 years.

The bottom line, with the people's money, is that we owe a duty, as representatives in this House, to the people at large. Whenever the people's money is being spent on Cayman Airways, or on one of the Statutory Bodies, I have come to the conclusion now, that it is the duty of the Member for Tourism, or whichever Member is in charge, to get into the Board, to get into its decisions, and to see that Government's money is not wasted. What I am against is going into the day-to-day operations. That, I think, has been where the problems came in the past. This was one of my objections to this loan. I am not prepared now to put this large amount of money into the hands of people who got rid of far more than this in two years. It just does not make sense.

I believe that freedom from political control of Cayman Airways is different from having a responsible Member of Executive Council - who has to answer to this House and the public - being in there and finding out where the money is going, because I believe that if the Member for Tourism sat on that Board, we would never have seen, in the last two years, the leasing of a number of aircraft - getting in trouble with them one after the other. It is literally the same mistake repeated over and over and over. Every time it is repeated, it costs the people money and the Member has to answer. The last Managing Director, with all due respect to him, is gone - and indemnified on top of it.

The person who reports to the people, other Members of Executive Council and the Board, does not have to go out there and face the public. And let me say this, I believe that there have been good members on the Board, but I am going to show where I think the problem arose in that the Board was not sufficiently active to really keep up with some of the decisions that were being made, and that is the next recommendation in the Irish Airlines' Report.

> "3 We believe the present Executive Committee structure has the potential to cloud the responsibilities between Board and Senior Management. We believe the Executive Committee should be discontinued and be replaced by a properly functioning Senior Management Team which may need to be further strengthened and a more orthodox management structure be put in place.".

MADAM SPEAKER: Honourable Member, before you expand on that, could we take the suspension? The House will be suspended for 15 minutes.

AT 3:30 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 3:53 P.M.

MADAM SPEAKER: Please be seated. The Third Elected Member for George Town, continuing.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I had gone on to the third recommendation, and that was that the Executive Committee which was comprised, as I understand it, of the Chairman, the Managing Director, the Deputy Managing Director and one Board Member, or an Executive team of four. I understand that this committee has now been dismantled. But what was stated in this was that many times this Executive Committee was really dealing with and clouding issues which should have gone to the Board. They stated that there should be a more orthodox management structure put in place.

The next one, the Member has stated, has been done, which

was to put personnel on short-term contract. From there it goes on to deal with productivity and staff. They stated that the staff productivity compares well with industry standards and, in fact, they basically praised the staff of Cayman Airways. This is why I, along with the other Backbenchers, assisted the staff at the meeting in the Town Hall. I believe that the staff should be treated fairly and equitably and, as I stated before, I have an over-riding duty to the people of the Cayman Islands and to the staff of Cayman Airways on this issue.

I feel that the continuous reduction of staff salaries and their conditions of service - where we had a release recently (Friday, 3rd of July) in the *Caymanian Compass*, talking about cutting of staff costs again - is, in my view, unfair because the problem does not arise from the staff. The cost of staff in Cayman Airways is less than the losses of Cayman Airways. Therefore, staff is not the problem, and cutting staff salaries by a few dollars here and there is not the answer to Cayman Airways' problems. It goes far, far beyond that. I submit it has been a reckless drive to expand the airline and lease more and more jets. It went into dealing with salaries and conditions and service contracts.

Then it goes onto marketing which is important. It says at page 6:

> "3.2.5 Marketing and Sales
>
> 1 An integrated Marketing and Sales Division needs to be set up within the Company and this should ideally be located at Head Office under a Head of Marketing.".

That, I know, has not been followed. In recommendation five, they recommend that:

> "5...annual Marketing Plans be drawn up in advance with specific targeting and performance monitoring under all relevant headings.".

It is important that Cayman Airways carry out the major parts of these recommendations. Indeed, the Member has pointed out that they have carried out quite a lot, but a lot more remains to be implemented. Under the next heading of recommendations, which is 3.2.6 Revenue Maximisation and Cost Control, they specifically stated, and this is the Irish Airlines' consultants, in recommendation number 3:

> "3 Nevertheless, in the present economic climate we recommend that every effort is made to optimise revenue and costs. To this end we have put together a tentative schedule of what we believe are realistic revenue improvement and cost reduction targets.
>
> As a matter of priority we recommend that Senior Management are given the task of reviewing these tentative targets and then agreeing a Schedule of Performance Improvement goals with Board for the remainder of 1991/2 and beyond.".

They recommended that Cayman Airways try to get back more of the charter business which it did a lot of some years ago. In paragraph 5 they stated:

> "5 Management should invest in route profitability and performance tools to assist them in key decision making. Overall route performance analysis is performed today in Cayman Airways. However, management should also be able to see which routes or operations are covering their direct and indirect costs so that ability to contribute to overhead by some of the weaker routes can be isolated and acted upon.".

That brings me to a look at the problems in relation to the losses and profits on routes. This study that was recently done by Price Waterhouse clearly shows that three of the routes are showing no contribution, and are actually making a loss after deducting the direct expense. That means that before the balance of the indirect expense, which is largely allocated, I would assume with some basis here that I see as to the number of flights, before that comes out, they are actually showing a loss - and a considerable loss in fact. It adds up to approximately $3.7 million. What is significant is that after all expense on the routes are taken out (while they have improved from their earlier report that I read with SH&E where all United States routes were losing money), Jamaica always has made a good profit and contributed. That is why I do not understand why they do not try to put in better hours for the one route, which is to Jamaica, that they have been making profits on regardless.

It shows clearly that even at present we still have five of the seven routes making a loss. While I understand that when you take away the total revenue that is coming in for a route and you take out the indirect expense it may contribute something to the overall revenue which could be lost if you cut it, the direct expense would get considerably less if we were not flying to some of these routes. We must remember that it has only been a few years since we basically had only two points in the United States that we flew to. So we carried substantially the same amount of passengers from two cities, had a lot less staff, a lot less expense, quite a few less jets and we made very little loss on some periods, but had trading profits actually most of the years leading up to 1989 and I think four or five years before.

My question at this stage to the Member for Tourism and the Board of Cayman Airways is: How in the world do they ever expect Cayman Airways to reduce its losses down to what is manageable? (which, I submit, should be $2 or $3 million per year as a subsidy by Government), if literally every one of the routes they are running to they are losing on. The newer the route, the bigger the loss. The newer

the route the more spent on promotion. What this report, I believe, is recommending when they say that Cayman Airways' consolidates, is that through this recommendation they should be able to decide, as they said, which are the weaker routes, isolate them and, presumably, cut them and come back to the size that Cayman Airways was intended to be.

If that is done, then I believe we will be back to very manageable losses. But instead of that, we are having Cayman Airways expand - expand, expand, expand. And the SH&E consultants said, 'The more points you run to, the more money you are going to lose; the more jets you add, the more money you are going to lose.' For the life of me I do not understand why the Managing Director and Board of Cayman Airways could not get that through their heads and understand it because it is spelled out from beginning to end of the experts' reports. I have only a few other short areas in this report to look at, and I want to go back to the area which deals with tariffs. We have a situation where the question of competition can normally do one thing, and that is to keep prices down. When we protect and regulate - prices go up.

The point that I have made is what is an obvious one, that if air fares could be lowered on the routes, tourism would increase. However, if air fares are reduced, Cayman Airways loses more - and therein lies the conflict between the two. One of the things stated is that there has been very little market research undertaken within the organisation and they stated in this Irish Report that the current thinking in respect of an extension of the New York service to Toronto appears to be based on very little in the way of facts or analysis. The situation, therefore, is one in which more competition on the route would drive down prices and help tourism, and any increase in airfares helps Cayman Airways and hurts tourism and a balance has to be found there.

I cannot stress too much that a substantial amount of what I have said here, I have documents in relation to. But I believe that on some of these major decisions in Cayman Airways further study would have to be done and a lot more research done, because that is the one thing that the Irish Airline's Report has stated is missing. However, I believe that having regard to the substantial losses that Cayman Airways has suffered in the last three years or so, a solution or solutions have to be found by this House, in which I am happy to assist, as I have told the Member for Tourism from time to time, in any way in which I can. Those solutions have to come, I believe, first in a rationalisation of Cayman Airways' fleet of jets and a consolidation and stabilisation of the airline. I think that is the one major thing that must be done. That cannot happen if we are following a policy in Cayman Airways of expansion and diversification.

I also believe that the airline should go back to guaranteeing that routes between here and the United States are kept open in any event, but to remain consolidated and small keeping the losses small. I believe that the routes in the United States that are showing the heaviest losses must be cut and, even though there will be a loss in the short term, as the Member has quite rightly pointed out, in the long term there will be profits by cutting those routes. I do not mean profit over-all but profit by cutting them out.

I believe that the notion of competition with United States' airlines and taking on the big boy's attitude has to be stopped. With all that I have said I would like to point out that my duty would be to see that the staff is treated fairly and if, by following the recommendations of these reports, there has to be a consolidation, then I think that Cayman Airways has to be fair in relation to the staff employed in those areas, be it a route in the United States, or be it here. But, I do not really think that much reduction in staff will become necessary because the major problem does not lie with, as I see it, the amount of money being paid to the staff because that is small in comparison to the losses.

I think the restructuring of the Board and the putting on of the new Managing Director, Mr. Leonard Ebanks, is a positive move. I know the Member for Tourism stated that he has been able to get other members to come on now that he is giving indemnity. I had no objection to the indemnity being given for the future. My objection was to it being given in the past, even though I was a Director of Cayman Airways. So let me make that clear. I agree you cannot get any new members on the Board without having that indemnity and I totally agree with it for them. I think I have said enough on that.

I am glad that the Executive Committee has been abolished and, hopefully, the Managing Directors or Administrative side is becoming more orthodox as has been recommended by the experts. I believe that Cayman Airways has a future, I support Cayman Airways, and I have made it clear in this House and to the Member for Tourism. I am prepared to assist within means and I know Cayman Airways will continue. I do not think there is any doubt whatsoever of Cayman Airways' not continuing. But at this stage I am not prepared to vote $16.8 million to be put in the hands of a Board and Management which has managed to lose that amount in two years. That, in my view, would be irresponsible of me, and if a reasonable amount until the implementation of the major parts of this report need further to be given, I should point out that up until this stage I have always voted for funds for Cayman Airways on the condition that they carry out the experts' report, and I am right back to that again. If they need funds to keep moving until there can be implementation of these reports beyond the three or whatever million dollars that they got a week ago, Friday, then I am prepared to vote that. But to put this amount of money, at a time when the country really cannot afford it, into an airline which admits in the report that the nine months from March to the end of this year, it may lose $4.6 million, and a possible further $3 to $3.5 million, for a total of about $8 million (if American Airline comes in - I believe we have to be realistic, they are going to come in), I cannot then sit by and have added to the $20 million of the two years before, a further $8 million.

It is just not fair to the country, it is not fair to the people, and I believe the Member for Tourism must get back into the airline and he must do what he has to do in relation to the reports and consolidate the airline, rationalise it, stabilise it and get it back to what it should really be as recommended by them - an airline for the people of this country, to keep up the route communications between here and the United States, to employ our people and to have a subsidy of two or three or even four million a year. But not the heavy subsidies of what the future will bring which is somewhere between US$8 to US$10 million a year. That, I cannot support.

Thank you.

MADAM SPEAKER: If no one else wishes to continue the debate... the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. In my attempt to speak on this motion I would like to focus at the beginning by recognising the problem. Madam Speaker, the problem has to be that somewhere along the line the management of Cayman Airways went off track and any attempt to recapitalise the airline, if that attempt is to be successful, must begin with an introspective approach and a self-examination of the organisation known as Cayman Airways.

It strikes me that there has been a breakdown, an informational breakdown. I do not know where or at what point the bad advice came in at but, from the position which I take, it seems to me that there was no shortage of bad advice. That the airline business is a serious and savagely competitive business is a known fact. It is so widely recognised that the July 6th issue of the respected American magazine *Business Week* chose to feature the airline business in an article entitled 'The Airline Mess' on page 50, of that issue. No one less than Mr. Robert Crandall said, "This business [meaning the airline business] is intensely, vigorously, bitterly, savagely competitive.". I believe, Madam Speaker, that where we in the Cayman Islands made a mistake, is that we were so taken up with our own importance and our own survival and, perhaps, flattered to the extent that we decided not only would we service the Cayman Islands and provide transportation in and out, but we became so arrogant that we decided to take on the airline world, so to speak. And therein lies the crux of the problem with Cayman Airways.

Now, many would argue that problems became obvious with the change of equipment, and we have had many reports and many studies dealing with that, and I will not rehash these arguments. I will only say that from the information which I have gleaned, Cayman Airways was doing well when it was an airline servicing Miami, Kingston, Houston and, of course, the inter-Island route. There is more than a grain of logic to that when we consider that we are a nation of 26,000 people. It is flattering enough for 26,000 people to be able to have a two plane airline which is able to efficiently service those routes satisfactorily, even - let me underscore this - even if that meant an annual subsidy by the Government of $2 million.

I do not think that anyone, any well thinking Caymanian, would be so stingy and so tight-fisted that they would not agree to a subsidy of $2 million for such a service because the history surrounding Cayman Airways is a history which tells us that it was necessary for Cayman Airways to be born so that we, in the Cayman Islands, could protect ourselves to some degree from being left at the whims and fancies of other airlines who, when it was no longer profitable or fashionable, decided that they would just take up their wings and leave us high and dry with no respect or consideration to our survival. So, I want to underscore that, firstly and foremost, I am a supporter of Cayman Airways. What I am not prepared to support is a Cayman Airways which has become a white elephant.

Let me say a little bit about white elephants. I have read that in India, in colonial and pre-colonial times, when one Prince wanted to destroy his rival he gave him a gift of a white elephant. There were certain taboos attached, such as the elephant could not be destroyed except at risk of great personal catastrophe. The white elephant was very expensive to keep and so, invariably, the person to whom the gift was made would soon lose his fortune in trying to maintain the white elephant. Cayman Airways has now become a white elephant, but it was not born that way and it was not always so. So now we have to try to find out at what point did it turn into this white elephant and, in order to do this, we have to back-track and see where we took the divergent path. I believe that some of the mistakes were made at the time we changed equipment. It is flattering to be able to have the best - the best in transportation, the best in champagne, the best in clothes, the best in accommodation. It is also, most times, very expensive. One of the problems we have had in Cayman Airways is that while we have had information, and while we have had consultancies, we as a nation were new in the airline business and, perhaps, we were destined (as we are in many other areas), to make mistakes because we were so accustomed to having a fluid economic growth and a fluid standard of living that we are prone, on most occasions, to order the product without calculating the cost and without taking into consideration the amounts needed for its upkeep and also the efficacy and the practicalness having state-of-the-art in the things which we desire.

MOMENT OF INTERRUPTION

MADAM SPEAKER: Honourable Member, it is now 4:30.

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move the adjournment of this Honourable House until 10 o'clock tomorrow morning.

MADAM SPEAKER: The question is that this Honourable House do now adjourn. The First Elected Member for West Bay.

MOTION ON THE ADJOURNMENT
STANDING ORDER 11(6)

RECOVERY OF STOLEN WEAPONS

AS REPORTED IN THE *CAYMANIAN COMPASS* ON THURSDAY, 16TH JUNE 1992,

MR. W. McKEEVA BUSH: Madam Speaker, yesterday I asked permission to raise a matter on the adjournment today. Some days ago an article in the *Caymanian Compass* reported on a most serious theft in these small Islands. While I am concerned about the upsurge in robberies of these last several years, I am most concerned and worried that a number of guns and 1,500 rounds of ammunition are now on the loose and would be in the hands of persons not legally responsible for them.

Looking at the report, I cannot understand why anyone in these Islands, such a small community, needs a semi-automatic weapon. I understand that there is a sports club, the Gun Club, in operation here which caters to persons who wish to participate in any such sport. I support any kind of sports for these Islands and I know also that there are responsible persons who make up the membership. I am opposed however, to the importation of any and every kind of gun just because a person is a member of that club, while the general public is deprived of any such privilege.

Some years ago, there was such a robbery of guns and the end result was a shooting death, or the murder, of a prominent citizen. I do not need to belabor the seriousness of the robbery and the fact that these guns have been let loose in our very small community. However people are very concerned and have talked to me about it. They are very concerned about the matter and I raise the matter here on the adjournment to elicit from the Government their actions taken so far to recover these guns and ammunition.

Thank you, Madam Speaker.

MADAM SPEAKER: The reply by the Honourable First Official Member.

HON. J. LEMUEL HURLSTON: Madam Speaker, the matter that the Honourable Member refers to is quite rightly a serious matter, and I hasten to add that it is being treated by the Police Department with the seriousness which it deserves. My information is that at about 5:25 p.m. on Tuesday the 14th of July, 1992, a report was received at Central Police Headquarters of a burglary at a residence in the Liggany Estates area of George Town. The Police attended the scene immediately. The complainant, who is a member of the Cayman Islands Gun Club, reported that the burglary appeared to have taken place between 4:00 and 5:20 p.m. Four hand guns, three of which belong to the Cayman Islands Gun Club, were stolen, together with 1,500 rounds of ammunition. Other items consisting of a camera and other equipment in the home were also stolen in the same burglary.

A reward has been offered for information in the theft and the Royal Cayman Islands Police are deploying all available resources in a concerted effort to recover these fire-arms and other property. The teams involved in the investigation have been drawn from both the Uniform Branch and the Criminal Investigation Department.

As Honourable Members will appreciate, this is an on-going investigation and it is not possible to give any details as to what leads, if any, are presently being followed, or whether there are any suspects or what methods are being deployed to solve this serious crime. However, it is hoped that an early arrest will be made and that all the property will be recovered.

The Police are once again requesting that anyone having any information on this important and serious matter should contact them immediately and in confidence at Police Headquarters, 9-4222.

ADJOURNMENT

MADAM SPEAKER: The question before the House is that the House do now adjourn until 10 o'clock tomorrow morning.

QUESTION PUT: AGREED

AT 4:36 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., FRIDAY, 24TH JULY, 1992.

FRIDAY
24TH JULY, 1992
10:05 A.M.

MADAM SPEAKER: Prayers by the First Elected Member for West Bay.

PRAYERS

MR. W. McKEEVA BUSH: 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly. Presentation of Papers and Reports. Report of the Standing Finance Committee. The Honourable Third Official Member.

PRESENTATION OF PAPERS AND OF REPORTS

REPORT OF THE STANDING FINANCE COMMITTEE
(Meeting held 3rd July, 1992)

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I beg to lay on the Table of this Honourable House the report of the Standing Finance Committee for a meeting held on the 3rd of July, 1992.

MADAM SPEAKER: So ordered.

HON. GEORGE A. McCARTHY, JP. The Standing Finance Committee met as a result of request from the Honourable Elected Member with Portfolio responsibility for Tourism, Aviation and Trade to consider matters relating to Cayman Airways Limited. The Honourable Member for Tourism, Aviation and Trade through this Legislative Department circulated a 1992 forecast of Cayman Airways Limited.

The Committee sat in private on Friday, 3rd July, 1992 from 4:44 to 7:10 p.m. All Members of the Legislative Assembly constituting the Standing Finance Committee were in attendance of the commencement of the meeting. There were no officers in attendance at the meeting. Suspension of Standing Orders 62A sub-section (2), upon a motion moved by the Honourable Elected Member for Tourism Aviation and Trade, Standing Orders 62 subsection (2) was suspended by a majority vote of eight to seven to enable the committee to meet in private.

Suspension of Standing Orders 81 and 82 upon the motion moved by the Honourable Elected for Tourism Aviation and Trade the committee also by a majority vote of eight to seven suspended Standing Orders 81 and 82 for the purpose of having all strangers withdraw from the building. Broadcasting of proceedings, it was also agreed by a majority vote of eight to seven that the proceedings of the meeting be recorded but not broadcast by Radio Cayman. Withdrawal of strangers, at 5:28 p.m. the Speaker ordered the withdrawal of all strangers. In view of the fact that the proceedings were not to be held in camera, Mr. Gilbert McLean withdrew from the meeting.

The committee unanimously agreed to the following recommendations: (1) The annual subsidy from the Cayman Islands Government to Cayman Airways Limited be increased from $2 million to $4 million for 1992 as a sum of $1.7 million having already been disbursed by the Cayman Islands Government to assist the airline, thus leaving a balance of $300,000 remaining to be disbursed; (2) subject to the presentation to the Legislative Assembly during its present meeting of a Loan Bill for a Loan of $16.8 million to be negotiated from a bank or banks as capital injection into the airline; and (3) to repeal the restriction placed on the sum of $1 million be a portion of the $5 million which was guaranteed at Finance Committee's

meeting held on the 26th of March, 1991, and earmarked to assist with the construction of a aircraft hanger.

The Committee agrees that this report be the Report of the Standing Finance Committee in respect of its meeting held Friday, 3rd July, 1992, to be laid on the Table of this Honourable House. Thank you, Madam Speaker.

MADAM SPEAKER: Report of the Standing Business Committee, the Honourable the First Official Member.

REPORT OF THE STANDING BUSINESS COMMITTEE
(Meetings held 17th, 24th, 29th June and 2nd, 9th and 17th July, 1992)

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee for the Second Meeting of the 1992 Session of the Legislative Assembly, covering meetings held on 17th, 24th and 29th of June, and 2nd, 9th and 17th of July, 1992.

MADAM SPEAKER: So ordered.

HON. J. LEMUEL HURLSTON: This report, Madam Speaker, refers to meetings of the Standing Business Committee where at the Committee considered that the order of business for the Second Meeting of the 1992 Session of the Legislative Assembly which commenced on the 22nd of June. The Committee held six meetings. The Minutes of meetings form a part of this report and are appended to the report. A total of 14 Business Papers setting out the business of this meeting were duly circulated. The Committee agrees that this report be the Report of the Committee.

Thank you.

MADAM SPEAKER: Thank you Government Business, bills, continuation of debate of the Second Reading of bill entitled the Loan (Cayman Airways) Bill, 1992. The First Elected Member for Bodden Town.

GOVERNMENT BUSINESS

BILLS:

SECOND READING

THE LOAN (CAYMAN AIRWAYS) BILL, 1992

(Continuation of Debate thereon)

MR. ROY BODDEN: Thank you, Madam Speaker. Prior to the adjournment yesterday afternoon, Madam Speaker, I was about to offer the observation that my debate will be primarily from the stand point of managerial principles rather than from the strictly economic and accounting and cash flow procedures of Cayman Airways. I would like to make the observation that from its inception, from its very birth, Cayman Airways was surrounded by controversy and differences of opinion with regards to how it should be administered or run.

Perhaps it was because of this realisation and because of the attractiveness of the airline why the person who first thought of Cayman Airways as the entity which it has now become, insisted on having a direct say in its operations. And as far as I have analysed in hindsight there was some merit to this direct input by the politician if for no other reason than the political directorate was able to be in a position to know at any given time the details of all the important decisions and transactions going on in Cayman Airways from the Board level down to the management level.

Subsequent political directorates have seen fit to change the style and perhaps to adapt what could be called a more *laissez-faire* approach with the consequence that the authority of the Board and the Managing Director was not questioned or over-seen to such an extent. This too, has some merit except in cases where decisions are made without being properly thought out or without taking into consideration all of the ramifications of those decisions. It is exactly this kind of philosophy which has brought us to the point at which we now stand. So that what has indeed transpired is a situation where peoples were given responsibilities but the notion of accountability, and certainly satisfying the political directorate of the efficacy and the soundness of certain decisions, weakened and it weakened to the point where we, in this Honourable House, were often embroiled in arguments as to the exact role and position of Cayman Airways. That is, whether it was a private entity in the strict sense of the word or whether it was a private entity being allowed to exist with a minimum of Government control.

I can remember one occasion where a matter having to do with Cayman Airways was discussed and I said and the *Caymanian Compass* picked it up and editorialised it, that one of the first things we had to do was to arrive at a specific position as to whether Cayman Airways was a private entity or whether it was a private entity which was allowed to exist with Governmental support and by inference, some limited form of Government guidance and certainly an expected accountability from the people who ran Cayman Airways to the Parliament and peoples of this country. That question is as relevant today as it has been and I believe that where the problems began with Cayman Airways is exactly that point where it departed from being a commuter airline, specifically spawned to take care of the interests of the Caymanian peoples to where it decided

to take on the giants of the airline world.

It could be expressed in another way. The problems with Cayman Airways had its genesis in the misunderstanding or the absence of a mission statement. A statement which spelled out clearly and unequivocally the role of the airline. All of us in this Honourable House are familiar with the events of the summer of 1989 - the very vigorous and heated debate which ensued as a result of Government's intention to change the equipment and the Backbenchers made their position very clear at that time. Members of this Honourable House will be very familiar with the three options that were talked about. Certainly the records would bear me out, when I suggest that the problems which existed at Cayman Airways prior to that summer of 1989, were small and non-threatening in comparison to the problems which came as a result of that decision to change the equipment.

Certainly up to that point, for all the controversy the airline was able to exist with a minimum of Government help. That minimum being the annual $2 million subsidy which was at that time $1 million and not two. It became $2 million immediately after that. But how could we, from 1989, have embarked on such a rapid descent when many people pointed out the weakness in the change of equipment at this time for many reasons. Certainly any wise manager coming to the point of recapitalisation as we are now, would have to examine these and subsequent events in order to ascertain exactly what the problem is. For if that is not done, what is going to happen is that we will recapitalise the airline and if we leave the same personnel in place, the same methods of operation and the same management strategies we are putting the $16.8 million in the same sink-hole and like Sisyphus we will be doomed to repeat the task or the exercise.

It seems to me somewhere along the line the break-down must lie in advice. Somebody has been given the wrong advice or someone did not see fit to take the advice given, assuming it was the correct advice. So we have to find where exactly is the break-down point. Is it the Member received advice which was technically flawed? Is the Managing Director? Is it someone lower down? We have to arrive at this because until we find this out and take the necessary steps to correct it, all of the reports we have at our fingertips from SH&E, from Aer Lingus and from Swiss Air will be of no avail. Is it a problem where one person has assumed a mantle of such magnitude and importance that he or she is making these multi-million dollar decisions without proper input and thought from technical people. And I say, Madam Speaker, that there is an obligation for somebody to account to the Parliament and people of the country, if, Cayman Airways is an enterprise owned by the Caymanian people.

What is alarming about the events of 1989, is that the Executive Council, with the connivance of the Governor seized the opportunity to change up our system of operation and specifically the Executive Council politicised the event to the point where they went from district to district saying that the deal, that is changing of the equipment from the 727-200s to the 737 was such a good deal that they were going to make $2 billion.

I crave your indulgence to read an excerpt from a speech at one of these meetings recorded at the West Bay Town Hall on the 10th of August 1989, where the Honourable Member for Communications, Works and Agriculture said this.

> "Ladies and gentlemen, they put themselves up as experts ["they" referring to the Backbenchers] and tell you that over 15 years it is going to cost Cayman Airways $111 million. I feel amused, I am amused when I hear those brilliant certified accountants giving you that type of information. There is only one certified accountant in the Legislative Assembly, ladies and gentlemen, and that is me. And I have checked those figures and I can tell you that is true, that maybe you will be spending $110 million over 15 years but that is one side of it. Which company you ever saw in your life that ran a company without a profit margin? What about the revenue? There are two sides to every accounting statement. You have your revenue and you have your expenses. But all they are talking about is expenses. If you total up the revenue over the same period that Mr. Benson mentioned, it is something like $2 billion, otherwise translated, $2,000,000,000.".

Madam Speaker, we are not the ones who misled the people, the Backbenchers are not the ones who have to come now for a $16.8 million Recapitalisation Bill. As a matter of fact, we have been made to look like prophets. That was August of 1989. In August of 1990, we were so perturbed that seven of us Backbenchers paid our own way and went to London on an appointment with some Members of the Foreign and Commonwealth Office because we were concerned that the move to change the equipment at this time was the wrong move, among some other things. One of the questions we raised at this meeting with Officials at the Foreign and Commonwealth Office was when the Cayman Islands Government gets up to its neck in debt, is the British Government going to assume the responsibilities and obligations for these debts and pay them off? Madam Speaker, the answer was resounding in the negative - an unequivocal, no. And if I recall correctly it was mentioned that the obligation of the British Government ended with a moral obligation and they would assume no other obligation.

We also quite clearly came away with the impression that the British Government was not prepared to do much by way of renegotiating any changes in the Bermuda II agreement. Enough said on that, Madam Speaker, the rest is as they say, history. I believe that Cayman Airways as an entity could do well but we cannot do well if we try to swim in the same tank as Robert Crandalls American Airlines because even airlines of the creditability and size of Air France fears and stands in awe of American Airlines. I have a quotation from the same article mentioned earlier that is the July 6th 1992, issue of Business Week where a senior official at Air France, Mr. Bernard Attuley says: "Crandalls strategy is cannibalistic. His goal is to kill the weak.". If an airline the size of Air France says that and stands in fear of American Airlines, how much less of a dangerous position you think Cayman Airways must be in?

I say all this to say that I marvel at the strategy behind some moves taken by Cayman Airways and I am specifically referring to an open letter which was placed in one of the issues of the Wall Street Journal. That letter which was a plea to Robert Crandall should not have been. And any official who gave his approval for such a publication should have been forthwith canned because in the corporate world that is a no, no. You never let your rivals know your true position if it is a position of weakness. Do you think that means anything to Robert Crandall? Do you think he cares or has any obligation to Cayman Airways or the Cayman Islands? Well, anyone who so thinks I invite them to read this article. That man is a corporate killer. He joined American Airlines in 1973 and the path he trod is littered with skeletons of competitors. He eats a couple every day for lunch because that is what he is supposed to do.

He knows the day his airline does not please the shareholders, Robert Crandall is no more and he will have to give up his nice suite of offices and his luxurious salary and all the perks that go with it, so he does not care about 300 employees at Cayman Airways. They are not even American citizens. If Cayman Airways is to survive, it must get lean and mean. It must be alike mosquito and sting American Airlines. It cannot pretend it is a bull-frog and puff itself up to the size of an elephant because it will only burst when it has reached its capacity of air.

It must be like a mosquito and sting him. We, in the Cayman Islands should see that Cayman Airways operating out of here, should have more flights to Miami at a cheaper rate than American Airlines could even dream of having. We must have patrons who are so loyal that when they leave here they will not even take a second look at American Airlines, let alone fly it. We can only appeal to Caymanians to do that because there is something else I found out. American citizens almost automatically have a pension for flying American carriers. That is a form of their indoctrination. So we are not going to be able to compete with them unless we can offer them something which is attractive and when you fly, that must begin with an attractive fair.

Madam Speaker, if we are to get lean and mean, I believe that Cayman Airways should consider a reduction of its fleet down from the current number to two or possibly three aircraft. These aircraft should be so operated that they spend more time in the air, they are either coming or going because that is where money is made in the airline business. We must get back to the original concept of Cayman Airways. That is as a sort of commuter airline which operated flight services to the Cayman Islands from Miami, Houston and onto Kingston.

I want to mention that the service to Kingston is not justifiably done. There seems to be some sort of prejudice existing and this is a fallacy of management because we have been told that that route is the most profitable route, yet, it gets the leftover hours for service. It has to fly in the dead of night. That in itself I would think is a fallacy of management. The Miami services should be arranged to allow for seven or up to eight flights as per the daily demand. And the Jamaica flights should be arranged to allow for increased flights during peak travel periods and times. Baggage allowances should be comparable with other CAL destinations and the fares should be adjusted downward. This will attract more travellers and create a higher income and profit on the route.

I want to mention something about fares generally, Madam Speaker. It may be that we have to think about a small profit margin and more value. It may be that we have to consider lowering the fares and carrying more people instead of keeping the fares heightened and carrying fewer people. One of the complaints I frequently hear from Caymanians is the two or three tiered structure that exists where the people who book last sometimes, at least prior to the recent adjustment downwards, had to pay in some cases as much as $300+ to get to Miami. I am saying that if one of the functions of Cayman Airways is to serve the Caymanian people then that is unrealistic, those kinds of fares and as a result of that we lose passengers to American carriers who do not have the same kinds of structure.

While I am strictly not against protectionism there is a certain point beyond which protectionism and protectionists policies does not make good economic sense. It is better to sell a seat for $200 than to keep it empty because someone would not pay $400 for it. Recapitalisation is one thing but we have to say where we are going once we have the money. I will be listening intently to the Honourable Member when he gets up in his winding up to state exactly the plans for Cayman Airways are once they have this money. I must say I have a reservation, more than that, I have certain moral scruples about giving away $16.8 million of the people's money to be managed and handled by the same persons who have brought us to the brink of calamity as far as Cayman Airways is concerned. So I shall be looking forward with the expectation of hearing of a change in the organisational structure; of a change in some of the management personnel and certainly I shall be looking forward to hearing of some new strategies for Cayman Airways.

In the *Caymanian Compass* of Thursday 23rd of July 1992, the editorial is in the form of a question captioned "Where to?" The fourth paragraph says:

> "The airline is creating the positions of vice-president of finance now and vice-president of marketing at a later date. The airline also says it will add management staff as it sees fit. We trust these positions will be filled by (professionals) [and 'professionals' is in parenthesis] and not become political positions or appointments of convenience to unqualified persons for favours owed.".

Very succinctly put, Madam Speaker. What that is in essence saying is that any new positions created must be filled by people on the merit of their qualifications and experience. Otherwise, it will be a measure which will leave us no better off than we are at present. I believe that steps should have been taken long ago to shake up Cayman Airways both at the managerial level and at the Board level because I cannot envisage a private entity and a private corporation existing in a state of flux for so long without the shareholders and the Board of Directors asking someone and reshuffling the organisation to get better results. The mere fact that this Legislature had to be approached to indemnify a certain person is perhaps the saddest

indictment on some of the decisions taken at Cayman Airways.

There seems to be or to have been a situation where decisions were taken without the full input of the Board and perhaps to the exclusion of many important factions. I wonder for example where is the logic in the break-up so that we have a Vice-President of North America and a Managing Director? And how are these positions so stratified that the grey line between the two senior positions are clearly demarcated and then this whole notion of a Board decision that checks over $10,000 must be signed by one Member of the Board. A policy which, I understand has never been practiced.

These kinds of things need to be righted if Cayman Airways is to operate as an entity that it can operate as. I would like to categorically state that I am sure the Caymanian people would be prepared, even if they had to subsidise Cayman Airways at its present rate of $4 million per year to do that if they could be satisfied that the airline was running as efficiently as it could be run. Such a subsidy is not too large a price to pay for having one's own access to other jurisdictions.

So I am not grudging in my support of the subsidy but in all candor and seriousness, and with my sense of responsibility I could not come here as a representative of the people and support this loan bill without being satisfied that some radical changes had taken place at the top level of Cayman Airways. Cayman Airways is an integral part of this nation now and it should remain so. But I cannot in all good faith stand here and say that I feel good in voting this money for an organisation which has 100 people employed in the United States and only 10 of those 100 are the people I represent. It would be an abnegation of my responsibility and it cuts against the deepest grains of my conscience.

I say again without setting myself up to be any expert but just on plain common sense and simple managerial principles that Cayman Airways must revert to its original function. And if it is to survive in the cut-throat world of airline business it must get lean and mean. It must revert to offering attractive fares, perhaps even consider no frills. The airline business according to the little understanding I have of it is a highly competitive business. It is also a business in which airline companies need constant re-examination and review of their marketing strategies and routes. It is a business where people who are on top of it are quick to see openings and to seize upon opportunities of alliances with other airlines and other companies.

It is a business which necessitates the best brains, the best thinkers and which sometimes thrives on divergent ideas. It is a business in which the mission statement must be clear and unequivocally embedded on the minds of everyone. It is also a business where the employees must be satisfied and the moral must be kept to the highest point at all times, unlike Cayman Airways where some members recently got pay rises of up to $500 while others had to settle for much, much less. It cannot be run on any erratic kind of strategies and just out of plain simple favoritism. Cayman Airways must be introspective, it must examine itself to the point where it is prepared to cut down on the perks, to the point where it is to control the buddy pass, and some of the other privileges to the point where only the necessary phone calls relating to the operation of the company must be made. To the point where people who are entrusted with the use of Cellular phones use them only to conduct company business. It must examine itself to the point where there is absolutely no waste, where every employee feels a part of the company and is indoctrinated to believe that he or she belongs to Cayman Airways.

Madam Speaker, perhaps they need a little of the Japanese management philosophy. One of the reasons why Japan has been successful for so long if that they have a different notion of belonging, loyalty and work ethics. I found out during my training period up there that if you were to ask a Japanese person who he is, he or she would tell you their name, and they will say "I am such and such a person, of the Nissan Motor Company or of the Toyota Motor Company or of the Honda Motor Company." We in the Cayman Islands would say, "I am the son of so and so." That is how they introduce themselves. They will not say "I am Roy Bodden, the son of Sunshine and Stanley." So strongly do they associate and believe. Perhaps it is that kind of philosophy that we need in Cayman Airways. And, Madam Speaker, I can tell you from my secondment in offices at the Ginza where I was, during the business hour they never used the telephone for any other reason other than to conduct the business. It is simply amazing and the working hours have no scope for socialisation. You do that during the 15 minute break or in the afternoon when you have knocked off. So, what I am saying is that perhaps we need in addition to $16.8 million, a revolution at Cayman Airways; a change in philosophy, a deepening sense of loyalty and dedication and a sense of commitment and belonging to the point where the airline becomes so entrenched and imbedded in the people who work for it that they take it to be 'their' airline, as an appendage of their psyche.

Then in turn, we, on the outside of the organisation must be so loyal that whenever we fly and in whatever way we can, we help it because it is incumbent upon us to see that it survives. I underscore, that as far as I am concerned it will only survive if it becomes lean and mean. If it reverts to the original reason for its birth, to the original motive for its existence. Madam Speaker, I would like to be able to say that this Loan Bill has my support and I have searched my soul and I have discussed and discoursed and I have to do a Miss Duncan and say no. I will not support this bill.

Thank you.

MADAM SPEAKER: Before I call on the next speaker, I would ask Members to refrain from repetition concerning Cayman Airways from 1985 to 1989. These have been repeated and it is not necessary to repeat them again. There have been repetitions of reduction of fares, of the Jamaican group particularly, and reverting to the original concept of maintaining smaller fleets. I would ask Members to bear this in mind when they are speaking. It does not refer, however, to someone who is replying to the debate.

The Honourable Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, in answer to a recent parliamentary question

the contingent liability of the Government as at the 31st of March, 1992, was given as $71,251,061. Allowing for subsequent adjustments for the guarantee for the Health Services Authority plus the assistance that is now being sought by way of this Loan Bill for Cayman Airways Limited, this will change the position to $73,133,818 arrived at as follows.

Madam Speaker, as I mentioned earlier the balance was given as $71,251,061. If we include the guarantee for the Health Services Authority of $18 million and we deduct the guarantee that was given to Cayman Brac Power and Light of $83,112 plus we factor out the $16,034,131 which is standing as the difference or the shareholders deficiency between the paid up capital of Cayman Airways and the accumulated deficit. This gives us the net position of $16,034,131 thus giving the total of $73,133,818.

Yesterday, the Third Elected Member for George Town said that he would hope that a statement would be made as to what percentage of local revenue is being used to off-set the public debt obligations. Before I go into that I would just like to set out the revised public debt balance taking into account these changes that have been mentioned earlier.

The self-financing loan, as at the 31st of March, 1992, was stated as being $23,346,699. This has since been adjusted to recognise the full proceeds of a loan of CI$7,641,667 obtained from the Caribbean Development Bank for the carrying out of the Airport rehabilitation works. The only amount that was included in this figure, as at the 31st of March, was the amount that was spent from this loan proceeds of $1,638,226. On reviewing the position subsequent to that because of the fact that we had entered into the loan agreement, I have adjusted the $23 million+, balance to include the differential between the full proceeds of the loan, full value of the loan and what has been spent. This gives a total of $28,850,...

PART OF THE TAPE IS MISSING

.....has been spent, that has not been used up in full so this adjusted balance recognises the commitment against the loan. The direct public debt balance of the Central Government was given as $13,843,433. This has since been adjusted in anticipation of the loan financing that is now being sought for Cayman Airways to read $30,643,433.

The net public debt obligations taking into account the contingent liabilities, self financing loans and direct public debt, will show an overall net pubic debt obligation as at following the approval of the loan facility for Cayman Airways of $132,627,391. I would like to point out however, that other than for the Civil Service Pension obligation it is unlikely that the Government will be called upon to assume the responsibility for the obligations under contingent liabilities. The annualised repayment in respect of the Public Debt and self-financing loans was stated by the Honourable Member for Tourism, Aviation and trade as being likely to consume between five and eight per cent over the duration of the loan for Cayman Airways. This is over the next 10 years.

It should be borne in mind that the repayment in respect of the self-financing loans however, are the obligations of the Statutory Authorities and not that of Central Government. One of the Members of Executive Council, I can not recall exactly who, in giving a breakdown of the amount appearing in the 1992 Estimates, for the repayment of the Public Debt obligation gave a figure of $5,539,905. This information was provided by Finance and Development but it was pointed out at that time that the self-financing element of it was $2,756,658. This is the portion that is being recovered from the Statutory Authorities and therefore represented 2.2 per cent of this total, so in effect, the amount that was being paid on loans that are being carried on the books of the Central Government is $2,783,247.

It should be borne in mind, however, that these percentage as given are at best crude estimates and have been arrived at based on the following assumptions: The Government will not seek to obtain any further borrowings to finance capital projects for the next 10 years. The economy will grow at an average rate of between five and six per cent for the next 10 years, there will not be any significant fluctuations in interest rates, there will be no introduction of new revenue measures and obviously expenditure will have to be contained at the 1992 level adjusting for inflation.

In looking at the band or range of percentages of local revenue that will be consumed, these percentages have been arrived at by taking the local revenue and not factoring in any revenue proceeds from loans or any other sources. This is based on the local revenues, and for 1992, based on the figures as appearing in the budget. The range varies in 1992, adjusting for the interest repayment on the loan for Cayman Airways, assuming that we will have a two year moratorium, it will mean that the 4.4. per cent will then become 5.2 per cent of local revenue.

For 1993 it is expected that this figure would increase to six per cent. For 1994 to 6.9 per cent; 1995 to 6.3 per cent; 1996 to 5.7 per cent; 1997 to 5.3 per cent and 1998 to 8.8 per cent. This 8.8 per cent or this sudden jump to 8.8 per cent, apparently there was a loan of approximately $14 million that was raised in 1991 and there was provision for a balloon payment to be made at that date but I would imagine the most prudent approach that will be sought probably for dealing with this is to re-finance that balloon payment that would be due instead of paying it in a single lump sum. After that then, it reduces to 3.4 per cent in 1999; 3 per cent in the year 2000; 2.5 per cent in the year 2001 and .07 per cent in the year 2002.

One would expect, as I said, that at best these are crude estimates and quite likely there will be need to seek financing assistance over this duration. However, with your permission I would like to comment on an article that is appearing in *The New Caymanian* this morning. I would like to quote three short paragraphs with your permission. There is a writer who states:

> "There is no doubt that Cayman's National Debt has reached a very high level: around US$6,000 per man, woman and child for a total of up to $120 to $150 million dollars. Around $6,000 has to be

collected in taxes from each man, woman and child in order of in his or her lifetime just to repay the debt- never mind interest on debt, and ordinary expenses of operating the whole apparatus of state. The ExCo people, collectively, do not have two clues to rub together when it comes to finance, it seems; witness the out-of-control state expenditure, and apparent mindless fostering of local inflation. It is like toddlers playing with fire works.".

Madam Speaker, I enjoy the fact that I am living as a citizen in a free society and I applaud the members of the public and I am sure the Government welcomes citizens of the Cayman Islands, members of the public in general, commenting on programmes that are being proposed because what it does it helps for one to take a closer look in terms of what is being done. And in any free society this is to be expected. However, there can be a rational reasoning thus brought to bear on given situations. I think this writer assumes a certain level of arrogance. I think basically, it is mixed with some level of stupidity and I would go further to say, if ignorance was bliss, this gentlemen would be a blister.

Madam Speaker, one has to be very careful. One does not take lightly the subject that is now being debated in the Legislative Assembly concerning the financing assistance that is being sought for Cayman Airways and in addition to it becoming a public debt burden, one must recognise that there is a need to look very closely at management because as pointed out by the First Elected Member of Bodden Town, money cannot just go out to suffer the same fate as what went on before.

The Honourable Member for Tourism, Aviation and Trade, has outlined certain measures that are being pursued to try and correct this situation and to ensure that competent individuals are in place. But if we were to think carefully in terms of the $73 million approximately that constitutes the contingent liability, we find inside there an amount of $34 million in respect of public pension or civil servants pension obligation.

This is something that has been accruing over time and it has been factored in as a part of the total to recognise that there is an obligation rather than allowing it to be addressed solely by treating it as an expenditure item. Also, included in that as well, when one looks at the guarantee that has been issued, for example, to Cayman Water Company, the question should be raised, 'What would be the alternative of not issuing that guarantee to allow that company to expand and to provide a water facility to the residents of West Bay?' The alternative would be for the Government to undertake an expansion in that programme and obviously to do something like that could probably cost three and four times as much as it would cost for the company that is situated basically in that area to extend its pipes and make the connections into West Bay. Thirdly, when we look in terms of the guarantees that have been issued to secure the debentures for the Housing Development Corporation, when the objectives that are...if they were to be thought of these are facilities to assist Caymanians to obtain their homes, it allows for a person seeking in a certain income bracket to get a loan up to $55,000.

The banks, everyone recognises that have been of tremendous assistance in assisting Caymanians in finding financing their own purchases but one has to recognise that there are certain limits in terms of securities that will have to be taken into consideration. There is a risk in terms of one or two of these loans by the Housing Development Corporation going bad, but so it is with every financial institution. But it provides an opportunity for a Caymanian, instead of renting on a long term basis and not obtaining what I would call equity in these Islands by staking out a piece of land to say well, all right, this is for themselves to live on and to pass on as an inheritance to the children. I think if this is not done, it will create major social problems later on.

It is good when these initiatives are taken so when one looks at the contingent liabilities or the items comprising that, one should think in terms of what are the reasons for entering into these obligations in providing this assistance. As I mentioned earlier it is the right of everyone to criticise and to cause the Government, any Government, to think in terms of the projects and programmes that are under consideration. But I am concerned that our papers that we have got in front of us, this is given world wide circulation, not Island wide any more and we are quite a reputable and recognised off-shore centre. We are one of the leading centres, as such.

Now when information like this gets out and one picks it up and looks at it and not being able to put it in the context of what is happening, I think it creates the wrong message. So if a person comes forward and tries to convince me that look, I am a committed member to the society, I mean the society well and this goes for members of the press. I think each and every person residing in this society has an obligation to make sure that the most truthful information is imparted. One should not run the risk and sensationalise information just to give it a certain level of attractiveness. And to do something like this, I do not know anything about the financial expertise of this gentleman, but I am sure that he has not come forward and has made an assessment of the Members of Executive Council, I am not sure if he knows us individually, but for someone who does not know the people that he is talking about, who knows the situation and refuses to put it in the context and present it in the manner that it should be presented, and having access to the media as he does, and knowing all of this and to publish an article like this, Madam Speaker, I would suggest that the attitude of such an individual borders on recklessness.

I would trust that he would re-think any future articles because we have seen other countries that have been adversely impacted by what is called or referred to as "foreign press" or other elements from outside doing clandestine operations and probably publishing misinformation. I do not think that it should be done by a member of this society and anyone who has the interest of the Cayman Islands at heart should be sure that if they have got access to the media that the information that they impart is done in the most controlled, mature and responsible manner.

Thank you, Madam Speaker.

MADAM SPEAKER: Proceedings are suspended for 15 minutes.

AT 11:20 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:51 A.M.

MADAM SPEAKER: Please be seated. Debate continues on the Loan (Cayman Airways) Bill, 1992. It would appear that no other Member wishes to continue the debate, I have been asked by ...are you ready to wind up? Honourable Member for Tourism Aviation and Trade.

MOTION TO DEFER REPLY ON THE SECOND READING DEBATE OF THE LOAN (CAYMAN AIRWAYS) BILL, 1992

HON. W. NORMAN BODDEN: Madam Speaker, I was hoping that I would not have to wind up this debate today, although of course I am anxious to see the item through to its conclusion but I have a flu which I came down with and I certainly wanted an opportunity to research some of the points that have been already raised in the debate by the Third Elected Member for George Town and the First Elected Member for Bodden Town.

I am wondering if the House would agree to defer my response to the debate until Monday deal with the other items on the Order Paper? Therefore, I would formally move the motion that the reply to the debate on the (Cayman Airways) Loan Bill, 1992 be deferred until Monday at 10 a.m. and request that the House deal with the other items on today's Order Paper.

MADAM SPEAKER: The question before the House is as is proposed by the Honourable Member for Tourism, Aviation and Trade that the reply to the debate on the Second Reading of the Loan (Cayman Airways) Bill, 1992 be deferred until Monday, 27th at 10 a.m.. The question is open for debate.

The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Thank you, Madam Speaker. This is a most unusual request from the Member and this would be setting a most unusual precedent in the House. If the Member found himself in a position where he is unable to answer the objections to this bill, he certainly has five other Members of Council plus the First Elected Member for Cayman Brac that he could have asked them to keep the debate open for the remainder of the day so that he could have whatever time he needs to do the research. I am certain if it were possible to research all the records of this House, for all the years that they have been kept, we would never find a situation where the Member in charge of a bill was inadequate and unable to answer the points raised. If the House allows this we would be allowing a degeneration of the rules of debate and certainly if this is going to happen I believe that the only way it could happen is that we would have to treat the entire debate as still been left wide open, which means that any Member who wants to speak on Monday morning would do so.

Madam Speaker, this perhaps is a matter where you may be called upon to use your discretion and a matter where it will not be that might is going to over-come right. If this motion is carried, as I know it will because the plastic vote on this side will guarantee that it be carried, you, Madam Speaker, have an obligation to the Members on this side in fairness to the minority to allow the debate not to be closed and certainly make a ruling, if this motion is passed that on Monday, other Members will be allowed. The Member moving the motion for the deferral has not given any reasons why he cannot reply.

The debate made by the Third Member for George Town was concluded yesterday but it did not start yesterday. I believe his debate started on Monday or maybe started Wednesday. This Member cannot use that as an excuse and he has the advantage of having technical staff, which could have done the research. He has the advantage of having by his side the Member for Education, who has had long experience in filibustering, if that had become necessary, and who has had long experience in dealing with the airline matters. He has the Member for Communications who puts himself up as qualified to advise on airline matters and certainly no reason at all has been advanced for this and I must say that if this is the way that he expects the House to be run, and if this is allowed this will be pure debating treachery. Pure debating treachery.

This can never be done and it would defeat all the principles of democracy which allowed the minority to have their say and which now allows the steam-roller Government which came into force with Motion No. 3/90. to do as they like.

MADAM SPEAKER: First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I have never in my time in this House seen such a request acceded to by the House. All of us at times find it difficult to reply to debates of Members. I have been caught close to 4:30 in the afternoon and I had to rise and I have seen it that the House suspended Standing Orders, against my wishes to carry on the debate so that I could not do my further research.

While I respect the Member, I cannot respect his wish. If this House decides to take that route because of their very small majority vote from this side, I intend to move an amendment that the bill be withdrawn for further consideration in the face of the already large debt position of these Islands. Then that, will give people chance to debate when the vote was being called, I was on the phone dealing with a constituency matter. I believe that this is kangaroo Government and I have already said that this House is being taken to those levels.

I know that any Member can raise any motion but those motions must be reasonable. I think that the Member for Tourism, and I do not need to repeat that I respect him, but if they

had not taken the steps in 1989, this would not have happened today. Be that as it may, it has happened. If they want to debate, do it now.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker.The motion moved by the Honourable Member, to my interpretation is a tacit expression of his failure to reply to the debates of myself and the Third Elected Member for George Town. I cannot say much about the happenings of the House on previous occasions since that I am just completing my term as a freshman here, but I certainly can say this, that that request contravenes any of the rules and regulations I know governing debates. Because a Member having moved the motion, cannot then request for a deferment in order for further preparation.

Madam Speaker, the decision lies in the capable hands of the Chair, and I am sure that the Chair in its Solomonic wisdom will rule in such a way that the rights of the minority are guaranteed.

Thank you.

MADAM SPEAKER: No other Member wishes to speak to this motion? The Honourable Member for Tourism Aviation and Trade.

MOTION TO WITHDRAW MOTION TO DEFER REPLY ON SECOND READING OF THE LOAN (CAYMAN AIRWAYS) BILL, 1992

HON. W. NORMAN BODDEN: Thank you, Madam Speaker. I would like to formally withdraw the motion in regards to my response to the debate on the (Cayman Airways) Loan Bill, 1992. In a way I regret putting it forward or making the request to the House, however, my motives certainly were genuine and reasonable and in view of what has been said by some Members I would like to withdraw that motion and will accordingly proceed with my response to the debate on the (Cayman Airways) Loan Bill, 1992.

MADAM SPEAKER: Before I put the question the Chair would just like to say that this matter arose because no other Member was in the Chamber at the time and wished to debate the bill.

QUESTION PUT: AGREED.

MOTION TO DEFER REPLY ON SECOND READING OF THE LOAN (CAYMAN AIRWAYS) BILL, 1992 - UNTIL 10:00 A.M., MONDAY, 27TH JULY, 1992 - WITHDRAWN.

Continuation of Second Reading Debate on Bill:

HON. W. NORMAN BODDEN: Thank you, Madam Speaker. As I sat and listened to the Members who had spoken so far on this bill, the Third Elected Member for George Town and the First Elected Member for Bodden Town and in thinking back in reflection on the volumes and volumes of extensive debate and discussions which have taken place in the Legislative Assembly on Cayman Airways since its inception, and especially since 1984, I could not help but recall the words of the late John F. Kennedy when the Bay of Pigs invasion in Cuba had failed. He said, "Victory has a thousand fathers, but defeat is an orphan".

I have wondered many times during the past 12 years that if Cayman Airways had turned out to be the success that we all would have liked it to have been, if it had turned out to be the success that it was mooted to be at various stages in its development, especially in 1977 when it was taken over and the public was advised of the take-over and what the future would be like, I often wonder who would be standing up today and saying to the employees in Cayman Airways or to the public that I am the one who started this whole thing and therefore it is a big success?

Nevertheless, Cayman Airways with all its problems has through its years made a substantial development to our country and it continues to provide the guarantee for air services on which we depend and it is my view that while there are measures that must be taken to bring about change and improvements in the company, that it has a role to play in the future development as well as it has played in the past development and therefore, whatever is necessary to do within reason to assist the airlines to continue to operate, I believe that it should be done.

The Third Elected Member for George Town debated at length and went in quite extensively about the airline and its history, its finances and I think he started off somewhere back in 1982, he referred to 1984, and he brought it down to the present day, at least until June 1991. He pointed out the large amount of investment that Government has in the airline. He also spoke more recently of the report that was commissioned by this House and I expected that in this debate many references would be made to those reports and I certainly will do so during my presentation in response.

He dealt primarily in the three areas; two specifically of recommendations which he said were not implemented or were not followed and consequently have contributed to the situation the airline finds itself in today - mainly the number of aircraft the company is operating and I will want to explain that in some detail so that it is clearly understood and also in connection with the route expansion referred to probably since 1985 or 1986. I would like at this time to correct something I said during my presentation in regards to the operation of routes by Cayman Airways and the results. I think I said that except for the inter-Island service the only route that was operating at a loss was New York.

What would have been more correct to say was that New York

produces the highest loss than any of the other routes which the company presently operates. There are others, Tampa and Atlanta and these were analysed by Price-Waterhouse in the Table referred to by the Third Elected Member for George Town. It deals here with the operation of Cayman Airways routes after direct expenses and the direct expenses, as most people will know, relate to the cost of the aircraft, fuel, crew, maintenance, handling and items of that nature. This analysis shows that after direct expenses that Miami makes the largest contribution, that is of $8.6 million to the company's operation. Houston makes a contribution of $384,000. Kingston of $2.1 million. Tampa and Atlanta loses after direct expenses $252,000. New York loses after direct expenses something like $2.3 million. The Turks and Caicos Islands operation after direct expenses makes a profit of $1.2 million and the inter-Island service produces a loss.

Going down further in that analysis. If you take the contribution after all expenses are taken out which includes direct and in-direct expenses then the routes to Houston, the routes to Tampa and Atlanta; the routes to New York, Baltimore and to Turks Island, would show a loss. However, these in-direct expenses are expenses that the company would have in any case. They relate to the over-heads of general and administration and reservations and items that the company would have to carry whether or not they operated those services. So I think that distinction should be made that the majority of those routes just dealing with direct expenditure do operate at a profit and make a contribution to the company's operation.

In the operation of any organisation or company it is always easy to look back and question why? Why was this or that not done and to offer advice. It seems that in the case of Cayman Airways, as elsewhere, that many people (and I do not refer to the Members of this House entirely), there are many people on the street who because of interests offer advice and what they see as solutions. I think it must be accepted that the complexities of operating an airline and especially a small airline like Cayman Airways, that these increase daily. And with the changing conditions in the market place that there is always need for constant review for changing your strategies and your approach. I think we are all cognizant of this fact and aware, especially within the last year and a half, even the larger airlines that are considered the pace setters and leaders in aviation, those that have not gone under and disappeared altogether from the scene certainly had to stand back and take a second look and to review and revise many of their tested and proven systems through the years.

Of course without being placed on the defensive I have to say that within the last six to nine months considerable improvements have been made within the airline. As I said in my presentation I think these have originated as a result of the study which was commissioned by this House and which was accepted unanimously for the study to be done.

It is also the result of the Board of Directors in Cayman Airways and the Management of the airline being aware, the same as we are. They have the same sources in a way that we have, perhaps even more reliable sources of what is going on in the airline business. They have put in place a plan and certain measures which I believe within January to June this year, those efforts have began to bear fruit and to show some improvement. However, Cayman Airways and its decision, because it is owned by Government and because of politics has always and will always I believe as long as Government is the sole shareholder, be suspect and be prone to rumours and everybody's opinion as to what is going on in the company and what they think should be done to resolve the problem.

This must be expected especially in a small society such as ours and I am sure that the interest on the part of many people in our Islands is genuine. I believe that the consultants study was the proper starting point in trying to change some of the things in Cayman Airways and trying to effect improvements. While I have great respect for the study and shared the view and accepted the recommendations, I certainly understand that those recommendations are not cast in stone. The study is professional advice from airline experts, people in the business who should know and I believe that the study will continue to prove of value and benefit, both to Government and to Cayman Airways for some time to come. However, we speak about change and change is often necessary and change must also be timely. In a small operation like Cayman Airways it must be accepted that it is an on-going operation and that the implementation of some of that change must be as non-disruptive to the company's operation as it possibly can.

It should be recalled that the airline consultants reports were tabled and debated in this House in September last year, less than a year ago. Many of the points that were made, especially by the Third Elected Member for George Town, relate to a build-up of the situation that we are faced with in Cayman Airways today. A situation which has been contributed to over the past 24 years. In dealing with the financial situation of Cayman Airways and the points that were made by the auditors, it should be borne in mind that we are dealing with the financial year ending June, 30th, 1991 and the reports were debated in this House in September, nine or 10 months ago and accepted. Then in December we followed up with the appointment of consultants to assist with the implementation of those recommendations which had been accepted.

When complaints or fault is being placed that the financial situation today could have been avoided if some of the recommendations, which had been made in the reports, had been done, especially the two major ones referred to by the Third Elected Member for George Town, you are really dealing with a financial situation that developed and you are then dealing with recommendations that were made in a study which was accepted afterwards in a sense. I have to say that in the criticism that Cayman Airways has not followed the recommendation in regard to the number of aircraft it operates, it should be borne in mind that by the time the reports were accepted in September, that in truth and in fact the company at that time had four aircraft in its fleet complement because there were the two -400s from GPA which a decision was taken on that Cayman Airways had to get out of that lease and the company had started to find alternative aircraft in order to continue its operation. We had one -200 and we had one -300.

In dealing with the number of aircraft and in dealing with the recommendation and the comment that the airline should be stabilised, I see the process that has taken place in Cayman Airways since September last year in regards to its fleet complement as a process by which it could be

stabilised. Members of this House and the public will recall that there were many developments which took place after those studies were written. The reports were written in August and presented in September and debated here. Cayman Airways had the incident involving the -300 aircraft which had to be replaced. The truth of the matter is that when the study was written the cost of leasing the aircraft that Cayman Airways was able to get later on in the year was different. The prices had come down, being forced down by the market and therefore Cayman Airways had the ability and access to get aircraft at lessor rates than the consultants probably were dealing with when they wrote the report back in August of 1991.

Coupled with that we had the demise of Pan American. Pan American folded in December or early January and Cayman Airways moved to fill that gap to put extra seats in the market place so that our tourism would not suffer too severely due to the loss of service from Pan American. There was also the proposal to operate the service to Turks Island and the private sector provided, with the Government, a guarantee and it enabled Cayman Airways in truth and in fact, to have the availability of another aircraft to serve Turks Island but which could also be used for its other routes.

That was all in the process of placing the company in the position where they would be able to operate more of a market driven schedule, to enable them to offer a better service to the travelling public and to help them to capture a greater market share. As the point which has been made by the two Members of the Backbench who spoke, it is true that Cayman Airways cannot compete with giant U.S. airlines such as American and North West on a one to one basis. So Cayman Airways competitive advantage is to be able to offer more flights at different times and to different destinations. This helps the airline even on the Miami route to be able to capture a greater share of the market.

The second 737-400 for Guiness Peat Aviation went back in February this year and the -300 which was involved in the incident, as I said, had to be replaced and the company was able to get very attractive short-term lease rates on the 737-300. Initially the aircraft was leased for three months to be able to service I think in February, March and April during the winter season so that we had the number of seats in the market place that we needed to properly support tourism.

The company meanwhile was moving to rationalise its fleet to three -200s and preferably one -300. However, as is well known the lease arrangements with IFLC, for the 737-400 and the company at the present time is moving towards a date, first week in September when it will have as its total fleet complement the one -400 and three -200s because the -300 that is presently being operated, that lease terminates either the end of August or the first part of September. Based on the recommendation which has been made and which was made at the time when there were different market conditions prevailing was, as far as I can see, very much in keeping with the recommendation. Because it must be accepted that the cost is the key to that or any other recommendation because it should not matter whether it is two, three or four, it is the cost that is being calculated in the projections. Because of what has happened in the aircraft leasing market, Cayman Airways in the final analysis will have been able to have the use and access of four aircraft for less than the price of the two -400s that they started out with.

I believe that that has put the airline, though it has been a process that has cost the company, it has also enabled the company to increase its traffic substantially and thereby increase its revenue earning capability. Based on the projections that have been made for 1992, at least up until the first half of 1992, the company is tracking fairly well to what it has forecast for this year. No attempt is being made to deny that Cayman Airways has had a history of financial problems. This is agreed by all. It is an established fact that especially during the past two years Cayman Airways has suffered horrendous losses, losses of a magnitude and level that Government very clearly cannot continue to support and that urgent attention must be given to curbing this trend and to stabilise the airline and effect improvements.

It is also true that the situation with the two -400 aircraft leased from GPA back in 1989, has contributed to the financial problems of Cayman Airways, especially in the area that in the final analysis a penalty had to be paid to break the lease. However, according to knowledgeable people in the airline business and airline experts it was a deal that was better off being concluded now that to attempt to extend it at a much greater cost. It is true too, that included in the recommendations of the consultants, because what has intrigued me during the debate of the consultants reports in September last year and that I also found of interest, some of the material has been used again, is that while the reports have been made by respected experts in the consultancy business, in debating and dealing with those reports it seems to me that there are only sections of the recommendations or reports used to say that this is what the consultants advised.

I think that the whole study has to be taken in its entirety and one of the recommendations that has been made, one of the major ones that has been made, and made just even recently by the airline consultants that are assisting with the implementation of the recommendations and that is that a substantial capital restructuring of Cayman Airways is required for the airline to be placed in the position of reducing its accumulated losses of reducing to some extent its over-due payments and its past bank borrowings which Government has guaranteed.

I think one of the Members who spoke, I think it was the Third Elected Member for George Town, said that he could not support the bill because no indication had been made as to how the funds would be used. I indicated quite clearly what the proposal was. I certainly am not in a position to work out to the dollar and cent exactly how that would be handled in the final analysis but I would say this that if this bill passes and the funds are made available, the Honourable Financial Secretary and myself and the sub-committee that was appointed by Executive Council and that really formulated the proposal which stands before this House, would certainly deal with those funds and how they are expended.

That would be the intention of Government and I see that as the proper method by which it should be handled. Additionally, it is also true and cannot be ignored and I made this point in my presentation of this bill that unless the capital restructuring takes place, any proposal of strengthening

the management of the airline to eventually improve efficiency, make the airline more cost conscious and more productive, that that will not be able to take place unless some capital restructuring is put in place.

In addition to the recommendations that consultants made on the size of the fleet and on the routes of Cayman Airways, this too, the capital restructuring is a major recommendation which was made by the consultants and which is absolutely necessary in order for the airline to continue to be improved and to continue to provide the level of service that our tourism and our local travelling market demand.

MADAM SPEAKER: Proceedings will be suspended until 2:15.

AT 12:48 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:29 P.M.

MADAM SPEAKER: Please be seated. The Honourable Member for Tourism, Aviation and Trade, continuing.

HON. W. NORMAN BODDEN: Thank you, Madam Speaker. When we took the lunch break I was dealing with the need for the recapitalisation of Cayman Airways. The genuine need for help for Cayman Airways, if the airline is to continue as I have said, has been established beyond any shadow of doubt. Having said that, I have to say that with all due respect to the Third Elected Member for George Town, and he has explained his reasons for not supporting this bill, but to my mind for him to say that he supports Cayman Airways and wishes to see it continue successfully but will not support this bill, can in my mind only be compared to a seaman who has been washed off of the ships deck into the ocean by a terrible storm. And his friend on board ship when hearing his friend's cry for help and seeing his plight and difficulty refuses to throw him a life-raft and passes on with the comment, I will see you later.

I am afraid that this is the only comparison I can make to this position that he has taken because he says that Cayman Airways does not really need this help now that with what help has been given to it he figures it can keep on going for another few months. He too has the companies, that is Cayman Airways accounts through April of this year.

This loan as I understand it will not be increasing Government's liability but this will be a facility by which the airline will be allowed to continue to operate, to implement some of those recommendations for improvement, will allow the company itself, the airlines management to continue with the plans that they have implemented for improvements and which are producing favourable results so far this year. It will allow Cayman Airways to continue as an airline to serve our tourism industry, to serve Cayman Brac and Little Cayman and it will allow Cayman Airways to continue to provide jobs for those Caymanians who depend on it for a livelihood.

I know the First Elected Member for Bodden Town who spoke this morning pointed out that only 10 per cent of the employees employed by Cayman Airways in the United States are Caymanian. This is true, but many of them are Caymanians filling very responsible positions in the Coral Gables office. We have the Deputy Manager there for North America, Operations Manager and we have the Managing for Reservations for the whole operation of Cayman Airways there in Miami. They are two outstanding Caymanians that are doing good jobs for the company and of course if the Caymanians were available they would be employed as they become available.

In fact when the Parliamentary question was raised by the Member for Bodden Town in discussion with the North American staff, I asked them what sort of procedure they followed to try to attract as many Caymanians as possible. They said they keep in touch by personal contact and they endeavour to recruit and employ Caymanians there as they become and I think if a comparison were to be made on what the situation was even five years ago, that there are today many more Caymanians filling positions in North America who work for Cayman Airways and the Department of Tourism.

On the local scene there are 75 per cent of the employees here in the Cayman Islands are Cayman. Many of the others have Caymanian connections. I think there in-direct contribution by being employed to Cayman Airways is substantial to the economy when one considers (I hear these economists talking about the multiplier effect) I think it is beneficial to the country. But in stating that this loan bill does not increase Governments contingent liability to any extent because in truth and in fact Government guaranteed for Cayman Airways loans and over-draft for Cayman Airways loans and over-draft facilities already.

During my presentation I pointed out that based on information supplied to me by the Honourable Financial Secretary that in negotiating this loan if Government were able to obtain the usual two years moratorium on the repayment of principal and only had to repay interest for the first two years, that is 1992 and 1993, that it would only increase by five per cent the amount needed from local revenue for Government to service its national debt. Further on when principal also has to be paid, that is principal and interest, that in 1998 at the highest point it would reach some 8 per cent at that stage and I think that is because of a balloon payment which the Honourable Financial Secretary, the Third Official Member for Government explained to the House this morning.

If we took the debt service for the loan to Cayman Airways, spread over a 10 year period, in 1992 the debt service on this $16.8 million loan would be $304,238. For 1993, it would be $1,820,441. In 1994, principal and interest would be $3,816,013. In 1995, it would be $3,588,456. In 1996, it would be $3,364,539. In 1997 it would be $3,133,346. In 1998, it would be $2,905,794. In 1999 it would be $2,678,238. In the year 2000 it would be $2,451,827. The year 2001 the principal and interest will be $2,223,131. If

we added the Cayman Airways loan to all of the other debt servicing that Government has, that is without the balloon payment June 19, 1998. For 1992, the debt servicing would be $7,599,734. In 1993 it would be $8,998,092. In 1994 it would be $10,704,478. In 1995 it would be $10,247,336. In 1996 it would be $9,830,798. In 1997, it would be $9,632,923. In 1998 it would be $8,197,179 and that is without the balloon payment. In 1999, it would be $6,036,092. The year 2000 it would be $5,644,543 and in the year 2001 it would be $4,866,294. In the year 2002 it would be $1,535,165. That would be the situation on the total national debt, including the Cayman Airways loan for that period of time.

Cayman Airways financial problems are not new. Nor, Madam Speaker, have they occurred since 1984 with the new Government, that is, the post Unity Team period. Nor, did they all occur since 1989 when the 737-400 aircraft was introduced, even though there were, as I said,, contributing factors all along the way and I think the First Elected Member for Bodden Town raised some points and went quite into the detail of the situation in 1989 when the decision was taken to change aircraft from the 727 to the 737-400.

One thing was omitted in the mentioning of that period and that was the fact that it had been claimed far and wide the reason that the change was even thought about, was political. I do not know if there were other people in Cayman Airways playing politics but that was not the way it came to me. I know that, as was pointed out by the Third Elected Member for George Town that the lease payments on that aircraft were substantially low and it was a good deal and it was attractive. But very definitely the company could not continue to operate very much longer with the two 727 and I believe that it was a good decision to make the change at that time and to be fair, I think most Members have said that they accept that it was a good deal to sell the lease time remaining on the 727 for $12.5 million so that the $4 million+ which had been put in escrow from the sale of the two BAC -111s could be returned to Government and that the airline would have an injection of capital to assist it to operate.

Based on the research that was done, the study that was done, based on the level of business and the strength of the economy back in 1989, we all know that the decision was made to go forward with leasing the 737-400s. The consultants have pointed out that they said that by both subjective and quantitative measures the Boeing 727 disposal was an excellent decision and the replacement with the Boeing 737-400 aircraft was a good decision based on the facts at that time. They produced a graph which showed that that size aircraft was barely marginal. It was not completely over in the box that it should have been to indicate that it was the ideal aircraft. But that was a decision at the time. And as I said, the fact that the company had to get out of the lease and pay a penalty did contribute to the problems of Cayman Airways but I maintain that the crux of the problems with Cayman Airways was also the fact and the impact which the company had to contend with, with the result of increased competition on the Miami route by Eastern Airlines, Pan American Airlines, American Airlines and Northwest.

We have produced much documentary information to substantiate the fact that excess capacity on Miami has contributed to many of Cayman Airways problems since 1989. In fact, the consultants had this to say in one of their reports:

> "There may be benefit to Cayman Airways and tourism interests in Cayman Airways operating from one or more additional gateways. Such authority possible tied to the concept of Fort Lauderdale as a co-terminal of Miami should be pursued. These provisions will not easily be agreed to by the United States Government particularly since the United States favours open skies. The Cayman Government has little bargaining leverage. However, since it can readily be shown that (and this is the part of their report that is important) Cayman Airways is in jeopardy from excess competition.".

The fact that Cayman Airways had to contend with competition from large American Airlines, with reserves that they have built up through the years and a lot of marketing muscle, is a situation which very definitely contributed. I have a graph here which was prepared in the document and presented in the documentation which was given to the United States Department of Transportation in June this year at our meeting and it showed in 1989, 1990 and 1991 the traffic and the load factors in the Cayman/Miami market. It showed the number of seats that were available and it showed the traffic that was transported and the affect that it had on the load factor.

There are many things still to be done in Cayman Airways but I have to repeat that Government's decision to bring this matter to address the recapitalisation of Cayman Airways is of utmost importance at this time in order for the airline to continue. I said earlier that the problems of Cayman Airways are not new and that in fact, this is not the first time that Government had to take the steps to recapitalise the airline through a substantial capital injection.

One could say with much truth that the problem of Cayman Airways, as far as the Government of the Cayman Islands is concerned, actually started back in 1977 when the Government of the day took over the airline and assumed full financial responsibility for it. It was at that time in the early stages of its development still, it was 14 years ago, and it was at a time in its history when to be frank I personally would not have supported them taking a step otherwise than what they did, but at the same time it was at a time that perhaps the country could have taken the decision then, 14 years ago, not to become involved any deeper in the airline business. It was a time when there were not heavy commitments, not a lot of accumulated debt and we did not at that time, although we had some Caymanians, there were certainly not 300 Caymanians employed and the point I am attempting to make is that the adverse impact on the countries economy on employment for Caymanians on what Government is being called on to provide would not have been as great as it will be today. So that was the time when perhaps things could have been changed a bit, but the Government of the day in their wisdom took the decision to take over the airline and I have to say that ever since then it has been a battle.

In 1982, Cayman Airways was faced with similar problems. The 727 had been introduced the company was experiencing financial difficulties and a decision was taken by the Government of the day in 1982, to put $12.5 million into the airline in cash. Some of that went in as equity and some of it was treated as a loan. I know that the Third Elected Member for George Town has correctly pointed out that some of those funds, $4 million were used to pay for the two BAC-111s and the Government eventually got that money back when the lease on the 727s were sold to Alaska Air back in 1989. The rest of that money was needed desperately by the airline to do the same as we are attempting to do now, to pay off some accumulated debts, to reduce its over-draft at the bank and to regain some credibility in the operation of the airline. That was back in 1982.

I do not recall that creating such a big upheaval in this country and I believe that 10 years ago, $12.5 million cash from the Treasury was a substantial amount of money. But we had a Government and a House with a view to do what was necessary to help the airline and this was done. It was done because it was needed. That was in 1982. In 1984, when the new Government came to office the situation of Cayman Airways was no different from what it is today. The amounts involved are naturally larger, but the company was bankrupt, they had large amounts of outstanding debts and I think in June in November of 1984, an audit was done because as we know the financial year normally ended in June, but an audit was done to November 1984 and the deficit stood at $18,090,954 at that time.

Of course in 1982, the airline had a loss of $3,052,402. That was the year I mentioned that Government injected the $14 million in cash. In 1983, the airline had a loss of $4,301,410. In June of 1984, the airline had a loss of $2,750,316 and between June and November 1984, it was over $900,000 that was loss. So, the situation and the debate that took place prior to the Election of 1984, believe me, Madam Speaker, is not all that much different from what is going on today with this bill and in other areas as well.

I know that the Second Elected Member for Bodden Town had not debated this bill, but he was certainly part of the Government in 1984 that had to stand in this House as a Member of Executive Council and help the Member responsible defend the airline. I have to say that with all due respect to that Honourable Member that had he been as vociferous with Cayman Airways, back in those days as he is today, in 1977 and 1984 that is, maybe we would not have the problem called Cayman Airways today.

I would like to remind the House of part of the debate that took place in 1984 in connection with Cayman Airways under similar circumstances. That is taken from the debate by the Second Elected Member for Bodden Town and he says:

> "I am amazed to hear the criticisms of Members against Cayman Airways. [And these are just excerpts of what he had to say.] The blame cannot be put on the shoulders of one or two people. The burden cannot be shifted because there are people who have done whatever has been done in giving money to Cayman Airways."
>
> He went on to ask: "Why is it that no Member has ever brought to this House a resolution to do away with Cayman Airways? Is it not because they know [and he has tremendous debating style] that within their heart of hearts Cayman Airways is good for the country? If it had not been for Cayman Airways we would have no $50 million a year budget to debate. [I agree with him here] The history of Cayman Airways is closely linked with the success of this country."
>
> He says: "One of the things that we faced back in 1977 was the negotiation of the Bermuda II Agreement."

And I know you are not supposed to revive debate on a matter which the House has taken a decision, but I think it was in the February Meeting that same Member tried to say that I was the Government's representative at the Bermuda II talks. But what he is saying here is, (he says he corrected it I believe): "One of the problems with the negotiations of the Bermuda II Agreement which our negotiator and Official Member of Government carried out on our behalf in negotiation in which the United Kingdom was allowed to trade the rights of the Caribbean,". That is similar to my position and the point I am making here is that it was an Official Member of Government that represented Government at those talks and not me.

He also went on to state in outlining the days of dealing with air services with Lacsa as a shareholder: "Those days are behind us and I believe that Cayman Airways is an essential ingredient in our economy. No island state can survive for long without a proper air service. If we were to do away with Cayman Airways we would be back to the days when we did not have any air service.".

MR. W. McKEEVA BUSH: Madam Speaker, on a Point of Order.

HON. W. NORMAN BODDEN: Madam Speaker, I do not mind taking my seat if the Member rising will identify his Point of Order and have it accepted by you, as a Point of Order.

MR. W. McKEEVA BUSH: You will have to take your seat before I can do that. Yes, Madam Speaker.

HON. W. NORMAN BODDEN: I think the Chair directs this meeting, Mr. Bush.

MR. W. McKEEVA BUSH: Yes, that is what I just reminded you of.

MADAM SPEAKER: Please.

MR. W. McKEEVA BUSH: Madam Speaker, I rise on a Point of Relevance. This morning you made a ruling that no Member could be tedious and repetitious to the debate. Now the Member is continuing for several minutes to read documents replying to some debate that the Second Member for Bodden Town did not even debate.

MADAM SPEAKER: What I said this morning would not apply to a reply to a debate. I think I made that quite clear. I did say that. That is not a Point of Order then. Honourable Member....

MR. W. McKEEVA BUSH: Maybe this one is, Madam Speaker, I rise to put the question under the Standing Orders.

MADAM SPEAKER: I will not accept that either. Honourable Member would you continue your debate.

HON. W. NORMAN BODDEN: Thank you, very much, Madam Speaker. I am only making the point that the Government, who is responsible for Cayman Airways and the Member who has Cayman Airways as a subject, has had on many times in the past to stand on the Floor of this House and deal with the financial problems of Cayman Airways and justify to the public and to the House and explain the reasons, which are the same in many respects, of why it is important to have Cayman Airways and why it is important that the airline continues.

So with due respect to the First Elected Member for West Bay, I would appreciate that he does not interrupt me anymore unless he has a genuine Point of Order. I might not know them as well as some Members but I have a good idea how they work too. He went on to say, that is the Second Elected Member for Bodden Town:

> "But those days are behind us and I believe that Cayman Airways is an essential ingredient in our economy. No island state can survive for long without a proper air service. If we were to do away with Cayman Airways we would be back to the days when we did not have any air service. I think that they want to move forward and I think they want to preserve the air service so that we are not dependent on foreign carriers.".
>
> He also went on to say: "But any foreign carrier will move whenever the route becomes too unprofitable. In fact the history of the airline business has been that the first routes to be cut are the routes which have the smallest population.".
>
> In a different area the Member says: "Why do they believe that the most important ingredient in our economy will be its Waterloo? Take it out and you will have your Waterloo because you will have a country which will go backwards in time. You will have a country in which Government's revenue will drop. You will come back to the days of deficits, you will come back to the days when surpluses were unknown, and as a Member said yesterday, if a surplus, as he said about another matter, if he saw surplus in the street he would not know it. This is what would happen if we went back to the days of no Cayman Airways.".

In dealing with the Cayman Brac he said: "What are we going to do with an air field in Cayman Brac which can accommodate jets if there are no jets to land on it?". Those reasons, the importance of Cayman Airways are just as valid today and the need to do something to do what is necessary, to recapitalise the airline is just as important now as it was back then. I referred to the situation in November of 1984 and the need for financial assistance for the airline and I have to say and the record will bear this out that the first order of business for the new Government in 1984 was to put over $2 million on an advance account. Those funds were used to pay Texaco, who had threatened to put the airline on a cash basis. Some of those funds were used to pay into First Bank from Dallas, which had served notice that if the lease payments had not been met within 30 days they were going to come to the Cayman Islands and seize the 727 aircraft. The balance of that advance account was used to pay a maintenance company in Miami who, back in 1984, had threatened to seize the aircraft once it landed there if the debt was not paid.

The need to help the airline has not suddenly appeared and as I said, while there had been many contributing factors it was a situation that developed over a period of time. Government took the action that they felt was necessary then to save the airline and the same position is being taken today.

The new Government in 1984, also commissioned a Swissair Report, which was referred to by the Third Elected Member for George Town in his contribution to the debate. The Swissair Report was not as in-depth a report as was done last year by SH&E and Aer Lingus, but it certainly identified several areas of problems in the company regarding the operation of the company, the finances, the management, the organisational charts and job descriptions that had to be developed. Their advice to Government in 1985;

> "Due to past losses, [however] the balance sheet of Cayman Airways is a disaster. The accumulated loss at June 30 1984, was twice as large as the share capital of the airline which in itself could constitute a ground for declaring bankruptcy.
>
> . . . theoretically [the] best solution would be a considerable infusion of capital to allow the

accumulated loss to be reduced to zero and to put the under-capitalised company on a sounder footing.

As this would need a very large government investment it probably is not feasible at present. We are not sufficiently familiar with Cayman accounting laws to make specific other suggestions, but feel that not the least for psychological reasons the balance sheet must be cleaned up.".

Madam Speaker, the advice in that regard was taken and Government brought a similar motion to, I think it was Finance Committee, and wrote off $7.5 million in debt in 1985 which the company had accumulated and could not repay. That was $12.5 million in 1982 and $7.5 million in 1985, two and a half years later. I am not making any excuse for Cayman Airways and what has happened to it and the problems it is faced with today. But I hear these economists and accountants talking about extrapolating. I believe that if you were to take that $20 million in 1982 and 1985 totally and extended that out in my terminology, extended that out at todays dollar value, I believe that you would be dealing with a far larger figure than the $16.8 million that this bill is seeking.

Madam Speaker, the problems have not gone away. The problems are not any easier, in fact. It has become tougher in the airline business. But again, I repeat, the importance of Cayman Airways to this country justifies the steps that Government has had to take in the past and that Government is taking today to help the airline to survive and to continue to operate. Having said that, I am very much aware of the need to continue the implementation of the consultants recommendations and let me say, with all due respect to them and while they are professionals and experts in the business, not every single recommendation that has been made by them must be taken and without given proper consideration, forced on the company or implemented.

Members will recall that when I presented those reports for debate in September of 1991, I called attention to the fact that even experts with the same set of facts can differ. There were areas in those two reports which were done by SH&E and which were done by Aer Lingus that did completely agree with one another in all areas. They have made good recommendations. Some of them have been implemented, others are being implemented on an on-going basis. Others are dependent on the recapitalisation programme. Management has put in place some programmes which are beginning to show improved results and this must continue.

I think the words coined by the First Elected Member for Bodden Town are very valid. Cayman Airways must become lean and mean. They must do what is necessary to save every penny that they can and to increase their revenue by any amount that they can. Those efforts are going to have to continue in order for the airline to be saved and it is going to take, not only Government efforts and the efforts of this House, but is going to take a full dedication of all the staff of Cayman Airways. With due respect to some of the them, what I find with some of them is that they can see the 25 cents that is spent on somebody else, but they ignore the dollar that is spent on themselves and they are going to have to become more productive too.

I know they have to be treated fairly and I know they have to be made to feel a part of the company and in my presentation of this bill I pointed out the sacrifices and the concessions that the air crew and the ground staff of Cayman Airways have made. I believe that they take pride in the airline and I believe that they feel like they are a part of it but Cayman Airways is like Government or any other business or organisation. They are not going to get 100 per cent dedication and productivity and support and service from every single member of their staff. The same thing exists in Government and with all due respect to them, that will always be the situation but there is a nucleus of dedicated Caymanians in Cayman Airways that helps to hold it together and I would encourage them with every drop of blood that I have in me to stick with the airline, do not become discouraged by the problems that the airline has had. They have become bigger, the amounts involved have been greater but the story is not that much different from it was from the time the airline started out.

The Third Elected Member for George Town, and let me say he and I have had our political differences through the years and they probably still exist but I must say that in his presentation, in my opinion, he maintained the level of his debate to a high standard. And of course, I know he could not resist interjecting a bit of politics here and there, and that is to be expected because this is an election year. He dealt with many factual things and he made some comments and recommendations which I do not accept and agree with, but others had much validity and merit. He spoke about the route development of Cayman Airways and how it has effected the airline, how it has in a way made it worse financially.

Of course I think we have always admitted to the fact that Cayman Airways in this development process and in its efforts to serve as a marketing arm of our tourism industry, not by the direct direction from Government, inaugurated unprofitable routes but also had different route studies conducted and pioneer the routes to cities to the U.S. other than Miami, which they did with Miami too. And of course the position with the United States airlines is that they only wait until you have used your dollars to pioneer and develop the route and when the traffic is built up to the level that it can be profitable for them, then they rush in like a barracuda and want to take it all away.

We know that this is true. Many years ago when we were served by BWIA and Lacsa, I remember Mr. Desmond Watler and Mr. Eric Bergstrom, (and I seldom call names in this House but I am only trying to make a point) went to New York to ask Pan American World Airways if they would provide us with a service because BWIA had indicated they would only be able to provide a limited number of flights for Cayman because Trinidad needed the service. Lacsa said that they could only provide so many because Costa Rica needed the service. A delegation from Government went up to New York and talked to Pan Am and said to them, you know the only four months of the year we make anything in tourism is December through April and our season is coming on would you try to provide some service to us so we can have increased lift out of Miami and they told the delegation at the time, they said, "You are a bit too small for Pan American. You come back to us

when you have 5,000 beds and we will consider providing a service to you at that time".

I guess the Pan Am official who informed our Government delegation that in those days, must have passed on by now, I am sure. But he must have left some good records because they certainly kept a tab on our hotel development and around the time they came in was when we had 5,000 beds to offer too. I only use that as an example but the Third Elected Member for George Town spoke about the route development process of Cayman Airways and what it had cost the airline and in turn Government and how it was not a good idea. I think he said that the revenue earned by Cayman Airways was more or less stagnant, it did not increase substantially and that what was really happening to the airline was that it was carrying more or less the same total number of passengers from different gateways through different routes. That is my recollection of what the Member said and they were operating to carry a similar amount of traffic at a higher cost. That caused me to get the operating revenue of Cayman Airways from 1984 to 1991.

Now I am not denying that in order for them to get this level of revenue they had to work harder and operate more flights and therefore their operating costs also increase because an airline is not like shop. In order for you to get more business you have to do more flights and when you do more flights you increase your costs. In 1984, the total operating revenue earned by Cayman Airways was $23,208,603. In 1985, the total revenue increased to $29.9 million. In 1986 it was about the same $28.9 or something like that. In 1987, it was $31.6 million. In 1988, it was $35 million. In 1989, it was $39,035,468. In 1990, it was $39,701,609 and in 1991, it was $40,027,542.

I think the consultants also made the point in their report and I reminded the House of that in my presentation as well, that without Cayman Airways our tourism industry would stand to lose between 27,000 and 30,000 visitors a year. That is because Cayman Airways provides services to gateway cities non-stop services that are not provided by U.S. carriers and that traffic probably would not come to the Cayman Islands if it was forced to be routed through Miami and change aircraft and what not. Every member of the travelling public understands that their first preference is a non-stop service.

In regards to tourism, in 1984, we were receiving a total of 148,485 visitors by air. In 1985, it was 144,072 - it was down 2 per cent. In 1986, we received 166,082 - an increase of 15 per cent. In 1987, we received a total of 209,044 - an increase of 26 per cent. In 1988, we received a total of 218,709 visitors - an increase of 5 per cent on a record high year. In 1989, we received a total of 209,804 which was down 4 per cent. In 1990, we received a total of 253,158 visitors a total of 21 per cent increase and in 1991, we received a total of 237,351 visitors which was down 6 per cent on a record high year of 1990, where we had a 21 per cent increase on the previous year.

Nineteen-eighty-nine and 1990 were the years that Cayman Airways extended its routes and I believe that those statistics, the increase in operating revenue for the airline and the increase of some average of a 10 per cent yearly from 1984 to 1991, I believe that Cayman Airways expansion and route development has contributed significantly to those results and I do not believe that that can be disputed by anyone.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 3:36 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 4:03 P.M.

MADAM SPEAKER: Please be seated. The Honourable Member for Tourism Aviation and Trade, continuing.

HON. W. NORMAN BODDEN: Madam Speaker, when we took the break I was speaking on the route expansion of Cayman Airways and what effects it has had on tourism and the revenue earning capability of the airline. I would like to point out that it is not as if the airline continues to develop new routes and to expand its route system to more and more cities all the time. There is a limit placed on the number of cities that Cayman Airways can be designated on but in truth and in fact the only route that Cayman Airways has added since the consultants reports were received in September 1991 is Baltimore and that has been added on to the Cayman/New York route so it is just an addition to the existing route of New York.

As I said earlier, we will continue to examine and scrutinise the route structure of Cayman Airways and evaluate them. I have asked the Managing Director and the Board to provide an analysis of their existing route structure to the Portfolio and Government so that we will be able to sit down with the Director of Tourism and as realistically as possible evaluate what contribution the route is in fact making, because as I said, Cayman Airways in its efforts to serve as the marketing tool for tourism has developed routes which have contributed to tourism and to the countries economy in general but in many instances can be unprofitable for the airline itself.

I think this is where the operating subsidy comes in and I believe the First Elected Member for Bodden Town said this in his debate this morning. I agree with him that if the measures can be taken in Cayman Airways to contain its level of subsidy that it expects to receive from Government, and which must not be automatic but must be based on what the company can justify to Government as its shareholder, if that can be kept to a reasonable level of what was set out in the consultants report, I think they said around $2.5 or $2.3 million U.S. As the First Elected Member for Bodden Town said this morning, even if it were necessary to go to $4 million, as we have had to do in 1992, that providing the steps can be taken to keep the subsidy to this level he does not, and I share that view, believe that the people in this country, the travelling public and the residents and Caymanians here would object or feel that it is too high a price to pay for the service we get.

The inter-Island service and its cost has been identified. And I know that part of the Government subsidy to that goes to compensate the airline for that service and perhaps if in the examination of the other routes if they have losses or are incurring losses there, the remainder of the operating subsidy after you take out the amount equivalent to the inter-Island operation then that can go towards subsidising other routes if those routes are indeed making a worthwhile contribution to our tourism development. That will continue to be scrutinised and dealt with and in an effort to do what is right in the airline and to stabilise it Government intends to pursue this.

There was a point made by the Third Elected Member for George Town in his debate on air fares. He said that in a way if it were not for the adverse affect that low air fares have on Cayman Airways, if Cayman Airways was not sort of preventing low air fares that the U.S. carriers would be able to put low air fares in, the travelling public would benefit, tourism would benefit, the hotel occupancy would increase and he outlined the type of benefits that you can get. Everybody likes to get a bargain air fare and I believe Cayman Airways, itself, must have at least 12 different fares between here and Miami. There are one day fares, two day fares, three, seven, 14 day, 21 day, one year, with all sorts of restrictions and this is the same system that is used by airlines around the world in the air operation.

I think the First Elected Member for Bodden Town said that the system should be to try to get something for a seat instead of it going as an empty seat. I believe that the air fare structure is done in such a way to enable the airline through its system to gain whatever it can for that seat instead of it going empty. I am sure that all airlines operate with the same principle. Cayman Airways has not to my knowledge prevented any reasonable air fares from being placed into the market by its competitors. It is true that the lower the fare, the lower the yield for the airline but Cayman Airways has usually matched the fares which its competitors have put into the market place.

The Government, my Portfolio, has objected to the business practices and operating style of the American carriers into the Cayman Islands in regards to the way in which they handle their tariff islands and structure their fares. I will explain the reason why we have done this. I think that it is probably a public popular opinion held by some, that these U.S. carriers come in and give the travelling public real good fares and they will enjoy the benefit of this for a long time. I am sure that we all know that these are only short term bargains that the United States airlines air carriers put into the market place to boost business.

I will read a few extracts from the article in the July 6th *Business Week* Magazine which the First Elected Member for Bodden Town referred to this morning and it is just a matter of competitive business practices for U.S. airlines to declare these fare wars, and while the war is going on it is beneficial to the travelling public. But as we have seen from the newscast and reports, they do not last very long and the airlines themselves, those giant carriers who are the leaders, lose considerable sums of money and the motive is really to devour their competitor; to push them off the route, to do away with competition and to get a monopoly. Once they have a monopoly they will increase the fare. It is not that they are there out of the goodness or kindness of their heart, out to extend anything to us; there is no free lunch.

The U.S. airlines do have an advantage over Cayman Airways on the Miami/Cayman route. They tell me that their prime interest is the long-haul business into their Miami hub. I have said to them on many occasions, if you are really sincere and are here to help tourism, and you do not want to hurt poor little Cayman Airways, and are really only interested in the long-haul business why then do you not bring your traffic to Miami where you have already gained the lion's share of that fare and let Cayman Airways shuttle that traffic between Miami and Grand Cayman? Well people will offer a lot of things but when you put them to the test the result you get is no response whatsoever.

But they do have an advantage because in truth and in fact, the U.S. carriers having gained 90 per cent of the long haul fare, they could actually afford to bring their traffic from Miami for free. So that is an advantage that they have. But if in the process they eliminate Cayman Airways, within 24 hours of gaining the monopoly they will increase their fares substantially and the travelling public will have to pay. I know it has become a bit expensive and there is a perception out there that Cayman is expensive with air fares and hotel rates and the cost of food. And all this is true and I am not the world's greatest traveller, but I do not find very many bargains when I go elsewhere either. It is expensive over there as well.

To explain the objection that Government and my Portfolio put up to the predatory practices of U.S. airlines in dealing with tariffs and tariff islands, in Bermuda II there is a provision that no carrier of any other contracting parties, that is, no United Kingdom carrier, nor U.S. carrier, is allowed to offer a fare to the public that is less than the sum of sector fares. In other words, they have a fare from Chicago to Miami that is $200 and they have a fare from Miami to Grand Cayman that is $100. They are prohibited under Bermuda II to offer a fare for $299 because that would be less than the sum of sector fares. We have given the United States Government and the United Kingdom Government documentary evidence that U.S. carriers have filed and applied fares to the Cayman Islands in contravention of that provision of Bermuda II.

The example I gave they have in some incidences applied fares that are below the cost of the fare from their point of origin in the United States to their gateway. There have been incidences where they have charged a New York/Cayman fare that was less than their New York/Miami fare. This is not done because they like the looks of the Caymanian people or the tourists who come here. They do this to devour their competitors, to put them away and to create a monopoly.

There is a procedure laid down for filing tariffs and I had the opportunity to request from the United Kingdom Government that that tariff filing procedure be given to the Cayman Islands, as they have done for Hong Kong, simply because when the United States carriers file a fare it has to be filed with the Tariff Division of the Department of Transport in London for approval. London consults us, when we check the fare out and approve or disapprove, it is pure academic at that stage because the United States airlines are already applying the fares whether they have been approved or not.

We have had incidences where the United Kingdom has formally protested to the Americans that they have been applying fares which were not approved under Bermuda II. To be quite honest it seems to me that the United Kingdom Government does not have the provisions in their law to enforce the proper penalties to discourage the U.S. carriers from doing this. They tell me that it is not only a case for Cayman Airways and the Cayman Islands, they have the similar situation on the North Atlantic as far British Airways is concerned. So we believe that part of removing us from Bermuda II, is to give us the tariff filing authority so that that can be handled by our Civil Aviation authority in the Cayman Islands because that fare situation is part and parcel of their calculated process to provide excess capacity on the Miami route at the expense of Cayman Airways or any other airline that they can put out of business.

Taking everything into consideration of the fares and all the other problems that the airline has had financially, there is no doubt that part and parcel of Cayman Airways problems must be the level of excess capacity that is being provided on the U.S. routes to the Cayman Islands. There is no doubt that since 1989, when both Pan American and American Airlines announced that they intended to commence services on the route that this had contributed substantially to Cayman Airways losses. Prior to that time Cayman Airways has spent a number of years building up the Miami/Grand Cayman route and had only had to contend with competition from North West and Eastern, who, between them had two daily flights.

With the introduction of services by both Pan Am and American Airlines, together with the doubling of services by North West, the total for U.S. services increased to five times daily for a short period of time before Eastern Airlines finally pulled off the route and reduced the frequencies to four times a day. However, even with the demise of Eastern, the increased U.S. capacity was such that Cayman Airways loss a substantial portion of its market share at great price. This loss of market share was reflected not only in a reduction in passenger numbers but also in a significant reduction in load factors. As a result we know that the profitability of the Miami/Cayman route fell sharply and as this route forms an important part of Cayman Airways overall network, it supplies I think 60 per cent of our business, the profitability of the airline as a whole has been seriously jeopardized.

Just a few excerpts from the article in the *Business Week*. It says here:

> "Crandall, who is the Chairman of American Airlines, told them that the market must be allowed to finish the painful process of eliminating surplus capacity. This business is intensely, vigorously, bitterly and savagely competitive." [Which I believe is a point that the First Elected Member for Bodden Town made in referring to this article.]
>
> The article goes on to say: "American's recent simplified fare structure and a dramatic half price promotion in May have suddenly thrown almost all airlines into a tailspin. Other carriers that had hoped for a relatively decent second quarter are all but certain to sustain losses because of the price war. Fort Worth based American Airlines itself, expects to post a second quarter loss at a time when some analysts say it should be making money."
>
> "Crandall goes on to say, referring to their dumbest competitors, 'those that charge low fares which American and other airlines are forced to match, but that often make it impossible for any carrier to make money.'"
>
> It says: "And so the endless price war goes on until one or more carriers destroy themselves. That leaves many to fear the creation and critics point to the recent settlement of a price fixing case in which American, United, Delta and U.S. Air, recently agreed to pay more than $100,000,000 to former passengers. The four deny these charges however, the article states."
>
> It says: "In the past two years the industry has bled an astounding $6 billion in red ink. American itself, with revenues of $12 billion in 1991 has lost $280 million in the past two years. Even so, the view from Crandell's cockpit is bleak. Costs are rising faster than revenue and he is hard pressed to do much about it. Crandell has no choice but to preach a message of urgent reform. He says American and the industry must completely rethink the way they do business to survive in the next century." [A point which was already made but which is very valid.]
>
> "We will do whatever is needed, however dramatic the changes may be. Americans value pricing is just the first of many things to put what Crandell calls value back into air travel. All this [the article says] raises the question. Has Crandell's strategy all along been aimed at eliminating rivals and then boosting prices once they are gone?"

I believe that one can only accept that that has to be the motive when competition is provided at that level and that type of strategy and tactic is applied in a market as small as the Cayman Market. We have seen the results of the recent fares war, we have seen Delta Airlines, one of the most respected companies in the industry where they have recently announced, I think they loss $500 million, and all the airlines including American that started the war, are asking for a five per cent increase in fair fares.

So without belaboring that point any further, it is a fact that, as I said in my presentation originally, the presence of Cayman Airways in serving the Cayman Islands guarantees and ensures that these Islands continue to receive a proper level of service, at prime time schedules and at fares that are competitive. They will not hand out anything for free. They are here to make business and to make it at

anybody's expense and we can only ensure as a Government, that we have done our best to preserve and protect those benefits which our national airline produces for this country.

MOMENT OF INTERRUPTION
Standing Order 10(2)

MADAM SPEAKER: It is now 4:30, I shall ask for a motion for the adjournment.

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I move that this Honourable House do now adjourn until 10 o'clock on Monday, the 27th of July.

QUESTION PUT: AGREED.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., MONDAY, 27TH JULY, 1992.

MONDAY
27TH JULY, 1992
10:07 A.M.

MADAM SPEAKER: Prayers by the Honourable Temporary Second Official Member.

PRAYERS

HON. ANTHONY SMELLIE: 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings in the Legislative Assembly are resumed. Administration of Oath of Allegiance to Mr. James Montgomery Ryan, MBE, JP, as Temporary First Official Member. Mr. Ryan would you come forward to the Clerk's table?

ADMINISTRATION OF OATHS AND AFFIRMATIONS

OATH OF ALLEGIANCE BY
MR. JAMES MONTGOMERY RYAN, MBE, JP
As Temporary First Official Member

HON JAMES M RYAN: I, James Montgomery Ryan, do swear that I will be faithful and bear true allegiance to Her Majesty, Queen Elizabeth II, her heirs and successors, according to law, so help me God.

MADAM SPEAKER: Mr. Ryan will take his seat, and on behalf of the Legislative Assembly I welcome him to the Legislature for the period where he will serve.

Government Business, Bills Second Reading Debate, the Loan (Cayman Airways) Bill, 1992, the Honourable Elected Member responsible for Tourism, Aviation and Trade, continuing.

GOVERNMENT BUSINESS

BILLS:

SECOND READING

THE LOAN (CAYMAN AIRWAYS) BILL, 1992

(Continuation of Reply)

HON. W. NORMAN BODDEN: Thank you, Madam Speaker.

When the House adjourned on Friday, I had completed dealing with airfares and the policy of some people in believing that with no Cayman Airways, the United States airlines will provide cheaper and cheaper airfares for travel to and from the Cayman Islands. By now it must be obvious that this is only a false opinion. The United States airlines are naturally here for a profit they can make on the route as well. I believe that this is the extent of their allegiance and loyalty to the Cayman Islands and I suppose to be fair, it

is the extent to which this can be expected.

News reports give the damage that the most recent fares war has done to the giant airlines in the Unites States and how they are now increasing fares again in an attempt to recover recent losses. It is only to be concluded that the motive behind the short term and short lived fares war is to kill off eager competitive airlines and create a monopoly for themselves in the market, so they can turn around and charge what they feel like and the Cayman Market and Cayman Airways are no exception to this principle that they have, as we have seen.

I would like now to move on to the moratorium on the Miami route and development since 1982, which affect this type of agreement. I have explained in my presentation of this Bill, that the signing of the United States and United Kingdom air services agreement, known as Bermuda II, created an extreme imbalance in favor of all United States airlines as far as the Cayman Islands were concerned and that in the past, attempts have been made to compensate for this unfair position in which the Cayman Islands have been placed.

Attempts were made since 1982, before I came to the Portfolio, to address this to a short term or moratorium on Miami only, which limited the carriers because in those days there were only Republic and Cayman Airways on the route. This moratorium on Miami was due to expire in March of 1985 and when I came to the Portfolio in November of 1984, it was discovered that no attempt had been made to renew the moratorium on Miami. Government then took immediate steps to open negotiations with the United Kingdom and the United States on this matter, the results of which was a further extension to 1988.

At that time it was felt that conditions had change. There were more hotel rooms available; tourism was increasing and it was highly unlikely, at least this was our information at the time, that the moratorium would be renewed again. We have to bear in mind that the United States Government was not obliged to do anything at all with the moratorium. They only had to sit tight, let the moratorium lapse and expire and then fall back on Bermuda II which already gave them unlimited rights and access to Grand Cayman. Several rounds of negotiations followed with the result that another moratorium was put in place which expires in March of 1993.

Under this arrangement each side could designate four daily flights on Miami and additionally, in exchange for shortening the moratorium by three months, the Cayman Islands were given three unnamed points in the United States, in addition to Miami and Houston. Those points could be substituted by giving 90 days notice and there was a limitation that United State's carriers could only manage the same number of frequencies operated by Cayman Airways on any of these new points. At the time the United Kingdom's Government formally requested the United States to agree to reducing the United States airline frequencies on Miami to three instead of four, due to Cayman Airway's concern that excess capacity would be provided to their detriment. The United States refused to do this and so in the end, the United Kingdom had to settle for four frequencies in order to have the agreement signed.

Time has proven that Government and Cayman Airways were right because in 1989, when Pan American and American Airlines inaugurated services, in addition to Eastern and Northwest, United States (US) airlines flooded the market with seats which depressed load factors to uneconomic levels and placed the survival of Cayman Airways in jeopardy. This excess capacity in 1989, coincided with the introduction of the Boeing 737-400 and in my opinion was one of the main contributing factors along with a weak US economy to date. This contributed to events and many of the problems which followed. Excess capacity, unfair competition through predatory fares and denial of a fair and equal opportunity for Cayman Airways on the Miami route, a route which along with the Department of Tourism, Cayman Airways had helped to pioneer and develop.

Bermuda II calls for fair and equal opportunity and many times side letters are exchanged between United Kingdom and the United States. In fact, up until six months ago this was done and these letters speak of fair and equal opportunity for the carriers of the United Kingdom Dependant Territories in the Caribbean. So far, regrettably this has only proven to be lip service. The current moratorium will expire in March, 1993 and our requests for a revision and an extension has been made to the United States through the United Kingdom. This matter was discussed just last month in Washington and I understand a week ago in London. This matter will continue to be actively pursued so that an agreement will be in place before March next year but preferably before I leave office, which is my goal.

You know in mentioning that, if I were looking at the whole matter of Cayman Airways, purely from a selfish point of view, or only on political grounds, I am sure that a way could have been devised to probably keep Cayman Airways going until November at least, when the new Government could solve a lot of these problems which would be similar to what the 1984 Government found. In my view, that would not be right. That is not the way that this Government has operated and certainly we must all join forces to accomplish what is best for Cayman Airways and the country on a long term basis. This is Government's objective and the recapitalisation plan and efforts for the United Kingdom Government to assist to renegotiating a more reasonable and equitable moratorium and long term agreement with the United States for the Cayman Islands and Cayman Airways.

To summarise now, I would like to deal with the finances of the airline through the year, operating losses and the performance of the airline. I believe that in the areas of Government's financial assistance which has kept the airline going over the years, we have clearly established that from 1968, when the airline was established, to 1977. Government had invested only a total of CI$220,400.00 and in this regard, it must be noted that during this same period of nine years, Government had been paid a dividend of $67,500.00 in 1974.

It has also been established that from 1977, after it was fully taken over by Government and they assumed full responsibility for the airline, to 1985, Government invested CI$12.5 million in cash and a write off of loans in the amount of CI$7.2 million which related to its operation up to

1984. From 1985 to 1991, the airline received an annual operating subsidy that has averaged a little over a million dollars per year and in 1992 of this year, a subsidy of CI$4 million was granted. Additionally, Government has provided guarantees for bank overdraft facilities for a total of CI$7 million. They were given a loan of CI$2 million and a guarantee for Guiness Peat Aviation of CI$5.3 million.

With reference to the performance of the airline from 1968, to 1st December 1977, when Government assumed full responsibility for the airline, it had accumulated a deficit of only $332,431. That was after nine years of operation. From December 1977, to November 1984, it had accumulated a deficit of $18,090,954. It was at this period in the history of the airline that Swiss Air advised that the airline should be declared bankrupt and that the balance sheet had to be cleaned up for the airline to continue to operate. Government in 1985 decided to write off or convert $7.5 million of unpaid loans into shares. From December 1984 to June 1991, the airline has an accumulated loss of $27.8 million which includes the Guiness Peat settlement of $5.3 million dollars.

The Government, on the advice of consultants provided assistance through a capital injection in order to keep the airline going, similar to what was done in 1982 when the airline was given $12.5 million from the Treasury. I have provided this performance outline because in my opinion, Cayman Airways in its entire history, has always been hounded by politics through different administrations, claiming that they had done better with it than the other.

I believe that the facts bear out several points for mention. That is, that regardless of which Government or which Member held responsibility for the airline, Cayman Airways has had more than its share of difficulties from its inception but specifically since 1977. Secondly, the stage to which it has reached today has been brought about by many contributing factors, not the 727 aircraft in 1981 or just the Boeing 737-400 in 1989, but all the events combined establish very clearly the airline business is indeed a high risk business that is very susceptible to changing markets, conditions in travel trends and increasing operating costs. It establishes that there is no secret to success or magic formula but that the tested and tried business principles must continue to be applied. Furthermore, that the airline has been under-capitalised and under-subsidised for the service it is providing to the Cayman Islands.

The Third Elected Member for George Town, in his debate mentioned several points in the agreed airline Mission Statement. He said in the fourth paragraph of the Mission Statement it says: "to seek out in the longer term profitable diversification opportunities in order to understand the air transport operation.". This Mission Statement was drafted by the Aer Lingus Consultants who are helping to implement the recommendation. It was agreed to by the Executive Council, accepted and issued to the company. The only point that I want to make here was to bear out that this part is included because most airlines accept and acknowledge that they are unable to make a profit on the direct airline services. Even such airlines as Aer Lingus, in order for them to survive, has gone into many other areas of diversification in order to support the airline's operation.

That is why that is included there and it is a long term goal but it might be necessary to take that route at some stage in the airline's development. As I have said before, I believe honestly for the first time in its history that the airline has been thoroughly studied and analyzed by airline experts and we are well on the right track towards stabilizing the airline, a process that takes time. It must be acknowledged that it cannot happen over night, it will not happen by accident and it is a process I believe, that must be allowed to continue. This is why I believe that the Consultants' study will prove beneficial to both the Government and the airline for many years to come, long after I have left the Portfolio and I certainly support the view that it has been a step in the right direction. I consider it to be the starting point for the stabilization of Cayman Airways. I fully supported the study and I give the Second Elected Member for Cayman Brac and Little Cayman credit for bringing the motion that set up the study.

I also wish to take this opportunity to thank the First Elected Member for Cayman Brac and Little Cayman without whose support I can truthfully state today Cayman Airways would not be operating. This has not only been to support Government, his record shows from 1980 that he has supported the needs of Cayman Airways, regardless of which Government held responsibility for the airline. I believe that he knows the value of the service to his constituents. In fact, let me say here, that it has been my observation that regardless of any political differences that the two Members for Cayman Brac and Little Cayman might have between themselves, that they have both always combined their effort to get the very best possible air service for Cayman Brac and Little Cayman and I hope that they will continue to do this. This is their responsibility. I certainly support their aims in this direction.

In regards to the number of aircraft operated by Cayman Airways this year, it has been pointed out that in 1992, there were many changes in the number of aircraft for many varied and valid reasons. Due to the filling of the gap which was left in the market through the demise of Pan Am, the results of the return of the second Boeing 737-400 to Guiness Peat Aviation in February of this year and overlap in putting into service the Boeing 737-400 from International Leasing Financial Corporation (ILFC), there was also the replacement aircraft with the Boeing 737-300 due to the incident in October last year. There was also the need for the implementation by management of management's plan to provide a market driven schedule in order to provide a competitive advantage for Cayman Airways in the market. However, this has to be seen as part of the stabilization process and the strengthening of the airline. As I said previously, by September this year, this will have settled down with what will be the total number of aircraft operated by Cayman Airways. That is, the one -400 and the three -200s.

However, the key to this is the cost and it is noteworthy that in the year 1993, that is the full calendar year 1993, Cayman Airways will have full use of four aircraft for less than what the two 737-400s were costing. It is true that based on the conditions which prevailed up to August 1981, when the reports were written, the Consultants recommended three aircraft but we have also lost Pan Am service since then

and the aircraft rental rates became even lower so that it is in Cayman Airway's interest to continue to operate the three -200s and in my opinion what would be ideal is to be able to substitute the -400 from ILFC for a -300. I believe that is the company's continuing efforts to do this, but this equipment is needed in order to produce the type of schedule that places Cayman Airways in a better competitive position.

It has been established that the route development by Cayman Airways has proven beneficial to tourism development and in turn, the country's development. This has been demonstrated by the fact that the airlines total operating revenue earned excluding subsidy, has increased from $23 million in 1984 to over $40 million in 1991. Total tourist arrivals have increased from 148,000 in 1984 to 237,000 in 1991. It cannot be denied that Cayman Airways has played a definite role through its expended route structure in this development.

Back in 1978, when the airline operated only to Miami, Houston and Kingston, the total air arrival was 77,000 visitors per year and I doubt very much the same route structure would meet the market demands of today for tourism. Of course, this is not to say that each route should not continue to be carefully analysed and monitored and withdrawn, if it means saving and stabilizing the airline. This will continue to be reviewed in close consultation and coordination with the Department of Tourism. Additionally, it must be borne in mind that the Consultants also gave the following advice and that is, I quote:

> "When deciding whether to abandon a market, the most appropriate analysis is a variable or marginal cost basis to explain a route can lose money on a fully allocated accounting basis that might still generate positive cash flow. This could happen due to the route being charged with fixed expenses.".

After taking all factors into consideration, down-sizing the airline is an option, but it carries a penalty with it and therefore has to be approached after a thorough search which is being done and this option will be kept under constant review. Any down-sizing of the airline's route structure under the adverse effects that could be created for our tourism industry must be taken seriously into consideration. It must be obvious to anyone that will acknowledge that the situation in Cayman Airways today, which prompted this Bill being placed before this Legislature, did not develop due to Government ignoring Consultants' recommendations which were received only in September last year. The figures we are dealing with so far are those shown in the audited accounts of the airline after June 30th 1991, which is prior to the study.

While the Boeing 737-400 leased in 1989 has contributed to the airline's financial problems, the situation cannot be attributable only to this period in its history either. It is always easy in retrospect to look back and as has been said, hindsight is 20/20. The 727 served us well but the point was made by the Consultants that the decision to sell the lease on that aircraft and to lease the 737-400 was a good decision based on the conditions which existed at the time. It is my view, as I stated earlier, that there have also been other contributing factors. Namely, under capitalisation, the company being under subsidised, excess capacity being provided in the Miami route, unfair competition and a weak U.S. economy which is our main market for tourism.

Much has been said about the management of the airline over the past two years and I cannot truthfully state that I have agreed with everything that has been done and with every decision that has been taken. I do not suppose that this is ever the case in any organisation, regardless of how efficiently it is operated. I must state publicly that the Board and Management of Cayman Airways - and that is the Managing Director, his senior Managers and their staff - have worked hard and spent many long hours in striving to do whatever they could do to help the airline survive a most difficult period - a period when many more experienced and long established airlines disappeared from the scene.

It is true that some bold and brave and, yes, costly decisions had to be taken in order for the airline to survive. I believe that in order for Cayman Airways to survive that all the combined efforts must continue to be made to ensure that this mission is accomplished. As the First Elected Member for Bodden Town said in his debate, all the staff must remain loyal to the company and the travelling public must be supportive if Cayman Airways is to survive. Much has also been said about the Consultant's reports and recommendations. I can only say that I attach much importance to the study and found the follow-up assistance from the Consultants in the implementation process and further analysis of some the recommendations to be necessary and beneficial.

Many of the recommendations have been implemented. Others are still in process. As I previously pointed out, others are related to this capitalisation plan. So far over the past six months, some degree of improvement is being realised through the combined efforts of the Board, Management and the Consultants' recommendations and this must continue on an on-going basis. It is my view that after all the dark days that Cayman Airways has passed through, all the difficulties it has encountered and survived thus far, I do not believe that we can afford to abandon the airline at this stage and especially since there is now a glimmer of light at the end of the tunnel. Cayman Airways will undoubtedly continue to face many hardships and encounter many battles in its future but I sincerely believe that with what has been done and is still continuing, that this recapitalisation plan, though it will not provide the optimum or ideal position for the airline, forms a major part of the Consultants' recommendations and it will go a long ways to the stabilisation process which has been started.

I believe that through the strengthening of Management and through the strengthening of the Board with new members, through filling the vacancies that now exist, that the airline can move forward with a greater determination than ever before. It is also my view that Government should appoint at least one Member of Executive Council in the restructuring of the Board who would represent Government as the shareholder on the Board of Directors. I do not believe that it should necessarily be the Elected Member responsible for the subject. This might sound strange coming from an Elected Member but with Elected

Members, there is bound to be an element of politics introduced and there might be the tendency to become involved in the day-to-day management which has not proven good for the airline in the past either. So perhaps the shareholder can give due consideration and a balance can be arrived at along the lines of appointing perhaps somebody from the official side of Executive Council.

Without being over optimistic, it is not too far fetched to believe that with these measures all in place and working, that Cayman Airways could at least reach a break-even position and be well on its way to fully complying with all its goals in the Mission Statement, but especially the section which states that Cayman Airways should be operated as profitably as possible or at least maximise its efficiency so that dependency on the financial support of the Government is minimised. I will close my winding up of this Bill with the same words with which I opened and that was a quote from the late John F. Kennedy who said when he was informed that the Bay of Pigs invasion in Cuba had failed, "Victory has a thousand fathers, but defeat is an orphan." With all that has been said over the past eight years about Cayman Airways and its operation in this Honourable House, it still comes to my mind that if Cayman Airways had today been the success that it was told it was going to be, that the public was told that it was going to be back in 1977 when the Unity Team Government took over the airline, I wonder who would be jumping up and taking the credit for the success of Cayman Airways?

I believe that the airline has in place the right structure, the right recommendations and that the implementation will continue; that with the support of all concerned, Cayman Airways can continue to serve this country far into the future as efficiently as it has done in the past 24 years; that with the combined efforts of Government, this Legislative Assembly, the Board, Management, and the full staff of Cayman Airways our National Airline will be able to look to the future to bigger and brighter horizons. Madam Speaker, I support this Bill and I trust that all other Honourable Members will do likewise.

Thank you.

MADAM SPEAKER: The question before the House is that a Bill entitled, The Loan (Cayman Airways) Bill, 1992, be given a Second Reading. I shall put the question.

QUESTION PUT: AYES & NOES

HON. BENSON O. EBANKS: Madam Speaker, could we have a division, please?

MADAM SPEAKER: Certainly. Madam Clerk.

DIVISION NO. 19/92

Ayes: 8	Noes: 7
Hon. James M. Ryan	Mr. W. McKeeva Bush
Hon. Anthony Smellie	Mr. John D. Jefferson, Jr
Hon. George A. McCarthy	Mr. Truman M. Bodden
Hon. W. Norman Bodden	Mr. Gilbert A. McLean
Hon. Benson O. Ebanks	Mr. John B. McLean
Hon. D Ezzard Miller	Mr. Roy Bodden:
Hon. Linford A. Pierson	Mr. G. Haig Bodden
Capt. Mabry S. Kirkconnell	

MADAM SPEAKER: The result of the division is eight ayes, seven noes. The Bill has accordingly been given a Second Reading.

AGREED BY MAJORITY: **THE LOAN (CAYMAN AIRWAYS) BILL, 1992, GIVEN A SECOND READING.**

MADAM SPEAKER: Before the House goes into Committee. . . the Honourable Third Official Member.

MOTION TO SUSPEND STANDING ORDER 49
TO ENABLE THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL, 1992
NOT TO BE COMMITTED OR READ A THIRD TIME

HON. GEORGE A. McCARTHY: Madam Speaker, in accordance with the provisions of Standing Order 83, I beg to move a motion that Standing Order 49 be suspended in order that the Bill entitled, a Bill for a Law Relating to the Application of the Merchant Act 1988 to the Cayman Islands not be committed at this stage. In addition to the reasons which I gave on the Second Reading Debate, certain amendments to the Bill have been suggested by all legal advisors who specialise in these matters. Those amendments have not yet been assimilated in order to allow for me to provide meaningful explanations of them during the Committee stage, at which they would be proposed to be made.

Accordingly, I move that this Honourable House suspend Standing Order 49 as it would otherwise apply to the Bill at this stage. The effect would be that the committal of this Bill and its Third Reading would be extended to take place at the next sitting of this Honourable House in September. Thank you, Madam Speaker.

MADAM SPEAKER: The question before the House is that in accordance with the provisions of Standing Order 83, Standing Order 49 be suspended to allow a Bill, entitled the Merchant Shipping Act 1988 (Amendment) Bill, 1992 not to be committed at this stage. If there is no debate I shall put the question.

QUESTION PUT: AGREED.

STANDING ORDER 49 SUSPENDED TO ALLOW THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL, 1992, NOT TO BE COMMITTED AT THIS STAGE.

MADAM SPEAKER: The House will now go into Committee to consider the Loan (Cayman Airways) Bill, 1992.

HOUSE IN COMMITTEE AT 10:51

COMMITTEE ON BILL

THE LOAN (CAYMAN AIRWAYS) BILL, 1992

MADAM CHAIRMAN: Please be seated. The House is in Committee and it has been the usual procedure that the House will authorise the Honourable the Second Official Member to make any amendments or typographical errors etcetera, in this Bill. The Clerk will now read the Clauses.

CLERK: Clause 1 Short Title.
Clause 2 Authority to borrow.
Clause 3 Appropriation of borrowings.
Clause 4 Terms of borrowing.
Clause 5 Principal and interest charged on revenue.

MADAM CHAIRMAN: The question is that Clauses 1 through 5 do stand part of the Bill. Mr. Bush.

MR. W. McKEEVA BUSH: Madam Chairman, in connection with Clause 2. If the Government, Madam Chairman, had come here with a sound plan for restructuring Management and scaling down the national airline, then this $16.8 million might get used where it should to pay bills. But we do not know that, and you give them $16 million today, three years time it will be another $16 million under the same Management. Therefore, this Clause does not have my support.

MADAM CHAIRMAN: Mr. John McLean.

MR. JOHN B. McLEAN: Thank you, Madam Chairman. I have to agree with what the First Elected Member for West Bay has said. I would like to ask perhaps the Member or the Third Official Member, if it is possible to elaborate a little more with regard to the breakdown as to how this will be spent? Because, I have a funny feeling that things are not going right. Even up until yesterday I had a complaint that the airline is continuing to take on staff members and it does not seem right to me with the financial position as we know it. I wonder if someone could just enlighten us on this?

MADAM CHAIRMAN: The Honourable Norman Bodden.

HON. W. NORMAN BODDEN: Madam Chairman, during the presentation and the winding up of this Bill, I did my best to explain to this House and to the public the need for these funds, the purpose to which they would be used. I was not then, nor am I in a position now, to state in dollars and cents exactly what these funds would be used for but I did give a very clear indication that the sub-committee of Executive Council that was set up, will be coordinating and dealing with the disbursement of these funds with the company. And that it was the intention to reduce the company's accumulated debts with a portion of this money to pay some bills that are urgently in need of settlement. One of them is a Civil Aviation Authority bill for landing fees. They have other bills for advertising, Texaco, I am sure they have. The accounts were tabled so it is very clear what the accounts payable in the company is like.

So portions of those funds will be used to reduce its accounts payable, a portion would be used to reduce the amount of overdraft facility which it has at the bank now and which has been guaranteed by Government previous to this. We have also some thoughts to negotiate further with Guiness Peat Aviation (GPA) on the settlement which was also guaranteed by Finance Committee and Government. In order for the airline to regain some semblance of credibility with its trading partners, the company naturally needs operating funds. So that is the intention of Government as to the use of the funds that are being sought for in this Bill.

MADAM CHAIRMAN: Mr. John McLean.

MR. JOHN B. McLEAN: Thank you, Madam Chairman. I would just like to thank the Member for repeating that. I did understand clearly what he said during his presentation. But, Madam Chairman, it seems to me that if we are faced with a figure of $16 million, that had to be put together by somebody and it had to

be made up of some breakdown in certain amounts. I just felt that somebody had to know why we need $16 million and if the Member does not have it we were told I think that the Honourable Third Official Member will be more or less acting as, I think if I remember correctly, a Chairman of the Committee that will be dispersing this? Or you will be on the Committee or something? Perhaps you could enlighten us as to a little more on this?

MADAM CHAIRMAN: Mr. Norman Bodden.

HON. W. NORMAN BODDEN: Madam Chairman, the subcommittee of Executive Council is comprised of myself and two other Members of Council - the Honourable Financial Secretary and the Member for Education - and we have co-opted the Accountant General for Government and the Chairman and Managing Director of Cayman Airways. That forms the committee that has formulated the plan and that will be dealing with the disbursement of funds.

MADAM CHAIRMAN: Honourable Financial Secretary, Mr. McCarthy.

HON. GEORGE A. McCARTHY: Madam Chairman, I did not bring my file with me on the Cayman Airways matter this morning. I am not in a position to give specific details in regards to the disbursement. But as a follow-up to what has been said by the Honourable Member for Tourism, Aviation and Trade, the committee is reviewing a plan in regard to the disbursement. At this stage the plan is yet to be more refined but just recalling a bit of information that is there. The total payables of the airlines amounts to approximately $24 million. Included in that is the amount payable to GPA which is $5 million+. In addition to the payables is the overdraft balance at Royal Bank of Canada.

What needs to happen, and this is how the committee has been reviewing it, there will be a need to review the listing of payables - those amounts that are critical and over-due and the sundry creditors to be paid off immediately, for which substantial sums of money are owing. It is felt that it would be better to convert those into notes payable. It would be better to pursue that type of approach because the amount that would be required at this stage to defray all amounts owing, including the overdraft balance at the bank, Members were informed would be in the region of about $32 million. This would liquidate all of the indebtedness, put all balances to zero, all amounts that are owing and then a fresh start could be made.

But given the budget that has been developed by the airline, it shows where that with an increase in the subsidy to $4 million, plus that fact in terms of what has been projected by way of the cash flow through the end of the year that the airline will be in a positive cash flow position. In addition to that there is a need to formulate, having got the funds in hand, to really sit down with the Management to go into the airlines itself, to review the records that are there and determine basically an approach to govern the disbursement. This is how it will be taken. We have got the crude figures as they now stand, but in terms of the breakdown of those figures, the specific amounts that are owing, this is information that has not been provided to the committee on a detailed basis and that has to be worked out. But it is not a question where the funds will be paid over to the airlines and to say to them, well you go ahead and make disbursements.

MADAM CHAIRMAN: Mr. Roy Bodden.

MR. ROY BODDEN: Madam Chairman, I cannot believe what I am hearing. We have a request for refinancing and we have no plan? If this were a business and we had to approach the bank for refinancing that grant would be incumbent upon that plan being persuasive. I am flabbergasted and I am glad that I did not support this bill for the loan because I full well expected some plan saying these are the strategies which we wish to adopt. This is how the money is going to be spent, so much on advertising, so much on the new strategies, these new positions we are going to create, these we are going to phase out. Believe you me, I am most surprised. Thank you, Ma'am.

MADAM CHAIRMAN: Mr. Haig Bodden.

MR. G. HAIG BODDEN: Madam Chairman, I understood the Member for Tourism to single out the payment to Civil Aviation as one of the very pressing bills that are due. I am wondering if giving this top priority is not madness? We are borrowing money from Royal Bank on which we will have to pay interest, the Government is borrowing the money to pay to the Government, which is Civil Aviation. Certainly the only person that benefits from this is Royal Bank. This has to be madness.

Then I further hear this morning that when they get this $16.8 million in hand, they are going to sit down and work out the payables. When they get this money in hand I imagine the interest is going to start rolling from that day. Should this not be done, should this bill not be postponed until September and they find out what they are going to do?

Then we hear that instead of $16 million, what they really need is $32 million. Does it mean that they just want enough to take us past November 18th? We were told here in February or March that there were getting enough money to take us through the year and this has not proven the case. It seems to me that what I said in Finance Committee the other day and which I can repeat here I guess, is that we need the Member for Tourism to resign and put in somebody that is going to know what is happening. He apparently does not know.

HON. W. NORMAN BODDEN: Madam Chairman,....

MADAM CHAIRMAN: The Honourable Financial Secretary, please, Mr. McCarthy.

HON. GEORGE A. McCARTHY: Madam Chairman, it is unfortunate that the conclusion has been drawn that there has not been a plan as such that has been produced by the committee. This was not intended to have been the interpretation of what has been said. Madam Chairman, the $16.8 million has already been allocated. X dollars will be going towards payable; so many dollars will be going towards the reduction of the overdraft at the Royal Bank of Canada; so many dollars will be going towards the repayment of GPA or to negotiate with them in order to offset that indebtedness. So it is not a question that Executive Council will be walking away with the $16.8 million and deciding now at this stage that it will be allocated $3 million to payables, approximately $7 million has been programmed out of that to go towards sundry payables.

What I mentioned was this. In the listing of payables, this will comprise probably 150 items that are due to be paid. Some of them will be probably to Texaco, others will be to other creditors. It will be favourable to the airlines to probably sit down and pay off some of those immediately, those sums that have been owing for substantially long periods of time, others where it is possible where the amounts are sufficiently large and a repayment schedule can be put in place for a deposit to be made against those amounts that are owing and to work out with those creditors how those amounts are going to be defrayed.

It is not a question that there is not a plan, as such. There is a plan in terms of the broad framework of how this is going to be disbursed but until the $16.8 million has been put in place, it would be probably presumptuous on the part of Executive Council and the committee to assume that it can be taken to the stage where arrangements could start, we could start negotiating with creditors to say if we were to be given this sum, how could we go about reducing the indebtedness. I think the plan will have to be in its rough stage taken to a more detailed level, refined and then an approach made having the funds in hand. To go out to initiate this type of detailed discussion that would lead to an understanding that this settlement would be made or that settlement would be made. It becomes a bit difficult to anticipate this.

MADAM CHAIRMAN: Honourable Norman Bodden.

HON. W. NORMAN BODDEN: Madam Chairman, this has been a lengthy debate, at least for me. I think that the maximum information that could be supplied to this House has been supplied and it is very obvious to me that Members of the Backbench who voted no against this Bill, are only being obstructive during the committee stage.

As to the Second Elected Member for Bodden Town repeating what he said about my resignation and not knowing what is going on, that Member continues to be impertinent to me and other Members of this House, and had he resigned in 1984 when Cayman Airways was faced with a similar situation, he would not be here today to conduct himself as a two year old, rather than as a senior member of this Assembly and I am completely disgusted with his remarks about resignation when he should give himself some of the own medicine that he advocates for other people.

MADAM CHAIRMAN: Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. Would the Honourable Member be bringing back to the House where the allocation has gone? In due course would you be sort of stating, okay. My second question is, I assume none of this is to lease any further jets and whatever and as for whatever is being done with Cayman Brac, presumedly there will be a short-term leasing, if anything, to try the equipment to make sure it works before there is any commitment, as I have seen some stuff in the paper about a $3 million jet.

MADAM CHAIRMAN: Mr. Norman Bodden.

HON. W. NORMAN BODDEN: Madam Chairman, I think that this House and this Committee, must recognise that while every bit of information through the past eight years that could have possibly be given to this House and to the public, has been given. And I only hope that the new Member, whoever he or she may be in the new Government, will be as open and truthful and forthright as this Member has been in matters relating to Cayman Airways and this country will have no problem. It must be accepted that there is a limit as to the detailed information that I consider to be between the company and their customers to be aired and made public and it would not be my intention to go beyond what has already been explained in the presentation of this bill.

To the second question asked by the Third Elected Member for George Town, none of those funds are earmarked or intended to be used for leasing any aircraft. Thirdly, the recommendation which was made by the consultants in regards to the inter-Island service is being further studied and refined by the consultants from Aer Lingus who are assisting us with the implementation of those recommendations and as to whether any additional aircraft would be used for the inter-Islands service, that decision has not yet been taken.

MADAM CHAIRMAN: Mr. John Jefferson.

MR. JOHN D. JEFFERSON, JR: Thank you, Madam Chairman. The Member for East End asked a very legitimate question and the Third Official Member, that is the Financial Secretary, did mention that the current liabilities, current payables or commitments of the airline is in the region of about $32 million. There is now a request for $16.8 million. There must have been some plan in mind where they approach certain creditors and say, well we owe you $4 million, can we give you $2 million and the rest under notes payable? There must have been

some plan and I think it is only fair for the Government to tell the Backbench here, exactly what that plan is.

I do not think it is necessary for us to know well we owe Texaco $4 million, we are going to give them $2 million, but I think we are only being responsible as far as knowing how these funds are going to be disbursed.

MADAM CHAIRMAN: I remember distinctly Mr. McCarthy setting this out in detail. I do not know if there is anything else he could add to that. Mr. Bush.

MR. W. McKEEVA BUSH: Madam Chairman, it seems like Government is satisfied with what they are doing and the reason why I did not debate it is because of the same attitude that the Member has now. That is why I did not debate it in the first instance, because there is use of asking them, no use of talking to them about anything, so I did not debate it for those reasons. But I have a question and I do not know whether he mentioned it in his debate or when if he did.

Before I get to the question, I just want to make the Member know that he talks about people being impertinent because people say to him to resign. Well every time that you come here and you talk to them the first thing they begin with is that you are being obstructive. He is not dealing with one penny and it is not that they as "lily white" as a dove. It is their fault, they can blame anybody about Cayman Airways, but it is their handling of the national airline why we are in this mess. They can come with any kind of painted up story now to make things look good.

The question I have is where will be they getting the money? I do not know whether they said one bank or several banks. I do not know whether he said that. I am not asking Benson to speak, Madam Chairman, I am asking the Member who is responsible for this subject.

MADAM CHAIRMAN: Mr. Norman Bodden.

HON. W. NORMAN BODDEN: Madam Chairman, in my presentation I pointed out that we had received an indication of willingness from a bank, in the private sector, naturally, to put together this loan through a consortium of other banks. So far there has only been an indication of willingness to do so. As to Mr. Bush's comments, about who is "lily white" from who is not.

MR. W. McKEEVA BUSH: Madam Chairman, I would like the Member to answer which bank.

HON. W. NORMAN BODDEN: I,...

MR. W. McKEEVA BUSH: Do not talk about "lily white" because ..... lily white here.

HON. W. NORMAN BODDEN: I am not calling ...

MR. W. McKEEVA BUSH: It is the country's money you are dealing with.

HON. W. NORMAN BODDEN: ... I am not calling the name of any bank and I think ....

MR. W. McKEEVA BUSH: ..... but I wish you would let us know by letter which one you are dealing with ...

HON. W. NORMAN BODDEN: .... if that Member can understand it ....

MADAM CHAIRMAN: Can we have some order? There is not supposed to be two Members speaking at the same time. When Mr. Bodden is finished, and please reply to the question that he has asked.

MR. W. McKEEVA BUSH: That is right, that is what I want you to do.

HON. W. NORMAN BODDEN: I replied to the question by saying that we have had an indication of willingness from a bank to put a consortium together to sponsor this loan that is being sought in this Bill and I am not prepared to call the name of any bank in this committee.

I was going on to say that, as to who is responsible for what happened in Cayman Airways, I think I have been very fair in presenting a balanced position to this House and to the public and it is very clear evidence that regardless of which administration and which Member was responsible for Cayman Airways, that it is in its entire history, and especially since 1977, it has had its fair share of financial problems under both administrations. Both the Unity Team and this one. The Member's comment on not debating the Bill because of my attitude, I think he has a lot of gall to talk about attitude in this House because his leaves a lot to be desired too.

MR. W. McKEEVA BUSH: You might not like it, but you cannot do anything about it because I am here just as you are here ....

MADAM CHAIRMAN: Mr. Bush.

MR. W. McKEEVA BUSH: .... but you think you are "lily white" but you are not as lily white as you would like people to believe.

MADAM CHAIRMAN: Mr. Bush, would you ....

HON. W. NORMAN BODDEN: Well, I ....

MR. W. McKEEVA BUSH: .... I have had enough of this, Madam Chairman!

HON. W. NORMAN BODDEN: .... I can challenge

MADAM CHAIRMAN: Excuse me, I am speaking please. I will not have two Members talking to each other across the floor. That is not correct. If you have statements to say, please say so, but please do not talk across the floor.

Mr. Bush, have you got something else further to add?

MR. W. McKEEVA BUSH: I have a lot to add if I can get it in, Madam Chairman. Since the Member is loath to tell us which bank he is dealing with publicly, would he do so by way of letter?

MADAM CHAIRMAN: Mr. Norman Bodden?

HON. W. NORMAN BODDEN: Madam Chairman, after this Bill is passed there are considerable negotiations to be continued, to take this matter to its conclusion, and at this stage I am not prepared to go any further than I have already gone with the matter.

MADAM CHAIRMAN: Mr. John McLean, if you have a question about details or anything on the Bill?

MR. JOHN B. McLEAN: Thank you, Madam Chairman. I just wanted to say that my original question was not meant to be obstructive. I felt that I had a right, as a representative, to find out how this money was going to be spent. Under the Standing Orders I went about it in the correct way to ask the question in a decent manner and I have no apologies for so asking. I was not obstructing.

Madam Chairman, the reason why I asked that question has been proven correct. I think that perhaps we should have been looking at the true figure, which is $32 million, and this should have been properly told to the public. As I see it now, how am I to know, or any other Member of this House to know, that we will not be in a short time again approached for a further $16 million for the airline? I would think that if we were going to deal with anything, we might as well have dealt with it and dealt with it in a proper way.

My vote on this is not because it is being presented by the Member or that it is going to Cayman Airways. I am thinking of this country and its people. My vote is because I think at this time that if we are going to vote such large sums for the airline we should not take it and just put it out there, knowing quite well, that that is not remedying the problem that we have with the airline. The problem is and I think everybody realises - Management is the downfall of this airline and we cannot continue to pour good money without having something done to strengthen Management of Cayman Airways.

MADAM CHAIRMAN: Mr. George McCarthy.

HON. GEORGE A. McCARTHY: Madam Chairman, I mentioned earlier that I do not have the specific details comprising the amount with me at this time. Although it has been mentioned that a broad overall plan has been arrived at in terms of how the disbursement will be dealt with, the details are yet to be worked out later. I would just want to point out for the benefit of the Member for East End, that included in the $32 million that has been mentioned, this includes a guarantee in respect of the sum that is due to GPA.

In regard to the question that has been raised by the Third Elected Member for West Bay, earlier, the information that he said should have been forthcoming was provided because it has been mentioned that a detailed plan will be developed in terms of how this disbursement will be handled. We should bear in mind that we are dealing in US dollars and while there seems to be a wide disparity, the $32 million, that is US dollars, what we got in front of us is an amount of $16.8 million, that is CI. This approximates US$20 million. Thank you, Madam Chairman.

MADAM CHAIRMAN: If there is no further debate, I shall put the question that Clauses 1 through 5 do stand part of the Bill.

CLAUSES 1 THROUGH 5: QUESTION PUT: AYES & NOES:

MR. W. McKEEVA BUSH: May I have a division please?

MADAM CHAIRMAN: Certainly.

DIVISION NO. 20/92

Ayes: 8	Noes: 7
Hon. James M. Ryan	Mr. W. McKeeva Bush
Hon. Anthony Smellie	Mr. John D. Jefferson, Jr
Hon. George A. McCarthy	Mr. Truman M. Bodden
Hon. W. Norman Bodden	Mr. Gilbert A. McLean
Hon. Benson O. Ebanks	Mr. John B. McLean
Hon. D Ezzard Miller	Mr. Roy Bodden:
Hon. Linford A. Pierson	Mr. G. Haig Bodden
Capt. Mabry S. Kirkconnell	

MADAM CHAIRMAN: The result of the division eight ayes, seven knows, the Clauses have been passed.

CLERK: A Bill for a Law to Confer Power to Raise a Loan not Exceeding CI$16,800,000 for the Re-Capitalization of Cayman Airways Limited.

MADAM CHAIRMAN: The question is that the title do stand part of the Bill. I shall put the question.

THE TITLE PASSED.

MADAM CHAIRMAN: That concludes proceedings in Committee on a Bill entitled the Loan Cayman Airways Bill, 1992. The House will resume.

HOUSE RESUMED AT 11:24

REPORT THEREON

THE LOAN (CAYMAN AIRWAYS) BILL, 1992

MADAM SPEAKER: Please be seated. Proceedings are resumed. Reports. Honourable Member for Tourism, Aviation and Trade.

HON. W. NORMAN BODDEN: Madam Speaker, I have to report that a Bill entitled, A Bill for a Law to Confer Power to Raise a Loan Not Exceeding CI$16.8 for the Re-Capitalization of Cayman Airways Limited was considered by a committee of the whole House and passed without amendment.

MADAM SPEAKER: Third Reading.

THIRD READING

THE LOAN (CAYMAN AIRWAYS) BILL, 1992

CLERK: The Loan (Cayman Airways) Bill, 1992.

HON. W. NORMAN BODDEN: Madam Speaker, I move that a Bill entitled, A bill for Law to Confer Power to Raise a Loan Not Exceeding CI$16.8 for the Re-Capitalization of Cayman Airways Limited be given a Third Reading and passed.

MADAM SPEAKER: The question is that A Bill entitled, The Loan (Cayman Airways) Bill, 1992 be given a Third Reading and passed. I shall put the question.

QUESTION PUT: AYES & NOES

MADAM SPEAKER: The Bill has accordingly been read a Third time and passed.

AGREED BY MAJORITY: **THE LOAN (CAYMAN AIRWAYS) BILL, 1992, GIVEN A THIRD READING AND PASSED BY MAJORITY.**

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 11:25 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:51 A.M.

MADAM SPEAKER: Please be seated. Motions, Government Motion No. 6/92, The Development and Planning (Amendment) (No. 2) Regulations, 1992, the Honourable Elected Member responsible for Communications, Works and Agriculture.

MOTIONS

GOVERNMENT MOTION NO. 6/92

THE DEVELOPMENT AND PLANNING (AMENDMENT) (NO. 2) REGULATIONS, 1992

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. I beg to move Government Motion No. 6/92, the Development and Planning Law (Revised), Development and Planning (Amendment) (No. 2) Regulations, 1992, which reads as follows:

> WHEREAS by section 35 (3) of the Development and Planning Law (Revised) it is provided that no regulations shall be made pursuant to the provisions of the Law unless a draft thereof has been laid before the Legislative Assembly and a resolution approving the draft has been passed by the said Assembly;
>
> AND WHEREAS pursuant to the said section 35 (3) a draft of the Development and Planning (Amendment) (No. 2) Regulations, 1992 has been laid before this Honourable House; and
>
> BE IT RESOLVED THAT this Honourable House do approve the said Development and Planning (Amendment) (No. 2) Regulations, 1992.

MADAM SPEAKER: The motion before the House is Government Motion No. 6/92 and is open for debate. The Honourable Member for Works and Communications.

HON. LINFORD A. PIERSON: Madam Speaker, in an effort to update the Development Plan 1977, and I hope that you will excuse my bad throat this morning, having a bit of problem talking.

In an effort to update the Development Plan 1977, so that it is in keeping with present day development, it has become necessary to bring forth a number of amendments to the regulations as recommended by the Central Planning Authority. Until the completion of the Development Plan Review, which is projected for completion in 18 months, these amendments will help address some of the major problems that the Central Planning Authority are presently faced with. The following is an synopsis for each of the proposed amendments to the Development and Planning Regulations.

In the definition of "setback" Regulation 2, the proposal seeks to amend the definition of "setback" to disallow contiguous parcels of land under the same ownership from not having to adhere to "setbacks". At present this allows setbacks to be ignored and when the parcel is sold, the structure is contravened the setback requirements. The tower amendment, Regulation 7, the proposal seeks to allow self-supported towers a setback that is in line with that of other self-supporting structures. It allows for safety to be maintained whilst eliminating the need for extensive areas of land necessitated by the previous setback requirements.

The amendment to vary, that is Regulation 7 and 8, seeks to allow the Authority discretion in exceptional circumstances and where there is over-riding reason why Planning permission should be granted for a proposal unable to adhere to the Regulations. An example would be the shape and size of the lot not being able to physically allow for the adherence to setback or lot width requirements.

The advertising amendment, Regulation 8, the proposal seeks to clarify the requirement for advertising. In 1977, 1978, when the Laws and Regulations were enacted, the newspaper was a weekly publication. This proposal takes into account the existence of both daily and weekly newspapers published and circulated in the Cayman Islands.

Setback amendment. The proposal seeks to correct an inconsistency in the Development Plan and Regulations. It is believed this was inadvertently left out in the 1977 Regulations. This proposal would require a minimum side setback which is not currently addressed. Additionally it provides for differential or staggered setbacks for various heights of structures which is in keeping with good planning practice. It also eliminates the word "unit" and explicitly spells out that the 15 foot setback applies to two story part of the structure.

The amendment on commercial uses, Regulation 11. This proposal would allow similar uses to locate within a commercial zone. Presently the uses are named by type and it is physically impossible to list all types of commercial uses. In the Regulation 32 contravention of Regulation, this proposal increases the fines for violation of the Regulation, the Central Planning Authority felt that this would be a deterrent to contraventions. As mentioned earlier, it is important for Government to bring forth these draft amendments to the Development and Planning Regulations to allow for the smooth running of the Central Planning Authority, pending the completion of the Development Plan Review.

I would therefore, without saying too much more on this, since they are fairly straightforward, ask all Honourable Members of this House to lend their support to these most important amendments.

Thank you, Madam Speaker.

MADAM SPEAKER: The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker. I rise to support Government Motion No. 6/92, Development and Planning Law, (Revised) Development and Planning (Amendment No. 2) Regulations. Having been a member of the Central Planning Authority and the Development Control Board for many years and dealing with the Development and Planning Regulations on a regular basis, we have found many problems as the Regulations were enacted in 1977. Many changes have come about.

We have prioritized the Central Planning Authority, we have had problems with many more Regulations than those which the Honourable Member has just listed but these are some of the top priority. Another one is a parking requirement for buildings. We are all suffering because there is not enough parking areas being allocated for new buildings, particularly in the downtown area of George Town. That has to be dealt with on a very careful basis and that will be dealt with probably at a later date.

As it becomes far more difficult to deal in these Planning Authorities, without regulations which are very specific, we have had numerous appeals, decisions made by the Board and the Authority and discretions are often challenged. Therefore, I want to congratulate the Honourable Member today and the Director of Planning and the Chairman of the Central Planning Authority, for having brought these amendments to this Honourable House and I would like to urge all Honourable Members to support these and I would like to ask the Honourable Member moving them, to encourage the Director of Planning to continue to update and prioritise the other Regulations which are much needed to be enacted so that we can deal with them or the new Members of this House can deal with them as early as possible.

With these words I can assure Honourable Members and the listening public that these Regulations are in the best interest of proper planning development for these Islands and I ask that they be supported. Thank you.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. This motion is once again a piecemeal attempt at dealing with really the major issue that needs to be cleared in the Islands, and that is a development plan and I am happy to see that this is now beginning. Someone was on leave apparently, so nothing could begin before he got back and that is now going to begin.

The Development Plan itself, and the Regulations that this is referring to and the law, came into force back in 1977, and should have been revised anytime from 1982 onwards. There were extensions of that time, at least one extension during the time I was in Government up until 1984. I do not even think anymore that people bother extending the time that is in the law. I think at this stage the Plan which obviously out of date, it is a Plan that is 15 years old and needs to be revised.

I would have hoped that this would have been done in a comprehensive way and that when the Member goes to remove one of the bases upon which the original Plan and Regulation were founded, that it may have been more prudent to have left this until the process under the Development and Planning Law, relating to the Development Plan could be dealt with so that those sections, what I am referring to are the sections now giving a discretion to the Authority so that they could have been looked at at that time. However, there are a couple of things that I would like to point out on this. In the definition of "setbacks" under the present definition it states that:

> "setback" means a minimum horizontal distance between boundaries of a plot and the front, rear or side lines of a building situated thereon. When two or more plots under one ownership are used, they shall be considered as one plot for the purpose of this calculation;"."

This definition makes a very material change and one that is probably going to affect the small land owner more in that it removes any reference to two or more plots. I am not certain what the reason for this was. I do not think the Member explained that but I am wondering if he meant to leave out that second paragraph? I can see where this section simplifies it and I have no problem there. But does the Member mean to leave out the section relating to two or more plots owned by a person because if not, what has to happen then is the owner will have to go and get these combined and there may be reasons why he does not want to combine the two parcels of land for whatever reason. But this was a simple and expeditious way of dealing with it.

I do not know if there have been any amendments. These Regulations have been amended so many times, and I am really looking back at the 1977 Amendment, I am sorry, major Regulations only. The section that deals with the radio or television antenna, I have no problem with that. The only thing that adds in is about reference to "guys". The sections amending Regulation 7, which is Regulation 5 of this, the 5 (b) that deals with advertising, I do not have a problem with. I think that spells out more clearly how it is to be dealt with. The Power to Vary is what I have been referring to as a major change. Back when the Development Plan was brought in and throughout the Development and Planning Board had to stay within certain guidelines. They did have a discretion but they did not have a discretion which permitted them to vary the Regulations and that is precisely what we are doing now. We are giving the Central Planning Authority the power the power to vary the Regulations.

That sections says:

> "(6) POWER TO VARY - Notwithstanding the provision of sub-regulation (1) and regulations - 8 (5), (6) and (7), and 9, the Authority may grant permission to carry out development that does not

comply with all or any of those provisions if the Authority is satisfied -

(a) that an exceptional circumstance exists; and

(b) that there is a sufficient reason why the permission should be granted.".

So even though the Regulations are there, the Authority is now given the discretion to grant permission in variance of which varies from those Regulations. Basically it is giving the Central Planning Authority a discretion, be it a limited discretion, to grant permission which does not fall squarely within this. For example, take one of these Regulations, say Regulation 8 (5), let us see what that is. That is a Regulation which deals with the density for houses; 8 (6) deals with once again density and the lot width and the setbacks. So basically we are dealing with everything here as I understand it. The density, the setbacks and 8 (7) deals once again with low density. So 8 (5), (6) and (7) deals with housing and the setbacks there.

Regulation 9, deals with hotels, their density and their setbacks. Basically what the Authority now would have power to do is that they could take and allow a larger density, they could allow a lessor density which normally could come under it anyhow. They could allow shorter setbacks from the sight, for example where they have that hotels must be a certain setback - a 100 feet from the low watermark. This could be done 50 or 70 feet from the low water mark where it has that, for example, hotels must have side setbacks of 15 feet. The Central Planning Authority could allow five feet or 10 feet or whatever. I am wondering why at this time since we are so near to dealing with the Development Plan, we are actually beginning it, why this important aspect could not have been put out to the public along with the other sections of the Regulations and the Development Plan and presumedly amendments to the law itself, it will have to come in.

The following sections, Regulation 8, that is being amended, once again I have no objection about the newspapers. Once again this states that, well this really just seems to clear up it would appear areas where the Regulations may not have been very clear. And make certain, as the Member mentioned about ground story, rather than where the Regulations did not refer to the ground floor at all. There was one little amendment, he may have do in the (e) section there of it but I think it is more cosmetic.

Regulation 11. Basically what that does is, as I see it, it amends Regulation 11 which dealt with commercial zone. It said that within commercial zones certain specific things could be done which may be at variance with the primary use as a commercial use. The Member here is opening this up so that any other use can be brought in within the commercial zone regardless of which use it is and regardless of whether it is compatible with the commercial zoning itself.

Originally, under Regulation 11 (1), it said specifically that there could be brought in uses "in other areas if in such other areas it is related to the needs of the community and not detrimental to the surrounding area;:. And he has left that in (1) but I do not think that that would apply to the little (3) as it now is a separate Regulation and as I understand this provided that the primary commercial use of the zone is maintained then you may do anything within that, that the Central Planning Authority permits you to do. So you could actually do heavy industrial within a commercial zone if the Central Planning Authority allowed you.

I do not really think you even need sub-regulation (1) and (2) anymore, how wide this is. There may be some merit there, I do not know really what was the intent of bringing these in, whether there have been a lot of problems with people wanting to vary the use in some way. But what I would point out to the House is that the variation where you are giving the Board a very wide discretion within the setbacks etcetera of the housing areas, I think that the Board has to exercise that discretion very cautiously and very carefully because the guidelines that are now there, can be altered and varied in an exceptional circumstance. Presumably, the Board is not going to do anything that is a radical change to the Regulations. I would have been a bit happier if a little (c) could have been added to the amendment on Regulation 7 that I spoke on earlier perhaps to the effect that it is not substantially different from the Regulations that are going to vary.

What had actually happened in the past, and maybe this is not relevant at this stage, but Planning decisions prior to trying to bring some certainty into the Law with specific setbacks were considerably varied and it was not possible to predict with a lot of certainty what could probably be granted on a plot of land, as against what could not be probably granted on the plot of land. The reason that the specifics were put in the Regulations was to bring certainty to Planning. In winding up perhaps the Member could really try to give some examples of what he thinks the variation aspect to this may be used for, and whether they would stay substantially within the present Regulations, I would be somewhat interested in hearing that and also I just wondered if he would also mention on his winding up as to why he is bringing these Regulations now since we are so near to dealing with the Development Plan itself?

This would materially affect that Plan because it affects densities an the Plan basically within the housing deals with the density aspects among other things as well as the zoning. I have nothing further to contribute on it. I know the following order applies to Cayman Brac and Little Cayman. I assume that, I am not certain whether this order is meant to apply to Cayman Brac and Little Cayman also? Yes, this is a universal Regulation and would apply to Cayman Brac and Little Cayman. Other than that, I have no comments any further on the Regulation, thank you.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, the motion before the House amends the Regulations that were passed in 1977 as part of the package which included the Planning Law, and the Development Plan, 1977. Everyone knows that Development Plan passed in 1977, resulted in the greatest development boom this country as ever known. In construction of houses and office buildings and other types of

building.

The original Plan, according to the Law, should have been reviewed every five years. The first review had been due in 1982, as mentioned by the Member who spoke from George Town, but in 1982 when the first review became due, the Government felt that there was no need to review the Plan at that time because construction was going so well. The Plan was still working and the review was delayed. However, we find ourselves today, 15 years later, with no review of the Plan and as a result we have had a disaster in our physical development.

If one looks at the statistics for 1991, one will see that our total imports are down by six per cent but the importation of construction material is down by a whopping 29 per cent. What is even worse, it is the first time since records have been kept, that there has been no increase in imports. So it is definitely time for a review. It is strange that on the eve of the 1984 Election, the 1988 Election and now the 1992 Election, we hear strong calls for a review of the Development Plan. And in fact, I believe a time limit has even been fixed for the review to be completed in 18 months. But, these are idle words unless they are carried out. What is alarming is that the Government seeks to bring at this very late stage, amendments to Regulations which appear to have worked well for the last 15 years, amending them in substantial ways without any study by the public, without any knowledge, perhaps of most of the public, and definitely in areas that are too large and too controversial to be the subject of a minor amendment.

For example, in the Regulations before us the plan to give to the Board the power to vary the requirements with regards to the shape and size of lots. This is a tall order. In the original Law, or in the Development Plan itself, and is backed up in the Law, there was a provision whereby in the medium density areas, the person was compelled to build on lots that were 12,500 square feet but other people would be given permission if they had smaller lots of land which existed prior to the coming into effect of the Law in March of 1977. So that while the Board had discretion with regards to allowing construction on smaller lots than a specified lot. There was a guideline in the Law or the Plan that the lots could not be less than 6,000 square feet and that the lots had to exist before 1977. But here we seem to give the Planning Board or the Planning Authority full power, full discretion to make whatever allowances, whatever variations they feel they should make.

This comes at a time when the history of Government's decision making bodies have not been that good. To give just one example, we saw here in this Chamber in Finance Committee where the entire Environmental staff was brought in to tell us why we could not clear a channel on the south side of Bodden Town, and a few weeks later we were told that that same team approved the clearing of a channel in Cayman Brac and South Sound and Lobster Pot. So the leaving it to these Bodies is not good enough because the Government's decision making bodies do not have a fair and unbiased track record.

The Third Member for George Town who spoke highlighted the serious problem with the setback where it affects contiguous lands owned by the same landowner and where this amendment would require actually double the setbacks that may have been used before. This is the type of amendment that can cause serious problems when we try to amend one portion of the Regulation, or one portion of the Law, or one portion of the Development Plan without taking into account all the entire body of Laws and Regulations. The Member, as stated by the Third Member, has not really made out a case why we should have these amendments at all. He has not given a single reason why these amendments should not have been referred to his review committee which is actively sitting now and whose work should be completed in another 18 months.

The Member in introducing this motion did not cite any single case of hardship that has to be met by this. One can only wonder how, after 15 years of working well, it has to be done today on the eve of the Election.

MADAM SPEAKER: If no other Member wishes to speak, I will ask the mover if he would like to exercise his right of reply?

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. I firstly wish to thank the First Elected Member for Cayman Brac for his support and as was mentioned earlier by the Honourable Member for Tourism, that Member indeed has a good track record in this House of supporting issues that are good for these Islands. I would like to thank and at the same time, congratulate him on this good track record. He has asked that I speak to the Director of Planning in an effort to update these Regulations and I can assure him, as the Members of the House are aware, that the comprehensive Plan Review is now under way.

Similarly, I wish to thank the other Members who spoke, the Third Elected Member for George Town and the Second Elected Member for Bodden Town, for their contributions. The points raised by them have noted, however, I could not but smile when the third Elected Member for George Town and the Second Elected Member for Bodden Town criticised me for not bringing the amendments before, especially in view of the fact that the Third Elected Member for George Town is well aware of the reasons, the real reasons why the Planning Law and Regulations were not revised each five years as stated in the Law.

I will not go any further into that, Madam Speaker, but I think that Member knows exactly why his Government felt that it was not politically expedient to revise the Planning Law and Regulations every five years as that Government should have done. Had that Government done their job properly, we would not now be having the problems that we are having with the number of amendments having to be made, even though some of them may be made in a piecemeal fashion. They are necessary, Madam Speaker. Had my throat not been giving me some trouble today, Madam Speaker, I would really deal more properly with those two Members.

The Third Elected Member for George Town asked what were the real reasons for the amendment, similarly had he been listening to what I had to say, rather than being consumed by what he wanted to say to me, he would have heard my explanation on this. What I said here in my

opening remarks was in an effort to update the Development Plan 1977, so that it is in keeping with present day development, it has become necessary to bring forth a number of amendments to the Regulations as recommended by the Central Planning Authority. Until the completion of the Development Plan Review, which is projected for completion in 18 months, these amendments will help address some of the major problems that the Central Planning Authority are presently faced with.

Madam Speaker, these problems have not been manufactured or fabricated by me, they have been forwarded to my Portfolio from the Director of Planning and the Chairman of the Central Planning Authority to help and assist them to carry out their functions as smoothly as possible pending the major review of the Law and Regulations. That Member, the Third Elected Member for George Town, also stated he did not have a number of problems with this. That was quite obvious, Madam Speaker, from his feeble attempt on debating this, but there was one point which he raised and that was regarding the reason for the new definition of setback and I would like to reiterate what I said earlier.

This proposal seeks to amend the definition of setback to disallow contiguous parcels of land under the same ownership from not having to adhere to setbacks. At present this allows setbacks to be ignored and when the parcel is sold the structures contravene the setback requirements. This should be fairly clear, it is straightforward and this is a major problem that the Central Planning Authority is having at this time. The reason for the new definition of setback is quite deliberate as the purpose of the new Regulation is to control the use of joint parcels of land owned by the same person in order to ensure compliance with the setback requirements. This was the reason for the omissions of the words, or the questions raised by the Third Elected Member for George Town, when two or more plots under the same ownership are used, they shall be considered as one plot for the purpose of this calculation. That is the calculations of the setback as set out in Regulations 7, 8 and 9.

The point was also raised by the Second Elected Member for Bodden Town that it is strange that the amendments are being made on the eve of the 1992 Elections. Madam Speaker, I have not yet been able to fathom the way that Member thinks, so I can hardly comment on that, his views on this. I can only say to him that the review of the Development Plan has been put entrain from since 1989. There have been a number of setbacks, that is problems, delays and so on, why we have not yet been able to complete this but as that Member knows, I think he was partly involved with the 1977 Development Plan, that this takes quite a long time and in the past 15 years there have been a number of major developments in this country. As a matter of fact, we were looking at that time at perhaps one tenth of the size of the revenue that we are dealing with today so there have been a lot of changes in those 15 years.

So, unlike the motive he may have had in 1977, this has nothing to do with politics, Madam Speaker. As I said earlier, had that Government (the 1976 to 1984 Government) carried out the five year revisions as the law stated, then we would not have been faced with the many problems which we are faced with today. Further, he takes much credit in saying that the economy of this country benefited from the 1977 Plan, and that is why the country experienced the upsurge in its economy during that period. That Member must be far removed from reality because even the simplest secondary school child will tell you that 1976 to 1984 was the greatest period of economic growth in this country which was generated, not by anything that the Cayman Islands Government did, but indeed by the same economic upsurge that the American continent, the United States of America, experienced. It is well known that this country is largely dependent on what happens with our North American friends. So, Madam Speaker, that Member's 1977 Development Plan did not contribute to the increased growth in our economy during that period. I am sorry he cannot take credit for that, Madam Speaker.

Again, I wish to thank all Honourable Members, the Members who spoke on this motion and those who have not by perhaps not speaking given their consent, I wish to thank them all for their support of this motion and I have taken note of the points raised by them. Thank you, Madam Speaker.

MADAM SPEAKER: The question before the Honourable House is Government Motion No. 6/92 - Be it resolved that this Honourable House do approve the said Development and Planning (Amendment) (No. 2) Regulations, 1992. I shall put the question.

QUESTION PUT: AGREED.

GOVERNMENT MOTION NO. 6/92 PASSED.

MADAM SPEAKER: Government Motion No. 7/92, The Development & Planning Law (Revised) Development and Planning (Tree Preservation Orders) Regulations, 1992. The Honourable Elected Member for Communications, Works and Agriculture.

GOVERNMENT MOTION NO. 7/92

THE DEVELOPMENT & PLANNING (TREE PRESERVATION ORDERS) REGULATIONS, 1992

HON. LINFORD A. PIERSON: Madam Speaker, I beg to move Government Motion No. 7/92 the Development and Planning Law (Revised) Development and Planning (Tree Preservation Orders) Regulations 1992 which reads as follows:

> WHEREAS by section 35 (3) of the Development and Planning Law (Revised) it is provided that no regulations shall be made pursuant to the provisions of the Law unless a draft thereof has been laid before the Legislative Assembly and a resolution approving the draft has been passed by the said Assembly;

AND WHEREAS pursuant to the said section 35 (3) a draft of the Development and Planning (Tree Preservation Orders) Regulations 1992 has been laid before this Honourable House; and

BE IT RESOLVED THAT this Honourable House do approve the said Development and Planning (Tree Preservation Orders) Regulations, 1992.

MADAM SPEAKER: The question before the House is Government Motion No. 7/92, as moved by the Member and is open for debate. Honourable Member for Communication Works and Agriculture.

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. As in the case of the other amendments, I will not say a lot in the presentation of this amendment as it is fairly straightforward. However, I would like to make a few comments and pick up on a point which was brought to my attention earlier this morning.

I am pleased to present the Development and Planning (Tree Preservation Orders) Regulations, for the preservation of our trees and woodlands. It is a fact that the excavation of sand for construction purposes, the excavation of marl for fill and the creation of quarries to obtain aggregates and necessary activities, if we are to satisfy the demands of our construction sector, these activities will displace many of our native trees and woodlands. Clearance of property for the establishment of residential, industrial, commercial and tourist development areas will also create landscape changes and will impact on a native vegetation. Filling of mangrove swamps will also impact heavily on the landscape. However, the magnitude of this impact is largely within our means to control.

Too often we have witnessed the wide spread clearance of vegetation on sites proposed for construction activity. In some instances many years have passed and neither buildings nor trees appear on these cleared sites. In other instances landmark trees have been removed to the detriment of the amenity of the area within which it was located. Additionally, we have come to realise the ecological functions which trees and woodlands and groups of trees provide. These functions includes storm buffering and wind-break functions on exposed shores; wild life habitat and nursery functions. Moreover, trees affect the micro climates of areas by shading in evapotranspiration.

Added to this is the intrinsic value that they have merely because of their existence. Our native trees also add to the exotic experience of many visitors to the Islands and also provide a familiar setting for the locals. To lose these functions and increase the magnitude of adverse impacts on our natural environment by neglecting to protect these valuable resources would amount to extreme negligence. Therefore, these Regulations are proposed as a method through which the positive functions and values are one aspect of how the biophysical environment can be protected. Adequate time frames are provided for within which people can exercise their right of appeal should it occur. However, appeals are not an occurrence which one would generally expect to find in the pursuit of protecting our local trees that have been and continue to be an integral part of our development.

Future generations will thank us and will applaud our foresight. The question which I alluded to earlier that was raised, had to do with the matter of compensation. In clause 4, of the order of the Development and Planning (Tree Preservation Orders) it reads as follows: "4.(1) Subject to subclause (2),...". Subclause (2) deals with where a person must not cut down lop or wilfully destroy the tree specified in Schedule 1, the position of which tree is shown on the plan, it deals with that prohibition, Madam Speaker, and it reads:

"...a person who has suffered loss or incurred damage as a consequence of-

(a) the refusal of any consent required under this order; or

(b) the grant of such consent subject to conditions,

is entitled to be paid compensation by the Crown.".

I wanted to make that abundantly clear that in the case where an individual finds that he has suffered as a result of such a tree preservation order being made, that there is protection, there is compensation, he is entitled to be paid compensation by the Government or the Crown as is stated in here. However, subclause (4) continues:

(2) Compensation is not payable under subclause (1) unless the land affected by this order -

(a) is incapable of reasonably beneficial use; and

(b) cannot, as a result of this order, be rendered capable of reasonable beneficial use by the carrying out of any development for which the Authority has granted permission or has undertaken to grant permission.

(3) Compensation payable under subclause (1) shall be assessed taking into account -

(a) any compensation or contribution which has previously been paid to the claimant or any person in respect of the same tree or trees under the terms of this or any other tree preservation order; and

(b) any injurious affection to any land of the owner which would result from the felling of the tree or trees, the subject of the claim.

(4) sections 28 and 29 of the Development and Planning (Revised) Law apply to claims under subclause (1).".

As stated earlier, we view these amendments as necessary in the protection of these Islands and it is with pleasure that I introduce these amendments to this Honourable House and would ask all Honourable Members to give them their full support. Thank you, Madam Speaker.

MADAM SPEAKER: At this time the House will be suspended until 2:30.

AT 12:50 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:34 P.M.

MADAM SPEAKER: Debate continues on the Government Motion No. 7/92, the Development and Planning Law (Revised) (Tree Preservation Orders) Regulations 1992. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. This motion is one that in principle I support but I have some worry in relation to some parts of this. What I would like is to just look at a couple of the sections in it and to show where I have some concern to find out whether perhaps the Member may be able to clarify in his winding up the position in relation to these. The Regulations are made under 19 (2) and 35 of the Law, and they basically set out the procedure whenever the Central Planning Authority wishes to make an order saying that either trees or groups of trees or woodlands cannot be cut down. It is to preserve trees.

The first area of this I have no problem. It basically deals with the contents of the order. I think the period perhaps in Regulation 7 is a bit short having 28 days after service that one needs to make representation. Under the Development and Planning Law, in relation to the Development Plan itself, that is normally two months. I am wondering whether that may be able to be looked at because many times people get these things and they put them down and 28 days later, they find they may have lost what could be a very important right. There is power, I believe somewhere, for extension of time. Moving on from that, after the Central Planning authority has made an order, it has to serve a copy of the draft order and subsequently of the order on the person.

Something that I only picked up just by going through recently, in fact just a few minutes ago I was looking at this again, I believe that the fine of $400 for contravening the order, failing to preserve the tree, and the other $100 I think should be $20. Under section 19 (5) of the Law, and why I am having to go into a bit of detail is because there is no Second Reading as on a Bill with this, this is the full debate here. Section 19 (5) of the present Law says:

"(5) If a person contravenes the provision of a tree preservation order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding four hundred dollars and, in case of a continuing offence to a further fine not exceeding twenty dollars for every day after the first day during which the contravention is so continued.".

I could not find an amendment but there may have been amendment, I do not know. There does not appear to be, though I mentioned this a bit earlier, right to extend time in relation to the making of the objection even though it seems and this may be in there but I did not see it, it seems that in Regulation 10 (b) there is power for the Tribunal to extend time in relation to an appeal. If there is not a right to extend time beyond 28 days maybe this is something we could try to get in.

The period of 10 days, once again, in relation to the appeal may seem to be a bit short, as mentioned earlier, the 28 days was a bit short. Maybe this could be extended to 21 days or something. A notice that applies to Cayman Brac and Little Cayman under Regulation 11 worries me most is really out of the principle that I believe that anyone whose land is damaged as a result of .... is that if someone has their land made less valuable, not just useless, but less valuable, then there normally is a clear position where they must be properly compensated for the loss in value.

In fact, I think that is one of the provisions. It is now regarded as a basic right and I believe it is somewhere under either the European Convention on Human Rights or one of the other United Nations' Conventions, but there must be a right to compensation. It is set out in Clause 4 of the order and I would like to just read that:

"4. (1) Subject to subclause (2), a person who has suffered loss or incurred damage as a consequence of -

(a) the refusal of any consent required under this order; or

(b) the grant of such consent subject to conditions,

is entitled to be paid compensation by the Crown.".

That section then goes on with another Clause, subclause (2):

"(2) Compensation is not payable under subclause (1) unless the land affected by this order -

(a) is incapable of reasonably beneficial use; and

(b) cannot, as a result of this order, be rendered capable of reasonable beneficial use by the carrying out of any development for which the Authority has granted permission or has undertaken to grant permission.

(3) Compensation payable under subclause (1) shall be assessed taking into account -

(a) any compensation or contribution which has previously been paid to the claimant or any person in respect of the same tree or trees under the terms of this or any other tree preservation order; and

(b) any injurious affection to any land of the owner which would result from the felling of the tree or trees, the subject of the claim.".

Madam Speaker, this does not appear to me to be sufficient and I would like to point out why. I believe that the principle of compensation by Government has to be an amount which is equal to the damage or the injurious affection that has been caused as a result of the order. In other words, if the Central Planning Authority says that a tree somewhere in the middle of a piece of land cannot be cut down and as a result of not cutting down that tree, the person who owns it, cannot put a building on it or a building of the size that he could have put on before the Preservation Order, then Government must pay the difference between the value of the land as it was before and the value of the land as it is after.

This I know is not easy to get defined but what we are dealing with and the way it is written here, while there is no specific time in this, everything seems to be in the past tense. It talks about in Regulation "4 (1) a person who has suffered damage or incurred damage as a consequence of the refusal of any consent required under this order." Well. "Or the grant of consent subject to conditions". The next part deals with is incapable of reasonably beneficial use; and cannot, as a result of this order, be rendered capable of beneficial use. That clause I do not think goes far enough. I believe that that should go beyond reasonable beneficial use because the reasonable beneficial use of a piece of property is going to vary in accordance with what the Central Planning Authority interprets this as.

I believe the principle and it was probably nearest brought out in clause 3 (b) which said;

"(3) Compensation payable under subclause (1) shall be assessed taking into account -

(b) any injurious affection to any land of the owner which would result from the felling of the tree or trees, the subject of the claim.".

I believe that this perhaps is a clerical error because it surely has to be the injurious affection to the land which would result from not being able to fell the tree. Because if you can fell the tree then that is all well and good. You can go ahead and build on it. If that was switched around, then I would be somewhat happier with it but the principles of compensation, I do not mean the actual formula for compensation, but those in the Land Acquisition Law, which relates to buying land so the formula goes further, you pay basically for the whole use of the land. In this case only a part of the land may be affected but it surely must be the injurious affection to the land caused by preserving the tree in that form. That would normally never be the total amount of the land unless they say preserve all the woodland on it in which case you could never build.

I have no problem with Government providing machinery for doing these orders but the people must be compensated fairly for the damage that is caused. Where we are dealing with "incapable of reasonable beneficial use," if we had something to the effect that compensation would be paid between the difference in the value of the land with its potential use because potential use has to go in there. The land after the Tree Preservation Order preserves the tree then I would not have a problem with that.

From the way it is now, from what it appears to me is that people's land could be made useless or substantially useless and provided that its capable of some reasonable beneficial use, and I would submit that that word reasonable should be defined as meaning the difference in value of the land before or at least somehow a formula should be brought in that people's land is not just going to be damaged and reduced. Compensation, while it would be paid, would be very minimal. I guess an extreme case of this is really where a piece of land can be used and it has some trees on it and we get an order saying preserve all the trees or preserve the trees which are probably somewhere in the middle of the land and then the man is told, well you build around the trees or something and he loses a third of the amount of the building that he could have put down.

The basis that I submit we need to get in here, is the difference between the value of the land, the potential use of the land, I should say, before the order and the potential use after the order. If that is put in, I have no problems with it. I just do not believe what is here goes far enough and even if the little (3) (b) could at least be altered the other way around, that would I think go a good distance because we bring in injurious affection as a principle of compensation. Unless there is something in this that I am not reading

correctly, or understanding correctly, I think that what is in here in my view does not go far enough to compensate the landowner. We have to remember another thing on this little Island, land is wealth. Most people have their land, they pass it down from one to the other on the basis that it can be used. Many of them, mainly Caymanian's plots of land have on very lovely trees. So where this order could be most harsh would be people with smaller parcels of land who have lovely trees on it which they perhaps have put on, and we find an order being made, and the land becoming substantially less valuable.

Let me say this, the worry about woodlands, as I see in here looks to me like the majority of development that was going to be done to remove vast areas of woodlands - especially Government's woodlands - the 280 acres at SafeHaven, that is done. That is all gone. This order, I think, is going to end up in a position where it is impacted (provided there is compensation), its impact I think would be reasonable, but if the compensation is not sufficient, then I think it is going to hurt people. Because many Caymanians are not going to be able to find out what they are losing until one good day they go down to the Central Planning Authority to build a house and they say well, that breadfruit tree is in the middle of your land, you cannot cut it down and the man will probably say, 'Well, I am not building a treehouse so what are you going to pay me for it?' It is at that time the Member for Communication and Works and the Central Planning Authority has to have the answer to this. That is a bit of humour, it has been a long period but I would like to hear the Member on this as to what compensation he feels people are going to be paid for their land, if these orders are made. Thank you.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, this motion seeks to prevent the destruction of certain trees and seeks to pay compensation where the Government orders that the trees are preserved. Government so far has been the biggest offender in the destruction of valuable trees. If we look around George Town at the recently completed Jennet Street/Dr. Roy Drive, we will see that the Member destroyed many fruit trees, breadfruit trees, pear trees that had formally been owned by the people who were the owners of the property that was taken by Government.

We know that this very building stands on the site of the Princess Anne Park, the Princess Royal Park which was destroyed when the Member for Education ruled the roost. On this property was a tree that had been planted by Prince Philip. The Third Member for George Town mentioned the Safe Haven project and we could go on and on and on. So what is the Government going to preserve now? I hear stories of large trees being pulled out of the swamp to make way for the hospital. Mangroves that would normally attract rainfall. Day by day the wanton destruction of our foliage goes on by the Government itself.

The concept of making people's land useless by arbitrary orders has also been around a long time. If I remember correctly, in 1977, the Planning Law was amended to do away with white areas which existed in the Law and these white areas were areas where people could be told that your land will not be developed because the Government says so. If after five years the Government had done nothing, then the owner could apply to Government to have his land taken out of the white area. Certainly I would have liked to have heard of this specific reasons for bringing this motion. The Member has spoken in general terms, as he usually does, without saying anything and has not told us why, like the other motion which we dealt with. There is this new found haste in preserving the trees which he has wantonly allowed to be destroyed all during the past four years.

The matter of compensation can be very costly. If people are to be compensated because they are told that their land cannot be developed, this certainly could be very costly indeed. Here again, why is such an important matter as this not referred to the committee, which is at this very moment actively engaged in consideration of a review of the Development Plan? Is this merely a motion to satisfy certain special interest groups? Or is it merely a motion to deal with specific properties? I cannot support this motion without the Member citing the reasons for bringing this motion without the Member giving us the true cost or the true compensation that would be paid to land owners who would be told that their properties could no longer be developed.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I am in support of the motion before the House. I think that this is proper, albeit late, but trees are very important, more so for their enhancement of the environment than beauty. I am no great conservationist but over the years there has been wanton destruction of trees throughout this country. Years ago you could go through West Bay and find large Tamarind trees, no longer exist; Naseberry trees that no longer exist; Mango trees, you could go throughout the country in fact and as a boy growing up, you went through the woods and you knew of large Mango trees and today, all of a sudden these trees are dying either development or through aerial spraying. But there is something that is causing destruction of large Mango trees throughout the country I have noticed.

I think too the utility company and they have a very good excuse because they are trying to keep their lines free, but I think this is something that has to be monitored. I see quite a bit of lopping going on. As I said, I think is proper albeit late and I would ask the Member to bear in mind my remarks about the large and old fruit trees throughout the country.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I too would like to offer my support for the motion which is presently before us. I would like to say that I very much support preserving trees. In my

district there are certain areas which I would say it gives you a good feeling to just walk among and admire these huge trees, especially trees like the mahogany. But there are a few points which I would like to bring to light and I would like to say first that while I support preserving trees, I do so in areas where this will not deter development and another concern I have are huge trees in areas where they can create a road hazard. As I drive from East End on to George Town, there are many areas which concern me and I would say many others of the general public who have to drive that route.

I know there is such a thing as roads corridor, under the Roads Law, but I hope and trust that by bringing this motion to this House we will in no way tie the hands of Public Works Department with regard to areas which can be identified like I said, all the way from my district straight into town and I am sure there are other areas throughout the Island like this. I honestly believe that in such areas the hands of Public Works should not be tied with regard to moving them. As I say so now, I would urge the Member to perhaps speak to Public Works Department before this may really happen whereby we find some group, because I figure as soon as this is in place, we know doubt will have groups who will jump on the bandwagon and try to preserve every nice looking tree they come across regardless if it is a hazard or not.

Right here in George Town, is a good example of what I am speaking about. On the way to the airport, across from the Eucalyptus Building, there is a beautiful tree but I especially have great concern with regard to the trailer vehicles passing by that. Many of them have collided with it and I sometimes wonder if there was not something that Public Works Department could do with regard to identifying that area to the drivers because I can imagine it must be quite easy to drive and forget the height of one's vehicle. I wonder if one of these days we may not have a fatality there whereby one of those trailers are knocked off from the bed on which it is placed and could cause somebody to lose their life. Again, I would urge that this area be looked at by the Member.

Speaking of preserving trees, I too have had concern for a long time with regard to especially fruit trees. For many years I have urged the general public to plant as many fruit trees as possible. It is a fact that there is some problem whereby especially our mangoes tend to suffer. They tend to burn from the top and eventually die. I think that we must pay attention to this because if we are to try to promote certain areas like mangoes, it is fact that quite recently we have shown signs of being almost sufficient with regard to Mangoes and it may be a good area for us to make a start. To go along with this I have to drift a bit into an area which is not at this time covered under this motion. I seek the indulgence of the Chair to allow me to mention it.

While we may preserve our fruit trees and it is not only mangoes, because quite recently we saw an article in one of the newspapers with regard to almost a complete destruction of crops. I speak of the problem which we have here with the Cayman parrot. Again, I am all for preserving that bird. I am urging the authorities to do something urgently. Not from the point of view that I have that much love for the bird, but when I see individuals like the last farmer who is now a handicap, Mr. Daniel Rankin, lose most of his hard earned crop because of wild parrots, it is not good. If anybody knows of how dangerous and destructive these birds are, it is the farmers of this country.

I believe while we are here to preserve our trees, we should also look at what steps can be taken to preserve the Cayman parrot, but to do so in a way that we can at least cut down on the wild population. I would suggest that if more captive breeding of the bird was allowed, if more locals were allowed to catch them and keep them as pets, or if the Government sees fit, perhaps they could designate an area on the Islands whereby these birds could be kept and more and more control exercised. I honestly believe it is unfair, like I said to the farmer when we see that he being told to preserve his mango trees or any other tree because that is not the only crop that they will attack, and then for the birds to come behind and just devour the crop.

I throw this out for what it is worth and as I said, I know it is a very touchy subject but having the exposure that I have with the farming community, I also know that it is indeed, a hard pill for the farmer to swallow and being a farmer myself, I know I have on more than one occasion experienced this problem. As I said, with regard to Government Motion No. 7/92, I have no problem in supporting it, I see it as necessary and I hope and trust that it will be to the benefit of this country and I would just issue a warning that we keep a watchful eye for the groups which I have mentioned because world wide, it is a fact that these type of individuals exist, and in some cases people go over-board with this sort of thing. So while I support it, I honestly would not want to see it abused. Thank you.

MADAM SPEAKER: If there is no further debate, I would ask the mover if he would like to exercise his right of reply.

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. Firstly, I would like to thank all Honourable Members who gave their support to this motion and those who by their silence I assume have also given their support. Even, Madam Speaker, the Honourable Member, the Second Elected Member for Bodden Town, who gave his support but did not seem to realise he was giving it. I also thank him. He stated that he was not sure exactly what we were trying to do in that, Government was the biggest culprit. Madam Speaker, I would have been very surprised if that Honourable Member had gotten up this afternoon and strayed away from his usual course and supported the motion outright. He stated that we, that is Government, destroyed many fruit trees in George Town and he gave as an example, the fruit trees that were removed to build Dr. Roy's Drive.

I can only say to that Member, that $450,000 is a very good compensation for any property. And that is what the family was paid for that property. But since that Member did not give me very much substance to reply on I will deal with the comments made by the other Members and thank him nonetheless for his comments. Starting with the comments made by the Third Elected Member for George Town, I must say that I am pleased with the very constructive input given by that Member as was given by the other

Members who spoke, that is the First Elected Member for West Bay and also the Member for East End.

The Third Elected Member for George Town, Madam Speaker, was somewhat concerned that in Clause 7 a period of 28 days may seem too short. We believe that that is sufficient time as in the Appeal Section, under section 10 (b) we also feel that the time given there is sufficient. I would like to refer briefly to the Planning Preservation Orders and the reference made to Regulation 4 (b) of these Orders. The compensation section under the Preservation Orders reads as follows:

"4. (1) Subject to subclause (2), a person who has suffered loss or incurred damage as a consequence of -

(a) the refusal of any consent required under this order; or

(b) the grant of such consent subject to conditions,

is entitled to be paid compensation by the Crown.".

Madam Speaker, under the same clause, subclause (3):

"(3) Compensation payable under subclause (1) shall be assessed taking into account -

(a) any compensation or contribution which has previously been paid to the claimant or any person in respect of the same tree or trees under the terms of this or any other tree preservation order; and.".

The point, in particular, which the Member did comment on was the subsection (b) which states:

"(b) any injurious affection to any land of the owner which would result from the felling of the tree or trees, the subject of the claim.".

That particular one he stated that he had some problems with and I would just like to briefly comment on that. In checking this out with the Acting Attorney General and the Legal Draftsman, the Legal Draftsman has confirmed that it is word for word the United Kingdom (U. K.) provisions, odd as it might seem. While we do not necessarily have to accept word for word what is in the U.K. statutes, we use them very often as a guide.

Under the question of the fines, he has also made a good point here and I would like to as a basis on the question of the preservation of trees and woodlands, refer to the provision of section 19 (2) of the Development and Planning Law (Revised) which reads as follows:

"19 (2) Provisions may be made by regulations [under this Law] with respect to the form of tree preservation orders, and the procedure to be followed in connection with the making and approval of such orders, and such regulations shall, in particular, make provision for securing -

(a) that notice shall be given to the owners and occupiers of land affected by any such order;

(b) that objections and representations with respect to the proposed order duly made in accordance with the regulations shall be considered before the order is made by the Authority, and

(c) that copies of the order when it comes into operation shall be served on the owners and occupiers of the land to which it relates.".

Subsection (5) of section 19 reads and I am reading from the Development and Planning Law (Revised):

(5) If any person contravenes the provisions of a tree preservation order, he shall be guilty of an offence and liable on summary conviction to a fine not exceeding four hundred dollars and, in case of a continuing offence to a further fine not exceeding twenty dollars for every day after the first day during which the contravention is so continued.".

The Member stated that he had a problem with this increase to $100 for each day that the contravention continues. We will ensure that the Regulation complies with the Law. A further word on compensation under the Draft Regulation 4 (b), it is really intended to mean any injurious affection to any land which has been avoided by the inability to fell the tree or trees. It may have been more clearly understood if it had been somewhat worded along those lines rather than the adaptation of the U.K. provisions, but nonetheless we are pleased that the provisions made in the amendment is sufficient for the purpose.

As stated, I will not comment further on the comments on the Second Elected Member for Bodden Town, as I believe I have exhausted what he had to say. But I would like to

thank the First Elected Member for West Bay for his support of the motion, as he stated albeit late. I also share his views that we should do everything possible to preserve the indigenous trees in Cayman especially, and I share his view that we see a lot of our fruit trees and in particular, the mango trees that are dying. I will also be making a note to speak to the utility companies that sometimes lop the trees, so that their wires can be put in place, and ask them to be very careful and to not wantonly destroy these trees.

Again, I wish to thank the Member for East End who also made a very constructive input to the debate in his support of the motion and I share the view of that Member of his concern about the problems that the parrots are posing to farmers. In our effort to preserve the parrots, I believe we need to hit a very good medium so that the farmers do not end up being the endangered species. Right now we have the question of the parrots being the endangered species, but with the wanton destruction of those parrots, one wonders who is being endangered. It may be a good idea, as that Member suggested that we do look for some kind of a captive breeding ground so that we could designate as a sort of a bird sanctuary for that bird. This would have to of course be given much study to determine how that would be done.

All in all, Madam Speaker, I feel that the contributions made by the Members who spoke, were very constructive and not withstanding my comments about the contribution from the Second Elected Member for Bodden Town and I wish to thank each Member who spoke in support of this motion and those who by their silence, I take it also support the motion. Thank you.

MADAM SPEAKER: The question before the House is Government Motion No. 7/92. Be it resolved that this Honourable House do approve the said Development and Planning (Tree Preservation Orders) Regulations 1992. I shall put the question.

QUESTION PUT: AGREED. **GOVERNMENT MOTION NO. 7/92 PASSED.**

MADAM SPEAKER: Government Motion No. 5/92, Notice of Motion to Amend Standing Orders. The Honourable the First Official Member.

GOVERNMENT MOTION NO. 5/92

NOTICE OF MOTION TO AMEND THE LEGISLATIVE ASSEMBLY STANDING ORDERS (REVISED)

HON JAMES M RYAN: Thank you, Madam Speaker. I beg to move Government Motion No. 5/92, seeking to have consideration to amending Standing Order 81 dealing with Admission of the press and any other amendments which the Standing Orders Select Committee might wish to consider. This motion reads as follows:

In accordance with the provisions of Standing Order 84, Notice of a Motion is hereby given to amend the Legislative Assembly Standing Orders (Revised) as follows: -

(a) that the Legislative Assembly Standing Orders (Revised) be amended by omitting Standing Order 81 and substituting the following :-

"Admission of media.

81. (1) The Presiding Officer may grant permission to representatives of the media to attend meetings of the Legislative Assembly, and, in the case of representatives of the television medium, to televise proceedings in the House.

(2) Any such permission shall be given subject to compliance with such rules as may from time to time be made for the purpose by the Presiding Officer, and any such permission may be withdrawn if any such rule is not complied with."; and

(b) that such other amendments be made to the Standing Orders as the Standing Orders Committee considers necessary.

MADAM SPEAKER: Government Motion 5/92, is as moved by the Honourable First Official Member. Would you wish to speak to it, Honourable Member?

HON JAMES M RYAN: Thank you, Madam Speaker.

MR. W. McKEEVA BUSH: On a Point of Order, Madam Speaker. Are we going to allow debate on the motion, or do we send it directly to the Committee?

MADAM SPEAKER: It will be sent direct to the Committee, but I was giving the Member an opportunity to explain a bit further if he wished to. If he does not wish to, and if what he said suffices, I can put the question because it will go to Committee. Do you have anything further to add to that?

HON JAMES M RYAN: Yes, Madam Speaker.

MADAM SPEAKER: Please proceed.

HON JAMES M RYAN: Notice of this motion was given on July 10, 1992, therefore the requisite period of notice as required by Standing Order 84 (1) has been given. The motion contains a draft text of a proposed amendment. Possible rules dealing with such an amendment have also been prepared in draft to be considered by the Standing Select Committee on Standing Orders.

Although this motion addresses one amendment specifically, to deal with regulating broadcasting of proceedings by the electronic media, the opportunity is also being taken to consider other amendments to Standing Orders providing notice is given and a draft of any proposed amendment is submitted. Such proposed amendments would stand referred to the Standing Orders Committee. If prior notice, together with the text or draft of any other amendment, as envisaged by paragraph (b) of this motion is not possible, perhaps the House might agree to suspending the relevant Order 84, in order to have these considered by the Standing Order Committee. I commend this motion to this Honourable House, there is no need for debate at this stage as Honourable Members will have that opportunity during the Committee meeting.

Thank you, Madam Speaker.

MADAM SPEAKER: The question before the House is Government Motion No. 5/92 and as is provided by 84 (4) (3), the motion would be referred to the Standing Orders Committee and I shall now put the question.

QUESTION PUT: AGREED.

IN ACCORDANCE WITH S.O. 84(3) GOVERNMENT MOTION NO. 5/92 STOOD REFERRED TO THE SELECT COMMITTEE ON STANDING ORDERS.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 3:35 THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 3:57 P.M.

MADAM SPEAKER: Please be seated. Other Business, Private Motions, Private Member Motion No. 12/92 Swimming Pool and Sports Facilities for Cayman Brac. The First Elected Member for Cayman Brac and Little Cayman.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 12/92

SWIMMING POOL AND SPORTS FACILITIES FOR CAYMAN BRAC

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker. I beg to move Private Member's Motion No. 12/92 Swimming Pool and Sports' Facilities for Cayman Brac standing in my name which reads as follows:

> WHEREAS the Government has for several years leased a swimming pool, and the parcel of land upon which it is built, from a private citizen in Cayman Brac, which pool is used by students of the Cayman Brac High School and the three Primary Schools on Cayman Brac;
>
> AND WHEREAS the owner of this parcel of land has offered it for sale to Government on reasonable down-payment and balance in annual payments;
>
> AND WHEREAS there is an urgent need for this facility to continue to be available to students attending schools in Cayman Brac;
>
> AND WHEREAS this parcel of land, being located adjacent to Cayman Brac High School, can be used for parking which is needed during sporting events and other functions at the High School and, the area being over two acres, will offer space for hard courts and softball fields, etcetera;
>
> BE IT NOW THEREFORE RESOLVED THAT Government give consideration to purchasing this parcel of land to provide permanent pool facilities for the students of Cayman Brac and for the development of long-term sporting activities.

MR. GILBERT A. McLEAN: Madam Speaker, I beg to second the motion.

MADAM SPEAKER: The question before this Honourable House is Private Member's Motion No. 12/92, as has been duly moved and seconded and is now open for debate. The First Elected Member

for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker. In moving this motion, we have seen the need for this facility for many years, prior to convincing Government to lease this property. The students engaged in water sports had to ask permission to use pools located at the individual hotels, which was very inconvenient and during that period of time this particular piece of property was offered by the developer, who then owned it, to Government free of charge but because of some legal complications it was thought that the developer was not in a position to sell the land at that time and Government took the decision not to accept the offer.

The developer then to prove his point, sold the land to the individual that now owns it. Therefore Government lost a golden opportunity to have this facility free of charge for its purposes. The present owner has made substantial improvements to the property over the years. The property consists of over two acres, approximately 2.3 acres. It has a sea-front of approximately 160 feet, it is as the motion reads, adjacent to the Cayman Brac High School, which is quite centrally located in Cayman Brac, as all Members are fully aware, we realise it does not by any means compares with the Sports Complex and Lion's Pool here in Grand Cayman, but we are very happy to have a facility of that size that the children can use and I am asking all Honourable Members today to give consideration and support this motion.

I have discussed this for many, many years with Government, the initial offer was made shortly after I came to this House in 1980, so this has been going on for a long, long period of time. I would also like to give this House the assurance that Cayman Brackers in their usual way of self-help, will endeavour to help developed this into a sports complex, if the title is vested in Government. Much we could have done to improve this property and make it more usable for all ages, had it have been owned by Government but due to not being in Government ownership and only on a year to year lease, we could not actually branch out and solicit funds and free labour to make necessary improvements. But once this is in Government's hands, I feel confident that it will be utilised.

In addition to the swimming pool, there is also a concrete slab large enough for a five aside soccer or multi-purpose basketball, tennis court, whatever is needed, we could have it fixed and fenced. But again, although money was in the budget one year for this, being a leased property, it was thought in the best interest of Government not to spend that money for that purpose. In the interest of time, I ask all Honourable Members for their support.

MADAM SPEAKER: The Second Elected Member for Cayman Brac & Little Cayman.

MR. GILBERT A. McLEAN: Madam Speaker, I rise to support Private Member's Motion No. 12/92 which is asking Government to give consideration to purchasing the parcel of land on which is situated the present pool facility that is rented to Government and is being used by the school children of Cayman Brac.

This pool has been rented now for a few years, at a very nominal price, and I can assure this House that it is the only swimming facility that is available to the school children of the Brac. Prior to this they had permission to use the pool at one of the hotels and of course, as might be expected, that welcome wore away because there are guests to be catered to in the hotel and the hotel made it known that they did not wish for the arrangement to continue further. When it became available to the community, it was rented by Government and it now serves a very useful purpose in allowing aquatic sports to be held there. It is well known on the Brac that an occasion looked forward to is when the Lions Club have what is called the Brac Swim Meet and it is this location now that is used for that and serves the purpose very well indeed.

The land is for sale to Government, or has been offered to Government. The owner has said to me, as he has to my colleague the First Elected Member for Cayman Brac, that he is interested in selling it and that he would like to give Government the first right of refusal. It is left therefore for Government to decide whether it would wish to acquire this or not for the purpose as is stated. It is my belief that should Government choose not to purchase it, the owner can find a buyer for it and this opportunity for having a aquatic facility will be lost, unless Government should turn around and buy it from another purchases, which no doubt will drive up the cost.

I think the owner has stated a certain price which he would want for the property with the pool. However from Government's point of view, I would advocate and to the best of my knowledge it is standard procedure, Government would have to have a valuation done in it and somewhere between what the owner would want and what Government found to be the price, I would imagine Government would decide what is the particular price if they decide to buy. The land is located right next to the Cayman Brac High School, just to the west of it and is separated from the property of the High School by a road that is perhaps about 12 feet wide, so it is right next to the High School. Therefore in terms of location, it caters to the largest school population in terms of where it is located.

The property runs from the sea almost back to the main road. It is a large piece of land as parcels of land such as this go, and I think it has value just in terms of the property itself. With the addition of the pool which is very large, it adds to this value; there is also a large area that there is a concrete slab that could be utilised for certain sports such has been identified by the First Elected Member for Cayman Brac. I think overall the property has appeal and has value and it would be a good investment for Government. What I think is particular appealing is that the owner is not really interested in being paid all the money at one time, he is prepared to accept a down payment on the property and have the rest paid to him over a period of years. It is my understanding that this is generally Government's policy now when negotiating or buying properties generally speaking.

The use for which this property can be used is in the development of sporting facilities on Cayman Brac which are very limited and this particular pool facility is the only

one that is there available to school children. Therefore I support this motion, as I believe it is something good for the community and the terms which have been expressed to myself and I think to my colleague seems feasible in terms of time payments, I trust that the Government will see fit to accept the undertaking of considering the purchase of this particular parcel of land. Thank you.

MADAM SPEAKER: The Honourable Member for Works and Communications.

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. In the preamble to this motion, the mover and seconder have given full justification for the need for Government to consider favorably purchasing the property in question, namely, the property more specifically described as Cayman Brac, Block 101 C, Parcel 48. That is the swimming pool, sports facilities and the land on which these facilities are located.

In the presentation of the motion, by the mover and seconder, the First and Second Elected Members for Cayman Brac and Little Cayman, they have provided the relevant details in support of this motion which in the interest of the valuable time of this Honourable House, I will not reiterate. In the resolution to this motion which calls for the purchase of this parcel of land, together with the swimming pool and sports facilities, for the use of the students' of Cayman Brac, it is understood that this will also be used for the development of the long term sporting facilities generally in Cayman Brac.

In considering the purchase of this property due regards will have to be given to the valuation placed on it by Government valuators through the Lands and Survey Department. At present Government leases this property for CI$6,000 per annum for use by the adjacent school. The approximate area of land in question is 2.3 acres, with approximately 160 feet of sea frontage. In addition to the leasing of the swimming pool, the $6,000 per annum also covers the cost of the large reinforced concrete slab mentioned by the mover of the motion, which was previously used as a tennis court; this measures some 120 feet by approximately 60 feet and this can be used for other purposes.

Whilst I appreciate that the proprietor of the property has no doubt placed a price on this property, which he is offering for sale to Government, it should be understood that Government's acceptance of this motion does not in itself imply that Government is willing to pay the amount which is being requested by the proprietor but will as in the case of any other property being acquired by Government attempt to arrive at a most equitable price which hopefully be mutually acceptable based on a fair open market value of the property. Government accepts this motion which as stated, calls on Government to give consideration to purchasing the property in question.

Thank you, Madam Speaker.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, it is not strange that Government accepts this resolution from a Member of the Backbench, because he is their Member. But, Madam Speaker, I have to wonder how they see fit to accept this when so many other Private Members' Motions asking for urgent matters in our constituencies be considered and Government reject them? Finding of course, an excuse which might be counted as plausible. Nevertheless, rejecting the matters.

I have supported any matter which I thought would have been for the betterment of the people of Cayman Brac and Little Cayman. When this matter came before Finance Committee some years back, for Government to lease this property I supported it. I support the motion today because I think that it is only right and proper that Government purchase this property. It is certainly good that the owner will come to some kind of arrangement and give the Government time to pay. In this way there hopefully will not be an immediate large outlay of cash. I would have liked to have heard from the mover how much was being asked.

This is an election year and while there are many people or Members in this House, who get up and shout at me or another Member of the Backbench not in support of Government, when we ask for such matters for constituencies, they tell us it is parochial politics, it is pork barreling. I know what the situation is in Cayman Brac, I understand that the person that this is being bought from does not support the First Member for Cayman Brac any longer, but every politician has that right to play the parochial politics that 'what is good for the goose, should be good for the gander'.

I support sports and I see this facility as being a good vehicle for the enhancements of aquatic sports in our Sister Islands. Politics makes strange bed-fellows and I guess what this one will boil down to is it is good for the country.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I support this motion simply because I believe it is the right thing for Government to do. I support it because the recent Youth Services Review, which was done for the Government, clearly indicates what I have been preaching for some time that if we are going to help the youth of this country, we have to put the facilities in the districts. It is alright to be sending a swimmer to the Olympics, but it is far more important to have a facility to help the other 99 that will not reach the Olympics.

I believe the Government has done the right thing in accepting this motion, the only thing is, it comes as a complete surprise to me because last week I heard the Member for Education and the Member for Communications saying in very emphatic terms that the Backbench Members should not have brought a motion about a boat ramp in Bodden Town because the year is too far gone. It is too late, the agenda is full and we should not bring it now just for politics. Also, I support this motion despite the fact

that the First Elected Member for Cayman Brac will not support any Backbench Member in getting any facility for his district unless the Government invites him to support it.

The Second Elected Member for Cayman Brac, in fairness to him, is very fair minded when it comes to district matters and often supports other Members in their desire to help their districts. The Government has the feeling that they are doing favours for Backbenchers when they support their motions but there is no such thing. You are doing a favour for a Member, you are doing what is right for the country, you are doing your duty, if you are a honest, elected representative. You are doing your duty if you are an honest, elected representative.

Some time ago a motion was passed which had been brought by the two Bodden Town Members to have improvements at the Civic Centre in Bodden Town, and nothing has been done. Nothing has been done. Pure politics are being played. Yet they promise they will do it later on. I would like to close by saying that "The mill of the Lord grinds slowly, but it grinds exceedingly fine." One day, very soon after November 18th, there will be a Government in place, we do not have one right now, but after November 18th, it is my prayer that there will be a Government in place that will look at the needs of all the Islands, of all the districts, not on who represents each district, but what are the needs of the children. That is my prayer.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I understand the need for this property and where it will assist the students at the Cayman Brac High School and the Primary Schools. This I believe is good for the district and I support it. But I too would just like to point out, it has only been a few days ago when the Member for Communications and Works very adamantly refused motions that were brought by this Backbench to put through district projects. That goes to show I think that the basis the Government seems to have worked on, is that if you scratch my back, I will scratch yours. We know that the First Elected Member for Cayman Brac has done that well throughout the last few years.

I think also one has to look at this from the approach that we, as Backbenchers who always supported things that are good, if we cannot support it we give our reasons why, but we are consistent. This Government has shown a lack of consistency in matters such as this. We hear about parochial politics from the Member for Communication and Works. This is parochial politics at this stage and it is the same principle as has been all the other parochial motions brought to this House. I guess the days are getting short when this inconsistency can continue. Quite frankly, I hope that the First Elected Member for Cayman Brac sees that Members of the Backbench are bigger than he probably expects in that when we find something is good for the district and the country, then we support it.

I do not know why this was not purchased a long time ago, apparently the land has been sitting there for many years. Like the Member for Bodden Town who spoke, perhaps it is because time is getting near to that fateful day of November 18th. I wish the people of Cayman Brac well and the students well and that they will use it. It is on the basis that I think it is good and it is something that should be done that I will give it its support. On the question of the financing, I understand this is going to be done over a period of years, but that obviously has to be done these days. There is no other way financially of dealing with projects and the decision is made now and somebody else will pay the bulk of this over the next few years.

I think it is good and I support the motion and wish the people of the Brac, the students, all the best and that they will use it to develop the youth there to their fullest. Thank you.

MADAM SPEAKER: If there is no further debate, I would ask the mover of the motion if he would like to exercise his right of reply.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker, yes indeed. I would like to thank all Members for their support. I am certain they would like to thank me for the political mileage they have been trying to get and certainly they have taken up the opportunity to each make a political speech. But I would like to remind them that I have been around a long time and was around a long time before I came to this Honourable House and the people of Cayman Brac know me, long before 1980. So what they are saying here is not going to hurt me in that respect. I have always tried to help where I could help.

I am very grateful to the Government that they have seen fit to accept this because it is absolutely necessary. It is regrettable that the original offer was not accepted, as I said in my moving of this motion, and I would like to point out very clearly this motion is simply asking that after the purchase is negotiated that a sum of money will be paid. That does not take a long period of time. The motions that were put before this House asked that boat ramps be built, public beaches be created, West Bay Clinic be renovated, and on and on and on, which we know that this is a second half of 1988 to last year of this Government and we all know that Public Works has a full schedule. So let us not play politics just because it is 1988. If the time had of been available, it would be different.

Madam Speaker, these people do not want to hear the truth but I am saying today, I am doing what is right for my people and they must get their priorities right as well. I have supported a clinic for West Bay, I know that money has been voted in the Hospital Loan Bill to provide a clinic for West Bay. We took care of that. They voted against the money for a clinic in West Bay but I voted for it. So I am supporting the needs of this country, I studied the issues and I do not vote for them just for political mileage.

Thank you, Madam Speaker.

MADAM SPEAKER: I will now put the question on Private Member's Motion No. 12/92.

QUESTION PUT: AGREED.

PRIVATE MEMBER'S MOTION NO. 12/92 PASSED.

MADAM SPEAKER: This concludes business of the House for this Meeting. As Members all know the Meeting started on the 22nd of June and the volume of work undertaken by Honourable Members during this time has been great and as always, they have dealt with the work very assiduously, although often times in a heated manner. But perhaps the heat was due to the extreme warmth outside.

In the midst of all these sittings, Finance Committee also met for a few days and I would like to take this opportunity of thanking all Members for their attention to the matters put before them. I would also like to thank Members for their courtesy to the Chair.

The Meeting could not be concluded without me expressing, on behalf of Members, our grateful thanks to the Clerk, Deputy Clerk, the staff of the Legislature, and in particular for those transcribers who so very promptly on request supply transcripts to Members of their speeches and sometimes even going back as far as 1984. I know that Members are all very grateful for the prompt attention that they continue to get from the staff of the Legislature. This gratitude should also be expressed to the Serjeant-at-Arms and the police officers who are always in attendance and give very worthwhile and important security to Members.

The last Sitting of this Session will commence on Wednesday the 2nd of September. Now I will ask for a motion for the adjournment until that time.

ADJOURNMENT

HON JAMES M RYAN: Madam Speaker, I move that this Honourable House do now adjourn until 10 a.m. Wednesday 2nd September, 1992.

QUESTION PUT: AGREED.

AT 4:35 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., WEDNESDAY, 2ND SEPTEMBER, 1992.

WEDNESDAY
2ND SEPTEMBER 1992
10:10 A.M.

MADAM SPEAKER: Prayers by the Honourable Third Official Member.

PRAYERS

HON. GEORGE A. McCARTHY, JP. 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: The Assembly is in Session. We have the Administration of Oath to Mr. James M. Ryan, MBE., JP, as Temporary First Official Member and Leader of Government Business. Mr. Ryan, would you come forward to the Clerk's table?

ADMINISTRATION OF OATH OR AFFIRMATION

OATH OF ALLEGIANCE
Mr. James M. Ryan, MBE, JP

HON. JAMES M. RYAN: I, James M. Ryan do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her heirs and successors according to law, so help me God.

MADAM SPEAKER: On behalf of the Honourable House I welcome the Honorable Mr. Ryan as the Temporary first Official Member and the Leader of Government Business once more to the House.

Presentation of Papers and of Reports. The Draft Constitution for the Cayman Islands, July, 1992. The Honourable Temporary First Official Member, Leader of Government Business.

PRESENTATION OF PAPERS AND REPORTS

THE DRAFT CONSTITUTION FOR THE CAYMAN ISLANDS, JULY 1992

HON. JAMES M. RYAN: Madam Speaker, I beg to lay on the Table of this Honourable House, the Draft Constitution for the Cayman Islands.

MADAM SPEAKER: So ordered.

Questions to Honourable Members. No. 153 standing in the name of the Second Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

THE SECOND ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 153: Would the Honorable Member state what is the total amount spent by Government, up to the end of July, 1992, for rental of Government accommodation?

HON. JAMES M. RYAN: The total amount spent on rental of Government

accommodation up to the 31st July, 1992, is CI $232,702.00.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementaries, the Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member give us a breakdown on this figure?

HON. JAMES M. RYAN: Madam Speaker, this amount includes office space at the Harbour Centre and at the First Home Tower. The Harbour Centre is an amount of $27,702.00 per month and the First Home is $4,294.50 per month.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member say if included in the amount is any figure for an item such as the Post Office on Seven Mile Beach?

HON. JAMES M. RYAN: Madam Speaker, the answer is no.

MADAM SPEAKER: If there are no further supplementaries, the next question is No. 154 standing in the name of the Second Elected Member for Bodden Town.

THE SECOND ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE

NO. 154: Would the Honourable Member say whether Cayman Airways Limited has been able to determine the cause of the two tyre blow-outs on Flight 071 from Tampa on Sunday, 16th August, 1992?

ANSWER: Cayman Airways Limited has not been able to determine what caused one tyre to blow out during the take-off of flight 071 from Tampa on 16th August, 1992. The second tyre blew out on a landing at Miami and this was obviously due to the fact that it was unable to sustain the weight of the aircraft at landing speed. According to the maintenance report, both tyres were in satisfactory condition prior to departure.

SUPPLEMENTARIES:

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member say if there were any other problems with this flight or with this aircraft on that day prior to the first blow-out?

HON. W. NORMAN BODDEN: Madam Speaker, I understood that there was some problem in regard to a fuel gauge which was being checked.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say if any subsequent investigations or tests have been carried out to determine the suitability of that particular brand or type of tyre?

HON. W. NORMAN BODDEN: Not to my knowledge, Madam Speaker.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honorable Member is then in a position to say that the matter rests entirely as it is or if there are any ongoing investigations to determine the cause of the blow-out.

HON. W. NORMAN BODDEN: Madam Speaker, I am not aware of any ongoing investigation. I am sure that the Director of Maintenance would investigate to the extent possible, in an effort to establish the cause. Sometimes, it is impossible to establish the exact cause. I would say that to the best of my knowledge, the brand of tyres used would certainly meet the safety standards in accordance with the company's requirements as well as the Civil Aviation Authority's requirements.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. Would the Member say if any check was made to determine whether the tyres were indeed factory made tyres and not tyres that had been recapped and been placed on the aircraft?

HON. W. NORMAN BODDEN: Madam Speaker, I am unable to say whether they were recaps or not but I am confident that regardless of whether they were original factory tyres or recaps, that they certainly would have met the safety standards required both by the company and the Civil Aviation Authorities. The Maintenance Department and the report confirm that they were in satisfactory condition before departure.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder on what basis is the Member making that statement, since he just admitted that there were no tests or investigations made on the tyres?

HON. W. NORMAN BODDEN: Madam Speaker, the company has certain standards which must be maintained and when they dispatch an aircraft, the maintenance department is responsible for that dispatch and they must be satisfied along the lines which I have just informed the House of.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, does the Member know if these tyres were tyres that had been put on the aircraft since it had been leased by Cayman Airways or are they tyres that may have been on the aircraft prior to its being leased?

HON. W. NORMAN BODDEN: No, Madam Speaker.

MADAM SPEAKER: The next question is No. 155 standing in the name of the Second Elected Member for Bodden Town.

THE SECOND ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM, AVIATION AND TRADE

NO. 155: Would the Honourable Member say what debts, if any, is the Civil Aviation Authority unable to pay?

ANSWER: The Civil Aviation Authority has postponed payments to the Treasury Department in the sum of $594,612.97 until the middle of September when this amount is expected to be settled in full. This amount covers reimbursement to Government for external loans associated with the development of Owen Roberts International Airport and Gerrard-Smith International Airport since the early sixties and repayable up to the year 2027.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member say if it is correct that the Civil Aviation is unable to pay money owed to the Caribbean Development Bank?

HON. W. NORMAN BODDEN: No, Madam Speaker. Based on the information I have, any payments that are due to Caribbean Development Bank have been paid. The process is that Government pays on the Civil Aviation Authority's behalf, and the Civil Aviation Authority reimburses Government.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member please tell us how long this money has been outstanding, the $584,612.00?

HON. W. NORMAN BODDEN: Yes, Madam Speaker. This amount was due in July.

MADAM SPEAKER: If there are no further supplementaries, the next question is No. 156 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 156: Would the Honourable Member say what type of investigation is made by the Government in those cases where foreign nationals apply to the Immigration Department for residency status in these Islands?

ANSWER: In all applications for residency, the local Police are contacted and, in selected cases, enquiries are

made abroad to verify applicants' bona fides. All applicants for residency status must submit the following:

(1) an application form;
(2) evidence of good character (including a police clearance certificate and references);
(3) a medical report;
(4) evidence of financial status;
(5) two photographs.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member can say if the Government retains any independent source of investigation so that it has available to itself independent verification of such things as police records, financial background, etcetera.

HON. JAMES M. RYAN: Madam Speaker, the investigation carried out on selected cases, is done only through the local police using standard police procedures.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say what is the disposition of the Government when information is received that certain persons, who have been granted residency, may have been unsavoury characters in either their country of domicile or even in the Cayman Islands?

HON. JAMES M. RYAN: Madam Speaker, I think this question is asking me for an opinion and I do not know that I am prepared to give an opinion on it.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. The question is asking whether the Government routinely seeks additional information on the background and character of applicants, or whether the Government relies exclusively, and solely, upon the applicant's information and the routine checks carried out by the police?

HON. JAMES M. RYAN: Madam Speaker, I believe I answered this question already. I stated that in selected cases, investigation overseas is carried out by the local police using standard procedures.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Madam Speaker, I wish to ask what is the position of the Government when information not forthcoming in the original application suggests that the characters who were granted residency may have contravened laws and taboos in societies from which they originated or even in the Cayman Islands. I do not think that is asking for an opinion, Ma'am.

HON. JAMES M. RYAN: Madam Speaker, I am afraid that I have a limited amount of information on the subject, as Honourable Members will appreciate, I am new and I am very limited in the information I have on it.

MADAM SPEAKER: I think I would ask the Honourable First Official Member if he would undertake to have a written reply prepared after you have further investigated that in the department. A written reply to the effect to the answer to the Honourable Member.

HON. JAMES M. RYAN: Madam Speaker, I will give that undertaking.

MADAM SPEAKER: Thank you. If there are no further supplementaries, the next question is No. 157, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 157: Will the Honourable Member say: (a) what is the number of group employees currently in the Government Service; (b) what are the titles and salary scales of posts held; and (c) how many workers in this category are Caymanian?

STANDING ORDER 23 (5)
DEFERMENT OF ANSWER TO QUESTION

HON. JAMES M. RYAN: Madam Speaker, in accordance with the provisions of Standing Orders 23 (5) I seek leave of this Honourable House to defer answer to this question until a later date.

MADAM SPEAKER: The question is that the answer should be deferred until another date. Is that acceptable to Members? All those in favour please say Aye. Those against, No. The Ayes have it.

QUESTION PUT: AGREED. **QUESTION NO. 157 DEFERRED.**

MADAM SPEAKER: The next question is No. 158, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS AND AGRICULTURE

NO. 158: Would the Honourable Member say how are requests for street lights dealt with?

ANSWER: All requests for street lights are referred to the Portfolio of Communications, Works and Agriculture. Approval is granted based upon the following: (i) funds available; (ii) number of lights already installed for the year; (iii) population density. Requests which have been approved by the Portfolio are communicated to the Public Works Department (PWD). PWD liaises with Caribbean Utilities Co. Ltd. to have the lights installed, inventoried and thereafter maintained. All expenditures are handled by PWD.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementaries, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say if there is any arrangement for the automatic provision of street lights in sub-divisions and new developments?

HON. LINFORD A. PIERSON: No, Madam Speaker.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could say what steps will be taken to make sure that districts such as East End which requests were made for something like 30 lights, and only five were installed for the year, what steps will be taken to make sure that the other lights will be put in place?

HON. LINFORD A. PIERSON: Madam Speaker, where requests have been made and not fulfilled, attempts will be made to obtain supplementary funding but as regards to the number of lights installed so far in the East End this year, there were five 175 watt lights and four 400 watt lights giving a total of nine lights.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. There were only five street lights installed. The four the Member is speaking of were on the play field. Could he please say what steps will be taken by the Government to install lights in areas which I have requested, and other Members have requested, that are known drug areas where large sums of drugs have been landed over the years?

HON. LINFORD A. PIERSON: Madam Speaker, every attempt will be made to comply with the request made by various Members within the financial constraints of Government.

MADAM SPEAKER: The next question is No. 159, standing in the name of the Third Elected Member for West Bay.

THE THIRD ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 159: Can the Honourable Member say when Phase II of the construction at the John A Cumber Primary School will be available for classes?

ANSWER: Phase II of the John A Cumber Primary School expansion is complete, furnished and awaiting the commencement of the new school-year in a few days time.

SUPPLEMENTARIES:

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I wonder if the Member could say whether or not the project was finished within budget, and what was the total cost of Phase II?

HON. BENSON O. EBANKS: Madam Speaker, the contract entered into last October was $633,620.95. The payment under the contract at the time of substantial completion was $635,854.95. An amount over contract of $2,234.00 or .35 per cent. The estimated cost of the project in September 1991 was $762,982.00 and it is projected that the final cost will be $752,000.00 or 1.4 per cent less than originally estimated.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. Can the Member say whether his Portfolio or the Department of Education has checked to see whether this phase has proper ventilation?

HON. BENSON O. EBANKS: The building, Madam Speaker, was handed over to the department on the 26th of June and the department, I am sure, was satisfied that it was built to specifications.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I am glad to hear that the project is completed. I wonder if the Member is in a position to say what is the total cost of the project, that is Phase I and Phase II?

HON. BENSON O. EBANKS: No, Madam Speaker, I do not have that information with me.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, the Member's answer to my question said that they would have been built to specification. The Member knows that the other school was built to specification but they had to go back and knock out walls to put in windows after the building was finished. Did he check to see that this phase has proper ventilation in the form of enough windows that is?

HON. BENSON O. EBANKS: The design of this building is much improved over the design of the first as far as ventilation is concerned. The original building, somehow, was designed with a view for air conditioning and this had to be rectified.

MADAM SPEAKER: Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. Since the Member was not in a position to answer the last question, with regard to the total cost of the project, I wonder if he would give an undertaking to provide that information in writing to us?

HON. BENSON O. EBANKS: Certainly, Madam Speaker, but could I ask the Member if he is interested in what has been spent to date or the projected cost of the total project, because there is yet more work to be done in other phases?

MADAM SPEAKER: Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. What I am interested in is the total cost of the project to date, and how that relates to what was budgeted or agreed upon as far as the contract.

HON. BENSON O. EBANKS: I will supply those figures, Madam Speaker.

MADAM SPEAKER: Thank you, Honorable Member. The next question is No. 160, standing in the name of the Third Elected Member for West Bay.

THE THIRD ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 160: Can the Honourable Member advise when the new Sporting Complex in West Bay will be opened?

ANSWER: It is hoped that the two new fields at the common, Birch Tree Hill, West Bay, will be formally commissioned at the end of this month in order to be in use for the 1992-1993 football season. The smaller practice field has, in fact, been in use for some months now.

SUPPLEMENTARIES:

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I wonder if the Member could say whether or not the sporting complex in West Bay has been built according to the plans that were prepared for that purpose? If not what else is there to be added to the project in order to complete it? What other plans do you have?

HON. BENSON O. EBANKS: Are you referring to the complex at the common or across the way? Madam Speaker, there are, except for minor works, for example, the installation of a perimeter fence around the play field itself, that is, a fence within a fence and a short distance of fence on the North East corner and possible rolling of the pitch, it is not intended to do any more at the moment. If the Member is referring to the more elaborate plans that were considered at one time, this has been put on hold because much of what was included in that building is proposed to be provided by one of the football clubs in West Bay from their resources.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I recall that part of the plan included dressing or change room for the teams, is this going to be done as a part of that project, or what is the position with regard to that?

HON. BENSON O. EBANKS: Madam Speaker, there will be changing rooms added on to the existing building that is there in the next phase of the project.

MADAM SPEAKER: The next question is No. 161, standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 161: Would the Honourable Member state the reason why a radar station is being erected on the south coast of Grand Cayman in the vicinity of Beach Bay and whether all official and statutory permissions, necessary for such work to be undertaken, have been granted?

ANSWER: A mobile radar station is being placed in service by the United States Air Force (USAF) under terms of an agreement between the Governments of the United States of America and the United Kingdom (in consultation with the Government of the Cayman Islands).

This facility will be discontinued and the equipment removed following the commencement of the service at the permanent Caribbean Basin Radar Network (CBRN) site. This is expected before the end of 1992. All relevant permissions required are in hand.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say whether the sole purpose of the temporary radar facility is for drug interdiction?

HON. JAMES M. RYAN: No, Madam Speaker. I am not in a position to answer that.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Would the Member say if the whole idea of having a radar station on this Island was to use it to help interdict narcotics smuggling in the region? I think that was generally said by the Government, could you confirm? Why is it that the permanent station has not been completed, that it was necessary to bring in a mobile one?

HON. JAMES M. RYAN: Madam Speaker, on the first question, I think yes, it has been publicly stated that the radar unit would be used at least in part for drug interdiction. In reply to the second question, I am afraid that I do not have an answer as to why the permanent site is not yet completed.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: As the Member is aware, there has been considerable concern expressed in the papers, and by citizens, regarding this radar station. If there have been permissions given by the Planning Authority, has any consideration been given to the fact that radiation is a cancer causing agent, and

whether the proximity of that radar station to the people living in Beach Bay will not be hazardous to health?

HON. JAMES M. RYAN: Madam Speaker, it is my understanding that the radar at Beach Bay poses no health hazard to the residents in the vicinity.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: As a follow-up to the reply given by the Member, I would like to ask whether this has been confirmed by authorities in the United States or the United Kingdom who have knowledge of this? Secondly, if it is held in certain quarters, that that station being erected on the south coast is to be used in some sort of military way in connection with Cuba?

HON. JAMES M. RYAN: Yes, Madam Speaker, it is my understanding that the information pertaining to the radar not posing a health hazard was confirmed by authorities in the United States and the United Kingdom. On the second part of the question, I am afraid that I have no information on the matter of the temporary radar being used to monitor activities in Cuba.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member would give an undertaking to disseminate this information as regarding the harmlessness of the radiation emitted as a number of my constituents have approached me expressing concern over the possible effects of the radiation?

HON. JAMES M. RYAN: Yes, Madam Speaker. I will endeavor to give that information as we have it.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I would also like to know if the Honorable Member is in a position to say why that particular site was chosen?

HON. JAMES M. RYAN: Yes, Madam Speaker. The United States Authorities came down and looked at three sites on Grand Cayman and this site was found to be the most suitable because there was less physical interference to that area.

MADAM SPEAKER: The next question is No. 162, standing in the name of The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 162: Can the Honourable Member say what is the present complement of the Royal Cayman Islands Police Force?

ANSWER: The complement of the Royal Cayman Islands Police Force is 231 established posts.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. Can the Member say that this number does not include the Special Constable section?

HON. JAMES M. RYAN: Madam Speaker, that is correct. This does not include the Special Constables.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could give us a breakdown of this number by nationality?

HON. JAMES M. RYAN: Madam Speaker, I do not have the breakdown by nationalities because there are several other nationalities besides Caymanians. What I can say is that the majority in the force is Caymanian, in fact, 62 per cent of the force is Caymanian.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say what is the make-up of the officer corps? What percentage of officer corps are Caymanian?

HON. JAMES M. RYAN: No, Madam Speaker, I am unable to give that information.

MADAM SPEAKER: The next question is No. 163, standing in the name of 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 AGRICULTURE

NO. 163: Can the Honourable Member say: (a) whether Government proposes to build a cruise ship docking facility; and (b) whether Government is considering installing cruise ship moorings?

ANSWER: (a)The Port Authority is responsible for the establishment and control of berths in the Cayman Islands. The Authority has employed the firm of Post, Buckley, Schuh and Jernigan as consultants to prepare a ten-year Master Port Development Plan (MPDP). This plan will address the cruise industry issue and will detail how best the Authority can service the industry.

The MPDP will address the question of whether a dock should be built or whether moorings should be installed, or both. The MPDP will also address the financial feasibilities of both dock and moorings. the MPDP is due to be completed by the first quarter of 1993 and will, after approval of the Authority, be submitted to the Government. The answer to part (b) has already been given.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I am not sure that the Member said what is the Government's position?

HON. LINFORD A. PIERSON: Madam Speaker, as regards to the question I did imply that it is not the Government considering the installing of the cruise ship moorings. That matter is dealt with by the Port Authority in accordance with the Port Authority Law, Law 15/76. I would further say that the interpretation of berth, includes anchorage, moorings, dock, jetty, wharf and every place within territorial waters where a vessel may be brought to rest and secured.

MADAM SPEAKER: The First Elected Member from West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, if I understand the Member correctly, he is saying that the Port Authority is undertaking some study. Since he has separated the Port Authority from the Government, my question deals with the Government, meaning his Portfolio, what is their position, or the Executive Council's position on the cruise ship docking facility and installing cruise ship moorings, even if a temporary situation?

HON. LINFORD A. PIERSON: Madam Speaker, I can only further elaborate by saying that the question of berthing is controlled under the Port Authority Law (Law 15/76) and I will try to give an interpretation of berthing, and also further elaborate, by saying that Executive Council will take a decision on this when the report has been received.

MADAM SPEAKER: The next question is No. 164, standing in the name of 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 AGRICULTURE

NO. 164: Can the Honourable Member state whether he is aware of the traffic hazard, particularly at night, that exists when parking is permitted on both sides of the road in the vicinity of the Hyatt Hotel on West Bay Road? If so, will he say what action is being done to eliminate this danger?

MADAM SPEAKER: Before the Honourable Member replies, the time is now 11:00 and it is normal that Standing Orders are suspended to complete question time. Would the Honourable First Official Member move a motion to that effect? Thank you.

SUSPENSION OF STANDING ORDER 23(7) AND (8)
11:00 a.m.

HON. JAMES M. RYAN: Madam Speaker, I move the suspension of Standing Order 23(7) and (8) to enable the remaining questions to be taken.

QUESTION PUT: AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ENABLE THE REMAINING QUESTION UPON THE ORDER PAPER TO BE TAKEN.

MADAM SPEAKER: Honourable Member.

ANSWER: I am not aware of the existence of any hazard on West Bay road due to the practices referred to, nor have any of my Portfolio staff received any such complaints. The matter is being referred to the Traffic Department of the Royal Cayman Islands Police Force for its review and action as deemed appropriate within the provisions of the Traffic Law.

SUPPLEMENTARY:

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, no written reference was made to that situation, but certainly, they were informed of the hazard there in that vicinity. Several times, not only this year, but in previous years, and I accept the Member's answer that they will be looking into it.

MADAM SPEAKER: If there are no further supplementaries, that concludes Question Time for his morning.

The House will now go into Committee to consider a bill entitled the Merchant Shipping Act, 1988 (Amendment) Bill, 1992.

GOVERNMENT BUSINESS

BILLS

HOUSE IN COMMITTEE AT 11:03 A.M.

MADAM CHAIRMAN: The House is now in Committee. I assume that as usual that, with leave of the House, the Honourable Second Official Member is authorised to make any corrections, minor printing errors etcetera to this bill. We will now read the clauses of the bill.

THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL, 1992

CLERK: Clause 1 - Short title and commencement.
Clause 2 - Interpretation
Clause 3 - Amendment to Shipping Act, 1988

MADAM CHAIRMAN: The question is that Clauses 1 to 3 stand part of the Bill. I think Members have been circulated with Committee stage amendments and I will ask the mover to deal with these proposed amendments.

Mr. McCarthy.

COMMITTEE STAGE AMENDMENTS

CLAUSES 1 AND 2 PASSED

HON. GEORGE A. McCARTHY, JP. Madam Chairman, the amendments that are being proposed to this Bill are not fundamental but are to ensure that the amendments to the Merchant Shipping Act 1988 are consistent with the changes made to the United Kingdom Act. As these changes were earlier circulated, if there are no objections, I would request that they be taken as having been read.

The amendments to the Bill embody suggested improvements which the Foreign and Commonwealth Office Legal Advisors, I believe, will serve to clarify the effect of the Bill. They are intended to ensure that there will be no doubt as to the manner in which the Bill will amend the United Kingdom Act of 1988, as applied to the Cayman Islands by the Merchant Shipping Act, 1988 Order in Council of 1988.

MADAM CHAIRMAN: The proposed Amendment to clause 3, the Members have received copies of this and it is now open if there are any comments. If there are no comments, then I will put the question that Clause 3, as amended do stand part of the Bill.

QUESTION PUT: AGREED. THAT AMENDMENT TO CLAUSE 3 BE TAKEN AS READ.

CLERK: Clause 4 -Reenactment of provision of the Merchant Shipping Act, 1988 and Part I of the Merchant Shipping Act 1894.

MADAM CHAIRMAN:: The question is that Clause 4 do stand part of the Bill. If there is no debate, I shall put the question.

QUESTION PUT: AGREED. CLAUSE 4 PASSED.

CLERK: Schedule.

MADAM CHAIRMAN:: The question is that the Schedule stand part of the Bill. Members have also received copies of proposed amendments to Part I of the Schedule.

MR. G. HAIG BODDEN: Madam Chairman, what about the new Clause 5 that is in the amendment? Do we have to add that on the white sheet?

HON. ANTHONY SMELLIE: Yes, Madam Chairman, we need Clause 5 to be added and, perhaps in proper order, taken before we go to the Schedule.

MADAM CHAIRMAN:: Yes, that is correct. Clause 5 is proposed to be a new section to be added in sub-section 5. That is on the last page of your proposed amendments. New Clause 5 to be inserted after Clause 4. Interpretation of Section 34, the Merchant Shipping Act, 1988. Do you wish to speak to that?

HON. GEORGE A. McCARTHY, JP. No, Madam Chairman, I would like for it to be taken as read. This is just a suggested improvement by the FCO.

MADAM CHAIRMAN: The question now is that a new Clause 5 be added after Clause 4 and this is as set out in the paper. I shall put the question.

QUESTION PUT: AGREED. NEW CLAUSE 5 PASSED.

MADAM CHAIRMAN:: We will now deal with the Schedule Part I. The amendments are as set out in the paper. Mr. McCarthy, would you want to carry that through?

HON. GEORGE A. McCARTHY, JP. Yes, Madam Speaker. I would also like to propose that the amendments to the Schedule be taken as read.

MADAM CHAIRMAN:: The question is that the amendments to the Schedule be taken as read. I assume all Members have had this in time to read.

QUESTION PUT: AGREED. AMENDMENTS TO SCHEDULE TAKEN AS READ.

MADAM CHAIRMAN:: The question now is that Part I of the Schedule as proposed to be amended be approved. If there is no debate on that, I shall put the question.

QUESTION PUT: AGREED. THE SCHEDULE AS AMENDED PASSED.

MADAM CHAIRMAN:: The Schedule also includes Part II, to which there have been no amendments.

CLERK: A Bill for a Law relating to the application for The Merchant Shipping Act, 1988 to the Cayman Islands.

MADAM CHAIRMAN: The question is that the Title do stand part of the Bill.

QUESTION PUT: AGREED. TITLE PASSED.

MADAM CHAIRMAN: That concludes proceedings in Committee on a Bill entitled the Merchant Shipping (Amendment), 1992 Bill. The House will resume.

HOUSE RESUMED AT 11:11 A.M.

MADAM SPEAKER: Please be seated. Report.

REPORT THEREON

THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL, 1992

HON. GEORGE A. McCARTHY, JP. I am happy to report that the Bill for a law entitled The Application of the Merchant Shipping Act to the Cayman Islands was considered by a Committee of the whole House and passed with certain amendments. Thank you.

MADAM SPEAKER: The Bill is accordingly set down for Third Reading.

THIRD READING

THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL, 1992

CLERK: The Merchant Shipping Act, 1988 (Amendment) Bill, 1992.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I move that a Bill entitled A Bill for a Law Relating to the Application of the Merchant Shipping Act, 1988 to the Cayman Islands be given a Third Reading and passed. Thank you.

MADAM SPEAKER The question is that a Bill entitled The Merchant Shipping Act 1988 (Amendment) Bill, 1992 be given a Third Reading and passed.

QUESTION PUT: **AGREED.**

THE MERCHANT SHIPPING ACT 1988 (AMENDMENT) BILL 1992, GIVEN A THIRD READING AND PASSED.

MADAM SPEAKER: At this time proceedings will be suspended for 15 minutes.

HOUSE SUSPENDED AT 11:13 A.M.

HOUSE RESUMED AT 11:38 A.M.

MADAM SPEAKER: Please be seated. Proceedings with Other Business. Private Members' Motions. Private Member's Motion No. 13/92. The Third Elected Member for George Town.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I beg to move Private Member's Motion No. 13/92 debate on the Draft Constitution.

MR. W. McKEEVA BUSH: Madam Speaker, I second the motion.

MADAM SPEAKER: The Motion has been duly moved and seconded. Would the Honourable Member wish to speak thereto? The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you very much, Madam Speaker. This motion reads as follows:

> WHEREAS the report of the Constitutional Commissioners 1991 was considered in a Select Committee of Elected Members to review the Cayman Islands (Constitution) Order, 1972, and the Committee's Report was laid on the table of the Legislative Assembly on the 28th day of October, 1991;
>
> AND WHEREAS the majority of the Select Committee (including the four Elected Executive Council Members) recommended that there be a Chief Minister and further that substantially all major parts of the Constitutional Commissioners' Report be implemented and that the new Constitution be "brought into force immediately after the general election";
>
> AND WHEREAS a dissenting statement by ourselves and other Backbenchers to the said Select Committee's Report stated that there should be no Chief Minister, the Financial Secretary should be responsible for Finance, the Civil Service should remain independent and that the new Constitution should only be brought into force after it has been made an issue in and decided upon in a general election by the people of the Cayman Islands and after the new Legislative Assembly has passed a resolution bringing the new Constitution into effect;

AND WHEREAS the Secretary of State of the United Kingdom has indicated inter alia:

(a) that the draft Constitution enclosed in his letter should be discussed from now to the general elections; and

(b) that after the formation of the new government the new Legislative Assembly should debate the draft Constitution and make recommendations to the Secretary of State who will then reply to the Legislative Assembly in early 1993; and thereafter the new Constitution will be implemented;

AND WHEREAS it is important and democratic that the draft Constitution and the documents in the above recitals be discussed and debated in the Legislative Assembly and publicly;

NOW THEREFORE BE IT RESOLVED THAT this Honourable House take note of the said draft Constitution and the documents mentioned in the recitals. and it is moved by myself, the Third Elected Member for George Town.

This is probably one of the most, if not the most, important debates that this House has seen for several years, or many years. It is dealing with the most important and fundamental document in the Cayman Islands; namely its Constitution.

The motion that I have brought is one which is in a form for the Legislative Assembly to take note of the Draft Constitution and the other documents that are mentioned. This type of motion gives the widest debate possible and allows in instances where it is a complex document especially the parts of the document to be looked at by the individuals on the floor of the House in circumstances when a clear vote one way or the other for a large amount of sections would not be appropriate. At a later stage I will develop that aspect a bit more.

It is very important that the people of the Cayman Islands have the clearest view from all Members of this Legislature, and from candidates who are running in this General Election, as to where they stand on the major parts of this Constitution because at the end of the day when the elections are over, the position will be that the electorate of the Cayman Islands will have spoken by putting in the new Legislature new Members whose views on this Constitution will, ultimately, be the subject of a further resolution and implemented by the United Kingdom Government. The importance, therefore, is that when votes are cast in the General Election for a candidate, when that candidate is elected, then his views normally expressed in his manifesto on this constitution will be what he will follow in the subsequent resolution that will go on to the Secretary of State in the United Kingdom and that is what will be the basis of the new Constitution.

So basically, to put it more simply, when Members of the public, the electorate, vote for a candidate who is for a Chief Minister, after he is elected, if there are majority views for a Chief Minister, the country will have a Chief Minister. If they vote candidates who are against a Chief Minister, then after the elections, they will make sure that there is no Chief Minister in the Constitution. I use that example as it is really the crux of the difference between candidates and Members of this House at the present time.

When I further go through this and I point out why we do not need a Chief Minister in this country, anyone voting for me and those who say no Chief Minister, then after the elections there will not be any Chief Minister. If they put in a majority of Members who have stated that they would like a Chief Minister then they will get one, I am fairly certain after the General Election.

The views that have already expressed are clearly set out in the Select Committee's report and this sets out where a majority of Members (and, in fact, subsequently in public debates) have put forward that there should be a Chief Minister and these are basically, among others, the Elected Members of the Government. Here I would like to say that when I refer to the Elected Members of Government, the Member for Tourism, as Chairman of the Committee, in many instances did not express opinions and did not need to express opinions. There will be times that when I refer collectively to Elected Members, it may not necessarily refer to him. That support for Chief Minister is also by the two Elected Members for Cayman Brac and Little Cayman. This was brought out earlier in the Report of the Select Committee. Therefore, it has to be clearly understood that the importance of this debate is to make sure that before the elections come up, people understand clearly where each candidate stands. I will show that this importance is really crucial at this stage and a lot less important after the General Election has taken place.

The history of this matter goes back several years. It originated about three years ago when the Government lost its elected majority in the House and there was the subsequent situation with, and culminating in, Motion 3/90 relating to the Finance Committee. Notwithstanding that that elected majority had been lost, we know that for approximately a year until the changing of the Standing Orders for the Finance Committee, the Government continued on. The problems of those days such as the master ground transportation plan and its $200 million or there about debt potential and the buying of the 737-400s were some of these.

What resulted, therefore, was a situation in which the Government was finding it difficult to carry a majority and to run the country. Let me say here, that the difficulty that arose at that time is one in which no changing of any Constitution could solve, on a permanent basis. It is integral that the Government has a majority not only in this House but in the Finance Committee which they solved in Motion 3/90. Therefore, at that stage, it was not because of problems with the Constitution, but because they had problems with support of the Backbenchers sufficient to ably run the Government.

I would like now to go to the report of the Select Committee and

this sets out at page two the background leading up to the motion that brought the Constitutional study. I am reading from this:

> 1. "The Select Committee to review the Cayman Islands (Constitution) Order, 1972 was established by the Legislative Assembly on Thursday the 15th November, 1990, upon the unanimous passing of Private Member's Motion 25/90."
>
> 3."The Motion came as a result of the passing of Government Motion 9/90 on 24th of July, 1990, by an eight to seven majority.".

That motion reads as follows: "Government Motion 9/90 Request for Constitutional Study." It has some recitals in it and then it goes on to say:

> "BE IT THEREFORE RESOLVED THAT this Honourable House request, through His Excellency the Governor, The Secretary of State for Foreign and Commonwealth Affairs, to appoint a suitably qualified and experienced person or persons as a Commission to ascertain and evaluate opinion in the Cayman Islands upon possible paths of constitutional social and economic development of the Islands since the introduction of the present Constitution in 1972; in conducting this assignment to consult with the Governor, the Members of the Executive Council and The Legislative Assembly, interested organisations and members of the public; and to report.".

This motion that has started the constitutional process in the Cayman Islands is one that was passed by the Government Members and the First Elected Member for Cayman Brac and Little Cayman; those days the usual eight to seven majority. We said no to it that it was not necessary and was going to be disruptive and cause a lot of problems. However, it was passed. Reading on from that it says:

> "The Foreign and Commonwealth Office appointed two Constitutional Commissioners, Sir Frederick Smith and Mr. Walter Wallace, CVO, CBE, DSC, to commence the study for the Government in January of this year.".

That would have been actually of 1991.

> "It was a result of the relatively short period of time between the passing of the Government Motion and the date of commencement of the Commissioner's study, that Mr. Gilbert McLean tabled a motion on 5th September, 1990, for the establishment of a Select Committee to be the forum by which the Elected Members of the Legislative Assembly could collectively formulate opinions and solicit views from the public, and recommend what, if any constitutional changes the people of the Islands and Elected Members of the Assembly consider desirable for the Cayman Islands.".

That second motion that came about is one that was passed unanimously in this House and I would like to just read this because it would be referring to this motion as time goes on.

"PRIVATE MEMBER'S MOTION NO. 25/90
SELECT COMMITTEE TO EXAMINE THE CONSTITUTION OF THE CAYMAN ISLANDS

WHEREAS by a majority vote, Government Motion No. 9/90, 'Request for Constitutional Study', was passed;

AND WHEREAS a Constitutional review was not a campaign issue in the last General Election, nor was it publicly debated during the last General Election by any candidate or any present Elected Member;

AND WHEREAS it is considered reasonable and desirable that the bipartisan views and options of Legislators and the views of the public be solicited;

BE IT THEREFORE RESOLVED THAT a Select Committee, comprising all Elected Members of this Honourable House, be established:

(1) to examine the present Constitution in the light of Members' experience of working with it and to formulate a submission to the Constitutional Commissioners;

(2) to consider the report of the Constitutional Commissioners, once it is tabled in the Legislative Assembly, and to invite representations and hear witnesses thereon;

(3) to consider whether any recommendations necessary for the conduct of a General Election should be implemented prior to a General Election; and

(4) to report to this Honourable House upon consideration of the Commissioners'

Report.

AND BE IT FURTHER RESOLVED THAT this Honourable House recommends that the implementation of any recommendations for Constitutional changes, with the exception of the paragraph numbered (3) above, shall not take place without the changes being the subject of a General Election.".

Two very important pats of that; one was the Recital saying that constitutional review was not a campaign issue and was not publicly debated during the last election, and the Resolution itself which stated that no changes should take place without the changes being the subject of a General Election. That motion was debated in the House on the 14th and 15th of November and it was passed unanimously.

I would now like to go on to deal with an area of this that I think is very important and that is what was recommended by the elected government and its supporters in relation to the coming into operation. That is clearly set out in the Report of the Majority of Elected Members, at paragraph 34, page 20 of the Report. It states:

(34)Date(s) of Coming Into Force

"It is recommended that the following procedure for the implementation of the recommended constitutional changes shall be that:

(i) the section on the increase in the number of Elected Members of the Legislative Assembly be brought into force in early 1992;
(ii) the necessary consequential amendments to the Elections Law be made prior to the preparations for the next General Election to be held in November 1992; and
(iii) the remainder of the new Constitution be brought into force immediately after the General Election.".

That is where those of us Backbenchers who signed and put in a minority report made the first difference with the Government and its supporters. This is abundantly clear. They are saying that the new Constitution which would be the document that has now come out should be brought into force immediately after the General Election. In other words, things would all be cut and dried by the Members before the General Election and immediately after General Election the new Constitution would be brought into force and the new Legislative Assembly would sit under the new Constitution.

The importance of this is that it deprives the public of this country of its democratic right to vote on the issue of the Constitution in this upcoming General Election. It takes away the public's basic and fundamental right which happily, the United Kingdom in its wisdom, was able to give a view similar to that held by the minority of us Backbenchers on this point.

This issue was raised again, and I will be referring to those minutes when the debate took place in February, in this House and the Second Elected Member from Cayman Brac and myself were probably the longer debaters on it, but even at that time, there was still clearly the view and the reluctance to accept the Governor's letters and his statements which said, "You cannot bring in a new Constitution unless it has gone to General Election and the people have spoken by putting in their new representatives with a mandate to bring in any changes to the Constitution.".

Now when that arose, the Backbenchers who signed the Minority Report had this to say, and I am quoting from page 21 of that report:

"(34) DATES OF COMING INTO FORCE

We disagree with the Committee and the Commissioners' recommendations. All representations to the Committee which expressed views on whether an election should be held on the changes to determine the views of the public were strongly for an election or referendum and against the Commissioners' and Select Committee's recommendations.

We believe that any major constitutional change should only be brought about after it has been made an issue in and decided upon in a General Election by the people of the Cayman Islands and the Legislative Assembly has passed a resolution bringing the new Constitution into effect.".

This was a statement made in the Select Committee's Report that was tabled in this House several months before that. I will find a specific date because it is in this report. We have then a position that the elected Government, and specifically, the two elected Members for Cayman Brac and Little Cayman had supported the bringing in of a Constitution which would be cut and dried and decided upon by this House prior to the upcoming elections and would come into operation immediately after the General Election.

I would like to read further from this report and this is the Minority section that we put in.

"Our dissenting view is based upon the following:

1. The Legislative Assembly passed resolution 25/90 in the November 1990 Session which stated, inter-alia:

'And be it further resolved that this Honorable House recommends that the implementation of any recommendation for constitutional changes with the exception of the paragraph numbered 3 above (which was mainly the increase in Legislative Assembly seats) shall not take place without the changes being the subject of a General Election.'

2. Further, the Governor, in statements made on 25th July, 1990, in the Legislative Assembly and published on the radio stated: 'If there is a constitution commission and a report and if, as a result of that report, the United Kingdom Government believed that there were some changes necessary, I am ABSOLUTELY CERTAIN that these changes would not be proposed by the United Kingdom Government or implemented without them being the subject of a campaign and a General Election. I hope I have made this clear, I think it does need to be made clear, this is not an anxiety which anyone should feel.'".

Still reading from the Minority Report:

"3. The unanimously passed resolution 25/90 provided:

'AND WHEREAS a Constitutional review was not a campaign issue in the last General Election, nor was it publicly debated during the last General Election by any candidate or any present Elected Member.'

Finally, we believe that changes to the Constitution should be gradual and cautious.".

We had a situation by which the majority of Members of the Legislative Assembly, the Government and its supporters, said the constitution should come in immediately after. We said no, it should go back to General Election, should be made an issue in a General Election, after the General Election, the newly Elected Members should further debate it, pass a resolution in the House and that is the only way that the wishes of the people of this country can be properly obtained on a constitutional matter.

There is no other way unless a referendum is used and when I come to deal with that, I can show you clearly that Government is against any referenda in this country, so this is the only course that could be open to the public to have their say. I would now like to deal with some aspects of the minutes and ask that the House bears with me because these references are not very long but the minutes are nearly some 200 pages and I would have to go to my specific areas of reference.

The first one that I refer to is in the minutes of 18th July, 1991, to show that as far back as then this was an issue. Page five of those minutes and the Committee recommendations on Dates of Coming Into Force is what I read earlier and it states:

"Mr. Truman Bodden, in recording his vote against the recommendation, sought that pages 18 through 24 of the *Hansards* of 15th November, 1990, be appendixed to these minutes as, in his opinion, remarks by the Chairman and reference to remarks made by the Presiding Officer (the Governor) implied that any recommendations for Constitutional change would be "tested" at the polls. (See previous references: item 5 of minutes of meeting 19th June, 1991; and item 4 of minutes of meeting 11th July, 1991).".

These were previous times that I personally had raised this. The next reference is to page 2 of the Minutes of the 2nd of August, 1991. This is the Honourable Benson Ebanks speaking; it is at the bottom of the page, he says:

"The issue at the General Election will be who the constituents want to elect to run the country under the new Constitution. If a party opposing the changes is elected, it may request the United Kingdom to change it.".

There is no doubt that throughout all that was dealt with was on the basis as was clearly stated in the report that the new Constitution would come into effect immediately after the next election.

I have quite a few references, and I will not deal with all of these now. That was one in relation to that Member. The other one is on page 25 of the minutes of the 5th of August 1991. This is a statement by Mr. Gilbert McLean. It is about eight lines from the bottom.

"Candidates at the 1992 General Election will campaign for or against the changes and will be chosen by the public, as it thinks fit, to work under the new Constitution.".

Taking another Member, this is from the 17th of September 1991, Honourable Ezzard Miller.

"Mr. Ezzard Miller was of the view that following the next General Election the new House would

automatically be constituted under the revised Constitution.".

No doubt, and why I am stressing this is because there have been attempts to deny this recommendation and try to explain it as was attempted in this House back in February of this year on the Throne Speech debate.

As a follow up on this, Madam Speaker, I find with a considerable amount of documents here that it is sometimes easier to spread them out on the table rather than attempt to use a podium so I ask you to excuse me in not using that. As a follow up on this we had examples given where the Second Elected Member for Cayman Brac, in that debate in February of this year attempted to deal with the Governor's letters there. Even at that stage, and as I will show from the Minutes of the Select Committee, there was a very marked reluctance to accept the fact that the United Kingdom Government, no matter what the Commissioners recommended and no matter what the majority of Members of this House recommended, we are going to see that the proper democratic process was followed and that the Constitution would go back to the General Elections for the people of this country to decide.

We have found now that an approach has been taken by the United Kingdom Government, it appears that many of these Members would like to perhaps forget about the approach taken which would have permitted the Constitution of this country to be pushed through and decided upon by Members of this House who had specifically stated they were against Constitutional change, who had not debated it in the General Elections that the last time and to short circuit the present General Election that is coming up. The Governor dealt with this matter when he was President in the Legislative Assembly, but as Governor and he had this to say:

> "All other proposals for change other than the increase of seats will await the mandate of the new Assembly after the November election this year. Let that be absolutely clear. Let no one be misled by the suggestion that somehow changes will be slipped in for some obscure purpose or benefit. Let the community and all candidates be fully aware that it is in the hands of the electorate to ask candidates to explain what they stand for in regard to possible changes in the Constitution. Upon the candidate lies the customary responsibility to explain their intentions to the electorate. Honourable Members, I pray that it will be a cleanly fought and peaceful elections.".

We have on this matter the reason why this debate now, which is the last session of this House, is so important because based upon the views of Members in this House, those who will be going to the polls in November of this year and based upon the views of the candidates who are running, the public will be electing on the basis of where they stand on this constitution among other issues perhaps, such as finance which is so important to the country at this stage.

It was indeed basic and important to the people of these Islands that they realise that their democratic right, if the minority of us Backbenchers had not filed a minority report, could well have come close to getting through amendments to the Constitution which would come into effect immediately after the next election. Stopping of that, as we have done on other matters, has obviously been right and the United Kingdom Government has confirmed this in several letters, some through His Excellency, but the last of which came out in the New Draft Constitution. This sets out clearly the steps, and if I may just read from that press release July 28, because it is on all fours with what the minority of the Backbenchers have said, and it is against the Constitutional Commissioners Report and it is against the Elected Members of Executive Council and the two Elected Members of Cayman Brac and Little Cayman.

> "The Secretary of State has indicated the following projected time table for consideration of the Draft and for its implementation:
>
> (a) July to mid-November discussion of Draft Constitution in run up to the election, current Constitution in force throughout;
>
> (b) 18th of November, election under current Constitution but electing 15 rather than 12 Members.
>
> (c) November to December, formation of Government under the present Constitution and debate on the Draft New Constitution in the Legislative Assembly or later at Assembly's discretion.
>
> (d) December 1992 to January 1993, recommendations of the Legislature sent to the Secretary of State to consideration, current Constitution remains in force;
>
> (e) Early 1993, Secretary of State's reply sent to the territory;
>
> (f) Thereafter, implementation of the new constitution.".

Only at that stage will the current Constitution be set aside. So there is no doubt that notwithstanding the request I read from the statements of the three Members, the Member of Executive Council for Education, the Member for Health and the Second Elected Member for Cayman Brac, that the new Constitution is not going to be brought into force immediately after the next election and they are going to

see that the proper constitutional process has been carried out. I guess what is perhaps the most striking of this is that those same Members, the Government and its supporters, who were going to deny the people the right to have a say in this Constitution, supported fully a Bill of Rights. One of the most fundamental things under that must be to give the people of the country the right to have its say in a general election or referendum on the Constitution of the country.

In the further letter of the 22nd of July 1992, from the Commonwealth Office, it said that:

> "Having given careful consideration to report and to the recommendations of the Select Committee, I have decided that it would be right to wait the outcome of the further debate on Constitutional change, which will take place during the forthcoming election or election campaign before proceeding.
>
> After the election we would want to take into consideration the views of the new Cayman Islands Government before reaching any decision on the final form of the Constitution. I enclose a preliminary draft of a possible new constitution which would form the basis for discussions in the run up to the elections in mid-November. Once the elections are over and the new Government has been formed, there will be no doubt need to be a debate on the new Constitution in the Legislative Assembly.
>
> I would like to have the recommendations of the new Assembly before coming to any final decisions. The draft is there for a discussion document which will need to be revised in due course.".

The Draft Constitution itself follows the recommendation of the Constitutional Commissioners and it does not take into consideration what the Select Committee, the majority or the minority had to say where it differed from that. Basically we have now a Draft Constitution that is the same as the report that was filed by the Constitutional Commissioners.

From this, I would like to go on to deal with another major area which is the question of the Chief Minister. The Select Committee's Report by the majority has been set out and the first part that I am dealing with is the Select Committee's submission to the Constitutional Commissioners submitted on the 10th of January, 1991. We met on several occasions and made submissions to the Constitutional Commissioners and the significance of what I am going to deal with here is to show the way the Elected Members of Government (and Members will remember I made certain exclusions in relation to the Member for Tourism who is Chairman of this meeting and I do not necessarily know his views on many issues here) and their supporters who are now talking about a Chief Minister and wanting a Chief Minister, I believe, made that decision at a very late stage.

The decision was not one that was gotten from a majority of the people of the Cayman Islands. This report on the 10th of January, 1991, begins by saying:

> "The proposals set out below reflect a majority consensus of Members and the individual opinions and views of Members are reflected in the Minutes of the meeting.".

The first part deals mainly with the position of the Deputy Governor but in Clause 3 of that under Part II Executive Council it reads as follows:

> "3. The Committee wishes to see a gradual moving into a Ministerial system of Government and considers it prudent to make provisions in the constitution.".

At that stage (and this had been an issue for some time) the view of a majority of Members was to see a gradual moving into a ministerial system; totally different from the head-long jump of jumping two steps at a time into a Chief Ministerial system.

That same report had in it what the minority of Backbenchers who put in the Minority Report hold is the position and it is found at section 38 on page 10 of the Report, and I quote:

> "38. The Committee, by majority consensus, recommends that provision be made for the Leader of Government Business in the Legislative Assembly to be an Elected Member of Executive Council.".

At that stage, there were discussions in relation to the Chief Minister and I have to say that there was an adjournment that this would be discussed with the Commissioners and further discussed in the Select Committee and decisions made later on. So in fairness I need to say that. But at that precise time we were looking at a majority of Members saying take a gradual step and, secondly, for the Leader you make the Leader of Government Business, who is now the First Official Member, an Elected Executive Council Member. That would have solved the position and I submit that that position should have been held to by the Government Members.

The Select Committee Report at page 15, paragraph (8) (and this is now the final recommendation that we now have) the recommendation there is by a majority of Members, Appointment of Chief Minister, this is important:

"By a majority consensus it is recommended that the new Constitution include the following provisions for the appointment of a Chief Minister.".

It sets them out and I will deal with them further down and at Clause (6), headed, "Creation of the Post of Chief Minister", it states:

"It is recommended that the post of Chief Minister be created and held by an Elected Member of the Legislative Assembly.".

So there is no doubt that the Elected Members of Executive Council and this is supported as we know from the joint meetings recently of the two Elected Members of Cayman Brac and Little Cayman, to be the position of them at this time. There are fairly serious reasons why I feel that there should be no Chief Minister brought into the Cayman Islands at this time. Those I would break down into several groupings.

The first reason is that there is a further step between the position where we now are and a position where a Chief Minister under a ministerial system of Government would be brought in. Here I am going to read from an authority on this matter and it is from a book British West Indies, *The Search for Self-Government*, by Morley Ihurst, and this is a book that was written back in the 1960s when this topic was current. Books these days, or more up-to-date books now that there are very few colonies, are hard to come by. This set out very clearly what has been the traditional steps that a country can go through and I am going to read stage five which states:

"This stage may be telescoped with the previous one. the Elected Members now forming a majority of the total membership of the Executive Council can outvote the Official Members and decide policies if all, or nearly all, are in agreement. At this point the Governor, if not already so equipped, is given the reserve power to legislature positively over the adverse vote of the Executive Council.".

This is not the case in Barbados, which never became a Crown Colony. We, I submit, are at this stage now.

The next stage which we are really nearly into, I think we are partly between the fifth and the sixth stage, is this. I am reading again:

"The quasi ministers become full ministers with administrative authority over their departments composing the majority of the membership of the Executive Council they decide upon policies and propose legislation with the assistance and the advice of the Governor and principle officials who still sit in Executive Council. This stage may not yet amount to full responsible Government in that the ministers may owe their positions in part to the votes of Official and nominated Members of the Legislature, in that they are chosen individually and lack cabinet solidarity and although removable by legislative action, usually a two-thirds absolute majority, they are not bound to resign as a government by a vote of no confidence.".

This is the stage, I submit, that is the next logical step for this country to move to. The next stage after that, which incidently brings it just about down against full internal self-government, the book states this:

"This stage differs from the previous stage in the approximation to cabinet government provided by the creation of the office of Chief Minister or Premier, chosen from the elected membership of the Legislature by the Governor, in much the same way as a British Prime Minister is chosen by the Sovereign. This stage is practical and workable only when political parties are well enough developed to enable either a one party or a firm coalition government to be formed. At this stage the Governor and other Officials who still sit in the Executive Council will tend more and more to become advisory Members rather than to try to dominate decision making.

Effective responsible government may exist at this stage because the ministers as a group must be able to control policy in the Legislature or they will have no alternative to resignation.".

This is the stage that the Government and its supporters wishes to push this country. They are going to hop over the next small stage because I will show from the Commissioner's Report that at this stage Members actually are doing most of the things that ministers were doing under this earlier stage I mentioned. After that we have a situation where you can then move closer to a stage where there is full self-government or Dominion status.

MADAM SPEAKER: Would the Honourable Member be willing to take a suspension?

HOUSE SUSPENDED AT 12:44 P.M.

HOUSE RESUMED AT 2:18 P.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues on Private

Member's Motion No. 13/92, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Just before lunch I was pointing out that the Elected Executive Members and the two Elected Members for Cayman Brac are for a Chief Minister and I read the parts of the Select Committee Report showing that. To that Report we filed a dissenting statement as Backbenchers, and it is set out in Appendix I at page 23. I would like to read this.

> "1. We remain committed to the recommendation made by a majority of Members of the Select Committee and presented to the Constitutional Commissioners on 10th January, 1991, as 'Recommendations on Changes to the Cayman Islands (Constitution) Order, 1972, to the United Kingdom Constitutional Commissioners'. In this recommendation the Members decided:
>
> **Ministerial Form of Government.**
>
> The Committee wishes to see a 'Gradual moving into a ministerial system of the Government, and considers it prudent to make provisions in the Constitution.'.
>
> 2. We feel that it is sufficient that the Members become Ministers with administrative responsibility for the departments under their Portfolios. Section 9(1) of the Constitution should include the words 'including responsibility for the administration of any department of Government', similar to that provided in the Turks & Caicos Islands Constitution, Section 12(1), and British Virgin Islands Constitution Section 18(1).
>
> 3. We believe that the provisions for a Chief Minister could be put in a new Constitution but only brought into effect upon a resolution of the Legislative Assembly after a General Election in which the new Constitution is an issue and when there are established political parties."

So basically we stated clearly we do not want a Chief Minister. This provision that we referred to in Section 3, would be a provision that was similar to that used for the Speaker which went into the 1972 Constitution, except, and here it differs, that there would not only need to be a resolution of this House, but it would have to be firstly after another General Election in which the question of Chief Minister is an issue and after there are established political parties.

This is way in the future. I think the motion that dealt with changing the President to the Speaker remained in the Constitution some 18 or 19 years before it was used. So this is perhaps that far, if not longer down the line, but there are three very clear aspects of any type of provision like that, that if the United Kingdom wanted to put in, or if the people wanted it put in, it would have to be put into it over and above what the Speaker's provision contained. We believe that the position of Chief Minister is such a serious and drastic step and his powers are so absolute and unfettered that this is not going to be good for this country.

As to the extent of a Chief Minister's power, and I am reading from the Economist of July 6th, 1991, that respective journal had this to say:

> "Coalitions could have a bonus, they would undermine the extraordinary power wielded by Prime Ministers. Power so great that it mocks the Constitutional theory that Parliament oversees the Executive.".

Amazingly, it goes on to say this:

> "One deceptively simple reform suggested by a left wing labour MP Tony Bend, would be to recognise the institution of cabinet by law and to insist that all of its Members be directly elected and dismissed by Parliament.".

Which is basically what we have at present because they realise that the powers of a Prime Minister and by analogy the powers of a Chief Minister, are nearly absolute.

Let me just point out here that throughout the Minutes of the Select Committee, while I fully opposed certain parts of it including that part on the Chief Minister, I naturally took part in the debate and I tried to fix the position to improve it as best as was possible. I am not going, as I did then, to go down through areas where there are dangers to having a Chief Minister in the Cayman Islands. The first that I would like to deal with is what was set out in the Constitutional Commissioner's Report at page 13 and this is what the two Constitutional Commissioners had to say. It states in that report:

> "A Chief Minister must be free to choose his own Ministers so that he can, if necessary, inspire, discipline and control them and even advise their dismissal (which advice the Governor would be obliged to accept) if their performance does not come up to scratch.".

Those words are very important. The Chief Minister would if necessary have the power to discipline, control and dismiss the Ministers. It seems obvious from that what ultimately could follow and there would be good Chief Ministers and Bad Chief Ministers, but this Constitution is, as such, a Law. We know that if everyone in the world or in a community were good and always obeyed the law, there probably would not be need for laws. Laws are there that when they are broken they correct society. So this

Constitution has to provide for getting a bad Chief Minister as well as getting a good Chief Minister. To that effect one of the things that creeps in where you have absolute power, is the phrase that "absolute power, corrupts absolutely.".

I believe that one man with the power that this draft constitution and that the Elected Members of Executive Council and their supporters are suggesting, a Chief Minister, I suggest that this could be in the event of the wrong person being in there, a disaster.

Once a person becomes a Chief Minister, in most West Indian countries, many of them die in the job. They basically are in there for life. We have had many in other islands, to name a few, Messrs. Barrow, Adams, Williams, and I think also Mr. Bernum and more recently we know that Mr. Pindlyn spent about 20 odd years in there. So once a Chief Minister is put in, good or bad, the country is stuck with him for a long period of time. I strongly recommend that the chances of corruption when you have seven people making a decision is considerably remote than when you have one man who had control over everyone underneath him.

To give a bit of a joke on this, it has been said that if you have a Minister who is a 10 per center, and he becomes a Chief Minister, he becomes a 40 per center because he tells the Ministers under him they should not be doing that sort of thing and he takes their share. I believe that there is safety in numbers. I believe that the joint decisions, the consensus decisions of Executive Council have to be a better position than having one man with that amount of authority. Further, if you have a Chief Minister in that position and he is a power hungry politician, then that opens up the position once again that it is not in the interest of the country.

On the question of the powers of the Chief Minister, I am going to briefly deal with them because some of these are partly in our Report and I will deal with more with them under more substantive headings. Under section 29 of the new Constitution a Chief Minister has the absolute right to hire and fire other Ministers and Parliamentary Secretaries and we know that there is really no more absolute control you can over a person in a job than when you hold an absolute and unfettered right to hire and fire. He also names under section 33 the Portfolios. He decides under the new Draft Constitution (when I refer to new the Constitution, I am referring to the Draft, naturally), who will get responsibility for what. We know that normally he takes the best for himself.

If a Member of Executive Council wishes to leave, he has to get the permission from the Chief Minister. The Chief Minister on the other hand can leave the country and he merely notifies the Governor. We really are here getting a shifting of a considerable amount of power into one man's hand. He has the power if he is to face defeat on a vote of no confidence, and I think that is section 30, he advises the Governor whether to dissolve the House or whether he resigns. Further, under section 62 and 63 he also decides whether the House should be dissolved at an earlier stage than the four year period.

He has the power to summon Executive Council, he is consulted on the appointment under the new Constitution of the committee that deals with the drawing up of the electoral districts, I think it is called a Boundary Commission. Under section 84 onwards, and I will deal with that in depth, he must be consulted on appointments of all Heads of Department, Principal Secretaries, Chief Secretary, Administrative Secretary (if there is one then, if not) Attorney General, Financial Secretary, the Elected Members of Government and the Commissioners; even threw in that he should be consulted on Magistrates. Well, the United Kingdom did not buy that.

The Complaints Commissioner, someone who would have to be in a position at times to investigate him, the Chief Minister and Leader of Opposition also need to be consulted under the Constitution. If people would like to see a scenario as to what could happen with having a Chief Minister in there and the possibilities of getting corruption, then they should read parts of an article dated the 21st-27th of August, *The New Caymanian*, at page 9, by Mr. Steve McField. I will only read an extremely short piece, it is headed: "To the Victor go the Spoils:" (and that, we know, is one phrase that has been stated by the Elected Member for Education on more than one occasion)

"TO THE VICTOR GO THE SPOILS

> FIRST BUSINESSMAN: Five heads, that is what it was all the time. You cannot do business, so we sat Bupsy down and we told him that he must take control. Control in business means inventory and inventory means profit. It is the bottom line.
>
> SECOND BUSINESSMAN: Ya, man. I told Chummy their contracts were too big, too soon, but he kept telling me he had to do them. He had to pay back this and that crew. Now look what happened.".

Obviously, this very short example is perhaps one of the good examples, comical as the article may have been, against why there should be a Chief Minister. Or I should say, it adds fuel to the argument that it is far easier to corrupt one than to corrupt seven people.

I would believe that without the necessary checks and balances that exist in other countries who have Chief Ministers and Prime Ministers, that in this country at present without a party system and a mature party system there would be no check or balance on the Chief Minister. When you have a problem with a Chief Minister or a Prime Minister what happens is that the party deals with his removal and as such changes as we saw in the United Kingdom with Mrs. Thatcher's resignation. Everything was done without basically confrontation on the Floor and this is a second check and balance that does not exist.

This is why we made one of the conditions that if ever the United

Kingdom wished to put in a section to be triggered by a motion, further on after Elections, it had to be after there was a mature party system and the Commissioners actually attempted to dismiss this in their Report at page 12 and it is under Appointment of Chief Minister. It says:

> "Very little evidence was offered to us on how a Chief Minister would best be identified, save that there were those who believed that an established party system was an essential prerequisite to having a Chief Minister. We are unable to accept this. Groupings of members of the Legislative Assembly, such as exist at present, would have to identify a leader and even in an Assembly where there was no obvious group in the majority, e.g. if independents were to hold the balance, then the Assembly could elect a Chief Minister.".

That statement is ludicrous. You do not elect a Leader. Leaders evolve over a period of time from trust, from experience, they evolve out of, where there is a Chief Ministerial system, parties which are mature and organised. What happened was that this was well and good until we found another difficulty, one of the other checks and balances, that the Commissioners had to deal with and that was the vote of no confidence. If there is no party system in place, I submit other than what I will show is an impossibility, a Chief Minister cannot be removed.

The Commissioners, on the vote of no confidence at page 17, had this to say because they were saying that there must still be a two-thirds majority to put a vote of no confidence against the Chief Minister and arguments had been advanced that if you must have a Chief Minister, it must be a vote by a simple majority. When they were in trouble on the question of not having parties, this is what they wrote under a Vote of No Confidence and it is the last two sentences:

> "If and when established political parties emerge - and experience has been gained of their functioning over a period of years - consideration could be given to amending the Constitution to provide for a simple majority instead of a majority of two-thirds. That time however has not yet come.".

About six pages down, where out of convenience they said you can have a Chief Minister without a party system, one of the two checks and balances in there is the right to remove him, not to remove him but the right to put a vote of no confidence which should require either the Legislature to dissolve or the Chief Minister to resign - they say you cannot have a simple majority because there are no political parties with experience gained over a period of years. That is the main check and balance for Chief Minister. Even in countries where the two checks and balances are in place, namely a mature and working party system, and a simple majority vote for a vote of no confidence, problems continue to exist.

I would like to touch on the second aspect which is that if a vote of no confidence (which would then cause a resignation of the Chief Minister and naturally all of his cabinet would go with him, would be a fall of the Government or he could dissolve the Legislative Assembly) had to be by a two-thirds, it could never arise because under the new Draft Constitution there would be five Elected Members out of 15 in Executive Council; there would be up to a further three Parliamentary Secretaries; which is eight, and the only way you could get a vote of two-thirds is for the three Parliamentary Secretaries to vote against themselves. We know politicians. They would have to be crazy to stand up in the House and put a motion and support it, which causes them to fall. When the vote of no confidence goes through and the Chief Minister falls, falling with him are all the rest of the Ministers and the Parliamentary Secretaries.

What is very important is that not only did a majority of people who came before the Select Committee and made representations, say that the Constitution should go back to a General Election but they also said that definitely it should not be a position of having a Chief Minister with absolute powers. That is found at page 12 of the Select Committee Report, paragraph 28, and I am reading from it:

> "28. Most representations were content with changing Elected Members of Executive Council to Ministers, but many felt that the present process of election of Executive Councillors should remain; as opposed to the Governor naming Ministers on the advice of the Chief Minister.".

Why in the world did we sit inside a Select Committee, have people spend their time, write to us and come in there, they advised exactly what the Minority, the Backbench, said and that is to change the Elected Members of Executive Council to Ministers. They were opposed to the Governor naming Ministers on the advice of the Chief Minister and this the majority of the Members could have changed this, if this was not what it said. This is a Report accepted by all of the Members of the Select Committee. What could be more clear? The public has made it abundantly clear.

I would like to go back to remind Members that I submit that the reason why all of this about a Chief Minister arose, came after there was a dangling of the Chief Minister's position in front of Members by the Constitutional Commissioners. At that stage we found those who presumably expected to be Chief Ministers, suddenly do a round-about-turn from what had originally been decided on and accept that the country should have a Chief Minister. I submit that is wrong. It is not in accordance with the wishes of the people of this country, nor the people who came before the Select Committee.

If Elected Members of Executive Council are doing their job there is no reason to have this run around that the public complains of, of going to one Member and cannot get any results, and he sends them to another. If Members are doing their job then they will not need a Chief Minister to whip them along to do their job.

In any event, as I see it, to appoint a Leader of Government Business needs no constitutional change at all it is a change in the Standing Orders. In the unlikely event that we do end up with some Members of Executive Council who are not properly dealing with complaints from the public, then that Member, the Leader of Government Business, could phone them up and say, "Look get this thing cleared up.". He would not have the power to fire them, naturally, but if you have reasonable people you should not have to hold that threat over their head. Further, even though it has been urged and I support merely changing Members to Ministers, it has been said that when they go on foreign negotiations abroad, being called a Member puts them at a disadvantage. In the United States there are no Ministers. When you go into negotiations what is important is that you put forward your case clearly and that you understand it and that you prepared it. Whether you are called a Chief Minister or a Minister or anything else, if you put forward nonsense or a case that is unprepared, immediately the other side is going to sum you up and take you for what you really are.

If that may help, then so be it. But I have never found it a disadvantage and I believe that in my eight years in Government I probably did more foreign negotiations than any other Member of Executive Council. Further on this, I would like to read from the findings of the Constitutional Commissioners (because we must remember that the Constitutional Commissioners have never said that a majority of people of this country want a Chief Minister) there is nowhere that they have come out clearly on that position. What they said was this: "There was also a great deal of support for elected members to be known in future as Ministers.".

A great deal of support. That is where the majority support that the Commissioners found. He said:

> "We similarly agree. There is in fact no constitutional distinction between the responsibility of a Member as set out in section 9 of the 1972 Constitution and that of a Minister. It is a change of name only and not of substance.".

I think that was simplifying a bit too much because normally it is added in (including in the Constitution) including responsibility for departments. So I submit that the Constitutional Commissioners came here, they found that the people of the country, a great deal of support was merely for changing Members to Ministers, which is what we said.

They obviously had a job to do but what was very clear and this was voiced also by Members, not only in the House, but those who came before the Select Committee, was that they felt that the Constitutional Commissioners came here with preconceived views and that some of the recommendations they made were not what they got from a majority of the public. That is found in paragraph 24 at page 11.

> "24. What was brought out in our hearings with members of the public was that many felt the Commissioners paid little heed to their views submitted during meetings with them, and thus felt that the Commissioners' proposals had been predetermined prior to their arrival in the Islands.".

That is not me saying this, this is what a majority of the people who spoke to us said and it is a view that a lot of our Members have also held.

Changing the Constitution radically to put in a Chief Minister is not going to solve the problems. We come back to the basic factor that we are dealing with people and if people are not prepared in Executive Council, to pull together as a team in Executive Council, there is no change in the Constitution that is going to let it work. You can look at Executive Council as a motor car with four wheels, it has four Members, it drives as a result of their pulling together and moving forward. The day you get one of them pulling in the wrong direction the car either goes out of control or it ends up perhaps demolishing itself.

There are in my view no clear advantages whatsoever to doing such a radical change to have a Chief Minister put in the Draft Constitution as it now is. One other aspect I would like to turn to which I submit drove the Constitutional Commissioners to recommend the Chief Ministerial system and subsequently has been recommended by them and accepted by the Government and its supporters was their anxiety to get the Governor out of a position of political controversy. There is only this part and another part of their report as it appears to me that has had such a significant and strong statement in it. It is found at page 12, second paragraph, under the heading "Creation of the Post of Chief Minister".

> "Most importantly, he (meaning the Chief Minister) would be a spokesman for the Government and thus avoid the need for the Governor to make pronouncements of a political nature; to do so is not the proper function of Her Majesty's Representative - but at present there is no alternative.".

The beginning of that is important. It begins, "Most importantly," and I submit that this is one of the things that drove them to make that decision. In fact, the Governor in an interview in the *Caymanian Compass* on Tuesday, 1st September, at page 8 had this to say. He was asked:

> "Do you feel the office of Governor should be removed from the political arena?"
>
> Governor: "Now that the Governor is not President of the Assembly, a previously sensitive and difficult area has been cleared up."."

I fully agree. The Governor has gone back to the role that he

should have been functioning in in previous years; namely, more a Head of State in which a large part of his function is that of social matters but definitely not to be brought into the political arena as had happened with this specific Governor, and this one only.

I would like to give one other quote on this and I am going to leave it at that because I do not think that it needs going much further. He was asked as well, and I am quoting from the *Caymanian Compass*:

> "Do you feel the Cayman Islands would be better served as an independent country or should it remain a British colony?"
>
> Governor: "This is not a matter of how I feel. It appears that a majority of the community sees the advantages of remaining attached to the UK in something like the present constitutional framework, or as amended after the Elections."."

I will leave it to Members here to tell me what they think something like the present constitutional framework is. It surely does not have a Chief Minister involved.

One other point on this. I have heard the Member for Health, and also statements from a few others I will mention, who have stated that to bring in a Chief Minister is similar to having a Board of Directors with a Managing Director in a company. Let me point out here very clearly that the difference is very material. The company has shareholders, who appoint the Directors. The Directors appoint a Chairman or a Managing Director and that functions well. That is basically, as I submit, similar to what happens now. The Members of this House appoint the Executive Council, who are in fact the Directors. What does not happen is that the shareholders of the company appoint a Managing Director who sits down with the absolute power to hire and fire the rest of the Directors. I hope that the nonsense of that argument is very clear at this stage.

At present the Members of this House who I referred to as the shareholders, appoint the Executive Council Members, who I say are the Board of Directors. If they wish to appoint a Chairman or a Managing Director his powers are no more than the Leader of Government Business. He has no power to hire or fire his Directors and the decisions are decisions of the Board. There is absolutely no relevance in relation to that and to appointing a Chief Minister, in fact, the argument runs against it. The argument has been advanced in an article that was headed, "Candidate Needs Help," it was by Mr. George Ebanks, and he referred to it in there. In fact, I think he also mentioned that he would only agree to moderate change and that moderate change was the Chief Minister and Leader of Opposition. I am not too certain what he meant by moderate but that is about as drastic as it can go.

I am dealing with candidates here because some of these will have to obviously take their position. I know as well it was used by Mr. John Hurlstone recently in what I guess must be his campaign because it is mainly him in it in the Compass and the other newspapers. So if this argument of saying that they are Directors and as we all know he is (laughter) the running mate with the Member for Communication and Works, and Mr. Wight. In any event, it looks like he is doing quite a bit of leadership himself from the way he is projecting those advertisements. (I see the Member smiling on that). But when we come back to the basic thing the Board of Directors works well. It is an established situation. It is similar to what we have now and I submit here - leave the Constitution with the Members of Executive Council appointed by the Members of this House as it now is, and if they wish to appoint a Leader of Government Business without all these rights to hire and fire, then so be it. I think that is all that is needed.

It is definitely what has been put forward by the majority of people; accepted by the Constitutional Commissioners to be the position and also by the people who appeared before the Select Committee. One of the things that I sat wondering when we heard all of these representations over months, I think it was, and we came back to dealing with the submissions. Practically not one small area, as I remember it, was changed and that was all. No recognition in relation to the submissions that came in from these people.

The Report of the Select Committee has a further dissenting statement by us Backbenchers and it is at page 25 and it says:

"PARLIAMENTARY SECRETARIES

> We disagree with the Select Committee and the Constitutional Commissioners in relation to Parliamentary Secretaries. We are not against Parliamentary Secretaries per se. However, we believe that they are created by and owe their existence to the Chief Minister and as stated by the Constitutional Commissioners in their Report, upon a vote of no confidence they fall with the Government.
>
> All Governments are structured so that the Cabinet is smaller than the backbench and the addition of Parliamentary Secretaries in our small Legislature would alter this.".

To further support that in the Bermuda Constitution the number of Ministers and Parliamentary Secretaries, I think is either 11 or 12 in total are put in one section so that they can vary the number of Ministers or the number of Parliamentary Secretaries. But they cannot go above a certain amount and it is obvious that they are in a similar position to Ministers except naturally they are not bound by collective responsibility.

The reason why we were against them is that if you had to put a

vote of no confidence, a two-thirds vote, then you would have five Executive Council Elected Members and 10 Backbenchers, three of whom would be Parliamentary Secretaries and who obviously would not vote against themselves. The Government would always have a built in majority. It could never, ever fall. If the time comes when the numbers can be worked out then I have no strong feeling in relation to Parliamentary Secretaries at all.

I would like now to turn to the Constitutional Draft document itself and deal with some shorter areas in it. The first parts set out the Fundamental Rights and Freedom of the Individual. These as we know contain what we call the Bill of Rights. What is significant is that we brought motions to this House and the Government rejected bringing in a Bill of Rights. We have to get this clear and I should say the Government (together with the First Elected Member for Cayman Brac) rejected bringing this in, gave reasons which they may have thought were important but now it is back in the Constitution and the Government has made a roundabout turn for the better.

We will see throughout that the Government has made significant roundabout turns, unfortunately most of them like that one for the Chief Minister, are for the worse. Set out in this were things like protection of right to life; protection from inhuman treatment; protection from slavery and forced labour; arbitrary arrest and a lot of these are the standard run of the mill rights that are now included in Constitutions and I am happy to see them in. In fact, I think I moved one of the motions to bring in a Bill of Rights or I seconded it.

The sections relating to enforcement of fundamental rights, I see we have had a release by the Legal Draftsman in relation to that and there are sections in this which will allow the Grand Court to make a decision on this original jurisdiction to determine applications for anyone who feels that their fundamental rights have been breached.

Without actually having the benefit of research which I have now asked one of my attorneys to look at, it seems that the power here to enforce is similar in some respects to the prerogative writs because if a person has a right of redress and this is stated in section 16 (2) the proviso says:

> "Provided that the Grand Court shall not exercise its powers under this subsection if it is satisfied that adequate means of redress are or have been available to the person concerned under any other law.".

So if there are rights under there, then normally you would not go under these fundamental rights, as I understand it. But it is a very important section and the Rights are perhaps the most important and fundamental that you can really have in a constitution.

I would now like to refer to the Minutes of the 16th October 1991, of the Select Committee. At page 2 of it I am going to read what, surely, must be one of the most surprising statements for anyone who supports the Bill of Rights in the Constitution. I am reading from it:

> "It was agreed by majority that the two Dissenting Statements shall form part of the Report of the majority.
>
> Hon. Ezzard Miller opposed the Dissenting Statements because, he noted, that it was clearly understood at the beginning of the Committee's deliberations that every attempt would be made to reach a consensus of a majority and that those views would be respected. He was of the opinion that individual Members should now take a political stand on the Report of the majority.".

This is what the Bill of Rights is all about. There are minority rights in a country and that is the most glaring example to take away the rights of Members of this House to file a dissenting statement which they are entitled to under the Standing Orders of this House. There was reason in that wild statement because if the government had been able to produce a report with no dissenting statement to it, then this country may have had a constitution without it going back to the General Elections. The United Kingdom would have had a unanimous decision on the constitution and this, I submit was another way of showing how desperate that Member at least was in trying to get this constitutional change through. We know that he has been the promoter, among others, of this Chief Minister position.

The sections of part II basically follow most of what is in the present Constitution. There are only sometimes very subtle differences. The section that I will come back to that has been raised in this House from time to time relates to the question of the Governor acting contrary to the advice of the Executive Council. Part III of it really implements largely the meat of the changes over to the Chief Minister and how he appoints and assigns responsibility. What is brought out very clearly in this is that there is a dilemma in putting together the draft constitution because it may be impossible for the Governor to find out who to appoint as Chief Minister or who to appoint as Leader of the Opposition.

Why? Because the checks and balances, one of them being a party system, is not in place. The United Kingdom gets out of it, at least in relation to the Chief Minister, by saying if the Governor cannot figure out who it should be, then he can do a secret ballot. It does not quite go that far with the Leader of the Opposition because you cannot really do a secret ballot in relation to people that you do not know are, as such, Opposition. These are new Members in the House and there has never been any stand off. So there it leaves them with the absolute discretion to appoint him. I only point out that sections such as we find in this Constitution, show that it is premature to bring in a Chief Minister and a Leader of the Opposition when the basic sections within themselves create the problems of how do you find out who is going to be Chief Minister and who is going to be Leader of Opposition in certain instances. Indeed, the Constitutional Commissioners actually went as far as to say if they are all independents, then the Legislature will have to create a Leader and that I submit, is not

good enough. I support the sections naturally on the Speaker and Deputy Speaker and the following sections there.

The Leader of Opposition is set out in Section 47 and one thing I have often wondered in this, it does not seem to very clearly provide the basis upon which you can remove a Leader of Opposition. This is perhaps because of the fact that if there are no parties, he would, I guess, continue on. The sections such as the transacting of business and the quorum I have no problems with; the Governor's reserved powers remain in there under section 57. They have removed from this the sections, which I think were 42 and 43 on the Committee system which was an alternative form of Government. I agree with that as well. They put in a section in recalling a dissolved Assembly, but once again that is after consultation with the Chief Minister. The sections in this in relation to the Electoral Districts is one that there was considerable controversy around. This was the appointment of a Commission who would decide on the electoral districts and the number of persons who would be in each district. It was a machinery in which you could divide up electoral districts into whatever number.

I think this firstly begins with one very basic defect. If we are going to have to appoint an Electoral District Boundary Commission, why do you have to go to the two people who are most interested in having it fixed right, namely, the Governor has to consult the Chief Minister and the Leader of the Opposition. This to me could result in naturally the Chief Minister and the Leader of the Opposition putting in their people in a position that could be extremely important. From my point of view the feedback which I have had in relation to dividing up the districts has been that this system now works. It is not the best and while I feel that ultimately a system of having equality, so to speak, in the voting system is obviously good, the feedback that I get from the public is that to divide up the districts at this stage into different districts, for example, George Town divided into four or six or something, would cause firstly a splitting up of the district, because you then would have one Member for one little part, another Member for another little part, and obviously it would mean that where you could go to, say, four Members of the Legislative Assembly now in your district, you would then only go to the one that is for that area.

I had no strong feelings on it but it is one area which unfortunately there was not a lot of input, in fact, very little that came in from the Select Committee representations that we had. I am pointing out the pros and cons of it. Equality of votes per person is obviously good, once again having the district as a cohesive body and having the multiple representatives gives an advantage also to the people. I naturally and obviously object to having the Commission appointed upon the recommendation of a Chief Minister and a Leader of the Opposition.

The further sections in this I am happy to see that the Judicature Part V, the Grand Court and the Court of Appeal, their rights have now been very extensively entrenched in the Constitution. Part VI that deals with the Public Service Commission, I will be dealing with in depth. I am happy to see once again that the Attorney General's position is clearly put in here because he is a most important person in any democratic society for seeing that law and order remains; seeing that the country remains stable and he must be naturally kept above a position where anyone can be able through whatever reason to erode his independence. That independence is clearly put in the Constitution and I think that that is very good. I naturally do not agree that the Governor should have to consult the Chief Minister to appoint him and I am going to go on to that in a bit more depth. That I think is a basic mistake. In fact, it is one that I do not even think is found in Bermuda which has full internal self-governemnt.

Also we have a section on pensions and I have been one of the most serious promoters of having pensions of civil servants, of public officers to be as a right. I think if someone works 20 or 30 years for the Government or for anyone, their pension must be as a right. I do not think that the Governor or anyone else should have a discretion to take that away from them.

It is hard to tell what to make of the sections in this but what seems to be the position is that I think it goes nearer towards this in that it states that pensions should be discretionary on the Governor except (and I am reading here) "other than an award to which, under that law the person to whom it is payable is entitled as of right." So may be it is opening the way that we could bring in laws which, perhaps, could say that pensions could be as a right. But I think it is fundamental, not only that the pension money sits in a fund that the Government, any Government, cannot touch and it is isolated and kept there, but that civil servants, when they have worked all of their life for the Government, should be entitled to enjoy their pension without having to worry about it being taken away. I know usually it is not, I am not saying that, but it is not a very nice feeling. It is the civil servants' money, it is not the Government's money, I submit, when that person retires.

The Complaints Commissioner or Ombudsman, has been put in the Constitution but the people that he or she would probably have to enquire of most are the people who are going to have to make recommendations to the Governor for the Commissioner's appointment. Section 92 (2) states:

> "The Complaints Commissioner shall be appointed by the Governor, acting after consultation with the Chief Minister and the Leader of the Opposition, by instrument under the public seal.".

This is why the Chief Ministerial system is such a potentially corrupting system. This is why for example the High Judiciary is kept away from appointment after consultation with the Chief Minister. They are kept totally out of this. But here you have someone whose main complaints probably will be of Members of the Legislative Assembly and he is going to be appointed after the Chief Minister and Leader of Opposition take and say to the Governor who they feel it should be.

To be very frank, when I look at the vast number of sections and the vast powers that are set out in this document, most of which relate to the Chief Minister, it would probably nearly be impossible to attempt to put a section in that could trigger this at a later date. Really it is just the Chief Minister's position that is through literally everything in the document. It seems that would be, I think, very difficult

perhaps to do, now that I have seen the Draft Constitution.

From there I would like to touch on one other short area and that is the register of interest. There is a section in this which provides that Member's interests should be registered in accordance with a law to be made subsequent to the passing of the new Constitution. The section follows the United Kingdom's path and it is one that has been used there and has worked well. I cannot directly find the section itself now, but I could read that at a later stage. But what it will do is that Members will have to disclose to a registrar, and at section 94 it says:

> "94. (1) There shall be for the Islands a Register of Interests, which shall be maintained by a Registrar who shall be appointed, and may be removed from office, by the Governor acting in his discretion.
>
> (2) It shall be the duty of any person to whom this section applies to declare to the Registrar, for entry in the Register of Interest, such interest, assets, income and liabilities of that person, or of any other person connected with him, as may be prescribed by law.".

It goes on to deal with some details there and I am comfortable with that. I think that this is normally done I know by Executive Council Members now as a rule, and it seems to follow a clear path that people should really know what interests one has in Government contracts or companies or whatever that may be affected by decisions that are made by the Legislative Assembly or the Executive Council.

From this I would like to turn to deal with the section on the Finance Committee and this is one that is set out in the Minority Report that we put in on page 23 (7) and we had this to say on it:

> "We recommend that the Financial Secretary be named as the Official Member of Executive Council and not "The Minister responsible for Finance" and that he be MADAM CHAIRMAN: of Finance Committee. Our reason for this is that an Official Member as Financial Secretary responsible for the Cayman Islands finances provides stability, continuity and confidence in the public and the private sector and financial sector of the Cayman Islands and is one of the checks and balances against rampant spending for political reasons which may occur by an Elected Minister.".

And we know that in the Majority Report as well, which I supported that part, it provides in there that we should go back to what the Finance Committee was before Motion No. 3/90 and it is paragraph 17. It is headed Finance Committee:

> **"17 Finance Committee**
>
> By majority consensus it is recommended that:
>
> (i) the provision for Finance Committee be entrenched in the Constitution;
>
> (ii) the Finance Committee shall comprise of all Elected Members of the Legislative Assembly;
>
> (iii) the Financial Secretary shall be Chairman of the Finance Committee, with a casting vote only; and
>
> (iv) section 37(2) of the Constitution be amended to provide that Finance Committee shall consider such matters as referred to it by the Legislative Assembly or Executive Council.".

We know that this was actually one of the reasons why the Government brought about this Constitutional Review and it is very integral to the whole workings of the Legislative Assembly. It is obvious that the four Elected Members of Executive Council and naturally along with them, the First Elected Member for Cayman Brac, could not support going back to having only Elected Members on Finance Committee because they opposed it at a time when it was in their interest to oppose it and to add on the three Official Members.

We have found that during the first year of the Government's time in Executive Council, that having a Finance Committee that had only Elected Members was a way of ensuring that rampant spending as we mentioned in our Select Committee Report, by the Minority, could not come about. What we had before Motion 3/90, and that we recommend that we go back to, was the 12 Members of the House with the Financial Secretary as Chairman, so that the Elected Members of Government had to have a majority of Elected Members to put through spending by the public.

We felt, and I will state it here again, that, as Members who are elected, we answer to the public. The Official Members, while I have the utmost respect for them, are in a different position. They are civil servants. They are appointed in there, as well as we are elected. We have to face the polls as well, we have a duty which goes beyond their duty in that we have to see that the public's money is properly spent and answer for it. They have a duty to see that too, I am not saying that, but we are answerable to the public and it really should lie in the hands of representatives of the public to give authority to spend the public's money.

What we really had was a situation where the Backbenchers at that stage stopped excessive spending in certain areas, very heavy spending that was coming on line and about a

year later with Motion 3/90, the votes of the three Official Members were added on so that we could have a situation of five Elected Members carrying a majority in Executive Council, even though seven of the Elected Members would say yes or no to something, they could not carry the vote.

That was the results of demonstrations here. There were petitions, I know, to the First Elected Member for Cayman Brac, there was really a lot of upheaval in the country because if ever there was one thing that was absolutely clear, in my mind from the public, is that they wanted the Elected Members of this country to be responsible for spending their money. That, I cannot understand how the Elected Members of Executive Council and the First Elected Member for Cayman Brac could go against those wishes, especially after the petition that went in making it abundantly clear.

What is perhaps even more worrying is that the Constitutional Commissioners themselves found, and I am going to read from the Report on page 15 under Finance Committee, halfway down:

> "Not surprisingly, the problem of the Finance Committee featured in most of the submissions made to us, the majority recommending that the Committee should be enshrined in the Constitution and should comprise the Financial Secretary as Chairman and all elected members.".

What could be more clear than that? They, not withstanding this, went ahead and recommended that it should not be entrenched. There is another way that this can be done, and this was also put by us Backbenchers, by having the Standing Orders subject to an entrenchment clause that if made specifically only amendable by say a two-thirds majority if the Constitution provided that, then it could be fixed and only amended in accordance with how the Constitution provided. That is indeed the position of the Standing Orders in Bermuda and there is precedent for that.

MADAM SPEAKER: Would you be willing to take a break at this time? The House will be suspended for 15 minutes.

HOUSE SUSPENDED AT 3:37 P.M.

HOUSE RESUMED AT 4:08 P.M.

MADAM SPEAKER: Please be seated. Continuation of debate on Private Member's Motion No. 13/92, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. The area that I was dealing with was that of Motion 3/90 and the position of the Finance Committee in the Cayman Islands under the present Standing Orders that are made under the Constitution.

This, I think was one in which we had probably more controversy than in most other areas during the time that I have been in politics. More recently we have a statement made in *The New Caymanian*, week of 28th of August - 3rd September, at page 9, in which the question is asked to His Excellency by the newspaper:

> "TNC: Is it correct that you were on leave when Government Motion 3/90 (change in the composition of Finance Committee) was approved by Executive Council?
>
> MR. SCOTT: I was indeed on leave when that was approved to go before the Legislative Assembly.
>
> TNC: Would it have been possible for the Acting Governor to defer that motion or to seek the Secretary of State's advice?
>
> MR. SCOTT: Yes, the Acting Governor Mr. Thomas Jefferson has the full powers of the Governor under the Constitution while he is acting.".

That is a very mischievous political statement. What has to be common knowledge, and acceptance by the public of this country, is that matters such as this, and as serious as this, in this day and age when there are fax machines, telephones, will never be believed that the Governor did not know what was going on there. But what is significant is that this Constitution and the previous Constitution actually provides that it is just about impossible not to accept the advice of Executive Council. It is set out in section 8 of the present Constitution; it is set out in section 23 of the new Constitution.

That makes it clear that if the Executive Council gives advice to the Governor, or anybody acting for him, he must follow the advice, unless, if he is not going to do so, then he must first obtain the approval of the Secretary of State. That is very clear.

> "8 (1) Subject to the provisions of this Constitution, in any case where the Governor is required by the last foregoing section to consult with the Executive Council, he shall act in accordance with the advice given him by the Council unless he considers it inexpedient in the interests of public order, public faith or good government to do so;
>
> Provided that he shall not so act against the advice of the Council without first obtaining the

approval of a Secretary of State, unless in his judgement the matter is so urgent that it is necessary for him to act before obtaining such approval, in which case he shall forthwith report his action to a Secretary of State with the reasons therefor.".

That section, it is very common knowledge. I do not ever know of any Governor who has gone against the advice of Executive Council because you have to first go back to the Secretary of State and set out your reasons. That is why I say the statement is mischievous because it does not actually point out that it went against (and presumedly Motion 3/90 was brought to this House with the absolute approval of the Elected Members of Government because they supported it) the heat of more political fire than this country has probably seen in the last decade, at least.

The imputation or the direct statement that maybe an adjournment could have been done on the matter, if it was against the advice of Executive Council I submit it is a practical impossibility because no Governor every goes against the advice of Executive Council, at least not during my time in Executive Council and as I can remember the position. If it was as simple as that, you just adjourn a matter, why did we not have the Governor adjourning from Executive Council, the hospital in the swamp? Or adjourning the Master Ground Transportation Plan? It just does not work that way. So I want to clear up that those sections of which similar ones are in this Constitution, are clear that you must take the advice of Executive Council on matters for which they have responsibility.

While on that there is also a myth that because an Official Member in this House stands up and puts forward a matter that it is their decision. If the Chief Secretary has to deal with a matter relating to Police, as for example, today in the Questions or the Honourable other Members for example, the Financial Secretary has to deal with a matter on Finance or the Attorney General on a legal matter, decisions are made in Executive Council. We know that the four Elected Members are a majority, it is done by consensus but matters that relate to them it is their decision.

The question of who puts taxes on this country and who deals with situations in Finance Committee under the Constitution is clear. Taxes come from the Elected Members' decision of Executive Council. If that decision is made the Governor must accept the advice. There is a certain section which he has to sign for specifically on a motion coming here for Finance but the rule of thumb situation is that the Executive Council, not the Financial Secretary, is responsible for the finances of the country. Responsible for putting on taxes and for seeing that money is properly spent. Indeed, they have to come to Finance Committee and this was where the rub came in with the Motion 3/90. They were in a position where money was there and they could not spend it unless they came to us.

I think it is somewhat unfair anyhow if somebody is left, especially if I left a subordinate and afterwards tried to lodge the blame on him for something that obviously was so important it had to be known by anybody who was in a senior position.

While there, dealing with sections on Finance Committee, one of the main reasons why the Elected Members of Executive Council said that they added on the three Official Members to Finance Committee was that they were going to have Finance Committee in public. We have Finance Committee in public when we are spending pennies. When the millions on top of millions come up, this House is shut down. More money has been passed in closed session in this House since Motion 3/90 went through and they amended the Standing Orders making Finance Committee public than has been passed in the open Finance Committee.

The public at this stage should be able to see through the Executive Council because they say things and then they do different. The position therefore, I think, should be that we should have Finance Committee with only the Elected Members on it.

I would like to move on now to one of the last areas I have which is the referendum and it seems to me that this is another area while not dealt with in the Constitution is one in which just about everyone said they would like to see, but once again the Commissioners decided that they were not going to recommend. At page 18 it said and these are the Commissioners in their Report:

"Although there were some notable dissenting voices, we found majority support for a constitutional provision for the holding of referenda on issues of national importance.".

We Backbenchers put forward motions for laws or a law for holding referenda under and the Government and the First Elected Member for Cayman Brac opposed it and voted it down. When you look at statements such as "country before self", you really wonder how in the world can somebody who is talking about country before self not approve a procedure that permits the country to state its views, not withstanding what oneself may think.

The referenda is basically a simple machinery for asking the people what do you think on this? For example, with the Constitution it would be difficult if you have complex questions but, simple questions, do you want a Chief Minister - Yes/No - this can be of great assistance to politicians. This is why I do not understand why the Government opposes it because it takes the heat and the politics out of major issues and at the end of the day you know exactly what your people want. I can assure this House that if I have anything to do with being in here in the future after this Government changes, then I intend to see that the machinery is put in place for a referendum. It is to be used on national issues, it is to be used sparingly but something like Motion 3/90 the problems that this country had that could have been solved so simply and talking about the cost for a referendum.

Look at the amount of time that has been wasted on Finance Committee and Motion 3/90 when a simple ballot and maybe spending $50,000 could have gotten a conclusion,

which I know was going to be to leave Finance Committee that way. Then this country would not be in the debt that it is in today because nearly all of the debt of this country, the majority of it, was added on after Finance Committee became in control of a minority of Elected Members.

"Country before self", if you are not afraid of your people you are not afraid of your country and you are putting your country before self, you go back to your country and ask them what they want? This seems to me to be totally illogical to have the Government and the First Elected Member for Cayman Brac making these big statements and then being afraid to ask the people their views. If you believe that something is right, you have no fear of going back to the public. On the other hand, if you are afraid you are wrong, you are not going to go and I am afraid that there have been several major issues of which this question of the Constitution is another one that the Elected Executive Council Members are wrong on.

The referendum is so basic I should not really have had to stand here and justify it but in fact it is probably in this day and age one of the fundamental rights. Maybe it even should have been entrenched in the Bill of Rights that we have in the first part of the Constitution because we are in here to represent the people, we are not in here to do as we please when it is against the wishes of our people. If we have to do something that is against the wishes of our people we have a duty under convention to resign and get out and let them put back in someone who will carry out their wishes. Obviously a stand that Government in the past has not been prepared to take.

The position therefore that I find is that there is one major fault running through the vein of three areas that Government refuses to face facts on. It runs through the area of not consulting the people, as was pointed out earlier. For example, dealing with this motion without going back to General Election or to referendum and we have to clearly understand that if the machinery for the referendum had been in place this issue could also have been taken back to a referendum. Secondly, common to their views is the fact that in their quest to hold on to power at nearly any cost, they are prepared to deprive the electorate of the Cayman Islands of the machinery by which they could find out the true wishes of the people and that is either as an issue in a General Election or as an issue in a referenda.

What is important about this is that if the referendum is brought in, even if it has to be brought under law, it isolates a lot of politics away from it because you can take an issue and deal with it as a separate issue and clear away from that important issue all the peripheral politics that are around it. You can then get what is, in my view, the truest feedback and views of the people of a country. If you have a major problem, you isolate it from politics, you put it back to the people, you get a yes or a no and you carry it out. To me that seems to be the way that the future of every democratic country has to go.

The problem obviously has to be one that is put in a simple form and I am not going to try to go much further into it but it was used in Britain back in I think the 1970s as a yes or no, whether they enter the European Common Market. It is used extensively in the United States, the machinery of it was set up in Switzerland and is used not only at Federal level in those states but also at county and in fact city level in the States.

There is no good of saying because it is not used in all the Commonwealth countries that it is not the best machinery that I think has been produced for getting the people's views on a single matter. Perhaps going hand in hand with that is the fact that views that are obtained from the public in major areas are then normally put in manifestoes which are basically declarations of what candidates feel would be the position in any area.

When there are instances where major policies are put in the manifesto of a person and they clearly go against that expressed wish of the people without giving the people a right to have a say on the change (and this is very important) then in those circumstances, as I will show in the last short part of my speech that remains, it is very basic to how far you are prepared to trust those people to carry out what they say in the future.

MADAM SPEAKER: Honourable Member, it is now 4:30 do you have much longer to go?

MR. TRUMAN M. BODDEN: Madam Speaker, I would have a bit more time, not very long but I still have some areas of quoting, especially from manifestoes.

MADAM SPEAKER: Then it would probably be best if we take the adjournment.

MR. TRUMAN M. BODDEN: Yes, Ma'am, thank you.

ADJOURNMENT

HON JAMES M RYAN, MBE, JP: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10 am tomorrow.

QUESTION PUT: AGREED.

AT 4:30 P.M., THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M, THURSDAY, 3RD SEPTEMBER, 1992.

THURSDAY
3RD SEPTEMBER, 1992
10:07 A.M.

MADAM SPEAKER: Prayers by the Third Elected Member for West Bay.

PRAYERS

MR. JOHN D. JEFFERSON, JR: Let us Pray.

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

Bless our Sovereign Lady Queen Elizabeth, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, Diana Princess of Wales and all the Royal family. Give grace to all who exercise authority in our Commonwealth that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly. Questions. No. 165, the Second Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

THE SECOND ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS AND AGRICULTURE

NO. 165: Would the Honourable Member say: (a) what Government properties are listed for sale with real estate agents; and (b) what amount has Government received, since November 1988, from sale of property?

ANSWER: (a) The Government properties listed for sale with real estate agents are as follows:

Block/Parcel	Description	Asking Price CI$
(1) 7C/16	3 bedroom house, Point Four, South Church Street	125,000.00
(2) 15B/9	3 bedroom house, Point Four, South Church Street	135,000.00
(3) 15B/35	Apt. 5, Foster Village	85,000.00
(4) "	Apt. 2, Foster Village	80,000.00
(5) "	Apt.10, Foster Village	80,000.00
(6) 20D/70	2 bedroom duplex, Crewe Rd	95,000.00
(7) 22E/41	2 bedroom house, Tropical Gardens	90,000.00

(8) 28B/46	Duplex, Savannah	125,000.00
(9) 44B/83	3 bedroom house, Bodden Town	65,000.00
	Total:	CI$880,000.00

(b) The amount received by Government since November 1988, from the sale of property is as follows:

(1)	**Block 75A, Parcel 89** Sale to Mr/Mrs Jervis - June 1992	CI$ 5,000.00
(2)	**Block 1E, Parcel 32** Sale to M Ritch - November 1989	CI$ 8,000.00
(3)	**Block 10A, Parcel 192** Sale to Vista Del Mar Development Ltd - January 1990	US$ 50,000.00 (CI$41,666.70)
(4)	**Block 44B, Parcel 229** Sale to V Frederick - October 1990	CI$ 3,000.00
(5)	**Block 14D, Parcel 21** 3 bedroom house, Smith Rd. Sale to Mr Paramlall - August 1992	CI$ 75,500.00
(6)	**Block 38B, Parcel 47** 3 bedroom house, North Cayman Palms Sale to Mr & Mrs Miller - August 1992	CI$ 80,000.00
TOTAL		CI$213,166.70

SUPPLEMENTARIES:

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, without the records of the Lands office these notations look to me like hieroglyphics from an Egyptian cave. I wonder if the Member can say if 44B/83 is the Teachers Cottage Bodden Town and also if he can help us to understand where the duplex is in Savannah?

HON. LINFORD A. PIERSON: Madam Speaker, with regards to the frivolous comment made by the Member, I can only provide him with the answers, I cannot help him to understand them. As regards to the second part, 44B/83, the three bedroom house in Bodden Town, I did mention that that was in Bodden Town for $65,000.00.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: The question is (and I assume the Member was so taken up with himself he did not understand it): Is the house in Bodden Town the Teacher's Cottage and where is the duplex in Savannah, if he could help us out to understand which one it is?

HON. LINFORD A. PIERSON: Madam Speaker, the duplex in Savannah. . . that Member is a representative of Savannah and Bodden Town, I am sure he will know where that location of 28B/46 is for $125,000.00, and the 44B/83 is the former Teacher's Cottage.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member would care to tell the House what are the names of the real estate agents with which the properties have been listed, and also would the Honourable Member be considerate enough to say what, if any, instructions were given to the agents? That is instructions concerning terms and prices.

HON. LINFORD A. PIERSON: In the interest of time in the House, I think that it is important that I give as much information as possible, including what the Member has just asked to save further supplementary questions on the same subject. I will start by giving the information on who is marketing the properties on behalf of Government and how and why were they selected. The answer to that would be, all the properties were inspected and valued by the Government's Lands Officers. Real estate agents were invited to

tender for the opportunity to market these properties on behalf of Government. In order to ensure that all interested parties were made aware of the tender opportunity an advertisement was placed in the Compass on three occasions.

In all, 12 companies submitted tenders with each quoting various submission rates. Seales and Co. tendered at a commission rate of 4 per cent, which was the lowest quoted by any of the agents and as this included a substantial advertising package, it was recommended by the Lands Officer that Seales and Co. be offered the contract. Having been delegated the power to appoint the agents of their choice by the Portfolio, the Lands Officer awarded the contract to Seales and Co. The properties were then listed with asking process fixed by the Lands Officer.

As regards to why the properties marketed on a sole agency basis, I would just like to also provide this information to the Honourable House. It was felt that as this was public property, it was essential to have control at all times of the selling procedure in order that the same could be supervised properly. It was further felt that by appointing a sole agent, the public could not become confused with regards to whom they were dealing with. In addition, due to the lines of communication being short, the Lands Officer and agent would at any particular point in time be fully aware of who had submitted any offer for what property and at what figure. This would reduce the possibility of any erroneous advice being given to the public and would ensure that due regard could be had to all possible offers before any decision to sell was made.

Since the appointed agent is well known in the market place and has undertaken an extensive advertising campaign, it is not felt that the marketing of the properties has been detrimentally affected at all by the appointment of a sole agent.

I would also like to give information on who decides at what figure the properties would be sold. The Lands Officer, as Government's land and property professional, has been delegated authority to complete a sale at a price that he considers to be the best that can be expected from the market having regard to the circumstances of the sale. A bit of further information on which properties have been sold to date, the property at North Cayman Palms, Block 38B, Parcel 47 has been sold for $80,000.00, the house at Smith Road Block 14D, Parcel 21 has been sold for $75,000.00. Offers have been received with regards to three other properties and prospective purchasers are presently seeking financing. Thank you.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member, would he say why the Government did not list the property on the multiple listings of all of the real estate brokers so that a better price and naturally a better chance of sale of the property could have been achieved, which is common and usual in these Islands at this time?

HON. LINFORD A. PIERSON: Madam Speaker, I did go at length to provide a lot of information that had not been asked to avoid unnecessary supplementaries. I have already given the answer to this but I will repeat it for the Honourable Member. It was felt that as this was public property, it was essential to have control at all times of the selling procedure in order that the same could be supervised properly. It was further felt that by appointing a sole agent the public could not become confused with regards to with whom they should be dealing.

In addition, due to the lines of communication being short, the Lands Officer and the agent would at any particular point in time be fully aware of who had submitted any offer for what property and at what figure. This would reduce the possibility of any erroneous advice being given to the public and would ensure that due regard could be had to all possible offers before any decision to sell was made. Since the appointed agent is well known in the market place and has undertaken an extensive advertising campaign, it is not felt that the marketing of the properties has been detrimentally affected at all by the appointment of a sole agent.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member. Is the Honourable Member aware that the Government cannot be bound by some oral representations and that finally a contract in writing is the usual way that this is dealt with and that there is no danger of what he has said of agents giving the wrong information binding Government?

HON. LINFORD A. PIERSON: Madam Speaker, the Portfolio has taken the necessary legal advice on this and we are aware of the procedures legally to follow.

MADAM SPEAKER: The Second Elected for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, in connection with these properties, on the sixth of March, 1992, Mr. Truman Bodden asked the question to Mr. Lem Hurlston, what properties were the Government going to sell? Mr. Lem said he did not have the list. I would like to ask the Member if he had this list at that time, and if he was aware that these properties that he has given us were scheduled for sale on that day?

HON. LINFORD A. PIERSON: Madam Speaker, the Member rightly said that the question was asked of the Honourable Chief Secretary at the time. My Portfolio provides quite a bit of information and we have quite a bit of information there. For me to say at this point whether I might have had that list is impossible, it was

several months ago.

MADAM SPEAKER: The next question is No. 166, standing in the name of the Second Elected Member for Bodden Town.

THE SECOND ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THE THIRD OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT

NO. 166: Would the Honourable Member say what is the surplus, or deficit, of the Government at the end of August 1992?

ANSWER: Madam Speaker, the surplus of the Government as at 31st August, 1992, was $8,424,053. This amount included the accumulated balance of $4,384,874 brought forward as at 1st January, 1992, and the transfer of $3.5 million from the General Reserves approved by Finance Committee in July of this year.

SUPPLEMENTARIES:

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. In calculating the surplus or deficit of the Government do you add into it loans on the revenue side so that for example, if a loan of $18 million is taken out, that $18 million would go towards showing a surplus or plus side to the balance sheet?

HON. GEORGE A. McCARTHY: Yes, Madam Speaker. That would be factored into the surplus and deficit as well.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, could the Member say if the surplus contains any loan money? If there has been any loan money in the revenue up to this time which helps to make this surplus?

HON. GEORGE A. McCARTHY: According to the information provided by the Treasury, there is a loan element of $2.9 million factored into this but this is an amount that has been brought forward against capital programmes that started in 1991 and carried over into 1992.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, can I ask the Member if it is usual practice to use the surplus from the previous year to balance this year, or is that normally put in reserves?

HON. GEORGE A. McCARTHY: Madam Speaker, this surplus and deficit balance is a running accumulated balance. Often times a decision is taken by the Legislative Assembly on the recommendation of Executive Council for a part of that to be set aside. It has never been brought to a nil position. It is not normally wiped out at the end of the year.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member, the surplus shown of $8 million is substantially, give or take about one half million, made up of $4.3 million brought forward from last year and a transfer of $3.5 million from the reserves. Those two figures are substantially the same and my second question which you may have answered, how much of this is loans? How many loans have been drawn down this year to put in to make this up?

HON. GEORGE A. McCARTHY: Factored into the revenue, Madam Speaker, is $2.9 million on the loans, but this money was not drawn down in 1992. It was a portion of the funds that were drawn down in 1991 against which capital spending did not take place and it is a policy of Government that unless expenditure is incurred against that provision that the funds be set aside until the expenditure takes place. This is why it is now being accounted for in 1992.

MADAM SPEAKER: The next question is No. 167 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION, ENVIRONMENT, RECREATION AND CULTURE

NO. 167: Can the Honourable Member state exactly what progress has been made in the acquisition of land for the Breakers' playfield?

ANSWER: Parcel 56B/69 was transferred to Crown ownership on 11th October, 1990. This Honourable House has been previously advised of this acquisition (that is, in November 1990, and again in June 1991).

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say when the Government might be disposed to developing this plot into a playfield?

HON. BENSON O. EBANKS: Madam Speaker, this parcel of land abuts the parcel on which the Civic Centre in Breakers is located and it is my understanding that certain Members of the Breakers community expressed the desire and willingness to do the bulk of the work in preparing this area for a playing field. In fact, some work was done on the parcel on which the Civic Centre stands but since acquisition of the additional piece of property was completed, no work was done. Recently, I believe possibly about two weeks ago, the Portfolio has received a letter indicating that the club that did this would like to resume the work on the playfield.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. It is my understanding that the work would be greatly facilitated by the proper demarcation of the exact boundaries and I wonder if the Member would give an undertaking to see that this is done so that the work can be expedited and facilitated?

HON. BENSON O. EBANKS: Madam Speaker, there is no indication that the demarcation of the property is a problem or that it would assist if it has been done, but certainly the Portfolio intends to follow through on the letter from the Breakers Community Club and whatever assistance Government can give within its ability to do, we will do.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I wonder if the Member can recall whether the 1992 Budget contains a figure or a sum of money for expenditure on these facilities in Breakers and whether that expenditure has been scheduled to take place in 1993 or 1994, something like that?

HON. BENSON O. EBANKS: Madam Speaker, I am unable to say. I do not recall any amount being in the Budget for 1992, and my information is that it is not but I do not have the Budget before me and I have not looked at it in recent days, so I could not be more specific than that.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I know there is nothing in the budget for 1992. I am asking the Member if there is a figure in his 1992 Budget, to be spent in 1993 and 1994?

HON. BENSON O. EBANKS: Yes, Madam Speaker, to the best of my knowledge that is so and that is in keeping with Government's policy of planning these fields and whatever work it is going to do, well in advance.

MADAM SPEAKER: The next question is No. 168 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION, ENVIRONMENT, RECREATION AND CULTURE

NO. 168: Would the Honourable Member say: (a) how many children have been suspended from Government schools in the Cayman Islands since January 1992; and (b) what has the Government provided as an alternative during the suspensions?

ANSWER: (a) Since January 1992, there were 93 suspensions from Government schools; 78 involving boys and 15 involving girls. Some were repeat cases, but we are not able to say at this point, what the breakdown is; and

(b) There is no appropriate facility to accommodate all these students. The more serious behavioral problems are referred to the Alternative Education Unit. Many others are referred to

counselling at the Cayman Counselling Centre or continue to receive some counselling from the schools. Students are also given take-home work while on suspension.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say whether any of the four juveniles currently held at the West Bay lock-up were juveniles suspended from schools in the Cayman Islands?

HON. BENSON O. EBANKS: Madam Speaker, I understand that one of those is a student that was suspended.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. Can the Member say what is the mixture of nationalities of these children?

HON. BENSON O. EBANKS: No Madam Speaker, I do not have that information.

MADAM SPEAKER: First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, could the Member give an undertaking to give us that information.

HON. BENSON O. EBANKS: Madam Speaker, if it is available, it will be supplied.

MADAM SPEAKER: The next question is No. 169 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION, ENVIRONMENT, RECREATION AND CULTURE

NO. 169: Would the Honourable say what provisions have been made to ensure that the number of students taking the CXC examinations are not seriously disadvantaged during the transition period?

ANSWER: It is not entirely clear what information the Honourable Member is seeking, but the following information may help to give Members a sense of the initiatives which have been taken so far to ensure that no student is at a disadvantage with respect to the introduction of the CXC examinations. Teachers and Administrators in the Education System have:

- held workshops and in-house training sessions at the Secondary Schools, where subject specialists have worked to prepare and adopt existing syllabi, especially for the year 9 (Form 3);
- held in-service sessions with working Teachers and Advisors with experience of the CXC examinations, including an intensive workshop, ending today, involving staffs of all High Schools;
- taken advice from experts on texts to be used and made provision for necessary texts and equipment to be acquired - much of these materials are already at hand;
- afforded a delegation of 13 subject Teachers/Department Heads to attend "live" CXC" marking sessions in the region during the summer holidays;
- redeployed staff and recruited new staff for areas where necessary to strengthen Departments of the High Schools;
- planned renovations, particularly at George Hicks High School, of Science Laboratories, Technical Facilities, Art Rooms, etcetera, in order to accommodate adaptions for external examinations;
- worked in close liaison with CXC Officials, including provision to schools of syllabi and past examination papers.

The Project Implementation Unit, which is being established to facilitate the implementation of the Five Year Plan, has assisted in numerous ways in these various activities.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member can say if any provisions have been made to hold extra classes or to extend any classes beyond the normal teaching time so that those students who are sitting exams in the first year will be able, if necessary, to have additional teaching and coaching in those areas where they may experience weaknesses.

HON. BENSON O. EBANKS: Madam Speaker, it is not anticipated that children will be at any greater disadvantage sitting the CXC than they would sitting the GCSE examinations. Nevertheless, the task of preparing students for examinations is that of the school and its teachers and I would assume that in carrying out that responsibility, they would seek to give whatever teaching and coaching that is necessary to see that the students are properly prepared. No specific directives have been issued that extra lessons are to be held.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you Madam Speaker. Would the Honourable Member say why he has moved head long into what is resulting in chaos, rather than get the syllabi and all of these things put in place and introduce the system on a timely basis to the advantage of teachers, parents and students?

HON. BENSON O. EBANKS: Madam Speaker, the only person that I know who is confused and in chaos is the Third Elected Member from George Town. I have no information that any chaos exists, and from the information I gave to the substantive answer, it will be seen that the preparation for the introduction of the Caribbean Examinations Council is far superior to any preparation that was made when there was a switch in the British examinations. When CXC was introduced one sole ranger came out from England and did one day's coaching.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I wonder if the Member will let us know if he is aware that the classes, especially the math classes, are being rushed so fast that the teachers do not have time to go over any item in the lesson? I am allowed to make a statement to clarify the question, the reason I am saying this is that I visited a home where a Sixth Form child was studying with a hired tutor because his class had been told his teacher did not have the time to go back over the lesson if they did not understand anything. Is he aware of this?

By the way, I can give him the names if he wants, later.

HON. BENSON O. EBANKS: No Madam Speaker, I am not aware of this situation which the Member relates, but I must point out that if that situation exists, it is not a result of the Caribbean Examinations Council's examinations. Teaching for those subjects will only start when school resumes next week, so any present situation he is discussing is an ongoing situation pertaining to the existing exams and teachers.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honorable Member, would he say whether his knowledge of these exams is gleaned from his usual once a year visit to the school?

HON. BENSON O. EBANKS: Madam Speaker, one could hardly get information on examinations in a school that do not set the exams. The exams will not be set until two years time and the teaching will not start until school resumes. Let me assure the Member that I visit the school as often as I need to and that the schools are in as good shape now, as they have ever been.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, the Member, in answer to the original question, said that teachers and administrators have taken advice from experts on texts to be used, and has made provision for necessary texts and equipment to be acquired. Much of these materials are already on hand. Can the Member say whether they will have all the required materials to start the school year with?

HON. BENSON O. EBANKS: It is my understanding that texts are either here or on the way. Therefore, they should be in possession of all of them.

MADAM SPEAKER: The next question is No. 170 standing in the name of the Third Elected Member for West Bay.

THE THIRD ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT

NO. 170: Can the Honourable Member advise what is the present balance of Government's General Reserves?

ANSWER: Madam Speaker, Government's General Reserves as at 31st August, 1992, were CI$10,009,762, broken down as follows:

General Reserves as at 31st August, 1991

Bank of Nova Scotia	
9 months Fixed Deposit maturing 31st December, 1992	$2,784,698.00
Barclays Bank	
3 months Fixed Deposit maturing 23rd September, 1992	1,533,068.00
6 months Fixed Deposit maturing 1st February, 1992	674,322.00
Cayman National Bank	
3 months Fixed Deposit maturing 5th October, 1992	2,907,378.00
	7,899,466.00
Investments with Crown Agents	2,110,296.00
	$10,009,762.00

= = = = = = = = = = =

SUPPLEMENTARIES:

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Madam Speaker. I wonder if the Member could say whether or not the $10 million that is reflected in the answer is the net of the $3 plus million that Government was proposed to transfer from reserves?

HON. GEORGE A. McCARTHY: Yes, Madam Speaker. That transfer has already taken place.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could give us a breakdown of the decrease in the General Reserves in 1988?

HON. GEORGE A. McCARTHY: Madam Speaker, the balance in the General Reserve account at the 31st of December 1988, was $11,173,808 million. It would have sustained an increase in 1989, which took it up to $18,177,316 million. It was decreased in 1990 as of the 31st of December to $11,981,752 million and it went up as of the 31st of December 1991 to $13,046,038 million. The current position, as I mentioned earlier is, $10,009,762 million after the transfer of the $3.5 million.

MADAM SPEAKER: The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker. I wonder if the Honorable Third Official Member could say what is the balance in the Pension Fund at the present time, which had it not been put in the Pension Fund, would be in reserves?

HON. GEORGE A. McCARTHY: Madam Speaker, the balance in the Pension Fund is in excess of $4 million. That is an approximate figure. I cannot give anything more specific than that.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Madam Speaker. Based on Government's current level of current expenditure, how long would $10 million in reserves run the Government?

HON. GEORGE A. McCARTHY: The ten million dollars would approximate close to a month's expenditure needs. It would fall short by about $2-3 million.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Taking that information into consideration, Madam Speaker, I wonder if the Member could say if there are any plans to further reduce General Reserves before the end of the year?

HON. GEORGE A. McCARTHY: Madam Speaker, this will have to be a decision of Executive Council. I could not inform the House of such a position at this time.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Can the Honourable Member say whether he had been receiving any requests for additional expenditure?

HON. GEORGE A. McCARTHY: Yes, Madam Speaker, requests are always coming in.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I would hope that the Honourable Member, would not in anyone's wildest dreams be attempting to include the Pension Fund which is the Civil Service pensions beneficially as a right, in the General Reserves that Government can spend them?

HON. GEORGE A. McCARTHY: Madam Speaker, I have very wild dreams, but I have not gone that wild as yet.

MADAM SPEAKER: The next question is No. 171 standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 171: Would the Honourable Member say why the office of the Department of Tourism in Miami has moved, or is moving, to another location in that city?

ANSWER: The Department of Tourism and Cayman Airways Limited have moved offices from the Coral Gables area to new premises located at Waterford in close proximity to Miami International Airport. The lease on offices located in Coral Gables was to have expired at the end of this year and this prompted both organisations to explore the office lease market in Miami because of an abundance of office space in the area.

A lease was successfully negotiated for the new premises at a rate which is less that what was being paid in Coral Gables. The new premises are house in a brand new building which is more conveniently located.

SUPPLEMENTARIES:

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could say if these lower rates will offer equally as good accommodations?

HON. W. NORMAN BODDEN: Yes, Madam Speaker. Improved accommodation is being provided for the lower rate.

MADAM SPEAKER: Second Elected Member for Cayman Brac.

MR. GILBERT A. McLEAN: Would the Member indicate how long a contractual agreement there is with this new building and if there is any peculiar arrangement with the agreement in terms of the rates only being fixed for a particular period of time?

HON. W. NORMAN BODDEN: Madam Speaker, the term is for 12 years. There is an annual escalation arrangement in the contract.

MADAM SPEAKER: The Second Elected Member for Cayman Brac.

MR. GILBERT A. McLEAN: Would the Member say if this escalating arrangement would, within a short period of time place the Government, that is the Department of Tourism and Cayman Airways, paying

the same amounts as it is paying now and if any of the persons in the employment of either of the two Government organisations have any interest in the building that is being rented?

HON. W. NORMAN BODDEN: Madam Speaker, I will answer the second part of that supplementary first. Not to my knowledge, I know of no employee of Cayman Airways or the Department of Tourism that has any interest in the new premises that are being rented.

The rates which would start being paid in August of 1993, and as I said is $12.00 per square foot. Starting in 1994, there is an escalation clause of about 4.5 per cent and this is structured in such a way that the 4.5 per cent escalation applies on an annual basis until about the seventh year and then there is a sort of substantial increase. After the seventh year it reverts back to 4.5 per cent on an annual basis until the 12 year.

MR. GILBERT A. McLEAN: Could the Member tell the House whether there is in that contract a break clause and can that contract be broken or changed for cause or other conditions?

HON. W. NORMAN BODDEN: Madam Speaker, I am not familiar with any break that can be brought about in the contract other than if one or the other party is in default.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member please tell us with whom are the new arrangements made? Is it an individual or the company? Could he give the names please?

HON. W. NORMAN BODDEN: The name of the Company Madam Speaker, is Waterford.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Could the Member tell the House, what would the monthly total cost be for the square footage that is being rented and would it not be wise to have the Attorney General's office look at that contract or have they looked at that contract and who really arrived at it?

HON. W. NORMAN BODDEN: Madam Speaker, my understanding is that the contract was not commented on by the Attorney General's office here because of this being in the United States, however, it was checked by lawyers in Miami and was seen to be acceptable.

The space that is being occupied by the Department of Tourism and Cayman Airways is approximately 13,000 square feet and that is divided 60-40 with 60 per cent being to Cayman Airways and 40 per cent to the Department of Tourism. Therefore, the total rental works out to approximately US $16,000.00.

MADAM SPEAKER: It is now 11 o'clock. If we need to continue questions there should be a motion for suspension.

SUSPENSION OF STANDING ORDER 23(7) AND (8)
11:00 A.M.

MR. JAMES M. RYAN: Madam Speaker, I move the Suspension of Standing Order 23(7) and (8) to enable the remaining questions to be taken.

QUESTION PUT: AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ENABLE THE REMAINING QUESTIONS UPON THE ORDER PAPER TO BE TAKEN.

(Supplementaries on question No. 171 continuing)

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wanted to ask the Honourable Member, since the contract was negotiated by two Government related agencies, why was the contract not delivered to the office of our Attorney General for inspection and advice? Secondly, could the Honourable Member say what were the terms of lease of the premises recently vacated and what advantages the new premises had over this premises, other than closer proximity to the airport in Miami?

HON. W. NORMAN BODDEN: Madam Speaker, the Attorney General at the time was asked to comment on the lease but I advised the Portfolio that it would be preferable for a United States Attorney to comment on the lease.

As to the comparison with the office accommodation which the Department of Tourism and Cayman Airways previously occupied in Coral Gables, they had been there for some 18 years and the office accommodation really was sort of in a rundown condition I would say, almost to the extent of

being dilapidated. I think any arrangement for improvement with the landlords seemed difficult and the new landlords made an offer which we all thought was attractive. That was that they assisted with the transfer costs and they offered something like a 16 months free rental, well, they term it free, but at least a payment will not have to commence sometime in 1993, and they also offered to pay the remaining lease due to the landlords at Coral Gables to the end of this year. Because of the improvements in location, the attractive terms and conditions and the new premises, this was seen as a sensible move.

MADAM SPEAKER: The next question is No. 172 standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 172: Would the Honourable Member say whether any hotels in the Cayman Islands are operating without "facilities for meals" within the normal concept of a dining room?

ANSWER: All hotels operating in the Cayman Islands are licensed by the Hotels Licensing Board in accordance with the Tourism Law which requires such accommodation to consist of "not less than ten rooms and providing food and beverage facilities for its resident guests".

Some small hotels and diving lodges do not have a dining room of the standard one would expect to find in larger properties but, at the same time, still qualify under the terms of the Law, inasmuch as they do provide food and beverage facilities for resident guests.

SUPPLEMENTARIES:

MADAM SPEAKER: Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Madam Speaker, the Member in effect has said, according to what I understand, there are hotels which do not have an area as such enclosed or with tables and chairs, the normal concept of a dining room. Would he say if this is not an undesirable situation in the Island (and I am familiar with the description which is contained in his answers in the Hotel Aids Law) if it is not something the Government would wish to do to change that definition so that such precise facilities would exist there on the basis that people might come to attempt to build hotels and keep snack bars which is going to lower the standard of the whole concept of hotels?

HON. W. NORMAN BODDEN: Madam Speaker, I would say that there are, at least to my knowledge, about four properties so far which fall in the category that I have described.

They provide a sort of patio style dining which in some instances I would accept might not be the most desirable. However, it depends on the type of the property. Some of the dive lodges, for example that provide facilities for meals and provide it of a type that is to be termed or defined as a patio style for their guests and their type of operation, it is probably acceptable.

Consideration could of course be given to changing the definition in the Tourism Law to make this more specific. However, I believe that if we had an application for a hotel of 250 or 300 rooms to be constructed here, that nobody in the Planning Department or in the Department of Tourism or in the Portfolio would accept that type of property could offer patio dining and they would be expected to provide what would be considered a full standard dining room facility.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Would the Member give consideration to looking at the situation with the view of defining precisely what a dining room should be and also consideration to the idea of grading hotels similar to the way it is in the Bahamas, that a particular grade may not have that type of dining room but a grade above would?

HON. W. NORMAN BODDEN: Yes, Madam Speaker, I think that consideration could be given to probably more specifically defining food and beverage facilities as contained in the Tourism Law at the present time. The grading is another matter but if this could be handled through regulation, maybe it can be dealt with through that means, if not, then the proper amendment would have to be brought to the House in due course. I think consideration could be given to defining more accurately what is meant by food and beverage facilities.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Madam Speaker. I wonder if the Member can confirm if it is a fact that one of the major hotels along Seven Mile Beach just recently closed their dining room?

HON. W. NORMAN BODDEN: Madam Speaker, I am not aware of that.

MADAM SPEAKER: The next question is No. 173 standing in the name of The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 173: Can the Honourable Member say whether the newly appointed Auditor General is a professionally qualified accountant?

ANSWER: The newly appointed Auditor General is not a professionally qualified accountant.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I am sure that the Member would agree with me that the post of Auditor General is most important in our Westminster style of Government. Would he not agree with me then, that the Government should have employed someone with those qualifications?

MADAM SPEAKER: That requires an expression of opinion and is not permitted.

MR. W. McKEEVA BUSH: Madam Speaker, can I change the question to say why did not the Government provide someone to be employed who had those qualifications?

MR. JAMES M. RYAN: Madam Speaker, the newly appointed Auditor General does not possess a professional qualification in accountancy and is therefore not a member of a professional accounting body. However, his application form shows that he obtained a diploma in auditing and accounting in 1973 in the city of London, Poly Technic.

Subjects studied were Accounting I, II, and III, English Law, Contract Law, Organisation and Methods, Constitutional Law, Auditing I and II, Business, Economics and Computing.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, can the Member say if the advertisement published for the post required the Auditor General to have qualifications which would show that he could deal with the complex accounts of Government?

MR. JAMES M. RYAN: Madam Speaker, I cannot say. I did not see the advertisement.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: I wonder if the Member can say who was responsible for recruiting this gentleman and were there other applicants for this post?

MR. JAMES M. RYAN: Madam Speaker, a team in the United Kingdom did the recruitment. There were a number of applicants and recruiting was done through the normal competitive process.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Can the Member say if that team that did the recruiting included the previous Governor, Mr. Scott?

MR. JAMES M. RYAN Madam Speaker, it is my understanding that the previous Governor was a part of that team.

MADAM SPEAKER: The next question is No. 174 standing in the name of the First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT

NO. 174: Can the Honourable Member state why the report of the Public Service Investment Committee, on the proposed new Hospital, has not been tabled in the Legislative Assembly or given to Members?

ANSWER: The reason why the Report of the Public Sector Investment Committee (PSIC) on the Proposed New Hospital has not been tabled in the Legislative Assembly, or given to Members, is because the terms of reference of this Committee states that the primary mission of the PSIC are:

(a) to advise the Executive Council on the overall quality of all capital projects proposed for investment;

(b) to assist the Executive Council in the implementation and in the on-going operation and maintenance of the quality of these investments;

(c) to improve the process of capital investment planning, preparation, implementation and management at both the policy and operational levels.

Madam Speaker, the Report of the PSIC is therefore the Report of an internal Government committee and it is not normal to table such reports in the Legislative Assembly, or to make them generally available for scrutiny outside of Executive Council.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. Given these terms of reference, did the Government not understand those terms of reference when we were made to understand that as Members, we would receive a copy of that report?

HON. GEORGE A. McCARTHY: Madam Speaker, I am not in a position to know what undertakings were given previously or what promises were made. It has been brought to my attention that there could have been undertakings given in the past concerning this, but I have not been provided with any such information. There is nothing to prove that this has been done.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, can the Member say why the House and Finance Committee have been provided with internal reports such as the report from the Lands Officer on the sale of the Campbell Building and we have not received this internal report on a much larger project?

HON. GEORGE A. McCARTHY: Madam Speaker, I am not aware of the Lands Officer functioning as an advisory committee to Executive Council. Therefore, the report that has been provided or developed by the Lands Officer, this would be supporting information specifically relating to that project but not an advisory committee or the output of an advisory committee to Executive Council.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Madam Speaker. The Member mentioned that he was not aware of any commitments that were made in this House with regard to making the report of the PSIC available. I recall such a commitment and I wonder if I can ask the Member for Health why, as he promised, the report has not been submitted to the House?

MADAM SPEAKER: The question today is really to the Honourable Financial Secretary, and there is a supplementary by the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Would the Honourable Member say if Executive Council consented and agreed to it being given to us, whether that then could be given to us upon their agreement, and alternatively, in the many secret Finance Committees of this Government whether it could not be made available to us in there?

HON. GEORGE A. McCARTHY: Madam Speaker, it would prove a bit of a difficulty at this time for me to speculate or to try to arrive at a judgement as to what the decision of Executive Council would be on this matter. It could be brought up for discussion and it would be difficult for me at this time to pre-empt what the decision of Executive Council would be.

MADAM SPEAKER: The last question is No. 175 standing in the name of 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. 175: Will the Honourable Member state the number of social workers in the Social Services

Department, and how long have they been employed?

ANSWER: The Department of Social Services currently has 15 Social Workers employed. There are six Caymanians and nine non-Caymanians. Twelve persons have served between two to four years and are listed as follows:-

- one person has served four years;
- three persons have served three yeas plus;
- eight persons have served two years;
- three persons have served under one year and are listed as follows:
  -one person has served 8 months
  -one person has served 2 months
  -one person has served 2 weeks.

SUPPLEMENTARIES:

MADAM SPEAKER: The Elected Member for East End

MR. JOHN B. McLEAN: I wonder if the Member could say if he is satisfied that this number of Social Workers is sufficient to service the social needs in the other districts?

HON. D. EZZARD MILLER: Yes, Madam Speaker.

MADAM SPEAKER: Supplementaries, The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could say when could we have a full time social worker say in the district of East End?

HON. D. EZZARD MILLER: Madam Speaker, in 1989, at my request, the Social Services Department conducted what they called a pilot project in East End for placing social workers in districts. They sent a social worker to East End for I think it was two weeks. They did not tell anyone that they were sending a social worker. They used the fact that the social worker did not see anyone to justify their refusal since that to place social workers in the districts.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could give this House an undertaking to have this further investigated, taking into consideration the many social problems in this country today and endeavor to have a full time social worker in East End?

HON. D. EZZARD MILLER: Madam Speaker, I have consistently tried, since being in office to have the social workers placed in the districts. The authority necessary to put that in place, I do not have.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, can the Member say why there is this large turn-over of employees?

HON. D. EZZARD MILLER: Madam Speaker, the reason for the large turn-over in employees is partly due to the fact that most of the social workers are expatriate and they come for short periods of time and secondly, bad management in the Department.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member, would he say whether he has made a firm written policy to put the social workers in the districts and secondly, I think public criticism of a Department is very detrimental.

HON. D. EZZARD MILLER: Madam Speaker, he is entitled to his opinion. My policy has been to place some social workers in the districts.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, in a recent report which we received from the Member on Social Services, one of the recommendations was that the Social Services would be decentralised which they explain, amongst other things, meant having the workers in the district.
What has the Member done about this?

HON. D. EZZARD MILLER: Madam Speaker, the Member is speaking about the Youth

Services review. That is in the process of being implemented. The first Department that the newly formed Management Services in Government reviewed was the Social Services Department and basically nothing has been done about that review since it had been conducted. I would not describe the review as a favourable one.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Madam Speaker. In the answer given by the Member, he mentioned that there were 15 social workers of which six are Caymanians and nine non-Caymanians. I wonder if the Member could say what steps are being taken to encourage more Caymanians or to qualify more Caymanians in this area?

HON. D. EZZARD MILLER: Madam Speaker, I personally know of no special drives to qualify Caymanians as social workers other than the careers forums at which the Department puts up a booth and encourages people to go into social work.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, in a supplementary answer the Member said that things are bad, bad management. Can the Member say if things are as bad as he says, why did he not take steps in the four years to correct what he deems as bad management?

HON. D. EZZARD MILLER: Madam Speaker, my authority in that area is very limited. My Portfolio did, as I said, ask the newly accredited Management Services Department to review the Department. They have reviewed the Department and to the best of my knowledge, none of the recommendations which they have made have been implemented to-date. We are in the process of computerising the Department as a result of the Youth Services review and trying to put some handle on producing accurate data from the Department.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, this House and the country well understands that that Member if he wants something done, gets it done, as with the hospital, and I am prefacing my question with a statement. Did the Member give clear directions to the Department in his four years? Written directions and if so, will he table those directions in the House?

HON. D. EZZARD MILLER: Yes, Madam Speaker. I personally have not given any written directions to the Portfolio, the Principal Secretary has. I have no authority to give written directions to the Department, they are given through the Principal Secretary. Tabling them in the House is a decision for the Principal Secretary, not for me.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, constitutionally, the Member is responsible for the Portfolio. Did the Member give his Principal Secretary directions and will he allow her to table those directions in this House?

HON. D. EZZARD MILLER: Yes, Madam Speaker.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. The Member said that he had no authority over this Department. Could he please tell us who does and could he further state if the Social Services Department falls under the umbrella of his Portfolio?

HON. D. EZZARD MILLER: Madam Speaker, the Social Services Department, as that Member knows, falls under my umbrella of responsibility. There are two entirely different things between having responsibility constitutionally for a subject and having the authority constitutionally to do something about it.

The Member knows that the present Constitution places no administrative authority in the hands of the Elected Member responsible for the subject. The Principal Secretary is the administrative authority in the Portfolio.

MADAM SPEAKER: That concludes Question Time for this morning. The House will be suspended for 15 minutes.

AT 11:33 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 12:03 A.M.

MADAM SPEAKER: Please be seated. Private Member's Motion 13/92. Debate continues. The Third Elected Member for George Town.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

(Continuation of debate thereon)

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Yesterday I was getting to the end of dealing with referenda and was going on within that topic, to state that the manifestos that candidates put out to the public should be clear on major issues giving sufficient detail to ensure that the public know exactly where they stand on this issue and other major issues such as Finance.

Where possible, I think we will be seeing joint manifestos by candidates who are running together and I would hope and I will ensure that details which will go into our manifesto of the 12 or 13 candidates who will be contesting the 15 seats will be detailed and especially will cover matters like this very clearly.

It has been said that the United Kingdom Government is going to give us a new Constitution whether we want it or not. In other words, they are going to impose it. That is not correct. It is a very important issue because it has been raised and used in political meetings and it is a serious misrepresentation I think, of what I personally see as their position. There are Members who hold that view and I respect their right to hold that view. I would like to just show why this is not so. At page 15 of the Minutes of the Select Committee of the 5th of August, 1991, (I am just reading here from the heading of Mr. Gilbert McLean). It says:

> "Mr. Lennox-Boyd also stated that the United Kingdom (UK) Government has every intention of seeing the Cayman Islands adopt a modern constitution.".

On the following page I said, and I am reading from it:

> "Mr. Truman Bodden suggested that the United Kingdom would not give the country something that a majority did not want. He pointed out the comments made by the Presiding Officer of the Legislative Assembly [H.E. the Governor Mr. Alan J. Scott] last year that "...changes would not be proposed by the United Kingdom Government or implemented without them being the subject of a campaign and a General Election.".

Further, this was the source of considerable debate when we were debating the Throne Speech in February and on the 24th of February, 1992, at page 3, the Second Elected Member for Cayman Brac and Little Cayman said:

> "I want to state that it is my understanding and belief that the United Kingdom Government will be giving an upgraded Constitution to the people of the Cayman Islands and that it will come into effect at least by the day of swearing-in when the new House is being formed. That is my understanding and my belief. Personally, I think that is the only sensible thing that can be done.".

We need now to look at the Minutes once again of what Mr. Baker said on the 17th of September 1991. These other statements that I have just read from were made by the Member on the 24th February, 1992. September 17th, 1991 is when all of us met with Mr. Gordon Baker who was the Head of the West Indian and Atlantic Department of the Foreign and Commonwealth Office. He could speak with authority for the United Kingdom Government. He began his statement with this (and I am reading):-

> "Mr. Gordon Baker emphasised that the United Kingdom's Government was not in any way trying to impose any constitutional advancement on the Cayman Islands, but based upon the Islands' request for a review of the Constitution the Commissioners were appointed and sent to do same.".

I hope that that argument will be put away; the United Kingdom is not going to impose on us something that we do not want. Indeed, the clearest indication of that is the fact that the Foreign and Commonwealth Office did not follow the recommendation of the Select Committee and of the majority of this House to bring in the new Constitution immediately after the next General Election. They are not going to impose it, they are going to wait and see what the people want. I think that that has to be made abundantly clear that there is no doubt in the people's mind that even though there is a Draft Constitution out there, all they have done is to put into that Constitution what the Constitutional Commissioners recommended, nothing more, nothing less.

I would now like to turn to the last of the main areas that I have and perhaps one of the most important because the continuity of this country depends on a stable and continuous Civil Service. The Dissenting Statement that we put in is found on Page 23, Appendix I. I am reading from the paragraphs (26) and (27):

"(26) PUBLIC SERVICE COMMISSION
(27) JUDICIAL AND LEGAL SERVICES COMMISSION

The Chief Minister and Leader of the Opposition should NOT be consulted on appointments to the Public Service Commission.

The INDEPENDENCE OF THE CIVIL SERVICE from political interference is fundamental to a stable Civil Service and stable Cayman Islands.

We feel that there should be no consultation of the Chief Minister in relation to Principal Secretaries or Heads of Departments until a much later stage when the new Constitution (if any) is working well and the Cayman Islands have adjusted and stabilised to it.

We feel that the Judicial, Legal and Police Departments should remain fully independent and free from political interference as at present and that the Chief Minister should not be consulted for any appointments to these Departments.

THE COMMISSIONERS' RECOMMENDATION IS DANGEROUS AND LUDICROUS AND WILL UNDERMINE THE INDEPENDENCE OF THE WHOLE SYSTEM OF JUSTICE.

BERMUDA, which has the most advanced Caribbean Constitution and has full internal self Government excludes consultation of the Chief Minister on appointments to the Offices of:

'Attorney General, Commissioner of Police, Deputy Commissioner of Police, Auditor" and "The Offices of Magistrate, Member of any other civil court subordinate to the Supreme Court and Registrar of the Supreme Court or the Court of Appeal and of such other officers of the civil courts of Bermuda who are required to possess legal qualifications as the Legislature may by law prescribe. (Bermuda Constitution Sections 83 and 89.'.

The TURKS AND CAICOS Constitution (Section 59) also excludes the Chief Secretary and Financial Secretary among most of those excluded from Bermuda.

We strongly recommend that the views of the Select Committee and the Constitutional Commissioners not be followed by the Foreign and Commonwealth office in any Constitutional amendments which are the subject of this Dissenting Statement.".

It has to be wrong to have a Civil Service that is subjected to the whims and fancies of one political leader. He will breeze in for four years and sweep out who he wishes to sweep out, sweep in who he wishes to sweep in and you will have a destabilised and a disjointed Civil Service. To me, the strength of this country has arisen and continued from the fact that we have a continuous Civil Service. They can look at the three Official Members and they know that decisions that they have made before an Election, they will be there afterwards to carry them out and to give further decisions.

While the Constitution only states that the Chief Minister shall be consulted on the appointments and the Governor shall appoint, we know that in practice that this means that the Governor rarely ever goes against the advice of the Chief Minister so that on appointments to the Service we will be having political appointments. This is not just my view. I would like to give a few references. I know time is moving on but the representations of ex-Governor Mr. A.C. Long, Mrs. Islay Connolly and Mr. Mark Panton on Page 3, on the Minutes of the 28th of August, 1991 stated:

"With due respect to the Commissioners this seems a most unfortunate proposal. To politicise the Civil Service in this way follows the American pattern when most senior officers in some town or city are changed when a Republican replaces a Democrat or vice versa. Up to now the Cayman Islands have avoided this type of practice.".

The written representation by Mrs. Jenny Manderson, Principal Secretary of Personnel at Page 12 of the Minutes of September 6, 1991 stated: "Political appointments to the Public Service Commission (PSC) can only lead to nepotism, victimization and ultimately chaos, corruption and gross inefficiency in the Service.". That in my view, sums up the situation here, that if this new Constitution comes in, I believe it is going to be the end of a stable and continuous Civil Service in this country. Indeed, even this morning, and not only this morning, I think the Member for Education once raised this, we find that the Pension Reserves are being looked at as reserves along with the General Reserves of the country.

I would like to move from that to another short point and that is that putting the advantages for a Chief Minister, one of them has been a phrase stating that Chief Minister is first among equals. That is a very polite description because what we have is a situation where the Chief Minister holds all the power in his hands and the balance of the Executive Council are as unequalled as they could ever come.

To put this perhaps in the way that I think it could be looked at, the Constitutional Commissioners stated at page 12 that the Chief Minister would be a single voice of authority. There is no question about first among equals - he is first. There is no equality after that. In many of the countries we know that signed undated resignations are taken from ministers when he appoints them. They are held in a safe

and when they become out of line, he pulls them out and he tenders them. That is not a question of first among equals, it is a man who has absolute power and a near dictatorship situation.

One other thing I wanted to mention on that is that the Constitutional Commissioners also stated that the Chief Minister would instill discipline among his fellow ministers. So no doubt of his authority. From there I believe that if we change the Constitution the way that the present draft sets out the position and which the Government and their supporters recommend, that the Cayman Islands is going to see a period of destabilisation which could result in further economic chaos for the country because investors are frightened when they move in to a place where one man holds all of the authority in his hands.

What a time to attempt to make this change! The motion was brought for the Constitutional review and that is resulting now in this Draft Constitution in the middle of one of the country's worst economic recessions in many years. The timing is bad. It could not, in my view be worse. Perhaps what the Government should have done or should be doing is trying to sort out the problems of the country rather than creating more problems. It comes down to a situation of the men in Government (I hope one day we will say the men and ladies in Government), because I believe that even if this Government had a perfect Constitution, they would have messed the country up the way it is; so a change of the Constitution is in my view, not the answer.

The argument given about first among equals is far better applied to what we recommend. We recommend that all Members of Executive Council under the Constitution are equal. They appoint a leader of Government (or the Standing Orders would provide it, whatever) who will be equal but would be a person to whom the people could go in the event of problems if they could not get it cleared by the other Members but without any of the powers that exist in the Chief Minister. In fact, no changes to the Constitution is necessary to do that at all.

The destabilisation has been perhaps most clearly put by the Cayman Islands Bankers Association's representations which are found in the meeting of the 6th of August, 1991, in a very short but perhaps one of the most moving and sensible statements that I have seen. In attendance was the President, the Treasurer and a representative of the Cayman Islands Bankers Association and it reads as follows:

> "On behalf of the Association, Mrs. Corbin stated: 'Our members have indicated a high level of satisfaction with the status quo. They all stress that political, economic and social stability are essential ingredients for the continuation of the Cayman Islands as a respected and successful international financial centre and hope that no recommendations would be made that would jeopardize that situation here.'".

What could be more clear? "Our members have indicated a high level of satisfaction with the status quo." The next line, "They hope that no recommendations would be made that would jeopardize that situation here." If we have the radical change that the present Constitution recommends, in my humble view you are going to see a period of destabilisation and chaos and it is going to continue for years to come.

As I now reach the conclusion of my contribution, I submit that the people of this country believe that the Exco Members should be appointed by the Legislative Assembly as they now are, not by a Chief Minister. I believe and I am for certain things that are in the Constitution, as obviously it repeats a lot of what is in the old Constitution. I want to make it clear that the only Constitutional advancement (I use the word advancement) that we have stated is to call Members, Ministers, as has been mentioned by the Constitutional Commissioners and the other parts that I will just refer to in an extremely brief summary such as the Bill of Rights, Register of Interest, are actually not an advancement of the Constitution. These are things that do not take the Constitution forward and in fact, some of these were agreed on by everyone anyhow.

I am for a Bill of Rights or Register of Interests, as I mentioned earlier, independence of the Civil Service and the judiciary from any interference by a Chief Minister or otherwise. Also, for putting Finance Committee back to where it had been for the previous 20 years of all Elected Members and the Financial Secretary as Chairman. I mentioned that I believe that Civil Service Pension should be as of right and not at the Governor's discretion. The Legislature should not be dissolved or prorogued on the advice of the Chief Minister. There should be no Chief Minister, thus all of his powers such as the right to hire, fire ministers, appoint portfolios, etcetera, power to dissolve the Legislative Assembly should not be given.

I am naturally for the provisions in the Constitution relating to Madam Speaker and the Deputy Speaker, Attorney General, Auditor General. I think these are good extensions that are in there, they do not advance the Constitution as such. The provisions relating to the Leader of the Opposition and all of his powers, I am also against. It really comes down as I see it, to a simple issue of who is for a Chief Minister and who is against a Chief Minister because if there is no Chief Minister, the position remains substantially as it now is.

I want to remind this Honourable House that the stability of the Cayman Islands has depended upon moving slowly and cautiously with Constitutional change which nearly all the MLAs agreed in the first submission to the Constitutional Commissioners when they submitted that there should be a gradual moving to a ministerial system of Government. All around the Caribbean, including Barbados where Commissioner Mr. Smith came from are in political and economic chaos.

I would like to leave with this House a few quotes from the Commissioners, they said on page 6, the last paragraph - "A group of Islands, prosperous beyond their wildest dreams.". On page 8 they said, "In the next 20 years, nothing less than an economic miracle took place. Gross National Product Is Now Higher Than The United Kingdom and Canada. The foundations for this spectacular

development were laid by Caymanians with little or no help from the outside.". I believe that the people of the Cayman Islands have the good sense not to radically change one of the main things that has made the Cayman Islands prosperous and God-fearing in the way they are today.

I would just like to remind this House that the determination of whether we get a Chief Minister and an advanced Constitution will be dealt with when the people make a choice of candidates in this Election. Basically, the question is going to be decided by the people of this country in this General Election coming in November. If they choose candidates and Members who are for a Chief Minister, they will get a Chief Minister after the Elections.

If they choose me and others of us with similar views that there should be no Chief Minister, and that we should merely move to a ministerial naming of the present Members and appointing a Leader of the Government with no powers whatsoever that the Chief Minister has, and which does not even need a change of the Constitution to do, then they will not get a Chief Minister. It is going to be a difficult and serious Election and I can only pray for God's guidance in this most important matter.

Thank you.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. I feel moved to speak after the Third Elected Member for George Town because other than to deliver misinformation to this Chamber since yesterday until today, he has done little else beside try to place myself, Gilbert McLean, Second Elected Member for Cayman Brac and Captain Mabry Kirkconnell, First Elected Member for Cayman Brac, in a light that one would consider we are either traitors or bumbling fools. I do not wish to attempt to speak for my colleague Captain Mabry Kirkconnell. I never have because as I have observed over the past four years he is quite capable of speaking for himself in his own inimitable way. I, however, must speak for myself.

Madam Speaker, you have given the widest latitude in this debate to the Third Elected Member for George Town, times I am sure when the Chair was aware that some of the things he was saying was absolutely irrelevant and in good conscience or because of the matter being discussed, he was allowed to continue.

MADAM SPEAKER: Honourable Member, please do not presume to think what the Chair thinks.

MR. GILBERT A. McLEAN: Madam Speaker, it was an assumption and I was expressing a personal opinion, not to assume what the Chair thinks. The first thing I want to say is that I believe the Third Elected Member for George Town sees himself as the only person in this country capable of filling the position of Chief Minister, that he talks so much about. But he has a fear that if the democratic process would be allowed to take place, he might not be chosen and so the solution to that is that there should not be a Chief Minister for the Cayman Islands.

As I listened to what has been said, it brought to mind one of Aesops Fables, the one of the eagle, the cat and the wild sow. As the story goes, an eagle had built her nest at the top of a high tree; a cat with her family occupied a hollow in the trunk half-way down, and a wild sow and her young took up their quarters at the foot of the tree. They might have gotten along well as neighbours had it not been for the cunning of the cat. Climbing up to the eagle's nest she said to the eagle, "You and I are in the greatest possible danger. That dreadful creature the sow, who is always to be seen grubbing away at the foot of the tree, means to up-root it, that she may devour your family and mine at her ease." Having thus driven the eagle almost out of her senses with terror the cat climbed down to the base of the tree and said to the sow, "I must warn you against that terrible bird the eagle, she is only waiting her chance to fly down and carry off one of your little pigs when you take them out, to feed her brood with." She succeeded in frightening the sow so much, as much as the eagle. Then she returned to her hole in the trunk from which, feigning to be afraid, she never came forth by day. Only by night did she creep out unseen to procure food for her kittens. The eagle meanwhile was afraid to stir from her nest and the sow dare not leave her home among the roots, so that in time both their families perished of hunger and their dead bodies supplied the cat with ample food for her growing family.

Madam Speaker, had I not been in this House and heard all that was said by the Third Elected Member for George Town, I could not have believed that a Member could premeditatedly, deliberately stand in this House to confuse the issue - which, supposedly, is to debate this Constitution. The Member did not debate this Constitution because he is so anxious for the people to hear the positions on. He went into the Minutes of the Select Committee, picked out the pieces some people said - particularly myself - and presented them so out of context they must give false impressions. I am not quite sure why this Member has not been able to make a speech now for the past several months without getting me into it. I have seen fit to remove myself from instances where he summons his minister's council, and I do what I believe is right for the people that I represent, guided by the facts which are available to me. As I said, my colleague from Cayman Brac also endures similar.

I must state again, that I have had disagreements with the First Elected Member for Cayman Brac on various national issues. I disagreed with him on the passage of two tax packages. I disagreed with him, for example, on the voting for the $20 million for Cayman Airways. I disagreed with him, for example, on Motion 3/90. . . but as I stretch my mind I cannot think of any disagreements with him when it came to issues where Cayman Brac is concerned. I am capable of disagreeing with him in a gentlemanly fashion and in dealing with him as the other Elected Member for Cayman Brac, as I am duty bound to do. There is

an immense difference between that attitude and what was here displayed by (what I hear so much reference to) a majority.

The Member for George Town, in a snippy, ratty kind of fashion, continued throughout to hit at me and snipe at me, trying to give the impression that I am something other than a mortal, and about to bring down fear and trembling and disaster on this country - supposedly, because of the things I said in the Minutes, which are available to the world, and which, in every instance he took out of context. I was never for one moment of the opinion that this motion came here for any reason other than for such political sniping. The truth is (and I am going to deal with the truth for the time that I have to speak), this debate is virtually irrelevant. It means nothing!

The Third Elected Member for George Town again went on quoting bits and pieces, but he never did get around to the truth of what is here in the letters from the Foreign and Commonwealth Office (FCO) and the Governor on FCO's behalf. Again, he snipped and pulled out pieces from these, and I just want to read a section which will bear out what I am saying, of what the Governor issued on behalf of the FCO dated July 28, 1992 through the Government Information Services. It says:

> "November to December - formation under the present Constitution and debate on the Draft New Constitution in the Legislative Assembly or later at the Assembly's discretion.
>
> December 1992 to January 1993 - recommendations of the Legislature sent to the Secretary of State for consideration - current Constitution remains in force.
>
> In early 1993, the Secretary of State's reply will be sent to the territory.". How early is early, it does not say.
>
> "Thereafter, the implementation of the new Constitution. Only at that stage will the current Constitution be set aside.".

That sounds to me very clear that the Government of England is going to send a new Constitution. Why the majority of what was said by the Third Elected Member for George Town is irrelevant is borne out in the next paragraph.

> "The Secretary of State has asked that it be emphasised that apart from some minor non-controversial points the Draft Constitution, which has been forwarded to the Cayman Islands is based only upon the Report of the Constitutional Commissioners.
>
> The recommendations of the Select Committee of the Legislature although duly noted by Ministers have not been included.".

For the Member to ramble into bits and pieces of this document is therefore absolutely irrelevant.

Let me also read what the Minister Mr. Mark Lennox-Boyd has to say in a letter written to the Governor on the 22nd of July, 1992. It reads:

> "Dear Governor,
>
> RE: Report of the Constitutional Commissioners 1991.
>
> Thank you for your letter of the 1st of November to the Secretary of State forwarding the Report of the Select Committee of the Legislative Assembly, adopted by the Assembly, on the Report of the Constitutional Commissioners 1991.
>
> Please pass to the Members of the Select Committee my appreciation for the valuable contribution they have made to consideration of the report and to the task of preparing a new Constitution for the Cayman Islands.
>
> Having given careful consideration to the report and the recommendations of the Select Committee, I have decided that it would be right to await the outcome of the further debate [the further debate, I repeat] on Constitutional change which will take place during the forth coming election campaign before proceeding.
>
> After the election we would want to take into consideration the views of the new Cayman Islands Government before reaching any decision on the final forms of the Constitution.
>
> I enclose a preliminary draft of a possible new constitution which should form the basis for discussion in the run-up to the elections in mid November. Once the elections are over and the new government has been formed, there will, no doubt need to be a debate on the new constitution in the Legislative Assembly.
>
> I would like to have the recommendations of the new Assembly before coming to any final decision. This draft is therefore a discussion document which will need to be revised in due

course."

And he adds, "I would be grateful if you would pass the contents of my letter to your Government and Members of the Legislative Assembly and arrange for it to be published in the Islands, together with a draft of the new Constitution.".

I think that is extremely clear as for what I said at any time in this House and in reference to the Constitution, I shall take the opportunity of making clear to this House in the context that I made any statement whatsoever.

MADAM SPEAKER: Would you be prepared to do that after the luncheon suspension?

MR. GILBERT A. McLEAN: Yes, Madam Speaker.

AT 12:55 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:23 P.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues on Private Member's Motion. The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Madam Speaker, when we adjourned for lunch I was making the point that the debate at this time (as far as anything binding on a position taken in this goes) is irrelevant. This could have been a good opportunity for the Member who moved this motion, to deal with the new Draft Constitution - which he did not! - and to state where he stood on it - which he did not! - and that was alleged to be the reason why it is coming to the House. The various quotes picked out of the Minutes of the Select Committee only caused to misinform the public as I believe was the intention.

The statement made in the release by the Governor clearly emphasised that recommendations of the Select Committee of the Legislature, although duly noted by Ministers have not been included and it states further, that the reason for this is to allow the new Legislature to re-submit the previous recommendations, to add to them or to modify them as they may desire and to forward its views to the Secretary of State following the November Election. I will do my best to stay away from personalities in what I have to say in this House, though many, if not a majority, do not do the same. In this particular instance the Third Elected Member for George Town went out of his way to take me to task.

He fulfills in this House by deed and actions, a particular role in which I believe he represents clearly certain interests - lawyers', banking interests, Chamber of Commerce, etcetera. There is nothing wrong with that if it does not go to an extreme. I am an ordinary Member of this House, and all I can claim to represent is the people in general. I do my best to take a balanced view between the corporate side, the individual and so on, but I resent this condition where this Member would posture to be some particular saviour of myself, and that this country and lessor mortals as myself, are acting in a way which is to the detriment of the country.

His interests and my interests are very varied. For example, I look at the 1991 Annual Report of Cayman National Bank and on page 1, I see the photographs of six people who are named in the caption below, "Mr. Norberg Thompson, Mr. David Tremble, Truman M. Bodden, Peter A. Tompkins, John C. Burley, Benson O. Ebanks." Over the past years I have been in the House, I have watched with some amusement when the Member attacks the Member for Education, and I wonder if that same attack occurs when they sit on the Board of their bank? I wonder, in instances when I see the Member for George Town take on the Member for Tourism on Cayman Airways, whether he does that otherwise when a company of his has the rights to the in-flight magazine on the airline? These things are not lost on me, and a lot of things I keep inward without having anything to say about them. But I think these are things which need to be justifiably brought forward at this point in time.

In some countries such relationships might be considered conflicts of interest, and one could even imagine in some cases or extremes, that one could be worried about insider trading. Madam Speaker, I do not want the Member to posture to be any holier than thou, or to cast me in any light as if I am a person acting not in the best interests of my country. I might say here that I do not have the benefit of the *Caymanian Compass* making sure that irrespective of what I say, however ridiculous, that it sounds good when it comes out in the papers; and I think the Member has the benefit of that due to the association of his former employee (a lawyer) who is the editor by association of the *Caymanian Compass*. I do not think that I have the benefit of any brother-in-law calling around on the Brac to assist my position as I know is the case where a brother-in-law calls around to create mischief for me in Cayman Brac. Nor do I have any female insurance agent who goes around attempting slyly to sow seeds of discontent or whatever against me.

MR. TRUMAN M. BODDEN: Raising a point of Order, this is irrelevant to the matter. It relates only to personalities and I would ask that the Member come off it.

MADAM SPEAKER: Honourable Member, I was listening and I would just ask if you would continue with the debate without further involving other persons please.

MR. GILBERT A. McLEAN: Madam Speaker, I bow to your ruling in this matter, but things have reached a point where I believe I need to make my position very clear to the House and to the people.

Last night, people listening to the radio in Cayman Brac called me to ask me what was it that this Member had against me and Captain Mabry Kirkconnell? I told them to keep listening and they might find out. They also said they were confused. I said I could understand why.

I think what has been said here during the debate of this Member also has insulted every Prime Minister and Chief Minister in the British Commonwealth of Nations where he implied (and in some instances stated) that once you are the Head of a State you are virtually guaranteed to be corrupt. I think such implications and innuendo in a Parliament in the Commonwealth is absolutely out of order.

Lastly, in reply in regard to the personal statements which he made concerning me, I have to make it clear that I am not controlled. It is my opinion that he controls others in this House. I am controlled by the people of Cayman Brac and Little Cayman, by my conscience, and by the facts that clearly point me to do what is right. If he has a problem with that, I am much afraid he will have to learn to live with it.

I wish now to deal specifically with points which were made by the Member in the course of his debate. I do not know where he got the impression that depending who the public votes for or does not vote for, it will mean a Chief Minister or not to have a Chief Minister. I have seen no such correspondence from the Foreign and Commonwealth Office that leads me to believe that story. If this country is to continue to have a relationship with the United Kingdom Government where we remain a dependent territory, Her Majesty's Government will have the ultimate word as to whether there will be a ministerial government or not. I may say, and I will speak on it in more detail further on, that Her Majesty's Commissioners sitting in the Conference Room of this Legislative Assembly, told us absolutely and specifically that it is not possible to have a ministerial system of Government with ministers where there is not a Chief Minister among them. Now, if the United Kingdom Government should do otherwise, that is entirely left up to them. What it will do is indeed make the position of the Commissioners on the constitution one of falsehood.

The Third Elected Member for George Town began by going into great detail to try to convince the public that only the four Elected Members of Executive Council and the two Members from Cayman Brac voted for the Select Committee Report. That is a falsehood! It is false! I would like to read for the records of this House who comprised that committee. Here their names are listed and they are not 'Member' this or 'Honourable' whatever. Mr. Norman Bodden was the Chairman of the Committee, Members were: Mr. Benson Ebanks, Mr. Ezzard Miller, Mr. Linford Pierson, McKeeva Bush, Mr. John Jefferson Jr., Mr. Truman Bodden, Capt. Mabry Kirkconnell, Mr. Gilbert McLean, Mr. Roy Bodden, Mr. Haig Bodden and Mr. John McLean. Twelve Elected Members formed that committee.

First of all the Report is the Report of that Select Committee. On the last day that that committee met, certain Members began to immediately jump on the band-wagon that they wanted to put in Minority Reports. Some people signed this Report. I was one of them because I would never be so stupid as to spend one-year-and-a-half in a committee and when the time came for me to sign that I was a member of that majority view, not to sign it. This Report was signed by seven Elected Members. Included were: Mr. Norman Bodden, Mr. Benson Ebanks, Mr. Ezzard Miller, Mr. Linford Pierson, Capt. Mabry Kirkconnell, Gilbert McLean and Mr. Roy Bodden. Seven Elected Members signed this Report, the entire Report, which in effect made a Report of the House. Ten Members of this House voted to accept it, those seven Members including the three Official Members who are full Members of this House under our present Constitution.

Other Members signed a Minority Report and there were two Minority Reports. One was signed by Mr. Truman Bodden, one by Mr. McKeeva Bush, one by Mr. John Jefferson and one by Mr. John McLean. Four Members signed one of the Minority Reports. The other Minority Report was signed by Mr. Haig Bodden, Mr. Truman Bodden, Mr. McKeeva Bush, Mr. John Jefferson and Mr. John McLean. These are the facts of that situation existing in this Report, which are available to all Members of the public. That is the truth of the matter.

The Members said that the matter of the constitution began when Government lost its elected majority and what happened in Motion 3/90 could not solve the change in the constitution and that if the constitution had a ministerial government in place it would not have made a difference. He stated that it was the people involved. Well, what happened (as I think most people in the country know) was that three Elected Members, namely, Mr. McKeeva Bush, Mr. Franklin Smith and Mr. Roy Bodden, withdrew their support from the Elected Members of Executive Council who they supported when the House was formed.

Again, the Commissioners said that if the ministerial Government was in place at that time when the four Members/Ministers lost their majority, there would be two courses open: either the Governor could ask the three Members who crossed the Floor and joined with Opposition whether they could form a Government or not, and go through the process of electing within the Chamber, or he could have called an Election. I well remember that there was a national cry to call an Election at the time. I said it; other Opposition Members said it; various groups said it because of the situation which existed. The Governor acting in his discretion on the advice of his Executive Council chose to change the Finance Committee, which gave the Government of the day the majority, if needed, to pass money bills, which it had lost because of the situation that occurred. Having gotten the commitment of one vote they were able also to pass bills in the House in the Finance Committee.

I am not saying that I agreed with that situation, I did not. I do not agree with that situation now. I am stating that those are the facts of the matter as it truly exists, Madam Speaker. Whether or not it pleases me or it pleases the House, a majority vote, or division in this House, is a majority division and I try to live up to the idea that democracy demands a majority.

This Member for George Town also talked about the Private

Member's Motion which was moved and passed, bringing about the Select Committee. Here, I have to know some little thing about this since I was the one who moved it. Let me say that I tried prior to September 1990, to get the motion on the Floor. The reason why the motion did not come on the Floor in time was that I had to seek to suspend the Standing Orders (which was rejected), because the Third Elected Member for George Town would not agree to the recitals in the terms of the motion. Basically at the time there were only two Members among the Elected Members I was associated with who were willing and who gave the necessary support. When it finally came it was too late and it was voted down.

The reason why I thought it was right and proper to have a Select Committee was because it was my belief that if the House did not form itself into a Select Committee, where all Members were there, there would be the accusations that this one did that and the other one did the other thing. Madam Speaker, how right I was, because even with the 12 Members there, the First Elected Member for Cayman Brac and I are being accused of being the ones that passed the Report of the Select Committee.

These recitals were drafted by myself in consultation with the other Elected Members I was associated with and certainly in consultation with the Government Members. To reach an agreement as to what it should say, and what we wanted to occur, I must say in truth and honesty that the Government Members, to the best of my knowledge and belief, certainly played the game fair in terms of what is here. I wish to read what I drafted. It was not any accident, Madam Speaker, it says:

> "BE IT THEREFORE RESOLVED that a Select Committee comprising all Elected Members of this Honourable House be established;
>
> 1. To examine the present constitution in the light of Member's experience of working with it and to formulate a submission to the Constitutional Commissioners.".

[I will speak to that in a moment, because again, that was thrown in at different points which would totally confuse any genius.]

> "2. To consider the Report of the Constitutional Commissioners once it is tabled in the Legislative Assembly and to invite representations and here witnesses thereon.
>
> 3. To consider whether any recommendations necessary for the conduct of a General Election should be implemented prior to a General Election.
>
> 4. To report to this Honourable House upon consideration of the Commissioners' report.".

I would like to pause there, Madam Speaker, to say that the Select Committee met and made recommendations to the Commissioners prior to and before we had the benefit of the Commissioners' expertise. This was agreed and this was so because in meetings among ourselves as Members, and also with an understanding that the Governor and the FCO wanted to get it in the raw what the thinking was of the 12 Elected Members. That is why that was done.

One of the points made in our first recommendation to the Commissioners was that the Committee wishes to see a gradual moving into a ministerial system of Government and considers it prudent to make provisions in the Constitution. I believe that the majority of Members put that there in good faith because, I, for one, believed that there were stages to go. In fact, I was privy to seeing the book which the Third Elected Member for George Town had which to the best of anyone's belief then that was the text which set down exactly what the steps of constitutional government was.

The Member yesterday was guessing that it was written or published some time in the 1960s. I would like to table the two first pages of that book, which shows that it was first published in 1960, which is 31 years ago. I would like to table this, Madam Speaker. At that point in time, Members believed that the gradual moving was what had to be done. When we sat with the Commissioners, the Commissioners told us clearly and to the point, "Gentlemen, there is no in-between step from where you are now to the ministerial government". There is no in-between step!

I would like to refer to these Minutes too, and I will not refer to them too much, and it is in the Minutes of the 29th of January, when we met with the Commissioners and I will quote:

> "Mr. Truman Bodden suggested to the Commissioners that Cayman is not the British Virgin Islands or any such other dependent territory and that it cannot afford to be experimental. He expressed the view that there was a stage that could be taken before stepping into internal self government, i.e. stage 1 where there are quasi Ministers who become full Ministers with administrative responsibility added; and stage 2 where provision is then made for the Office of Chief Minister - which stage is arrived at when political parties are well enough developed.".

I read the whole paragraph, I am not picking out phrases. I quote:

> "Mr. Wallace, in recognising the quotation to which document Mr. Truman Bodden referred, noted that it was written 35 years ago.".

We were faced with a situation. Here we were sitting with Her Majesty's Constitutional Commissioners, one a highly respected and learned Appeal Court Judge, Commissioned by Her Majesty; the other one, Mr. Wallace, who, until now as far as I know, is the Advisor on Colonial Affairs to the FCO. They were telling us, "Gentlemen, there are no stages in-between, if you move from where you are you will go to the ministerial government." How was anyone rightly thinking going to say to them, "Well listen Commissioners, here is the book 35 years old and you have to follow this here in 1991"? That is what was suggested, and I know that the Third Elected Member for George Town loaned that book to Mr. Wallace who read it and that is why the Minutes say (recognising where it was coming from) he noted it was 35 years old. He was a few years off, it was 31, but the point is still made - one generation away. They told us, the Elected Members, it was no longer the style of the British Government, nor was that the way they administered their dependent territories anymore, so what were we, as sound thinking people, to do but to accept the words of the Constitutional Commissioners?

As I said, if the Third Elected Member for George Town can instruct the FCO to go against what their Commissioners told us, I cannot be responsible for that. With the power with which he put forward his views, perhaps he can. Mr Hurde might listen or do as he is instructed. I will wait and see.

He next talked about the new Constitution being brought into effect immediately after the Elections. I wish once again to refer to the recitals in this motion. Number 2, we were to consider the Report of the Constitutional Commissioners and that is what we did. It was not myself or the First Elected Member for Cayman Brac or any such specific people who dreamed up the idea of the Constitution coming into effect immediately after the Elections. The Commissioners made that recommendation. Here, I wish to say that at no time did I ever have the impression or did I get the impression that everyone in that Select Committee did not believe there would be constitutional changes. The question was, when they would be implemented. That is why there was section 3, which says the Select Committee should "consider whether any recommendations necessary for the conduct of the General Elections should be implemented prior to the General Election prior to the General Election.". Well it did. The Select Committee recommended an increase of three Members in this House and Her Majesty's Government acquiesced to it and by an Order in Council in November, there is supposed to be 15 Elected Members instead of 12. So that was done.

That being the case, again, it was clearly stated by the Commissioners that after the Select Committee of all the Members had gone through it, made its recommendations, the United Kingdom Government would take into consideration what was made and that after the Elections the Constitution would immediately come into effect. Here I wish to make it clear that it was not the Third Elected Member for George Town and his Minority Report that talked about this Constitution coming in after the Elections. It was in my motion because the second Resolve said, "BE IT FURTHER RESOLVED THAT this Honourable House recommends that the implementation of any recommendations for constitutional changes, with the exception of the increase in the House, should take not take place without the changes being the subject of a General Election". So that was not the claim made by the Member that that was the Minority Report that saved this country from the terrible act which I was attempting to impose upon it. That is in the motion that I moved, so that again, sheds the light of truth upon the matter.

Yes, the Select Committee made a recommendation that part 2 of that Constitution, which everyone expected would be coming into play, would be immediately implemented after the Elections. We were not on a limb by ourselves because here is what the Commissioners said. On page 20, under the Heading Date(s) of Coming Into Force and it reads:

> "1. Though not perhaps required to do so by our terms of reference, we believe it to be relevant to our review to complete our considerations by giving some thought to the date (or dates) any amended Constitution might be brought into force.
>
> 2. Assuming that it may take several months to exhaust local debate on our report--and several more months to complete the drafting of amendments--we would recommend that the section on the increase in the number of elected members of the Legislative Assembly should be brought into force (assuming an increase is finally agreed) by, say, April or May 1992."

That was done.

> "This would allow time for the necessary consequential amendment to the Elections Law to be made prior to preparations for the next General Election, due in November 1992."
>
> That has been done. And I quote here the point made by the Commissioners:
>
> "The remainder of the amended Constitution would then be brought into force immediately after the election.".

That is where those magical words came from. The Select Committee largely followed the recommendations of the Commissioners, although there were sections and items which we made recommendations on, which are not included in the present Draft Constitution and the point has been made that the British Government deliberately did not put them in there. The Third Elected Member for George Town went on to say that the Second Elected Member for Cayman Brac in February 1992 had set about not accepting what the Governor had said in his correspondences.

What I said in February was that it was my belief, my understanding that the British Government would have a new Draft Constitution which they would send to these Islands and this new Draft Constitution is here. Now the fact that they have chosen to set a timetable, as they have, is different than the way the Select Committee saw it and their Commissioners saw it. They have made up their mind as to why, I am sure. But I certainly do not believe that that was because a minority group of Elected Members stood like little Peter blocking the hole in the dike, that is why they did it. I do not buy that at all. It is my opinion that our Governor who is departed in haste made a statement as to the implementation process and so he was obliged to follow through with that position and the result is the way it is now.

I will show during the course of my debate why I see a serious problem in the implementation stage or the coming into effect stage of part 2. I wish to state here that the only reason that the Commissioners accepted an increase of three more Members in this House was that they also accepted the position that there would be five Members of Executive Council (or Ministers) and they wanted to maintain a two-thirds majority on the Backbench, which would be five in Exco, 10 on the Backbench.

The Member also read where the Minority Report said that there should be a referendum. Well, the recommendations of the Select Committee ask that the matter of referendum be entrenched in the Constitution and it was not done, at least it is not in this particular draft. Let me say here that the Commissioners told us they did not believe that it needed to be in the Constitution. They made the point that it is not a British thing. It is more American. I suppose they are right. I will not argue the point. I certainly see nothing wrong with having a referendum provision there and I was one who agreed to it. The Commissioners did point out that if we wished to have a referendum law it could come as a separate and individual piece of legislation. So that is no great shout and holler either, in my opinion. He went on to say that the two Elected Members for Cayman Brac and Little Cayman supported a cut-and-dried constitution without an election. How false, Madam Speaker, because in the motion that I moved in September 1990, I said that it should not be implemented until there was a General Election. Cut-and-dried by whom? He must have been speaking personally.

My notes show me here that he went on at great length to quote from the Minutes of the Select Committee which have not been accepted or the recommendations not accepted, where he quoted himself. He quoted the Member for Education, he naturally quoted me and he quoted the Member for Health. He went again to quote me that I was trying to have a cut-and-dried constitution put into place. Madam Speaker, it is so pathetically ludicrous, one would swear that I had been commissioned by the British Government to write a constitution or indeed that I had the ability to do so. How absurd and ridiculous! Purely with the intention of attempting to make me look bad politically and to confuse the people as to the truth of the matter. As I have said, his claim that it was those gallant gentlemen through a Minority Report that stopped the constitution from coming into effect which would have spelled disaster for this country, I do not buy. I am sure that other intelligent people would not do so either.

He went on to note the timetable is against the recommendation of the Commissioners, the Elected Executive and their two Members from Cayman Brac and Little Cayman, again. I have certain concerns about the timetable and I will indeed speak to that particular condition for I think that could have very upsetting effect on this country. It might be appropriate at this time to speak to that because it was there that I noted in my debate on the Throne Speech in 1992, my concern. That is why I said that if it was not brought into effect on the day of swearing-in, what a problem there could be, on the basis that if it was to be brought in it could cause chaos that the Member refers to.

Now, I would like once again to refer to the timetable as issued by the Governor on behalf of the FCO. It says that in:

> "November - December: Formation of the Government under the present Constitution and debate on the draft new Constitution in the Legislative Assembly." [and that] "Recommendations of the Legislature sent to Secretary of State for consideration.".

Early 1993, no one knows what is early in this context. But let me postulate that early means about April or May. The Secretary will reply and then in the next step it says, "Thereafter the implementation of the new Constitution and only at this stage will the current Constitution be set aside.". I would like to think of the scenario as I stand here and see this House presently set up with the same three gentlemen perhaps as Official Members and the same four Members over there as Elected Members. They would not be there because we have been assured that the Election has already been won and those four Elected Members there will not be on that side, so it will be four other Elected Members. The situation is now, this House says to the three Official Members and the four Elected Members, 'go ye forth and run this country'.

Now if they are running this country, the new Government, and running it like it has never run before, what happens when and if the United Kingdom says, "I wish now to implement a new system?" Madam Speaker, we are not talking about a change here of certain items in the Constitution that would strengthen or add like the Bill of Rights and so on, we are talking about now a changed system. From one where the Elected Members choose four members to sit on Executive Council, to one where the Elected Members will choose one person who in turn would ask the Governor to appoint four others. We are talking about a changed system.

What will happen to the four Elected Members? In a paid advertisement in the papers, after the Caymanian Compass wrote an article on the front page, and after the editorial attempted to make me look in the same way the that the Third Elected Member of George Town tried to do, I paid to ask that question, will the four Members be denounced? Will you say to those four Members, "Very well boys, you have served well, now I am suspending that Constitution and you will no longer be Members of Executive

Council"? I am sure everyone in this country can imagine what that will mean because on the change of any government, once it is in place people settle down. Various interests line up behind the government and expect that things are going on. Can and is it right within a few months to disrupt that process to institute a new system?

That is the question that I asked and that is the question that is unanswered and that is the question that His Excellency the Governor, who is departed, could not answer to date. I hope someone has an answer because there is talk about chaos now I see chaos there because if that new system is to be implemented it is a possibility that the four people who are chosen originally, might not be either one of the people on the Council. That is the point I made, Madam Speaker, no more, and no less. I believe that is a serious question to be answered in the timetable of implementation of a new Constitution.

I believe that the United Kingdom Government should tell us what is their formula for implementing a ministerial system where we have this present type of system and what really happens. And how do you dash aside the four people that were originally chosen? And how do you put in a position of ministers with a Chief Minister? The gradual movement that we thought could come about according to the Commissioners, not according to me, we were told that if you move from here you will move to a ministerial form of Government.

Let me just interject here that this great mystery and profound radical change was something that was not given such shocking or trembling statements by the Commissioner in 1971, namely the Right Honourable Earl of Oxford and Asquith, because this is what was said and I would like to quote from page 15:

> "31. Responsibility of members of Executive Council for particular subjects and departments of Government.
>
> At present, unofficial members of Executive Council are (non-constitutionally) "associated" with various subjects and groups of departments. They are invited to take a special interest in the subjects and departments with which they are associated and to take a leading part in the discussion of policy or legislation affecting them. They have, however, no authority in relation to the departments. There is widespread feeling that this form of "association" is unsatisfactory and too shadowy a one, and it was strongly urged to me that the members in question should be given (constitutionally) more effective responsibilities and a defined authority in these matters.".

Madam Speaker, I have heard the majority of Members in this House saying those same things and definitely I have heard a majority of the members of the public saying they wish their Elected Members to have more authority and responsibility and this was in 1971, so that is 20 odd years ago. One would think it would intensify, if even a little bit.

The Commissioner goes on to say:

> "What in fact is wanted resembles what used to be called the "Membership" system, normally regarded as a short-lived and somewhat uneasy stage on the way to full Ministerial system. In the circumstances of the Caymans it might have to be envisaged as lasting longer than usual since the concept of a Ministerial system does not at present find favour with most Caymanians. There are some difficulties in the "Membership" idea, but I have become convinced that if public opinion is to be satisfied, a significant step in this direction must now be taken.".

Twenty years ago, Madam Speaker. At this point in time when Her Majesty's new Commissioners come 20 years later, they have evaluated the position to be that indeed what the public said to them, and they stated this to the Elected Members, that the people were saying to them that they wanted their Elected representatives to have more responsibility and authority and they said to us that the only way that this could be realised would be through the ministerial system which, the Commissioners 20 years ago recognised. The paragraph goes on to say:

> "The main difficulty will be how to define the limits of the Members' authority." [And that is still a problem.] "This, I think, must be largely left to administrative direction and the provision in the Constitution itself should be as flexible as possible and should be phrased permissively.".

It has been phrased permissively and that is why we have our present Constitution which says in section 9 Assignment of responsibility that:

> "...the Governor acting in his discretion shall to the extent that he deems appropriate charge Members of the Executive Council with responsibility for any business of the Government (other than matters mentioned in section 7(1)(c) of this Constitution) or any Department of the Government.".

It has been written into our present Constitution permissively but there is one thing to be noted here and that is that they will not be given responsibility for any Department of the Government.

I intend before I am through to show the difference between this present Constitution of membership system and what the ministerial one means. I must say, as I listened this

morning to the Member for Health replying, about his responsibility in the Portfolio that he is right! He has been asked to take the responsibility for this but he does not have the responsibility for the Department, or for that matter, to direct the way that his Principal Secretary can actually do the job. Informally it is done. Practically that is the way it is functioning. That is why the Commissioners said that we are in effect under a quasi type of ministerial government. That is why the Principal Secretary for Tourism will not blatantly look in the face of his Member and say "buzz off I am not going to do it" and so on. That is why all the other Principal Secretaries will not do that because practically and informally that is the way it is done now. The present draft simply seeks to formalise what is happening to a large extent at this time. That is a fact of our present structure within our public administration.

As I said, this gradual change into ministerial government, which in good faith was placed there by the Elected Members of this House, in majority, we learned that the change would come about in a fashion which could not be gradual as we originally expected or believed that could happen. And so from the stage where we made our first submission, understanding only to the extent that we did at the time, we looked again, after the consultation with the Commissioners and after we gave them our submission, finally to once again look at the situation and to make recommendations.

Naturally after the Commissioners left they sent back their report. In that Report the Commissioners made recommendations for a ministerial government with the appointment of a Chief Minister provision. That the Third Elected Member for George Town is against the idea of creating the post of Chief Minister, I am not surprised. Because generally it appears most progressive moves in the country he does not want to see done. He was against the creation of the post of Speaker, although that had been in the Constitution for 20 years. He voted against it in the first instance and in the second time that it came to the House, the only Elected Member from the Opposition that was not for its institution then was he, himself. And it was a surprise to everyone when he voted, including the President, who was removed from the Chair, due to the passage of that motion. So I am not surprised about his reluctance to see the appointment of a Chief Minister. But surely, his statements that the powers of a Chief Minister are serious, drastic, absolute and unfettered, is exaggeration that should surely make everyone in this country shudder.

That is not the truth with a Prime Minister/Chief Minister and perhaps it only obtains with countries where there are military dictatorships or in the former Iron Curtain that now has ceased to exist. Even then in Russia we heard that the Presidium had to give the Secretary General certain powers and they could take them away because indeed it got rid of Khrushchev and others, so even then those statements are drastic, exaggerated and false.

I wish to read from what the Constitutional Commissioners said about the creation of the Post of Chief Minister. I am not going to attempt to pick little pieces out of it, I wish to read it in its entirety. It is not very long. It is on page 12 under the heading "Creation of the Post of Chief Minister". It reads:

> "Of all the issues raised during our review, there is none more controversial than that of the proposal to create the post of Chief Minister. It is also a key issue on which many of our other recommendations depend. As a result of the submissions made to us on this issue, we gave it particular consideration and, in arriving at our recommendation, we took into account each and every opinion which was expressed to us, whether by individuals, groups or organisations. We are of course required by our terms of reference not merely to ascertain but also to evaluate opinion. We are in fact in no doubt that firm opinions in favour were generally held by those with long and distinguished public service and thus in the best position to judge, whereas the opposing view was held either by those who believed that there was no need for any change of any sort or by those who for personal or political reasons merely wished to deny to anyone else the opportunity to rise above his equals.".

And we know who the Commissioners were talking about. They are not my words, I am just reading them. They are the words of two foreigners, who came here employed by the British Government to do a review. They were here for no more than about 30 days and in that 30 days and we can believe in less than that, listening and seeing different people and so on, they came to a conclusion and an evaluation, that they could make that statement. Madam Speaker, I am not flattered by it, but the statement is contained there. It continues:

> "We ourselves have no doubt whatsoever of the benefits that would accrue from having a Chief Minister. He would be a leader--and how often during our review did we hear the legitimate complaint that the Cayman Islands Government is "leaderless.".

Madam Speaker, I have heard that shouted across this Floor, 1,000 times from this side of the House at the Government side. They are simply confirming it that they found this as what was said to them that the Government and the country is leaderless. "He could provide political direction to the policies of the Government and instill discipline among his fellow Ministers.". Naturally, I do not see any frightening thing about that. That is what he would be there for. A pastor in a church instills discipline and good advice to his people, his flock, his congregation. A head teacher instills discipline in his other members of staff where they may slip off the line. The captain of a football team can pull up one of his players and say, look you are doing foolishness, you are supposed to stay on the front line, you are playing backward, leftback. So what is the great shocking story about instilling discipline in his Ministers? "No one can do this at present.".

No one can do this at present and here the Commissioners are obviously referring to the fact that the four Elected Members of Executive Council, there is not a single one among

them who can say to the other three, "Look gentlemen, this has to stop. We are catching too much flak, we have got to take a general position on this". There is no one who can do it. But as I look across the Floor, I see represented in the gentleman that is in the Chief Secretary's position, the person who can say to the whole of the Cayman Islands Civil Service, here is my circular memorandum on such and such. He can instill in the civil servants. No one can instill in the Elected Members of the Executive Council. We can have a Chief Secretary but we cannot have a Chief Minister.

It goes on further to say: "His position would be recognised internationally.". Everyone expects that there is going to be a political head in any country except the Cayman Islands and we have people saying what a wonderful thing it is to be headless chickens, running around the place, saying we are all politicians. "He would be a single voice of authority to whom many could turn.".

I just to pause there on that point. Right now the way it goes, the Members of Executive Council each one is assigned certain duties by the Governor and they carry on the duties of their Portfolio. But while people can go to either one of those Members of the Executive Council, they do not have recognised in them constitutionally, officially and formally the final decision making power as the elected head. I say to this House, that factually a Member can arrive at a decision that he can give a member of the public. But he as a final person on that subject may well refer that person, "Well if you do not like what I say, you can go to the Governor". So the Governor falls into the political arena. This opinion of the Constitutional Commissioners go on to identify that.

If there was a Chief Minister, the point that is being made here by the Commissioners is that when you go to him, you put the pressure on him and he in turn must put the pressure on his other Ministers. The Commissioners further say:

> "He would not, as some seem to fear, have dictatorial powers; apart from the power to choose--and effectively to dismiss-Ministers and Parliamentary Secretaries, he would have no authority other than that of his personality.".

Madam Speaker, while some people were, in some instances, insulting the Commissioners, and making all sorts of allegations that they were this and they were that and had come to do this and so forth and so on, I tried as best I could to find out how the process and the system would work. I sought various occasions to speak with the Commissioners and I was made to understand that the Chief Minister would be chosen by the Elected Members of the House. He would be one obviously of a majority group. That group would have agreed first of all that they wanted that person to be the Chief Minister and they would have also have agreed that, well all right now, this four among us ought to be ministers.

And unlike what is said, that he would appoint the ministers, he could only choose and it is simply the formality of saying to the Governor, "Governor, these are the four people I would like you to appoint", because only the Governor can appoint and that is clearly set out under the new Draft Constitution which I will refer to further on in my debate. "Effectively to dismiss", yes, that is what the whole idea of having a ministerial Government in place is about. It means that the Chief Minister, if he had chosen those four Ministers and one was not pulling his weight, he could talk to that person and say to him, you are not pulling your weight, there are too many complaints coming in your Ministry, you have got to straighten up.

If he does not straighten up, then of course, the Prime Minister or the Chief Minister would have the right to say to the Governor and here I would simply apply common sense. He would not go to office one day and say I am going to get rid of Tom Jones, I never did like him. How is he going to do that with other three Ministers there sitting 10 to one with daggers drawn on him anyway? Or how could he presume to do it without consulting the other Backbench Members that gave his Government a majority? How could he do it? It is ridiculous to think that it could be done, because it could not.

When that Chief Minister goes to recommend to the Governor that a Minister be dismissed, he has done a lot of homework to make sure that he can get the backing of the Backbench support and his other Ministers. So what is so wrong with saying, "Tom Jones, you are not doing what you should do, I am going to recommend to the Governor to revoke your appointment as a Minister, you go back in the Backbench, and we are taking Harry James on as Minister".

That would bring some discipline to this country, that definitely does not obtain now and it is my understanding that that is what this process hopes to achieve.

MADAM SPEAKER: Would this be a time where we could take the suspension?

MR. GILBERT A. McLEAN: Yes, Madam Speaker.

AT 3:42 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 4:04 P.M.

MADAM SPEAKER: Debate continues on Private Member's Motion, the Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. At the point we took the break I was speaking on the fact that a Chief Minister could effectively dismiss and choose his Ministers and Parliamentary

Secretaries. But that he would have no other authority than his personality.

The Commissioners say: "He could not arbitrarily act in this or any other matter since to do so would be to risk loss of support and thus bring about his own downfall.". Madam Speaker, for the extent that I have heard talk in the public from certain quarters and from some Members of this House, about how what is in place to bring down the Government, I do not think that anyone found in a position of a Chief Minister would ever be in doubt that there were always people on stand-by to bring about his or her downfall.

This continues: "Most importantly, he would be a spokesman for the Government and thus avoid the need for the Governor to make pronouncements of a political nature; to do so is not the proper function of Her Majesty's Representative but at present there is no alternative.". The Member moving this motion made great ado about this. There was never a doubt in my mind that indeed the British Government would like to see the Governor out of the political arena, making political announcements. That was the basis of great contention in this country in 1990. The Governor was interfering in politics, he was making political statements. I do not try to deny that this was happening. But how is it when the British Government, whose Governor he is, comes to the country and says, "Gentlemen, we agree with you, it is not the duty and it is not the right thing for our Governor to be doing as the Queen's representative, we agree with you. We are going to give you the opportunity of changing it".

Now those Members are saying, "Oh no, we want to still be where we can criticise the Governor, leave him there. We are still going to be able to criticise him, we do not want to take on the responsibility for it". The people of this country want their Elected representatives to take on the responsibility for the running of this country politically. It was made absolutely clear that with the ministerial form of government, the Governor would continue with his reserve subjects - internal, security, the Civil Service, all the rest of it, that would be clearly with him. And administered by him through his subordinate officers, the Chief Secretary and all the others. But the political matters would be in the hands of the people's Elected representative and if they have a problem, go to the head of your political organisation and complain to him. It is his business to fix it, he must fix it. So the Governor would not have the need to make political pronouncements.

The Commissioner says now, "...there is no alternative.". So, he is in there making political pronouncements, most of the Elected Members say they do not want to see that happen and now when the opportunity comes for it to be changed, they do not want that either. What do they want? Undoubtedly there are persons who would get into the political arena in this country who would have no fear of taking on responsibility which is suggested and for those who cannot or feel themselves incompetent, they should declare their position and move out of the way. The Commissioners end by saying:

> "We ourselves, not without experience in this matter, can think of no single constitutional change other than the creation of the Office of Chief Minister which would bring leadership and discipline to the functioning of the Government. We find it difficult to believe that the Caymans would wish to settle for constitutional arrangements that are less advanced--and, we believe, less effective--than those enjoyed by other Caribbean dependent territories for the last 20 or 30 years.".

I wish to comment here because the Third Elected Member for George Town also sold the idea at a point in his statements here that what has brought us this prosperity and so on is the fact that we are headless and leaderless and all the rest of it. I make this statement believing the same to be true. It has not been Government, truly on a whole, that has made this country what it is. What has made this country is, the common sense of the Caymanian people, their honesty, their hard work, their ability to know that a man, the difference with a man does not count with the colour of his skin, but it counts with the colour of the money and that we have learned to live in a community to respect one another and to strive through honest work to better ourselves. The Government has simply helped. So let us not attempt to downgrade what our people are. That is what has made the Cayman Islands different, not the fact that we are a headless Government.

The last sentence in the passage made by the Commissioners is: "We also find it difficult to believe that Caymanians, with seafaring in their blood, would be prepared to put to sea on a ship with four first mates but without a captain.". That is the way it is now. Four first mates and there is no Captain. The mover of this motion went on that this thing of Chief Minister and all the rest of it came about from Motion 3/90 and the people of this country have never heard or thought of it or wanted it and so forth and so on.

In my hand I hold some documents given to me by the late Mr. Ormand Panton (may God rest his soul). This is marked 'Confidential'. It is a note for discussion with His Excellency the Governor, who I understand at the time was Mr. Jack Rose, a private and informal meeting of the Legislative Assembly on Thursday the 6th of July, 1961. It refers to meetings which were held in Trinidad, Inter-Governmental Conference, and a meeting attended by Mr. O. L. Panton and Mr. Willy Farrington, at Lancaster Conference in London. On page 5, section (4) of this note that was to be discussed with the Governor:

> "4. The proposed new Constitution envisages the appointment of a Chief Minister, two other Ministers, and an Attorney-General. It is suggested for consideration that the functions of the Ministers should be as follows:-
>
> (i) Chief Minister - overall responsibility with special responsibility for Finance and Development;
>
> (ii) Minister for Social Services, including Education and Health;

(iii) Minister for Trade, Works and Communication.

It is further suggested that the Attorney-General might be responsible for Police Matters.".

Madam Speaker, 1961. This is a most interesting document and in Appendix C the Cayman Islands the Notes on principal constitutional changes proposed. These were proposed by these two gentlemen in discussion with the British Government, and all the rest of it, and it says there should be a Council of Ministers:

"II. Council of Ministers

The Executive Council will be called the Council of Ministers.

The Administrator will preside at meetings of the Council of Ministers, but will not be a member.

The members of the Council of Ministers will be:

(a) The Chief Minister, who will be appointed by the Administrator, acting in his discretion, from amongst the elected members of the Legislative Assembly;

(b) Two other Ministers, who will be appointed by the Administrator, on the advice of the Chief Minister, from amongst the elected and nominated members of the Legislative Assembly;

(c) Two official members, who will be appointed by the Administrator, after consultation with the Chief Minister.".

Nineteen-sixty-one, would be 31 years ago, two Legislators who Legislated laws in this country, then, were discussing with the British Government getting a ministerial form of Government. I think I have made the point regarding what is envisaged that the Chief Minister should be and I make that on the guidance and the explanation given by the Commissioners and my understanding of how the organisational structure in Government presently exists.

The Chief Minister cannot, as it has been stated by the Third Elected Member for George Town, hire and fire Parliamentary Secretaries and Ministers because they are hired from the purse of the Government, the Government pays, the Chief Minister may only choose the Ministers, and of course that is when the choices are made known to him. Again, the Third Elected Member for George Town has been for over a year now, talking about corruption and that anyone in a position of Chief Minister is corrupt and so forth and so on. Once before I felt it necessary to reply that he must be speaking for himself, personally. Because the corruption label does not fit with me and the joke about the Chief Minister that is a 10 per center, if he becomes Chief Minister and becomes a 40 per center, because he will take the other Minister's 10 per cent, he must know what he is talking about. I certainly do not.

I think that it is unfortunate that statements are made recklessly, which are implying that there is inherent in all of us in this House a burning desire to be corrupt. In this part of the notes I have, the Member for George Town was moving from the question or into the recommendations of the Select Committee, into the new Draft Constitution and mixing those, so I will deal with that in more detail in a while, but perhaps at this point I could comment on some of the other points which he raised. These were under a heading which he said was the dangers of having a Chief Minister. It was a danger that he could chose his Ministers or recommend certain Ministers to be appointed and it was a danger that if a Minister is making an absolute mess of things that he could recommend to the Governor to terminate him as a Minister and put him on the Backbench.

Of course there is the danger of this ever present corruption and it is a danger that the Chief Minister would have the slightest clue to recommend to the Governor that a particular Minister would be better suited to being the Minister of Education, or for Tourism or for Health or whatever the case may be. That should all be left, as it is now, where the Governor decides I am going to appoint you to this, I am going to appoint you to the next thing. He obviously does not want the Elected representatives of this country, and in particular, one who would be the speaker for the Elected representatives on Council, to have anything to say into how the Ministries or Portfolios would be decided. What a danger!

The Governor would have to approve the Chief Minister going on leave or being absent. That is a danger. And another danger is that the Chief Minister would have to give permission for his Minister to be absent. I cannot see a danger there, because that would simply follow in any organisation where the manager, if some of his staff was going on leave and needed to be on the job, they would naturally go to him and say, "Well look, I need to go such and such a time". He would say, "Fine, we will cover for you".

There is also a danger with the Chief Minister saying to the Governor, "Governor, I know you have Harry and you have John up to be Chief Secretary, and I really think Harry has the better experience and he is better qualified in this area, therefore, I would recommend him over John". That is a danger in that. Of course, if one does not or scrubs from their mind the fact that the appointment of people like the Chief Secretary, the Financial Secretary and Principal Secretaries, are appointed, once perhaps in every 10 or

15 years what an on-going danger that will be. So that the Chief Minister should not have right, on behalf of the people who elected him, to say I really think it should be that one. Of course he can do nothing about who is appointed.

At one point he quoted from a newspaper, *The New Caymanian* where a well-known attorney, Mr. Steve McField, had written a satire regarding the fall under the ministerial system. Of course, that was used to show that the corruption there would cause Governments under this drastic condition to regularly fall and be dismissed. I do not think that was the intention of Mr. Steve McField. I know him to be a very progressive individual. While he was writing a satire as to a possible scenario, certainly (at least I did not read into that) he did not mean that the system should be scrubbed and done away with forever.

Of course, I think this country knows that that gentleman hardly needs anyone to speak for him and I daresay somewhere along the line he will be heard from on this particular aspect of things. In fact, I have here a document which was written to Messrs. Truman Bodden, Haig Bodden, Roy Bodden, McKeeva Bush, John Jefferson Jr., John McLean and Gilbert McLean, from him on the 12th of November, 1990. He sent it private and confidential but today I spoke with him and asked him if I could quote from this and he said he has no problems with it.

To read what it says here:

"There was rivalry from the beginning. The lessor influential and poorer Caymanians disliked and were against those whom the more influential shop merchants and Sea Captains disliked and were against, thus district likes and dislikes developed and were manifested by the influential personalities in the district. Politics, education and success is dependent and has always been dependent on personalities. You went to sea because someone knew you. You were hired because someone knew you. You voted and still cast a vote for who you liked and disliked and not so much because the political issues are understood.

"Gentlemen, it is not hard to understand why our forefathers agreed to the contents of the 1955 and 1972 Constitutions, they were not as educated as we are. The United Kingdom does not have a written constitution as such. Their Constitution is made up of various documents such as the Bill of Rights, the Magna Carta, Conventions and Usage, Judgements and Precedents.

"Our 1972 Order in Council has to be analysed and scrutinised by us from the background of its framers. During the Constitutional Conference in London, it became very clear, and it is still clear, that the Caymanian delegation of Legislators are not a cohesive group."

[it goes on in another paragraph]

"But it comes to the point where [he says with this brief background in mind] it is my opinion that we should review the Constitution from the 2nd of January, 1991. We should put forward a united front on the following:

1) A Speaker and Deputy Speaker of the Assembly
2) Move toward the ministerial form of government.
3) Enlarge representation in the constituencies.
4) Enlarge the number of seats in Executive Council.
5) Entrench in the Constitution the Referendum Law - a Bill of Rights.

c) removal of Executive Council Members by a simple majority of the Elected Members of Parliament.

d) the tenure and independence of judges and the courts.

e) that only the Elected Members of the Assembly be Members of Finance Committee. The Financial Secretary with a casting vote.".

That is the other side of that man and he sent that to all of us. The statement was also made that without a party system there will be no check or balance on a Chief Minister. The question of a party system has been one that has been going on for over 30 years in this country, and one has not arrived yet, which is really functional after those that were working fell apart in the 1960s, there has not been one since. If we are to be misguided enough to allow a headless Government to continue for another 30 years while a party system is in place, we will never have a disciplined or formal government, in my opinion.

I also understand that the reason why a party system was not successful was for the very same reason that has been espoused by the Third Elected Member for George Town, they could not decide which one should be head. I have much more to go and if you would choose to take the adjournment, I would be happy.

MADAM SPEAKER: Thank you. I think the Honourable First Official Member has another motion which he would like to present. Would you do that at this time, please?

SUSPENSION OF STANDING ORDER 14(2)

HON. JAMES M RYAN: Thank you. Madam Speaker, I believe it is the wish of this Honourable House that the debate on Private Member's Motion 13/92 take precedence over Government Business until the debate is concluded. Accordingly I beg to move the suspension of Standing Order 14(2) to enable the debate on Private Member's Motion 13/92 to take precedence over Government Business until such time as the debate is concluded.

MADAM SPEAKER: The motion which has been presented by the Honourable First Official Member is that the House approve the suspension of Standing Order 14(2) to enable the debate on Private Member's Motion 13/92, to take precedence over Government Business until such time as the debate is concluded. If there is no debate I shall put the question.

QUESTION PUT: **AGREED.** **STANDING ORDER 14(2) SUSPENDED TO ENABLE PRIVATE MEMBER'S MOTION NO. 13/92 TO TAKE PRECEDENCE OVER GOVERNMENT BUSINESS UNTIL THE DEBATE IS CONCLUDED.**

MADAM SPEAKER: The order of Business following Private Member's Questions will be continuation of the debate. The First Elected Member for West Bay.

MATTERS ARISING

MR. W. McKEEVA BUSH: Madam Speaker, I have another concern and that is that the House will be dissolved on the 18th and this is a matter that we discussed in Business Committee, that we perhaps would sit late in the evenings. I know today is only the second day but we are getting closer and closer to that time. I am wondering whether the Government would set a time-frame when we would began sitting late so that we would finish Business. By the looks of it, by the Bills that we have, and the other important Papers to be laid, as I understand it, and this debate yet to finish, I believe that that time to start sitting late should be very soon.

MADAM SPEAKER: I think it would be appropriate if Executive Council would take that into consideration and probably discuss it with the Business Committee further. I will now ask for a motion for the adjournment.

ADJOURNMENT

HON. JAMES M. RYAN: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10 o'clock tomorrow.

QUESTION PUT: **AGREED.** **AT 4:33 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., FRIDAY, 4TH SEPTEMBER, 1992.**

FRIDAY,
4TH SEPTEMBER, 1992
10:10 A.M.

MADAM SPEAKER: Prayers by the Honourable Temporary Second Official Member.

PRAYERS

HON ANTHONY SMELLIE: 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Proceedings are resumed in the Legislative Assembly. Item 2 on todays Order Paper, Questions.

QUESTIONS TO HONOURABLE MEMBERS

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 176: Would the Honourable Member say: (a) what is the normal probationary period required of workers in the Civil Service; (b) how many persons have been retained on a "temporary" basis past this normal period for 1990, 1991 and up to the end of August 1992; and (c) what are the posts and nationalities of these persons?

HON. JAMES M. RYAN: (a)The normal probationary period required of workers in the Civil Service is one year.

(b)The number of persons who have been retained on a "temporary" basis (probationary period) past this normal period for 1990, 1991 and up to the end of August 1992, is fifty-seven.

(c)The posts of these persons are Clerical and Executive Officers, Administrative and Professional Officers, Teachers, Firemen, Constables and Technicians and all are Caymanian.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementaries. The First Elected for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honorable Member could say what is the reason for retaining some persons beyond the normal probationary period on a temporary basis?

HON. JAMES M. RYAN: Madam Speaker, the reason why these people have not been confirmed to pensionable employment is not known. It is for heads of departments to recommend to the Public Service Commission such confirmation.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: I wonder if the Honourable Member is in a position to say if

there have been requests made by these persons to be placed on a permanent pensionable establishment and also if the Honorable Member is in a position to say in those cases where the members of the civil service have been retained on a temporary basis past the normal period, if this does not detrimentally affect the morale of those officers?

HON. JAMES M. RYAN: I have no information on requests being made by individuals for confirmation to the permanent establishment. Perhaps these requests were made to heads of departments and the heads of departments, for whatever reason, have not put the recommendation forward to the Public Service Commission. In regard to the second part of the question, perhaps it could be seen that being kept on probationary appointment could be detrimental to morale, but not necessarily.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could tell us what is the longest serving individual on a temporary basis and what department is he serving in?

HON. JAMES M. RYAN: No, Madam Speaker. I am afraid I do not have that information available .

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I take into account the Member's earlier statement, or answer, that the reason is not known why some remain so long on a probationary basis. The question I want to ask is; is any effort made, when Government finds out that someone has been a long time as a probationary worker, is any effort made to find out why and to remedy the situation?

HON. JAMES M. RYAN: Madam Speaker, I am afraid I cannot answer that question directly but I can say that an upgrading of the personnel data base will be undertaken shortly and at present personnel is unable to identify electronically whether or not individuals have been confirmed in posts. This request for a comprehensive and responsive personnel manpower system will form part of the 1993 personnel budget. Once this goes into effect, it will improve efficiency and literally, at a touch of a button, the personnel department can determine those persons who have been on probationary appointments over the normal one year period and something can then be done about it.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I ask the Member, are there any clear instructions to heads of departments that no one should be kept on a probationary basis except in very unusual circumstances which should have special permission.

HON. JAMES M. RYAN: Madam Speaker, in the hierarchy of the Civil Service it is the responsibility of the head of department to make the recommendation and Honourable Members will appreciate that the department would make that recommendation and not the Personnel Department because the person would be recommended on the basis primarily of performance and this would be determined by the head of department.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member please tell us if those employed on a temporary basis for over the normal probationary period, do they receive the benefits of a long term civil servant? My second question would be that if you could supply the Members of this House with a list of those concerned and the departments in which they serve?

HON. JAMES M. RYAN: On the second part of the question, I do have the numbers of the list of the posts. I do not have the departments that they come from where persons are beyond the twelve month limit, and could the Member please repeat the first part of the question again?

MR. JOHN B. McLEAN: The first part of my question was if the Member could say whether or not those employed, say over the normal probationary period, receive the benefits of a long term civil servant?

HON. JAMES M. RYAN: Yes, Madam Speaker, the persons on probationary period beyond the twelve months would be treated the same way as a long term civil servant.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. To the Member, am I to understand this is done throughout the service in whatever department they may serve?

HON. JAMES M. RYAN: Madam Speaker, I do not know if I can say with certainty that it is being done, but it should be done.

MADAM SPEAKER: The next question is No. 177 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 177: Would the Honourable Member say what is the percentage of increase, or decrease, in personal emoluments from 1988 to 1991 for each year?

HON. JAMES M. RYAN: The percentage increase in personal emoluments from 1988 to 1991 for each year is as follows:

1988 to 1989	-	21.846% approximately;
1989 to 1990	-	5.825% approximately;
1990 to 1991	-	29.47 % approximately.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to state why the decrease in the years 1989 to 1990 is so small in comparison to the other years quoted?

HON. JAMES M. RYAN: Yes, Madam Speaker
In 1988, the large increase was due to a pay award.

MADAM SPEAKER: Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honorable Member, would he say which of the statutory bodies that took staff out from the personnel emoluments and they are now being paid under the statutory corporation, how much that was and how much staff it would have been?

HON. JAMES M. RYAN: Madam Speaker, I am afraid I do not have that answer here. If the Member would like it supplied in writing I can give that undertaking.

MADAM SPEAKER: Thank you. If there are no further supplementaries, the next question is No. 178 standing in the order of First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 178: Will the Honourable Member say: (a) what is the current budget of the Computer Services Department; (b) what was its budget in 1988; (c) what is the total staff complement of this Department; and (d) how many Caymanians and non-Caymanians are employed in this Department, what positions do they hold and what were the dates of their employment?

HON. JAMES M. RYAN: (a)The current budget of the Computer Services Department is CI $1,956,709.00; (b) Its budget in 1988 was CI $1,182,000.00; (c) the total staff complement of this Department is 46. (d) There are 26 Caymanians and 13 non-Caymanians employed in this Department. The other posts are currently vacant.

The following positions are held by Caymanians:

Title	Date of Employment
Caymanians:	
Executive Officer	1st December, 1989
Accounts Officer II	4th May, 1987
Senior Systems Programmer	14th November, 1986
Systems Programmer	4th June, 1984
Senior Computer Technician	13th September, 1990
Computer Technician	18th November, 1991
Computer Technician	11th May, 1987
Computer Technician	1st November, 1988

Computer Technician	7th August, 1989
Computer Operations Supervisor	5th August, 1991
Senior Computer Operator	4th May, 1987
Computer Operator	1st September, 1989
Computer Operator	11th September, 1991
Computer Operator	29th August, 1988
Central Service Supervisor	23rd March, 1992
Central Service Officer	4th May, 1987
Central Service Officer	1st September, 1985
Central Service Assistant	27th May, 1989
Central Service Assistant	2nd September, 1985
Warehouse Keeper	19th March, 1990
Development Supervisor	7th November, 1984
Analyst/Programmer	20th July, 1992
Analyst/Programmer	1st July, 1992
Programmer	9th July, 1990
Programmer	27th August, 1990
Junior Programmer	2nd January, 1992

Non-Caymanians:

Manager Computer Services	14th September, 1992
Operations and Network Manager	16th February, 1982
Systems Development Manager	24th November, 1991
Development Supervisor	28th June, 1991
Analyst/Programmer	7th June, 1992
Analyst/Programmer	15th November, 1987
Development Supervisor	2nd July, 1991
Development Supervisor	15th November, 1987
Senior Support Analyst	5th October, 1988
Analyst/Programmer	1st December, 1982
Analyst/Programmer	2nd July, 1991
Analyst/Programmer	1st July, 1991
Programmer	11th August, 1989.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I notice that from the inception, there has been an absence of Caymanian officers in the top positions of this department. I wonder if the Honorable Member is in a position to say whether there are at present any Caymanians under consideration for training for any of these top positions?

HON. JAMES M. RYAN: Madam Speaker, as Caymanians become qualified they are employed and/or promoted, as the case may be. I cannot directly answer the question of whether there is someone understudying or being trained for the top positions in the department.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. HAIG BODDEN: Madam Speaker, as the first Burrows computer was installed in 1979, which is 13 years ago, can the Member say why there is no local person in management after 13 years?

HON. JAMES M. RYAN: Madam Speaker, I do not think it is correct to say there is no one in management. The fact is the number three position in the department is held by a Caymanian but I think that the answer is that there are no Caymanians right at the top of the department.

MADAM SPEAKER: The Second Elected Member from Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, can the Member tell us if anyone is currently abroad on training, or here as an understudy to take over any of the top five or six positions in this department?

HON. JAMES M. RYAN: It is my understanding that one Caymanian is abroad now and it is likely that he will be promoted into a more senior management position on his return.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could you tell us how long would it take an individual to qualify to take over as manager of Computer Services?

HON. JAMES M. RYAN: No, Madam Speaker. I am afraid that I do not have that information readily available.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say whether the budget, as detailed in his answer, accounts for purchases of new equipment or whether it is strictly personnel emoluments?

HON. JAMES M. RYAN: That figure, Madam Speaker, that was given earlier is both the recurrent and the capital acquisition budget.

MADAM SPEAKER: The next question is No. 179 standing in the name of the Third Elected Member for West Bay.

THE THIRD ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 179: Can the Honourable Member say how many requests have been received by the Education Department from parents for pre-school subsidies?

HON. BENSON O. EBANKS: Twenty-six requests have been received from parents for pre-school assistance. Twenty of these parents have been interviewed. The interviews with the balance of the applicants are scheduled to be completed today, Friday, 4th September, 1992.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementaries. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker.
Can the Honourable Member say whether these 20 have received assistance?

HON. BENSON O. EBANKS: Madam Speaker, not in all cases. Some have been approved, some are being reviewed and in one case, that is still further clarification and in one particular case, no assistance was recommended.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member, can he say why he moved headlong into this policy without ensuring that there were adequate facilities to take care of these preschool students?

HON. BENSON O. EBANKS: Madam Speaker, could I ask that Member to disclose the source of his ignorance?

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could please tell us what districts is he speaking of when he says 20 requests came in? How many districts on the Island?

HON. BENSON O. EBANKS: The answer, Madam Speaker, four from North Side, four from East End, two from Bodden Town, one from Savannah, eight from George Town and seven from West Bay. That is a total of 26.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker.
To the Honourable Member, would he say whether he could give an undertaking that he is going to insure that all preschool students who are eligible and apply will be placed in private or Government schools?

HON. BENSON O. EBANKS: Yes, Madam Speaker. That provision has been made very clear, from early in the year, and continuously up to this point.

MADAM SPEAKER: The Third Elected Member from West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I wonder if the Member could say whether or not the reception class age students were encouraged to be registered with the Education Department and if that is so, what is the number of these students?

HON. BENSON O. EBANKS: When you refer to the reception age class, what do you mean?

MR. JOHN D. JEFFERSON, JR.: Madam Speaker, I mean those students who are less than four years, nine months, I think. You were admitting students before at what age? Three years, nine months to four years, nine months that is what I am talking about.

HON. BENSON O. EBANKS: Madam Speaker, that is the class which has been discontinued in the Government schools, so we would not have had them registered other than asking parents to come forward to list them so that we would know where they are going and so on.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Let me rephrase my question, Madam Speaker, does the Member think it would have been a good idea for the Education Department to have requested that these students are registered with them so that they would be in a position to know exactly how many were involved and then they would be in a much better position to determine who needed help?

HON. BENSON O. EBANKS: Madam Speaker, that was what I said. They were encouraged to register and if the Member had been following the press, he would know that this request was made. It was also pointed out that questionnaires were sent to each parent through the Parent Teachers Association and people were encouraged to come in and register them at the Education Department. We could not have done any more than we did to get people in, Madam Speaker.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. This may be similar to the question that the Member from West Bay put and if it is, the Member need not answer. My question is, why was not a proper survey carried out and effective means for ensuring registration of the students done prior to this stage?

HON. BENSON O. EBANKS: Madam Speaker, I wonder what the Member means by a proper survey?

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member, a proper survey would be one in which you use the method which would ensure that you reach the parents of children of the age of these preschoolers. Putting it to the Parent Teachers Association (PTA) because many of these parents may not be in PTA'S because these children are younger than the normal age and if necessary having the school department carry out a survey and contact through the Register of Births Department, people who would fall in this category, so that you could ensure that there were sufficient facilities and you had reached everyone who needs to go in the facilities. You cannot do this in a rush.

HON. BENSON O. EBANKS: Madam Speaker, if that is what the Member means by a proper survey, then it was conducted because if the Member is up-to-date on his information, he would have heard on the radio that every Government school PTA on the Island convened special meetings on this very subject at the request of the Education Department. Forms and questionnaires were sent out to every parent who had children in the Government Primary System. The PTA'S were then asked to assist in getting these forms returned and the statistics from the census and the Register of Births was used in order to mail forms to parents.

MADAM SPEAKER: I am going to allow the last supplementary to the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member, if you feel this was so effective, then why are the results causing such problems on the registration?

HON. BENSON O. EBANKS: Madam Speaker, I do not know that this is causing any problem other than to the Member. The reason why this decision was made in the first place was because the information gathered during the Education review and the plan was that 70 per cent of children in this age group were in private schools.

MADAM SPEAKER: The next question is No. 180 standing in the name of the Second Elected Member for Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 180: Would the Honourable Member say whether any pilots or flight attendants of Cayman Airways Limited have had their employment terminated, or new staff in these categories employed, since the 1st of July, 1992, to date?

HON. W. NORMAN BODDEN: Since 1st July, 1992, to date, there have been no terminations

(of employment) of pilots in Cayman Airways. Since that date two Flight Attendants have been terminated, and two part-time Flight Attendants have been employed.

MADAM SPEAKER: Honourable Member, I would assume termination of employment of pilots, not their termination completely.

HON. W. NORMAN BODDEN: Yes, Madam Speaker.

MADAM SPEAKER: Thank you.

SUPPLEMENTARIES:

MADAM SPEAKER: The Second Elected Member for Cayman Brac.

MR. GILBERT A. McLEAN: Could the Member give a general indication to the House the reason for the terminations of the two flight attendants and whether they were Caymanian flight attendants and the nationalities of the persons who have replaced them?

HON. W. NORMAN BODDEN: The nationalities of the flight attendants who were terminated was one United States citizen and one Caymanian. The two part time flight attendants who have been employed one is a United States citizen and the other is a Caymanian. I would prefer not to go into the reasons because I think this is a matter between the employer and the employee and if any dissatisfaction exists, it is a matter that would be taken to the Department of Labour.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. Would the Member say if the present number of flight attendants is now at full compliment and, if not, are there any intentions to employ enough to fill the compliment and, if there is any indications that these will be Caymanian flight attendants?

HON. W. NORMAN BODDEN: Madam Speaker, I do not have that information with me. I am not sure if they are up to their full compliment or not.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member please tell us the length of service of the two attendants that were dismissed and if he could also tell us the connection of the one from the United States that has been taken on temporarily?

HON. W. NORMAN BODDEN: Madam Speaker, I think one of the flight attendants that was dismissed was probably with the company for about five or six years. The other one that was taken on as a U.S., I imagine the Member from East End is referring to if there is a Cayman connection, I am not aware what connection there is.

MADAM SPEAKER: The Second Elected member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member say why it was necessary to hire a U.S. citizen, especially at a time when there are so many school leavers out.

HON. W. NORMAN BODDEN: Madam Speaker, I raised the same question and apparently the two part-time attendants that were taken on and the U.S. citizen, had been employed by Cayman Airways before, left under good conditions, had been trained and just needed to fill in on a part-time basis and it was seen that it was more desirable to employ someone who had already been with the company before and who had already been trained.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Am I to understand these posts were not advertised locally or in the United States?

HON. W. NORMAN BODDEN: Madam Speaker, is the Member referring to the posts that were created by the two attendants who were dismissed? The part-time attendants who were employed, I am not certain whether it was advertised in the United States, but I would venture to say it would have had to be advertised locally.

MADAM SPEAKER: The next question is No. 181 standing in the mane of the Second Elected Member for Cayman Brac and Little Cayman.

THE SECOND ELECTED MEMBER FOR CAYMAN BRAC AND LITTLE CAYMAN TO ASK THE HONOURABLE

ELECTED MEMBER RESPONSIBLE FOR COMMUNICATION WORKS AND AGRICULTURE

NO. 181: Would the Honourable Member say what is the total revenue earned by the West Shore Post Office to date and how many post office boxes have been rented?

HON. LINFORD A. PIERSON: The Postmaster General has advised that the total revenue earned for the period June 1991 through August 1992, by the Seven Mile Beach sub-Post Office located in the West Shore Centre, is $186,599. A total of 511 boxes have been rented.

SUPPLEMENTARY:

MADAM SPEAKER: Supplementary. The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. Could the Member tell the House what has been the cost to Government for this operation during that period of time and what is the total number of post office boxes are available for rent?

HON. LINFORD A. PIERSON: Madam Speaker, the first part of that supplementary forms the basis of a separate question with the second part as to the number, it is 1500.

MADAM SPEAKER: If there is no further supplementary, the next question is No. 182 standing i the order of the name of the First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 182: Can the Honourable Member give a breakdown of the number of yearly recruits to the Royal Cayman Islands Police Force for the past eight years, including 1992?

HON. JAMES M. RYAN: The yearly recruits to the Royal Cayman Islands Police Force for the past 8 years, including 1992, is as follows:

RECRUITS:

1985	None.
1986	19 Officers total - All Caymanian, One with status. - 7 no longer in the Force.
1987	24 Officers total - 15 Caymanian - 8 Jamaican - 1 Guyanese. - 5 no longer in the Force.
1988	9 Officers total - 6 Caymanian - 1 Canadian - 1 Barbadian - 1 Jamaican. - 5 no longer in the Force.
1989	23 Officers total - 7 Caymanian - 9 Jamaican - 3 American - 2 Belizean - 1 Nicaraguan - 1 United Kingdom. - 4 no longer in the Force.
1990	34 Officers total - 15 Caymanian - 11 United Kingdom seconded - 4 Jamaican - 3 American - 1 Trinidadian.

- 4 no longer in the Force.

1991 None.

1992 22 Officers total
- 6 Caymanian
- 14 United Kingdom seconded
- 1 Jamaican
- 1 Honduran.

GRAND TOTAL OF 131 OFFICERS.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, can the Member say why there has been a certain number of recruits leaving in the period of four years?

HON. BENSON O. EBANKS: Madam Speaker, could the Member please repeat the question?

MR. W. McKEEVA BUSH: Madam Speaker, for instance, in 1987, 24 officers were recruited, five are no longer in the force. I am asking the Member why this is so?

HON. BENSON O. EBANKS: Madam Speaker, in any profession, or in any type of work, there is always a certain amount of wastage from it and it is my understanding that normally there would be some leaving in any year for various reasons.

MADAM SPEAKER: Supplementary. The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker.
To the Member. Seeing that for the past eight years there have been many recruits within the police force, why then is it so hard to utilise some of this manpower to properly man the East End Station?

HON. BENSON O. EBANKS: Madam Speaker, I am afraid I do not have an answer to that question here.

MADAM SPEAKER: It is now 11:00.

SUSPENSION OF STANDING ORDER 23(7) AND (8)
11:00 a.m.

HON. JAMES M. RYAN: Madam Speaker, I move the suspension of Standing Order 23(7) and (8) to enable the remains questions to be taken.

QUESTION PUT: AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ENABLE THE REMAINING QUESTIONS UPON THE ORDER PAPER TO BE TAKEN.

(Supplementaries on question No. 182 continuing)

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member is aware that in the recruits of 1990, the 11 officers that were recruited, from that group there was supposed to have been officers placed in the East End district?

HON. BENSON O. EBANKS: No, Madam Speaker, I am not aware of that but I will give an undertaking to look into this matter.

MADAM SPEAKER: The next question is No. 183 standing in the name of the First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

NO. 183: Can the Honourable Member give an update of the Guiness Peat Aviation law-suit on Cayman Airways Limited, and the cost to Cayman Airways Limited and/or the Cayman Islands

Government?

HON. W. NORMAN BODDEN: Guiness Peat Aviation has had a judgment against Cayman Airways Limited since November, 1991. However, an agreement was made between Cayman Airways Limited and Guiness Peat Aviation whereby Guiness Peat Aviation would not enforce the judgment pending the conclusion of a satisfactory settlement.

In June 1992, Cayman Airways Limited and Guiness Peat Aviation reached a settlement agreement whereby Cayman Airways Limited is required to pay, in installments, an amount of US$5,926,395 in aircraft lease payments and penalty which has been guaranteed by Government. Discussions are continuing with Guiness Peat Aviation on other aspects of the settlement agreement.

SUPPLEMENTARIES:

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member, in the answer, could you just say when was the latest time that this settlement would have to be paid?

HON. W. NORMAN BODDEN: Madam Speaker, payments have to start in 1993 and are paid in installments over a period of time.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. Does the Member see any other outlay of cash in respect to this agreement?

HON. W. NORMAN BODDEN: No, Madam Speaker. Other than the fact that it would have to be accepted if the payments are made in installments that it does attract interest.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Is the Member satisfied that Cayman Airways Limited will be able to pay the amount as agreed at the agreed times?

HON. W. NORMAN BODDEN: Madam Speaker, the House is aware of Government's attempt to assist the airline financially and whenever that financial assistance is made available to the airline, it is foreseen that that will enable the company to meet its commitments under the signed agreement with Guiness Peat Aviation.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, is the Member telling us that no part of the $5,926,395.00 has yet been paid and that all of it will be paid starting sometime in 1993?

HON. W. NORMAN BODDEN: Madam Speaker, that was the amount up until June 11th, 1992 when the agreement was signed. The Member is correct, the payments would start in 1993.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. TRUMAN M. BODDEN: Madam Speaker, in the original answer to the question, the Member says that discussions are continuing with Guineas Peat Aviation on other aspects of the settlement agreement. Can he say how far this has reached and what the agreement contains?

HON. W. NORMAN BODDEN: Madam Speaker, efforts are being made to arrange a meeting with Guiness Peat Aviation, hopefully in the course of this month to discuss other areas of the agreement other than the financial obligations contained therein and I would prefer not to go into any greater detail at this stage, into the other aspects of the agreement.

MADAM SPEAKER: The next question is No. 184, standing in the name of The First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR EDUCATION ENVIRONMENT RECREATION AND CULTURE

NO. 184: Can the Honourable Member say what is the expenditure to date on the West Bay Birch Tree playing fields?

HON. BENSON O. EBANKS: The expenditure to date on the playing fields at the Common, Birch Tree Hill Road, West Bay, is $414,542.00. This covers the entire project from its commencement in 1989 to present.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, can the Honourable Member say what is the balance to be spent this year?

HON. BENSON O. EBANKS: Madam Speaker, additional work proposed this year, is estimated to cost $15,290.00.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, does the Member have a breakdown of what is actual field work and what is buildings?

HON. BENSON O. EBANKS: Madam Speaker, site clearing, filling and grading is $126,618.00. Seeding and the landscaping is $20,000.00. Lighting, $104,326.00. Fencing, $25,523.00. Bleachers, etcetera, $20,176.00. Car park, $37,899.00. Changing rooms, $80,000.00. I am afraid the Public Works Department has not been able to give any more detailed breakdown than this in the time allowed.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. The Member says that Public Works has not been able to give any more detail in answering the question. Earlier, he said this is the total. I would presume that this is the total expenditure.

HON. BENSON O. EBANKS: Yes, Madam Speaker. The figures are firm, it is just that with time, maybe some of those headings which I gave could have been sub-divided or broken down further.

MADAM SPEAKER: If there are no further supplementaries, that concludes question time for today.

The next item is 3 on today's Order Paper, Private Member's Motion No. 13/92. Debate on the Draft Constitution. The Second Elected Member for Cayman Brac and Little Cayman, continuing.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS:

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

Continuation of Debate thereon:

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. When we adjourned yesterday, I was making the point that for the country to wait for a party system before the creation of the post of a Chief Minister, it could mean waiting forever for since the early 1960s, when party systems did function for awhile, there has been no party system functioning in a formal manner in the Cayman Islands. What we have had have been political groupings in the Legislature over the years. And perhaps the nearest example to a party system functioning was the time when the Unity Team Government, as it was called, was in office from 1976 to 1984.

In that particular scenario there were few people who would dispute that it had a Leader and for all intents and purposes a de facto Chief Minister in the person of Mr. Jim Bodden, whom, I imagine, was greatly hated as he exercised that particular office considering what, at this stage, are the views of people connected with that particular government.

In the respect of the Chief Minister, according to the Third Elected Member for George Town, he said he cannot be removed. He went on to say that Chief Ministers and Prime Ministers in the Commonwealth virtually die in the job and they are there forever. Again, that is not a fact and that is not true. This Draft new Constitution, which is contained in this yellow back booklet, sets down means by which the Chief Minister can be removed.

I will come to that in a few minutes when I deal specifically with the Draft new Constitution. I am but attempting at this stage to briefly reply to statements and allegations made by the Third Elected Member for George Town where basically everything he said, which had a negative position or a negative implication, was as a result of myself. The next note that I have here shows where he says I have been trying to give the impression that the United Kingdom will give a new constitution. I can but say what I heard the Minister of State say in the conference room across the floor when he said that the British Government had every intention of giving the Cayman Islands a modern constitution in keeping with its economic status. I did not make that.

I went to England along with six other Elected Members of the

Opposition in August of 1990, and held discussion with about five Officials of the Foreign and Commonwealth Office (FCO). The Members, if they should choose to truthfully state the various discussions and the gist of the various discussions there, they could state, like I can, that we were told by the Officials that we should look at a formal party system and that if we had a ministerial type of system government, then what had occurred in 1990, with Motion 3/90 and the changes in the structure of the Government could not have occurred.

I am not attempting to sell any particular story to the population of the Cayman Islands, which is contrary to my understanding of what I have heard Officials of the British Government say from time to time, including impressions I gleaned from the Commissioners who studied the Constitution. I try to read as much as I can and I am particularly interested in world events and how things change politically. Most people should know that the United Kingdom is becoming a member of the European Community and the European Community does not really have a lot of space and time for Colonial countries holding territories elsewhere such as England has a dependent territory in the Cayman Islands.

Also the United Nations has a standing committee which constantly monitors what is happening in dependent territories and constantly urges Colonial powers to encourage these territories to assume more responsibility for their internal affairs and the running of the country. On a whole, with the changing times in Europe, with the fall of the Union of Soviet Socialist Republic, European countries are looking into the aspects of money that those changes have brought about. I for one do not believe that the United Kingdom Government can afford to spend too much of its busy time worrying about a small population of 16,000 or so, indigenous people and acquiescing to the lament of Elected Members of the Legislature in this country saying to them, "Mother I am incapable, I am incompetent. I am handicapped mentally and otherwise and I want to continue being where I am, not assuming any responsibility". I do not see how the United Kingdom can afford that. And that is what is in effect being said in many quarters.

I refute no statements made by Mr. Mark Lennox-Boyd or Mr. Gordon Baker when they sat in the Conference Room across there. The point they made was that the Cayman Islands would not be forced into assuming more responsibility than it really was capable of or felt it could undertake. If there are Members in this House that believe they are incapable of the possibility of being Elected where they would go to the Glass House and be appointed by the Governor as Ministers and be told that they have responsibility for a particular subject and for its workings in the Department and to give general directions to having their policies carried out, then I think they ought to declare their hand.

Do not attempt to stand here to mislead the public into believing that the United Kingdom Government is imposing this drastic and radical constitution, as has been stated by the Third Elected Member for George Town. I wish to assure the country that I have not been contacted by Mr. Lennox-Boyd or by the Secretary of State to carry out any mission on their behalf in respect of this constitution. The decision of the people will have to be what carries the day when they are told the truth to know how to make up their minds.

The Third Elected Member also went on about the Report of the Select Committee which supposedly I and my colleague Captain Mabry Kirkconnell passed, which wanted to politicise the Civil Service. I prefer to deal with that when I deal specifically with the Constitution. That is a false statement and this Constitution, what is written in it, will prove that that is a false statement. At no time did the Commissioners recommend that the Civil Service be politicised nor did any Member of the House recommend such, including, the gentlemen that has obviously set himself up to save the country from the rest of us, the Elected people.

He said that if this constitution is brought into effect, investors will be scared when they come into a country with one man having power and being the Head. When a person exaggerates to that point, one really has to wonder to what extent they would go to mislead the people or a country? Because perhaps he does not know that there is a President of the United States, who is the Head and Commander in Chief, and that most of our tourists, I think up until now come from the United States. I guess they are leaving there with a terrible fear inside them and if they come from England, well they have the Prime Minister, Mr. John Major, so they must also be in fear. If they come from France, if they come from Germany, wherever, then they come here with fear. I would rather think, that when they come here and know that we do not have a political Head in this country, they become really afraid.

According to him, the country is being destabilised and of course he referred to the statements made in the Minutes of the Select Committee by Mrs. Corbin where the bankers have a high level of satisfaction with the present Constitution. As a Legislator I believe that it is more than the bankers in this country to be satisfied. He, perhaps may not, but the banking industry, the Civil Service, the financial industry, the tourism industry, whatever other sector in this country that might exist, has to be satisfied and the country cannot be run purely on what the banking sector sees as satisfaction for the country.

In fact, I do not think anyone has expressed any great dissatisfaction with the present Constitution. What forward looking and responsible Legislators have said is, that within the organisational structure there is a need for some formalising. That is what the Draft Constitution proposed to do. I am very happy to move from attempting to answer to all the misleading and twisted information delivered by the Third Elected Member for George Town yesterday and the day before and deal specifically with this Draft new Constitution which has been tabled in this House by the Chief Secretary.

Before I deal specifically with that, I would like to read a short passage from a book which my friend and colleague the First Elected Member for Bodden Town, Mr. Roy Bodden showed me, and it is entitled, 'Political Education and Political Literacy'. It is edited by Bernard Crick and Alec Porter and in it is contained the Report and Papers Of and the Evidence Submitted by the Working Party of the Hansard Society Programme for a Political Education. The first presentation in this House, which was done by the Mover of this motion to discuss this Constitution, and which was not done, does not fall in line with respect for truth

and political education and political literacy. I wish to refer to page 69 in section (9) which says Respect for Truth. It reads and I quote:

> "If relevant truths cannot be told about how Government is conducted or what politics is about, then political education is impossible. Anything that is even potentially relevant to how Government is conducted, how decisions are made, how the individual can perceive what his interests are and how he can defend them, must be capable of being stated publicly.
>
> If believed to be true on some evidence that is stateable and stated at a level of education in which the question arise, however simplified, it has to be.
>
> If the full truth is too difficult to grasp or is simply unknown what are, strictly speaking, myths, should never be put forward either for mistaken social or moral reasons or simply to have simpler models.
>
> That is the stork, the Queen as ruler, the British Constitution, the British Prime Minister, as above the battle, the Cabinet as collective and dispassionate wisdom, the House of Commons, as 635 Members, elected for and by constituents in the general interest with no thought of party. Civil servants only carrying out orders, not helping to make policy or that each social class has a clear mind of its own, etcetera,.
>
> Simplification must not involve falsification, however innocent the motives. When the teller of what lies is found out, it is he who has discredited legitimate authority.".

Madam Speaker, I now wish to turn to the Draft new Constitution for the Cayman Islands, July 1992.

MADAM SPEAKER: Can we take the suspension before you do that?

MR. GILBERT A. McLEAN: Yes, Madam Speaker.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 11:35 THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:56 A.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues, Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. Dealing now specifically with and from the document called Draft Constitution for the Cayman Islands July 1992 and on page 1, is set down Part 1 - Fundamental Rights and Freedoms of the Individual.

Our present Constitution does not have any such section in it. Here, I must say I am extremely happy and pleased to see that the British Government sees a need and accepted representations which were made to them through their Commissioners that we should have a Bill of Rights and Freedoms in our Constitution. I also want to pay regards to the fact that the First Elected Member for Bodden Town twice brought motions to this House asking that the Government accept a Bill of Rights and Freedoms. Unfortunately, twice it was rejected, however, it seems clear to me his efforts were not in vain.

I will not attempt to deal with all of the Rights and Freedoms of the Individual, I will simply like to read what they are. There are 14 which are set down.

"1. Fundamental rights and freedoms of the individual.
2. Protection of right to life.
3. Protection from inhuman treatment.
4. Protection from slavery and forced labour.
5. Protection from arbitrary arrest or detention.
6. Provisions to secure protection of law.
7. Protection from arbitrary search and entry.
8. Protection of private and family life.
9. Protection of freedom of conscience.
10. Protection of freedom of expression.
11. Protection of freedom of assembly and association.
12. Protection of freedom of movement.
13. Protection from discrimination on grounds of race, etc.
14. Protection from deprivation of property.".

That runs a wide ambit of Rights and Freedoms. I would like to read on page 1 what the very first section says.

"1.Whereas every person in the Islands is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political or other opinion, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely:-

(a) life, liberty, security of the person and the protection of the law;

(b) freedom of conscience, expression, assembly, movement and association; and

(c) protection for the privacy of his home and other property and from deprivation of property without compensation.

The subsequent provisions of this Part shall have effect for the purpose of affording protection to the aforesaid rights and freedoms subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.".

Having read that from the Constitution, I would only want to comment to say that as I read this section I had a difference of opinion with a phrase in it or a few phrases. It is the same phrase repeated in different sections, where it says for example in section 9.:

"9. Protection of freedom of conscience.

(1) Except with his consent, no person shall be hindered in the enjoyment of his freedom of conscience, ...".

And it goes on to expand on that. My point is that whether or not I consent, there is no such thing as someone else holding in trust my freedom of conscience for me. I was borne with it, I was not given it by anyone and no one can take it away. So in my belief in that particular right there is no such thing as me giving up my right of conscience and somebody taking mine on with theirs. For the purposes of the Law, however, it is implied here I do not know, I am not a lawyer and I simply make the comment to express my own point of view.

I would like to turn to page 16, under which is Part II The Governor. I might say here that this Draft Constitution in effect tidies up a lot of areas that were in different parts of our Constitution. Now all the matters directly relating to the Governor, are under the section of the Governor. For example, in our present Constitution there were some powers of the Governor which were actually set down in the section called Miscellaneous.

I think we are also ahead in that particular respect in that it is a tidied up document which keeps all of the matters relating to a particular heading under the heading it should be. For example, under Miscellaneous in our present Constitution, is the Governor's power of pardon and in the new Constitution it is under the heading, The Governor. This basically repeats the provisions for the Governor which says:

"18.(1)There shall be a Governor of the Cayman Islands who shall be appointed by Her Majesty by Commission under Her Sign Manual and Signet and shall hold office during Her Majesty's pleasure.".

This section remains basically the same as our present Constitution. The emoluments for personal staff and expenditure of the Governor is set down in this new Constitution. Also the functions of the Governor are set down very clearly here in this section and the Governor still has his special responsibilities:

"...that is to say any power that in the Governor's opinion relates to-

(i) defence;

(ii) external affairs;

(iii) internal security;

(iv) the police;

(v) the appointment,".

I wish here to read this section that is subsection (v) under (c) because of misinformation that politicians can appoint. I read subsection (v) which is reserved to the Governor:

"(v) the appointment (including the appointment on promotion or transfer, appointment on contract and appointment to act in an office) of any person to any public officer, the

suspension, termination of employment, dismissal, or retirement of any public officer or taking of disciplinary action in respect of such an office, the application to any public officer of the terms or conditions of employment of the public service (including salary scales, allowances, leave, passages or pensions) for which financial provision has been made, or the organisation of the public service to the extent that it does not involve new financial provision;"

"The Governor shall keep the Executive Council informed of any matters that in his judgement may involve the economic or financial interests of the Cayman Islands or the enactment of laws under this Constitution.".

The point to be made here is that all matters relating to the Civil Service remain the same and the domain of the Governor and no politician has any part to play in that appointment. He appoints who he chooses, transfers them or otherwise.

Section 24 deals with the powers of pardon of the Governor, which is in our present Constitution. The only difference in this new Constitution is that there has been added a section which sets up an Advisory Committee on the Prerogative of Mercy. So that is an addition in it which, again was the feeling of the Select Committee that it would be good to have an Advisory Committee. This Committee as set down in this Constitution "shall consist of the Attorney General, the Chief Medical Officer and four Members appointed by the Governor after consultation with the Chief Minister.".

My understanding why it would be the Attorney General is because of the legal implications naturally and there could be cases where the Chief Medical Officer's opinion would be needed because there may be a 70 year old who is virtually dead in prison and it would be merciful that he be allowed to go back out of prison and die with his family or otherwise.

"(2) This Committee shall not be summoned except by the authority of the Governor, acting in his discretion;" (no politician tells him anything) "and the Governor shall preside at all meetings of the Committee.". (Prerogative of Mercy Committee)

At any meeting there has to be at least three Members present, one of which is the Attorney-General.

The other parts of it remain virtually the same as our present Constitution. On page 21, Part III is The Executive. Section 28 (1) states: "28. (1) The executive authority of the Cayman Islands is vested in Her Majesty.". That is not stated in our present Constitution. Our present Constitution is more permissively drafted and leaves more of the authority and right to administer with His Excellency the Governor. Under the heading Executive Council in our present Constitution it begins: "5. There shall be an Executive Council in and for the Islands which, subject to section 10 of this Constitution, shall consist of-". So there is no statement that the Executive Authority is vested in Her Majesty.

My understanding through enquiry is that if the ministerial form of Government comes into play, there is a more formal and distinct official line and hierarchy directed to Whitehall and thus on through and to Her Majesty. Subsection (2) says: "(2) Subject to the provisions of this Constitution, the executive authority of the Islands shall be exercised on behalf of Her Majesty by the Governor, either directly or through officers subordinate to him.". The Executive, that is being referred to here, is one of the three arms of Government. We know that the three arms of Government are the Executive, the Judiciary, and the Legislative. So the Executive that this Constitution is referring to means the Executive Council made up of the people that it will be made up of; the people who will take care of the day to day running of the country. It says that the Governor may directly exercise the authority on behalf Her Majesty or through officers subordinate to him.

If I might cite examples of officers subordinate to him, would be the Chief Secretary, the Attorney-General and the Financial Secretary who would act on behalf of the Governor in certain respects in his reserved subjects. In our present Constitution it says that it shall consist of: "(a) three official members, who shall be appointed by the Governor, acting in pursuance of instructions given to him by Her Majesty through a Secretary of State, by instrument under the public seal, from among persons holding public office;". Those three Official Members are not named. In the new Constitution they are named. Under our present Constitution it also says in (b): "(b) four elected members, who shall be elected by the elected members of the Assembly from among the elected members of the Assembly.".

It is a different system under what is proposed in the new Constitution. It reads: "(1) There shall be an Executive Council for the Islands which shall consist of -

(a)the Governor;

(b)a Chief Minister appointed by the Governor in accordance with subsection 92) of this section;

(c)four other Ministers appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Legislative Assembly;"

[and it names the civil servants, the Official members]

"(d)the Chief Secretary, the Financial Secretary and the Attorney General ex officio.".

The difference in this Constitution is that there will be five Elected Members instead of four and one of which will a Chief Minister. There will be five Ministers, one will be a Chief Minister. This is the system that the Commissioners recommended and this is the system which was recommended in the Report of the Select Committee, which was not taken. It was the opinion originally of the Commissioners and it is here, according to the letter from the FCO on the recommendations of the Commissioners.

Whereas now in the Legislative Assembly, whenever a new House is sworn in, the Elected Members of the House elect four people to go on Executive Council. This always comes about through a majority of Elected Members in the House voting those four people, as it happened on the 23rd of November, 1988.

They are chosen because a majority group chooses them. In the same way, it would require a majority group in the House to decide who out among them they would choose as their spokesman, their leader or their Chief Minister. They would choose him. Naturally they would have worked out who else among themselves would be the four other Ministers and the Chief Minister would be obliged to recommend to the Governor or advise the Governor to appoint the other four Ministers.

The Chief Minister does not appoint any Ministers. He recommends them to be appointed by the Governor and there is a right of choice in it. The Chief Minister is appointed by the Governor where he is recommended to be appointed. I see no problem with the ministerial system of Government as recommended by the Commissioners. I believe the time has come where there has to be a formalisation in this country and I believe the Commissioners when they said that the only means of bringing this about, at this stage is with the institution of a ministerial system. The concept of a Chief Minister, is, I believe, an immense need where there is someone that people can go to lay their complaints and that person is responsible to see that something is done about it.

Yesterday I read the various reasons given by the Commissioners for the concept of a Chief Minister. I believe there is no doubt in the minds of the people of this country, not necessarily in here, the Chamber of Commerce or any such persons, but I think that the ordinary people of this country need and want someone they can go to and complain to, who can do something about something for them. They, I do not believe, have any problem with understanding the concept of a boss and an employee, or a boss and other bosses, but there is a chief boss.

I had opportunity, along with my colleague the First Elected Member for Cayman Brac, to hold discussion meetings in Cayman Brac last week. We had three meetings, where we went through this Constitution and we handed out a few dozen copies of it. There was one point which gave concern at all three meetings. I certainly share the same concern.

I would like to now quote from section (2) dealing with the Executive Council to what deals with the appointment of a Chief Minister and it says:

"(2) The Governor, acting in his discretion-

(a) shall, unless he causes a ballot to be held in accordance with paragraph (b) of this subsection, appoint as Chief Minister the elected member of the Legislative Assembly who appears to him best able to command the support of a majority of the elected members;".

The feedback that I got at the meetings was that if that is the case, you do not need the Elected Members. I also got remarks like that is too much power for the Governor to have, he should not have the right to choose anyone at his discretion. That was a concern which was addressed in the Select Committee.

Section (b) the other means of appointing a Chief Minister that is set down in this new Constitution reads:

"The Governor, acting in his discretion-

(b) may cause a secret ballot to be held among the elected members of the Legislative Assembly to determine which elected member commands the support of the majority of such members;".

That was also in the recommendations of the Commissioners and the Select Committee did not believe that a secret ballot was the right way to go. I will state my own reasons for it. If we could picture the House being sworn in after a General Election and two or three people being nominated in the House for the post of Chief Minister. Ballot papers would be handed out by the Clerk, as is normal, and a secret ballot would be taken. The person who got the most votes would be the person appointed by the Governor as Chief Minister because he got the most votes. He had gotten a majority.

I see a major problem because that Chief Minister not because he is a Chief Minister now or has been appointed, that that ends the story for him, he now has to choose four Ministers to sit with him on the Council, to recommend to the Governor to appoint. Now, how does he know who voted for him that gave him that majority? Would that Chief Minister, as a sensible person, not want to be able to appoint four people from among his majority that he is sure of and people who are obviously his supporters and friends?

The way things go in this world of ours the person that might have been baring his teeth in his face most regularly might have been his most deadly enemy when the voting was done, he does not know. I personally have a problem with the secret ballot. That is my reason with it. The part (a) which says the Governor shall appoint a Chief Minister acting in his discretion, a person who appears to him best able to command the majority of support in the Elected Members. I have enquired and I have tried to do a bit of research as to why that is there. I was told by a friend of mine in the legal profession that it embodies a concept that the final power lies with Her Majesty. I have been able to get a few examples of it through the CPA in London; I will just briefly read what it states here in respect of the Crown in Australian Government. I do not know the book because it is an extract, it is page 31 of the extract that I have. It says:

"The Reserve Powers

The position of the reserved powers of the Crown, those in regard to which the Governor General and the State Governors enjoy some personal discretion and need not invariably follow ministerial advice is complicated and controversial. As a consequence no doubt of the anger and the controversy generated by the Governor General's dismissal of Prime Minister Gowe Whitlam in November, 1975, the Australian Constitutional Convention endeavoured to codify the conventions governing the reserve powers of the Governor General and commissioned several papers on the question.".

The concept really lies in the idea that Her Majesty ultimately has the authority to chose to appoint or to dismiss. I wish here to particularly note that a Governor General can dismiss a Prime Minister, so could anyone tell me why a Governor in the Cayman Islands could not dismiss a Chief Minister?

There are three other examples of it. One is what occurred in the United Kingdom and the other one is in Tasmania in their House of Assembly. I do not propose to read all of these but I will pass to the Clerk these copies, it might be of use to have them for the records or information of the House. That is my understanding for that particular clause where the Governor appoints at his discretion. And if a Governor General of Australia can dismiss a Prime Minister, it means he can appoint him, so as I say, why could not a Governor in the Cayman Islands dismiss a Chief Minister, therefore, again it disproves the theory that if we have a Chief Minister he will never be able to be removed. I subscribe to what we, as Elected Members, recommended to the Commissioners on the appointment of a Chief Minister.

I presented these three alternatives to the people in Cayman Brac when I had occasion to sit down with them and discuss it and I would like to read them for the records of the House. On page 15, section (8) under the heading Appointment of Chief Minister. It reads: "By a majority consensus it is recommended that the new Constitution include the following provisions for the Appointment of Chief Minister:

(a) In the absence of a Party System the Governor shall appoint as Chief Minister the Elected Member of the Legislative Assembly who has been recommended to him in writing by a majority of all Elected Members of the Legislative Assembly as having their confidence and support for the appointment as Chief Minister.".

I think that makes sense because the Governor has in writing from the majority group in the House, who they wish to see appointed as a Chief Minister. The Chief Minister, whoever he or she might be, would also no doubt have a copy of that to now who his friends were.

Our second alternative was:

"(b) If a political party gains a majority of the seats of Elected Members of the Legislative Assembly the Governor shall appoint as Chief Minister the Elected Member of the Legislative Assembly recommended in writing by a majority of the Elected Members of the Legislative Assembly who are Members of that Party.".

We do not have a party system but we recommended a clause that would cover it in that case. Again, it would be in writing. Our third recommendation was:

"(c) If no such Member is recommended as in (a) or (b) above, the Governor shall appoint as Chief Minister the Elected Member of the Legislative Assembly who, in an open ballot, obtains a majority of votes of the Elected Members of the Legislative Assembly for such appointment as Chief Minister.".

There is quite a world of difference between the secret ballot and the open ballot, for if I might use the example where there might be three people nominated to be a Chief Minister; as the Clerk takes a division in the normal course here in the House, the Clerk would call a division of votes and everyone would have to stand up and be counted, and anyone winning the majority votes would know who his friends are. He would not have to believe on what was said by anyone after they had secretly stuck the knife in him but played his friend thereafter. That was the only expression of concern that I received on the occasions where I held the meetings and discussed this with the people of Cayman Brac.

Section III, then speaks about the appointment of Chief Minister

and other Ministers shall be made by the Governor by instrument under the public seal. We know that the Chief Minister, as I have said, would then recommend to the Governor four people from among the majority whom he would wish to have work with him on Executive Council. Once that was done it says in section:

> "(5) The Governor shall, without delay, report to Her Majesty through a Secretary of State every appointment made under this section.".

I would like to use the term as was used to the Elected Members by the Constitutional Commissioners that not only would that Chief Minister and Ministers be Ministers of the Cayman Islands, but they would be Her Majesty's Ministers and I take it and relate to the first statement that is in this section, that the Executive authority of the Islands is vested in Her Majesty. That it would be Her Majesty's Chief Minister we were told and if the system was upgraded to ministerial system then there are counter-parts in England called Ministers but there is no counter-parts called Members.

In section 30 on page 22, this again sets out the facts and the truth of what is in this Constitution and it refers to the tenure of office of the Chief Minister. It reads:

> "30. (1) The Governor shall revoke the appointment of the Chief Minister if a motion that the Legislative Assembly should declare a lack of confidence in the Government of the Islands receives the affirmative vote of a majority of not less than two thirds of all the elected members thereof:".

Therefore, there is no truth to the fact that a Chief Minister could not be removed. In fact there is a provision set down here for his or her removal. It goes on to say:

> "Provided that before so revoking the Chief Minister's appointment, the Governor shall consult the Chief Minister and if the Chief Minister so requests, the Governor, acting in his discretion, may dissolve the Legislative Assembly instead of revoking the appointment.".

That is very clear and I shall state what I heard stated to me the way this process goes. If a ministerial system was in place and a no confidence motion was moved, which received a two-thirds majority, would not the Governor have to consult the Chief Minister and say, "Chief Minister, I hope you know that that no confidence motion means you have to go". He would have to consult him. Both would exercise no wisdom or sense, whatsoever, if that was not the case.

In the Commissioner's Report, they made it clear that if a Chief Minister falls, all of his Ministers fall with him. My understanding is, that when the Governor consulted the Chief Minister he would say to him, "Chief Minister, you know there are two things to be done now. Either those Members, who abandoned you, why the majority has fallen away from you now, have the right to choose among themselves another Chief Minister and to set up a new Executive Council of Elected Members. Or the second choice is that I will call an Election".

From what I have been reading on this and particularly it relates to the Australian Parliament, in the early months of a new Government, if I remember correctly, it is up to about 18 months, a Governor would rather allow the majority, which had then become the opposition, to choose another Executive rather than putting the country back through the shake-up and the trauma and the whatever of calling another Election.

If it was half of a term spent or two-thirds of a term spent as the case may be, the Governor might take the advice if it was given by the Chief Minister (and he certainly has his own discretion to do it) he could take the view, "That he has heard too many problems in this country now, the public on a whole is up in arms about certain policies of your Government and I believe that the only true way that we can find out what the public wants is to call an Election and he has the power and the authority reserved to him to do it. So that is how the consultation would go and that is how by convention over years it has been. So any scare tactic that is put out to the public other than that, is not founded in fact or in convention. It is set down in this new Constitution that the Chief Minister can be removed by the Governor. He cannot fire the Governor, as one would get the impression he could.

Ministers of Executive Council would follow a similar pattern for the tenure of office as is now with the present Executive Council under our new Constitution except that in the case where a Minister is not pulling his weight on the Council, the Chief Minister could go to the Governor and say to him, "Governor, I met with my other Ministers, I have met with my Backbench support and we agree that we need to move the Minister for Education or whatever Portfolio or ministry, as the case may be." In such instance, the Governor quite normally would remove that Minister, he would go back to the Backbench and a man from the Backbench would then become a Minister.

There is set down here provision what happens if the Chief Minister is unable due to illness or in his absence from the Island, how someone would be appointed to act for him and the other part that makes a difference under the new Constitution which is proposed, is how the responsibilities to the Members of Executive Council are done. Under our present Constitution the Governor assigns in section 9 of our Constitution it says that:

> "9. (1)Subject to any instructions given to him by Her Majesty through a Secretary of State, the Governor acting in his discretion" (here he is acting in his discretion) "shall to the extent that he deems appropriate charge members of the Executive Council with responsibility for any business of

Government other than a matter mentioned in section 7(1)(c) of this Constitution)" (which is his reserve powers) "or any Department of the Government.".

Now he cannot under the Constitution charge any Member of Executive Council with the responsibility for that Member's Department, or should I say, the Departments falling under a Portfolio in this country now, cannot be assigned to a Member of Executive Council. Under Ministerial Government there is a difference in that the Governor acting in accordance with the advice of the Chief Minister may assign to any Member of the Executive Council responsibility for the conduct subject to the provisions of the Constitution and of any other law of any business of Government of the Islands, including responsibility for the administration of any Department of Government.

Therein lies the difference. A Minister who is in charge of a Portfolio or a Ministry has and can be assigned the responsibility for the administration of the Department of the Government. If it was the Portfolio or Ministry of Tourism, let us say, the Minister could instruct his Permanent Secretary, for the name would change from Principal Secretary to Permanent Secretary, that he wished certainly policies to be carried out, and the Minister would also have the authority to say to the Permanent Secretary, Mr. Permanent Secretary, how do you propose to do it? That Permanent Secretary might state a particular way, the Minister may have a disagreement with that and request his Permanent Secretary to treat it in a different manner which, in his opinion, might get the job done quicker.

Right now a Member of Executive Council cannot so legally instruct his Principal Secretary. I am not saying informally, it does not happen to a large extent, but there is no formality to it and therein lies the difference. I believe that that particular responsibility there is necessary. The people of the Cayman Islands are demanding that their Elected Members get the job done but they do not have the responsibility that they need to actually see that their policies are carried out in the way they believe that it should be done.

Now, if a Member of Executive Council has a problem with his Principal Secretary, he has to go to the Governor to report it and ask the Governor would you please do something about the case? It is left to the Governor how much he chooses to do or otherwise. Possibly he would refer it to his Chief Secretary and his Chief Secretary might think well, there is nothing really wrong with it. Carry on as you have. I have been in those Portfolios, as a Principal Secretary and unless the Personnel Regulations have changed, there is included in those when I was there, clearly stated, that that Portfolio is the office of the Principal Secretary and he or she is the main man there. I do not guess that, that is or was a fact.

MADAM SPEAKER: May we take the luncheon suspension at this time, Sir?

MR. GILBERT A. McLEAN: Yes, Madam.

MADAM SPEAKER: The House will be suspended until 2:15.

AT 12:46 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:21 P.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues on Private Member's Motion 13/92. The Second Elected Member for Cayman Brac and Little Cayman.

MR. GILBERT A. McLEAN: When we took the adjournment for lunch I was discussing the matter of assignment of responsibilities to Members of Executive Council and I was noting that in the proposed new Constitution, Ministers who are now termed Members would be given, among other things, responsibility for the administration of any Department of Government. I had stated that herein lies the difference between the legal responsibility which the Members or Ministers can exercise whereas, under our present Constitution Members cannot do so.

The fears of the public should be allayed and they can disregard any statements they hear from anyone as being false where any impression is given that anyone other than the Financial Secretary has responsibility for Finance, for under this section as well, under 33 (3) this Constitution reads: "(3) Responsibility for such matters relating to finance as the Governor, acting in his discretion, shall determine shall be assigned to the Financial Secretary.". How much plainer could that be? The situation of collective responsibility remains the same where Ministers would be expected to act under collective responsibility and support matters in the Legislative Assembly which were determined in Council unless a Member had received prior permission in writing from the Governor to do otherwise.

The summoning of the Executive Council has been changed somewhat in that the Chief Minister or a majority of Ministers could request a meeting of Council, whereas before it was left at the Governor's discretion and basically only he could call the Council and of course he could also refuse a question being brought to Council if he chose not to do so. Overall, in this section there is a clear indication that Her Majesty's Government is prepared to give the Elected representatives of the people more responsibility which has been the request of the people of these Islands, to the Constitutional Commissioners. This Constitution being prepared on the basis of the finding, such provisions are provided.

In this section as well, under section 37, is a provision for Parliamentary Secretaries. It says:

"The Governor, acting in accordance with the advice of the Chief Minister, may appoint Parliamentary Secretaries from among the elected members of the Legislative Assembly to assist Ministers in the performance of their functions.".

It is no great and earth shattering thing that this is included, for in many Parliaments of the Commonwealth, including dependent territories, there are Parliamentary Secretaries. These persons are ordinary Members from the Backbench whom the Chief Minister would ask the Governor to appoint, who would assist in a particular Portfolio or in more than one Portfolio. Some places they are called Juniour Ministers. They are not bound by collective responsibility and they do not have to vote on a bill that the Government brings to the Legislative Assembly because they are not bound by collective responsibility.

The section also provides under subsection (2) of 37: (2)The number of Parliamentary Secretaries shall not at any one time exceed three.". Another way of putting that is that there does not have to be any Parliamentary Secretaries at all. The theory that is being advanced is that the evil cat, the Chief Minister, would appoint three Parliamentary Secretaries in any event that a ministerial government was in place and that they would be in some way chained and bound to what the people on Executive Council do and would be obliged to do themselves. Anything can be used to present any point of view, depending how it is done or who is doing it.

All that I state on it is that the provision is there and I think it is a good one for ordinary Members to have the opportunity of being involved in some of the day-to-day running of the Executive, if such persons should be appointed. I, certainly, in 1988 campaigned for more involvement of ordinary Members in the day to day running of Government and certainly I am happy to see this provision here made in this Constitution. A new section sets down the powers of the Attorney-General and there again, it is an improvement I think over our present Constitution. It makes things much more clear and explicit.

Page 26, under the Legislature there is provided that there shall be an Assembly which will consist of a Speaker; 15 Elected Members; the Chief Secretary; the Financial Secretary and the Attorney General. For the first time, as I noted earlier, the posts of the Official Members are identified. The qualifications for elected membership remain the same. Disqualification for elected membership remains the same. Basically it continues throughout that chapter generally the same and under section 44 there is provision there for the Speaker and Deputy Speaker.

This Constitution makes provisions that when a new House is sworn in the first business of the House is to appoint a Speaker. The Speaker can be chosen from among the Elected Members or it can be a person who is not an Elected Member of the House but who is qualified to be a Speaker, similar to the situation which now obtains in the House with our Speaker.

The provision for a Deputy Speaker is that it has to be an Elected Member but that Elected Member cannot be a Member of the Executive Council or a Parliamentary Secretary. The functions of the Speaker and so on are set down and what happens when the Speaker vacates his/her office.

Under the Legislative Assembly is also a provision made for Leader of the Opposition. The idea of this, I have been made to understand is, that it provides a balance. If you have a chief spokesman for the Government side, you have a chief spokesman for the Opposition side which, among other things, it should cut down all of the jaw-boning that goes on when everybody insists they have to speak.

If the Chief Minister brings a policy statement to the House, it does not mean that every Member of the Opposition has to get up and speak on it, the Leader of the Opposition can reply on behalf of the Opposition. It becomes a more orderly situation and rather than chase around to find out from four, five or six people who might be Opposition what each one thinks, one person is assigned the responsibility, "You go and find out from your colleagues what is the situation and you come and tell us the story".

In a ministerial type of Government as well, there is what is called shadow Ministers which is no more, no less than what it suggests. If the Member or the Minister for Agriculture is appointed, there is someone on the Opposition side who is instructed or assigned to follow what that Minister does and if something happens in that Portfolio which deserves comment from the Opposition side, the shadow Minister gets up and speaks to it in the House. Again instead of everybody getting up and each one having his time to debate and extend the time of the House.

The quorum of the House in this Constitution is set at eight Members which is in keeping with the increase of 15 Member membership. The Governor's reserved power remains the same and if anyone wants to talk about unlimited power, they ought to go on the streets or in this House and read section 57 of this Constitution if anyone wants to hear what real unlimited power is all about.

I would also hope that the people who are preaching the loudest about this Constitution and what it is not, would be good enough to get copies of this from the Government Information Services, hand them out indiscriminately in the country and hope that as many people as possible would take time to read this and become familiar with the truth.

There is a section under this that is new, section 63 Recalling a dissolved Assembly in the case of emergency which as of the 18th, this House is being dissolved. If this Constitution was in place and an emergency should arise, the Governor would have the power to recall the House and the Members who were Members before that would return to the House and act as they had never left the House.

Provision is made in here for the first time for an Electoral District Boundary Commission which would be appointed by the Governor, after consultation with the Chief Minister and the Leader of the Opposition. The Chairman would be appointed by the Governor acting in his

discretion, one Member would be recommended to him by the Chief Minister and one Member would be recommended by the Leader of the Opposition. Thus giving fair balance to the appointment of such a Commission.

This Commission would examine the boundaries which are presently set, (and we do have mathematically set boundaries) they would look at these boundaries and determine whether the boundaries should be reset to take into account the number of persons in any particular section as the case may be. The qualification of electors basically remains the same. That chapter does not differ very much from our present Constitution.

Part V, and here I want to say that anyone in this country who goes around this country telling the people of this country that the Constitution says that politicians should appoint the Grand Court judges or any judges is a liar. It is clearly set down here who appoints the judges. It says:

> "73.(2)The judges of the Grand Court shall be persons qualified for appointment under subsection (3) of this section and shall be appointed by the Governor, acting in his discretion, by instrument under the public seal.".

That is on page 44, section 73, subsection (2). The tenure of the offices of judges - a judge would normally be allowed to sit in the Grand Court up to the age of 65 years and the Governor would have the authority to let him continue on until the age of 70. The judge could not be removed by any politician unless there are politicians who have that in mind to do. Section 74 (2) says:

> "74(2)A judge of the Grand Court may be removed from office only for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour, and shall not be so removed except in accordance with subsection (3) of this section.".

All of the affairs dealing with the judges is at the discretion of the Governor. Provision is made for acting judges of the Grand Court; the oaths to be taken by judges; the constitution and jurisdiction of the Court of Appeal; the composition of the Court of Appeal; the tenure of office of judges of Court of Appeal. This is a section which is very detailed and which certainly the Select Committee made no recommendation on but there was an indication that the Commissioners would look at this particular area and one a big tidying up situation, it would be included and so it is.

The Public Service Part VI on page 50. Here is where the grossest misinformation has come out of this Chamber again, that there is a recommendation and certainly a support by Members of this House and I have been charged with it and my colleague from the Brac where we want to have Politicians appoint people to the Civil Service. It is a falsehood.

Section 84 (1) under appointments to public offices, discipline and removal it reads:

> "84.(1)...the power to make appointments (including appointments on promotion or transfer, appointments on contract and appointments to act in an office) of any person to any public office, to suspend, to terminate an appointment, or to dismiss, or require the retirement of any public officer and to take disciplinary action in respect of such an officer is vested in the Governor acting in his discretion.".

What could be clearer? "(2) Before exercising any such power as is referred to in subsection (1)-

> (a) in respect of the offices of Chief Secretary, Financial Secretary, any office which in accordance with the regulations regarding the public service is the office of a head of department or any office senior to that of head of department, the Governor shall consult the Chief Minister;."

I think this is indeed something that has become of age. Why? As I look across the floor I see a civil servant in the person of the Chief Secretary, the Financial Secretary and the Attorney General. Neither of the three gentlemen are appointed or elected by the people of this country but they are full Members of this Legislative Assembly which legislates laws for the country. The three holders of these present posts cannot be removed by the people of this country. They can only be removed by the Governor because first and foremost they are civil servants. This idea here that the Governor would consult with the Chief Minister, who would be the spokesman for the Elected representatives of the people on Executive Council has been termed dangerous and drastic by the Third Elected Member for George Town.

If the people's representative cannot have as much to say to the Governor in the appointments of these persons as to express an opinion that he thinks John might be a bit better qualified than Harry, and that his Minister thinks that John would be the better one, then where are we going? The Governor appoints in his discretion. He can listen to him and tell him to go and fly a kite. He appoints who he wants, but at least it acknowledges the position of the chief person who speaks for the people among the Elected representatives.

Most appointments to the post of Chief Secretary and Financial

Secretary, - it is done once in what; every 10 - the last time an appointment was done was 11 years ago, if I remember correctly, it was the former Financial Secretary. A new Financial Secretary has been appointed with his age and the normal years of service it would need, perhaps he will be there 15, 17, 18 years. Is it so wrong that when such a person is being appointed, the Chief Minister could say, "Governor, here are our views on this. This is what we would suggest for these reasons". Oh no, it must be utterly left to an Englishman who comes from anywhere, comes here, he is the Governor. He can do no wrong. His view of our Caymanian people who might be best suited for that, is his by divine providence. The Chief Minister or the Elected representatives of the people must not have a view on it. What a state of affairs!

Again, there is a section here which again shows it is a lie when someone says that anyone connected with politics would appoint a judge because it says in (b): "in respect of any office of magistrate or registrar of a court, the Governor shall consult the Chief Justice; and.". Now he can consult the Chief Justice, that is all right but he cannot consult the Chief Minister who is elected by the people. In respect of any office in the public service, below the Head of Department level, who shall the Governor consult? The Public Service Commission. If this is as it is here, and this is what is in this Constitution, I see nothing wrong with it. In fact I think it is desirable and in fact, if we are as we said we are, wishing to be directed by the good wisdom and the superior knowledge of the Colonial power of Great Britain, then this is what they, in their wisdom see is appropriate for this country.

If there are those persons who would have it otherwise, they should clearly state their positions and state why. Shall we forever be crawling, or shall we forever be a 12 year old, or does somebody take some responsibility for something and be held accountable for something. That is where it lies. The situation of the Attorney General in section 85, it says: (1) The office of Attorney General shall be a public office and the Attorney General shall be the principal legal adviser to the Government.". All I want to say on that is that I think it is good for this to be set down in such detail here. Again, the Governor appoints the Attorney General acting in his discretion but before he appoints him the Governor shall consult with the Chief Minister.

In the recent appointment I understand there were over two persons who applied for the post of Attorney General. Would it have been such an awful, drastic and disastrous thing that a Governor of a day could have said to a Chief Minister, "Look, I have three applications here, what do you think of them? Ask your Ministers". Would it have been so bad for that to have been done and a Chief Minister say to the Governor, "Well Governor, we have looked at the three people, we know this individual, he has been working here so long and all the rest of it, he knows the ropes, he is not feeling his way, we recommend this man." What would have been wrong with it? Ask those who think that is an evil.

The Attorney General, as provided in this Constitution, would have to leave his office at 55 years of age. The Governor has the discretion as is provided here to let him work until the age 65. This Constitution also has entrenched the post of Auditor General. This has been discussed at great length in this Parliament, one that various politicians have expressed various concerns about from different sides of the fence. The post of Auditor General is now recommended to be entrenched in the Constitution. So I do not find any evils in these recommendations either.

The Public Service Commission: under this new Constitution it says that in section 87 (1): "There shall be a Public Service Commission for the Islands, which shall consist of a Chairman and not less than four or more than six other members.". For the purposes of my comment, I will say it would be six members and a Chairman. Subsection (2) says:

> "(2)Of the members of the Public Service Commission, the Chairman shall be appointed by the Governor acting in his discretion and an equal number of other members shall be appointed by the Governor acting after consultation with the Chief Minister and by the Governor acting after consultation with the Leader of the Opposition.".

This too is supposed to be an evil, a terrible, incredible, unthinkable thing, because now the politicians are going to appoint the Civil Service. Let me just say that I worked for seven years in the Personnel Department of Government, at that time the late Miss Marjorie Pierson was Secretary to the Public Service Commission. We worked there for years and other than knowing that the Public Service Commission used to meet on a Tuesday, no one in that Department gave a hoot what was happening there unless it was something where you had to go to research something from a file to give the Members and so on.

I believe the only type of politician that would want to attempt to get involved in the day-to-day workings of the Public Service Commissioner would be those who wished to do so. What I think this is achieving, and certainly the British Government must think it achieves, is that the people are in the position by indirectly their Elected representatives in Government, get to recommend to the Governor three Members and the Elected representative of the people in the Opposition, gets to recommend three Members and the Governor appoints a Chairman. The people's representatives, both in Opposition and Government, get to recommend people that give it an absolutely fair and balanced position.

The functions of the Public Service Commission are set down in this Constitution as well. I fail also to see any evil in this and how is it that a Governor, who is not appointed by the people can have a better knowledge of who to appoint as a Caymanian in this country to serve on this Public Service Commission, than the Elected representatives of the people? There are those advocates here who wish to deny this opportunity too, to the people that they supposedly represent. The last part of the Constitution that I would refer to, and since I have been speaking today for the most part, I have dealt with in truth and in fact what is in this booklet called the new Draft Constitution.

I have made no attempt to pick any pieces out of the Minutes of the Select Committee, which are insignificant at this stage or the recommendations made by that Select Committee

which also are meaningless, because the British Government says all of that goes in the pile and if you wish to make recommendations as is contained in the Governor's letter of the 8th of July, 1992, you can re-submit the previous recommendations, you can add to them or you can modify them as you may desire and forward those views to the Secretary of State following the November Elections.

What I have stated here in going through this Constitution I sincerely trust will help to offer some political education and some political literacy as I read from in the book by that title here this morning.

The people of these Islands should be aware that there are certain sinister conditions afoot here in the political arena at this time where persons are offering nothing short of scare tactics, misinformation, disinformation and it is orchestrated largely among people who have never taken the time to get a copy of this Constitution and if they have it, they have never taken the time to read it. And even among those who are absolutely capable of it, they are perverting it. All I can ask is that the people of these Islands get copies of these, read it and understand it and talk to representatives or persons who have knowledge of the functioning of Government where they can get honest answers.

The last point in the Constitution that I wish to comment on is under Pensions and here recognition is given that there may be a law which provides for a pension by right that under this section it seeks to continue and keep in place the right of the Governor to reduce an amount of pension or suspend an amount of pension where an officer may have earned. I think it is wrong, I thought it was wrong when I was a civil servant, and I certainly think it is wrong now. I would like to see that changed and I hope that such recommendations could be made by the new Government which would be sworn in in November of this year. I want to make it very clear where I stand on this Constitution and I hope my friends in here are taking notes.

I have a difficulty with the way a Chief Minister is appointed in this recommended Draft. I have read what the Select Committee proposed. I believe that offers a much more acceptable position and indeed in its whole consideration it provides a better way and it is more reassuring to the people that I represent, certainly, than the Governor doing so absolutely at his discretion. I would like to see the Finance Committee entrenched in this Constitution, which was one of the recommendations I subscribed to in the Select Committee's Report with only Elected Members and with the Financial Secretary as Chairman.

I think it would be good to have a Referendum Law included in this. It has not been done, perhaps it might have been done if it is recommended again. We were told by the Commissioners it does not have to be in the Constitution, a special law could be passed to make a Referendum Law. Other than that, this Constitution which has been produced by the British Government, on the advice of its Commissioners, who heard the voices of the people and England being the administering authority for this dependent territory, I have no difficulty in accepting this Constitutional Draft Report. I hope that my friends got those words and they should also be on tape.

I have attempted to answer allegations made against me, when this motion was being presented by the Third Elected Member for George Town. I have gone to considerable length to quote authorities on matters relating to this. In my debate I have done my best to explain for what I know the organisational structure of the Government of my country to be, and I do have a little bit of knowledge of it, and I hope that the public will be better informed.

I imagine that there will be lots of other people to speak and for one thing I am sure, I believe in the winding up by the Third Elected Member for George Town, as is his usual way, he will wonder why I have attacked him, because he did not do anything or say anything. I would also expect there may be others who will have remarks to be made against me. For the first time I have diverted in my general attitude in this House, because I am sick and tired of the personalities but if you got to fight personalities with personalities, you have to do so.

I have also observed the behaviour of some Members of this House and sometimes I think you have to give a grunt, a grunt and I will do whatever is necessary to defend myself for the remainder of this Session of the House. Madam Speaker, thank you.

MADAM SPEAKER: Would any other Member wish to continue the debate on Private Member's Motion 13/92? (Pause) I believe I heard there was a thought of working a bit late, but this is not the way to go about it. Would someone please begin, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Madam Speaker, sometimes I have to wonder at the procrastination and the time wasting that goes on in this Chamber by Members who are representing constituents and who should, for all intents and purposes, be serious. Thank God, my motto is like that of the United States Marines, I am always ready. Always ready, that is, to speak out and to do whatever is right according to the dictates of my conscience. Certainly, no serious representative would lose this opportunity to inform his constituents and those interested parties of his position regarding this document entitled, "Draft Constitution for the Cayman Islands July 1992.' There is no need to regurgitate the events surrounding the evolution of this document as that has been done very well by previous speakers.

Nevertheless, I crave your indulgence to make a few general remarks mainly to clarify my own position regarding the acceptance or rejection of this document, in part or in whole, and also because it is my duty to inform those people upon whose support I am dependent as regards my position. Firstly, let me say that I believe, as I read was voiced by the late Jim Bodden sometime during his tenure as a Member of Parliament, that a Constitution is like a suit of clothes which one can outgrow. If one accepts that as a fundamental principle, then quite conceivably I would suggest that it is time for us to look at the possibility of a new Draft Constitution.

I am satisfied that this Draft meets the concerns voiced to me by

most of my constituents in that the Draft stops short of any call or any movement toward full internal self-government and independence, so that firstly, and foremostly, let me say again, this Draft Constitution does not call for any movement toward full internal self-government and independence. As a consequence of that it meets one of the expectations which my constituents laid down that they were concerned with and it allays the fear that they had of a movement in this direction.

In the second instance the constitution makes clear, fundamentally clear in many instances, positions which were requested and principles which many people suggested should be set down in writing so that there could be no misunderstanding or misconception. The first of these principles is the establishment of a Bill of Rights and Freedoms. I take a special pride in saying that it was due to no small amount of tenacity on my part that the importance of this was impressed upon the Commissioners and the drafters of this document. For the annals of this Parliament will recall that on two occasions I piloted a motion requesting that a Bill of Rights and Freedoms be established and both times the motion was lost but, thank heaven, the principles and the necessity for the establishment of such a bill was not lost on the framers of this Draft Constitution. But I would like to take that a step further, less there be any misconceptions or any misconstruing of what a Bill of Rights and Freedoms means.

I was always taught freedom has its responsibilities and obligations. So although we have a Bill of Rights and Freedom which calls for freedom of assembly, freedom of speech, freedom of worship, etcetera, that does not give us a licence to assemble or to speak or to worship in total disregard for other people who may feel differently or may view things different to the views we hold.

While we have a Bill of Rights and Freedoms and responsibilities, this bill does not give anyone a licence to do as they please in total disregard for other Members of this Society. What it does and what I would like to see done and further developed is that every citizen of the Cayman Islands from the most humble to the most elevated become knowledgeable with these Rights and Freedoms so that they may become better citizens, more respectful of each other, more respectful of the principles upon which the society has been formed.

I would like them to understand that while they have freedoms such as freedom to assemble and freedom of speech, they also have the obligation to be obedient and loyal and respectful and where there may be cases of disturbance of the peace or a threat to order of the society, this Bill of Rights and Freedoms does not offer any protection in those kinds of cases. I would hope that at the earliest convenience these kinds of freedoms, this Bill of Rights and Freedoms would be a part of the civics curriculum in the School system because it is only by so doing that we can develop in this country the kind of citizens that we need if we are to continue to be one of the leading financial centres of the world; one of the leading nations in the world where peoples from all backgrounds can work together in unity and in regard for each other. The Bill of Rights should not only be contained in the document known as the Constitution. It should be contained in the minds of each and every citizen of this country.

I would like now to deal with Part II of the document which outlines the office of the Governor, its responsibilities and the role of the Governor in political life and development of this country. By virtue of the fact that we have sensibly opted to remain a Crown Colony, it is the right and responsibility of the Foreign and Commonwealth Office (FCO) to advise Her Majesty the Queen on the appointment of our Governor.

There is absolutely no question about this, that is a truism and an accepted fact. Where there is a grey area, that grey area occurred because of what was presumed accurately or otherwise to be undue interference in the political life and the political affairs of the country by the Governor.

This problem I am happy to say has been alleviated largely by the fact that we now hold the position of a Speaker of the Parliament. Those of us who have been perceptive will have noticed an almost immediate improvement in relations between the Chair, our present Speaker, and the Members of Parliament, particularly that group which has come to be known as the Backbenchers, so that perhaps it is safe to say the most controversial element in the functioning of the office of Governor has been removed by the appointment of a Speaker, as had been a provision for 20 years in our present Constitution.

The Governor has responsibility for peace, order and good Government of the Colony and is accountable to his superiors at the FCO. The Governor is also technically the Head of the Civil Service, although the Chief Secretary will assume the day-to-day responsibilities for this body. I might add that the office of the Governor remains much the same as in the present Constitution with the exception of a few cases in which I too have some reservations, one of those being the discretionary powers given to the Governor in the appointment of a Chief Minister. But for that, I have no serious disagreement with what is listed in this Draft under the chapter explaining the powers, duties and responsibilities of the Governor.

The Executive, there shall be an Executive Council for the Islands. The Draft Constitution states that:

> "Executive Council shall consist of-
>
> (a) the Governor;
>
> (b) a Chief Minister appointed by the Governor in accordance with subsection (2) of this section;
>
> (c) four other Ministers appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the Elected Members of the Legislative Assembly;

(d) the Chief Secretary, the Financial Secretary and the Attorney General ex officio.".

One significant difference as far as the makeup of the Executive Council in regards to Official Members is that now the Official Members are listed according to the office they hold. Section (2) of Part III of the Draft states:

"(2) The Governor, acting in his discretion-

(a) shall, unless he causes a ballot to be held in accordance with paragraph (b) of this subsection, appoint as Chief Minister the elected member of the Legislative Assembly who appears to him best able to command the support of a majority of the elected members;".

I have a fundamental difference of opinion with this section because I think it problematic in the sense that it does not say, except leaving it to the Governor's discretion, how he arrives at the decision that a person is best able to command a majority. Does it have to do with an informal rapport? Does it have to do with the fact that the person he chose may come from a constituency with four seats and he assumes that those other three people are automatically going to support his choice?

I think that this particular section gives the Governor too great a discretionary power and I would be happier if an arrangement could be worked out for example, where in section (b) the Governor:

"(b) may cause a secret ballot to be held among the elected members of the Legislative Assembly to determine which elected member commands the support of the majority of such members;".

Here I beg to differ and I suggest that contrary to what some other people may believe, that a secret ballot is the best way to conduct any polling because what that does is to allow people the full scope of a conscience vote. That is a secret ballot in the absence of a formalised party system so that I would advocate were the situation to take place in a parliament such as we have, in the absence of clearly defined party lines, the secret ballot would be the most effective way. Why? Because whether we believe it or not, there can be a certain amount of intimidation going on and who knows under our system of political tribalism that the strong will not be able to intimidate the weak into voting for them. This could very well happen in a system where, for example, there is a show of hands or a voting by a yea or a nay.

I have been a school teacher. Nobody needs to tell me what a stern look can do. If my observation serves me correctly (and I have no signs yet of it being otherwise) even here in our informal system with not so much at stake, I have from time to time seen some stern looks passed across. So I favour the appointment of the Chief Minister in the absence of formalised parties. I favour the Governor doing so by reason of a secret ballot where the candidate with the majority is appointed. Or, alternatively, in our system if there is a strong enough informal alliance and people feel so moved, they may write and submit to the Governor if it is nine or 10 or eight in a 15 Member Parliament and there is unanimity among them, they may suggest in writing to the Governor that they are prepared to support one from amongst themselves as the Chief Minister. This could be a way in which the Chief Minister was chosen also.

This is a good point for me to say something: I have always been an organisation man. I have always been a party man. I have always believed in a clear-cut system of responsibility and hierarchy. Let me state unequivocally, I believe that we are entering a period of political maturity and I believe that the time is fast approaching, if it is not upon us already, when we should seek to develop a system of political parties. I have said this to my constituents before and I intend to say it again when my colleague and I have meetings to explain this draft document. I do not stand in fear of political party development because I see that as a natural development and a natural step in the political evolution of this country and contrary to what some people may try to project, portray or disseminate, the development of political parties does not mean the automatic demise of this country as a stable political and economic country.

There is nothing to fear in this development unless we, ourselves, are irresponsible, mischievous and destructive. I see that as a stage in our development just like adolescence is stage in the development of the human being. The office of Chief Minister has been one of the most controversial, one of the most hotly debated and one of the most talked about offices or sections of this draft document. Let me preface what I have to say on this by giving a little historical anecdote on the evolution of this office as it evolved in Great Britain, which is today the model for our Parliamentary system.

It is recognised that in the British system of constitutional government the first holder of the office of Prime Minister, as they called it, was Sir Robert Walpole. During the time that Sir Robert Walpole presided over the Cabinet, there was no formal system set out legally giving him the powers of Prime Minister. Rather, it was an informal system and he by virtue of his charisma or leadership abilities was able to so win the respect and the loyalty of the other members of the Cabinet that he was informally recognised as the leader. But it was not until the late 18th Century under the leadership of William Pitt the Younger, that the Office really evolved to the point where they described the Leader as *primus inter pares* - 'first among equals.' Why was this so? Because, Madam Speaker, it was difficult in the situation as it existed prior to that time, where all of the Cabinet Members were of the same rank. It was difficult for the King to get any assumption of responsibility when things did not go right from any of the Members. They blamed each other. The administration of state was in a quandary because, we must remember, George I spoke little or no English; George II was not interested, and George III was consumed with the revolt of the American colonies.

The King, for his domestic affairs, needed someone to take the realms of state because he was preoccupied trying to maintain the American colonies. Indeed, the Cabinet at that time was also preoccupied with this. That is how the office evolved. The people of Britain realised that they needed within that Cabinet someone who would assume the responsibility for turning that body of people from varying interests and backgrounds into an orchestra with a bandmaster.

At the end of the 20th and the dawning of the 21st century, it cannot be otherwise. It is whimsical to talk about five people being equal and there is no leader among them. I would like to know how that system is going to work? Who is going to assume responsibility? Who is going to take the initiative to see that things are done? Every organisation even in the Animal Kingdom, there is a king of beasts. That king is in charge. All the other beasts have to swear fealty to that king. In the most fundamental unit known to human beings, the family, there is a head. There are heads of departments. On Boards of Directors, there are Managing Directors, there are Chiefs, there are managers. In the Armed Forces there are Five Star Generals and among all the generals of the different branches of the Armed Forces there is one called the Chairman of the Joint Chiefs. It is natural and for the sake of order and responsibility and the functioning effectively, there must be a Chief.

MADAM SPEAKER: Would this be a convenient time to take a suspension for 15 minutes?

MR. ROY BODDEN: Thank you.

MADAM SPEAKER: The House will be suspended for 15 minutes.

THE HOUSE WAS SUSPENDED AT 3:39 PM

HOUSE RESUMED AT 4:00 PM

MADAM SPEAKER: Debate continues on Private Member's Motion. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. At the point of the break, I was elaborating on the position and the office of the Chief Minister. Having laid the argument for the appointment of such an office, I will now go on to make a few general comments which I think are pertinent to what I would like to elaborate on and also because it is necessary to make the comments in relation to the fears expressed by some people.

I do not share the sentiment that the office or position of the Chief Minister will serve to corrupt anyone. I believe that human beings are basically good and it is largely as a result of environmental influences that we become other than good. Certainly, I would take the responsible position that there is, and as far as I know has been, no Member of the Cayman Islands Legislature down through the ages who had to be impeached because that person was corrupt. Out of respect, for my colleagues, including those with whom I do not necessarily share every point or philosophy or objective of policy, I do not know of anyone in this present House who is corrupt, if I did, it would be an abnegation of my responsibility if I did not bring that to the attention of the authorities. So, I have no fear of my colleagues or my opponents succumbing to corruption just because someone may be fortunate enough to be elevated to the position of Chief Minister.

I believe that we, as politicians, are a fraternity of people just like other fraternities; and there is honour and virtue amongst us, even though we may not see eye to eye. Consequently, I do not subscribe to the notion that the provision of a Chief Minister would lead to corruption in this society, or, for that matter, necessarily in any other society. In the event that a Chief Minister behaves contrary to the code and expectations which are set down, there are provisions for removing that person. Some of these provisions are entrenched in this Draft Constitution and section 30 of part 3 which deals with the executive states in the first section:

> "30.(1)The Governor shall revoke the appointment of the Chief Minister if a motion that the Legislative Assembly should declare a lack of confidence in the Government of the Islands receives the affirmative vote of a majority of not less than two thirds of all the elected members thereof:"

So that there is nothing in this document to suggest that any one who is appointed to the position of Chief Minister has a life tenure. Section 2 says also: "(2) The Chief Minister shall vacate his office if, after the polling in a General Election and before the Legislative Assembly first meets thereafter, the Governor, acting in his discretion, informs him that he is about to appoint another person as Chief Minister.". I might further elaborate in the event of mature party systems, in addition to what is written in the Constitution the party rules with outlined provisions for the appointment to office or removal from office of the party leader who may well be the Chief Minister. That person can also lose his appointment if he loses the confidence of the members of his cabinet, of his party executives.

The fear of the Chief Minister being some evil creature from the swamps who is corrupt, inept and inefficient is more a perception than a reality. I would shy away from making any statements about a Chief Minister taking all of the percentages of the Cabinet and becoming instead a 40 percenter. With all due respect, and in all seriousness, these are not the kinds of things I would wish to be projected. As I have stated before, I full well believe that all of us in here are honourable and in the future I would

expect these hallowed halls to be populated by mortals of no lesser virtues. Similarly, provision is made for the removal of office of any minister who for one reason or the other, does not fulfill responsibilities and obligations. One of the strong points of a formalised party system, is that within the party itself and apart from the Constitution, the party contains a code of conduct and ethics which all members of the party and by inference ministers of Government must subscribe, so that if and when we evolve to a party system, we will have a dual protection from certain fears which appear to be on the minds of some people at this time.

I believe that the evolution to a full ministerial system is only in the best interest of the functioning of the bureaucracy of Government. I certainly cannot see why there should be a great objection to people being called ministers and being led by a Chief Minister at this time. I also believe that the evolution of the ministerial system allows the roles, duties and responsibilities of the occupants of those ministries to be more clearly understood and more clearly delineated. We hear complaints frequently about Members of Parliament not having clear lines of authority. Indeed, the argument can be made that in some instances policies are not carried out because there are too many gray areas between the Members, as they are presently known, and the strictly Civil Service arm.

For the functioning and the effective running of Government, the Minister should have clear lines of responsibility and should have a clear authority. For now it is commonly referred to as office of the Principal Secretary and not the office of the Minister, or not the office of the Member. There can be cases where, by accident or by design, conflicts occur and policies and projects get stymied because of a lack of enthusiasm, or plain mischievousness. In a ministerial system, the possibilities of this occurring would be greatly removed. That is another reason why we should move forward with this system.

Also, I do not share the fear that a minister, be it Chief Minister or otherwise, is going to vindictively stymie or transfer or cause to be transferred senior civil servants or any civil servant for that matter. For the conduct of our governmental affairs in the Cayman Islands, certainly not suggested that this is a great possibility. I believe that these appointments can only serve to enhance the functioning of the Government and continuing with the assignment of responsibilities. The Governor will be one step removed from the day-to-day functioning and the Chief Minister will assume more responsibility, although, in the proceedings of the Executive Council section 35 states: "35. (1) The Governor shall, so far as is practicable, attend and preside at meetings of the Executive Council. (2) In the absence of the Governor from any meeting of the Council, the Chief Secretary, Financial Secretary or the Attorney General, in that order, shall preside at the meeting.". There is still the situation where the official arm of the Government takes an active part and has the presence in the decision-making of the Cabinet.

As regards to the appointment to office of Parliamentary Secretaries, I do not have any enthusiasm for this. I would venture to say that this particular suggestion will be more problematic than it will be beneficial. Not because the Chief Minister may manipulate the appointments to his advantage, but largely because in a small parliament, I would have to question the necessity for these kinds of appointments and would suggest that what these appointments would do is serve to make the cabinet top heavy. Although, I must concede that the argument could also belie that the business of Parliamentary Secretaries is also a good initiation for potential or prospective ministers. In candor there are both pros and cons to the appointment of Parliamentary Secretaries but I have stated my personal position that I do not feel any great compulsion to support such a suggestion at this time.

Turning now to the Legislative Assembly, I guess one of the most important differences has been the addition of three new Members. When the Commissioners were here, my constituents made that request for an additional Member. I supported this request indeed, I was so prescient that I had suggested to my colleague that certain sections of our constituency would soon be lobbying for a person whom they could claim as their representative. Together we agreed that we would support this position when it was put forward. I lend my wholehearted support to the addition of three new Members and can safely say that this addition is rationalised on the basis that the constituencies these Members will represent are the largest constituencies in the country and they are also the fastest growing constituencies.

An argument has been made (and I believe I read this in one of the editorials of the *Caymanian Compass*) that we should consider any addition of the membership especially as that would be a burden on the purse strings of the country. To that I can only say that one cannot sensibly equate good representation, good leadership, peace, order and good government and a sense of well being among constituents to a strictly dollars-and-cents position. I certainly cannot support the argument that three more members appointed to the Legislative Assembly will detrimentally affect the purse strings of this country. I believe that by the appointment of these three members, what we are doing and what the Commissioners have sought to do in their recommendation is to ensure that as the country grows, no element or sector can claim that they are disenfranchised or not represented in the parliament. If I were asked to comment further, I would only say that it is high time that we do so. The appointment of these three members to the Legislative Assembly is balanced by the growth of the Cabinet for Executive Council by one more member and also by the increase in the number of members making the quorum from seven to eight. Again, this is as it should be.

It is not for me to say how the Cabinet should be made up, rather, that is for the governing group or party or bunch of individuals. I would make this observation at this point, that the increase in numbers of the Executive Council or the Cabinet from four to five, affords us the opportunity to remedy an age-old problem, if we are so disposed. By that I mean that it should allow us in most, if not all circumstances to have one member of the Executive Council, or Cabinet, coming from Cayman Brac and Little Cayman. That, while this is an idea, it may be able to be achieved so that we can, in all instances, cover the whole country with representative government at the Cabinet level. I might add, that is not a matter for us to decide here, but rather, it is a matter for the ruling party or group of individuals. I am saying, theoretically, it affords us a great opportunity to see that the people of Cayman Brac and Little cayman have a representative in the Cabinet or on the

Executive Council.

Still talking about the makeup of the Legislative Assembly, I would be happy (and certainly it is my position) to see the Finance Committee made up exclusively of Elected Members with the Financial Secretary being the Chairman as it was prior to Motion 3/90 and its evolution. My reason for saying so is basically that while I respect Civil Servants, I think decisions in regard to how the revenue of the country should be spent, should be made largely, if not exclusively, by the Elected Members as they are the representatives of the people from whom these revenues are raised. Another important and fundamental point from my taking this position is this; if mistakes are made, if bad policies ensue, the electorate has a chance to discipline those persons or that person responsible for making those bad decisions when they are the elected representatives of the people but if those persons who make those bad decisions are Civil Servants, the electorate have little or no chance of disciplining them since the Civil Service members are appointed by the Governor.

The constitution of the Finance Committee being entirely elected representatives of the people is the essence of true democracy because it allows the electorate and the voting populace of the country to have some means of recourse, of discipline, of influence and, ultimately, of sanction over these people when they make bad decisions or when they make decisions contrary to the wishes of the people. While we are on this point about making bad decisions or decisions contrary to the people, it is a convenient time for me to state that I would be happy to have seen entrenched in this draft some provision for a referendum.

I note that the Commissioners suggested that the most effective way to deal with a referendum would be to draft a special referendum law. Some people suggested that referendum and laws relating to are not strictly part of the Westminster system. They further suggest that referenda are more commonly used in the United States. By virtue of the fact that they are not well known in Britain, it does not strictly fit into the Westminster mold or model. I take the position that referenda are a very important part of the democratic process and where sensibly used can be one of the most important tools in assuring that the wishes of the people are always abided by. Certainly I would not suggest that we have a referendum every day and any law or provision for a referendum must be so specifically clear as to state that they should only be used to decide matters of national importance.

For example, a new tax package which would affect all of the country, such as the policy decision of the Government to embark on a new Health Plan or a new Education Plan, which is radically different from what we have at present or what was experienced. These are the kinds of things that we could employ referenda to decide. Certainly I would say that provisions for a referendum would serve to strengthen the democratic process in addition to giving the people a sense of security and a sense of control in knowing that provisions were laid down in the Constitution for the employment of a method or methods to poll their decisions in the event of policies which would affect their pockets or affect the direction in which the Government was taken.

MADAM SPEAKER: It is now 4:30 Honorable Member.

MR. ROY BODDEN: I have some more to say, Madam Speaker, so if it is the wish of the Chair, I can take the adjournment.

MADAM SPEAKER: Thank you.

ADJOURNMENT

HON. JAMES M. RYAN: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10:00 a.m. on Monday.

QUESTION PUT: AGREED.

AT 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., MONDAY, 7TH SEPTEMBER, 1992.

MONDAY
7TH SEPTEMBER, 1992
10:09 A.M.

MADAM SPEAKER: 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings in the Legislative Assembly are resumed. Item 2 of today's Order Paper, questions No. 185, standing in the name of the First Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 185: Can the Honourable Member say how are complaints, made by Caymanians against foreign national business partners and employers, handled by the Caymanian Protection Board?

HON. JAMES M. RYAN: Complaints are investigated and, if substantiated, the Board will take appropriate decisions. If offences have been committed, prosecution is instituted before the Courts. Where appropriate licences may be revoked or not renewed, but only after proper investigation of allegations.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. Can the Honourable Member say if when complaints are received there is any system in place which informs the complainer that note will be taken of the complaint and any outline of the intended procedure given?

HON JAMES M RYAN: Madam Speaker, I am not certain whether there is actually a procedure in place and whether the complainant is actually advised. I would suspect that it is difficult to have a set down procedure when complaints vary so much from time to time.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker, I wonder if the Honourable Member would give an undertaking to investigate the feasibility of so doing because it is a common observation and complaint from members of the public who have these kinds of grievances that nothing is done, or at least they are not even informed if their complaints have been received.

HON JAMES M RYAN: Yes, Madam Speaker, I will give an undertaking to look into the feasibility of this.

MADAM SPEAKER: Thank you. The next question is No. 186, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 186: Would the Honourable Member say how many work permits have been issued since August 1991, giving the nationality of persons to whom these have been granted?

HON. JAMES M. RYAN: A total of 3,318 permits were issued by the Caymanian Protection Board from 1st August, 1991 to 31st July, 1992. The nationalities of persons to whom these permits have been granted are as follows:

Argentina	3	Mexico	1
Australia	22	New Zealand	7
Austria	12	Nicaragua	28
Barbados	5	Nigeria	2
Belize	14	Norway	1
Bolivia	2	Pakistan	3
Brazil	14	Trinidad	15
Bahamas	1	Panama	8
Canada	254	Peru	1
Chile	4	Portugual	1
Colombia	46	Phillipines	33
Costa Rica	28	Puerto Rico	1
Denmark	3	Saudi Arabia	2
Dominican Republic	30	Salvador	1
Ecuador	2	St Lucia	1
Fiji	1	St Vincent	3
Finland	1	Sweden	5
France	6	Switzerland	6
Germany	18	Thailand	1
Ghana	1	United Kingdom	314
Greece	2	United States	530
Guyana	20	Venezuela	2
Haiti	2	Yugoslavia	1
Holland	7	Zambia	1
Honduras	160	Zimbabwe	1
Ireland	59	India	15
South Africa	6		
Italy	16		
Jamaica	1,585		
Japan	1		
Malaysia	9		

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say how many of these permits are renewals as against how many of them may be permits applied for the first time?

HON JAMES M RYAN: Madam Speaker, it is my understanding that these are all new permits.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Supplementary. I wonder if the Member could tell us how do these figures compare to 1990 for the same period and what portion of these are employed in technical or specialised areas?

HON JAMES M RYAN: Madam Speaker, I am afraid that I do not have the answer for either one of those questions here with me.

MADAM SPEAKER: The questions asked really were not part of the original question and I expect the Member would be able to supply it if requested so to do.

HON JAMES M RYAN: Could you just repeat that, Madam Speaker?

MADAM SPEAKER: I am just saying that if you were requested you could supply this information?

HON JAMES M RYAN: Yes, Madam Speaker.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, can the Member say why there are so many work permits in the light of the Government's own statistics which keep showing a rise in the unemployment amongst local people?

HON JAMES M RYAN: Madam Speaker, when an employer makes application for a work permit, he first has to advertise in the newspaper and if he does not receive suitable applications from Caymanians then the work permit may be considered. I do not know exactly why the large number, except for the fact that there are apparently not Caymanians applying for these jobs.

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker, I wish to ask the Honourable Member if there is communication and consultation or dialogue between the Labour Office and the office of the Caymanian Protection Board, when or prior to the granting of these work permits so that there is an ascertainment that no local person is available?

HON JAMES M RYAN: Yes, Madam Speaker, it is my understanding that there is consultation between the Labour Board or the Director of Labour and the Caymanian Protection Board prior to the granting of permits.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. If the Member has the information available, I wonder if he could say what category were the majority of these permits issued in? Domestic, hotels, where?

HON JAMES M RYAN: Madam Speaker, I do not actually have the breakdown. The permits were issued, I think I should say across the Board in terms of employment but I do not actually have the breakdown of the various skills or various areas of employment.

MADAM SPEAKER: The next question is No. 187, standing in the name of the First Elected Member for Bodden Town.

MR. ROY BODDEN: Madam Speaker, with your permission. I have since understood that this question should have really been addressed to the Honourable Member with responsibility for Health and Social Services and would request the Chair's permission to so direct the question to that Member.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 187: Would the Honourable Member say: (a) how many juveniles are currently incarcerated in the Cayman Islands; and (b) what provisions are being made for the rehabilitation of these youngsters?

DEFERMENT OF QUESTION NO. 187
STANDING ORDER 23(5)

HON. D. EZZARD MILLER: Madam Speaker, in accordance with Standing Orders 23(5), I seek the permission of the House to defer this question because of the mix up alluded to by the Member asking the question.

QUESTION PUT: AGREED.

QUESTION NO. 187 DEFERRED.

MADAM SPEAKER: The next question is No. 188, standing in the name of the First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE THIRD OFFICIAL MEMBER RESPONSIBLE FOR FINANCE AND DEVELOPMENT

NO. 188: Can the Honourable Member state: (a) the total amount of taxes raised by Government since 1989; and (b) Government's deficits since 1989?

HON. GEORGE A. MCCARTHY: (a)Madam Speaker, the total amount of taxes, fees and other revenues raised by the Government since 1989 are as follows:

January - December 1989	-	CI$ 95,937,716
January - December 1990	-	CI$101,830,508
January - December 1991	-	CI$113,245,934
January - August 1992	-	CI$ 84,979,901
TOTAL:		CI$395,812,059

(b)Madam Speaker, the Government of the Cayman Islands accumulated surpluses and deficits since 1989 are a follows:

Period	Surplus/(Deficit)
1989	$ 11,791,690
1990	$ 5,647,792
1991	$ 4,384,874
Jan 1992 to 31st August - unaudited	$ 8,424,053

In order to maintain consistency with the Audited Financial Statements, the figures given take into account the proceeds of loans raised and transfers from the General Reserves during the period.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Can the Member to please tell us what portion of the figures stated were caused by new tax measures?

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I have not got the precise information on that. It would require having to be investigated and looked into, but the new tax measures I would hazard a guess that in 1990 through 1991, I think that amounts to approximately $6 to $7 million and in 1991, I think it amounts to about $3 or $4 million.

MADAM SPEAKER: Supplementary, the Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, can the Member give us either the figure or an approximate figure of the amounts transferred from General Reserves and the proceeds of loans raised during the period we are discussing?

HON. GEORGE A. McCARTHY, JP. Madam Speaker, the proceeds of loans raised during the period 1989 - $4,564,855; 1990 - $858,902; 1991 - $14,067,711; 1992 - $2,229,187. I should also mention that the amount for 1992 did not represent new loans but unspent amounts from the 1991 proceeds.

MADAM SPEAKER: I think the Honourable Member also asked for transfers.

HON. GEORGE A. McCARTHY, JP. Yes, Madam Speaker, I overlooked that. These figures will have to be approximate. I am just looking at the changes within the balance. The General Reserve balances as at the 31st of December, 1989, was $11,173,808. It increased in 1990 to $18,177,316 which indicates that there was an increase of approximately $7 million between 1989, or in 1990. The balance at the 31st of December, 1991 shows $11,981,752 which shows a reduction in 1991 of approximately $7 million again.

In 1992 it is up to $13,046,038 which means that there would have been a transfer in of approximately $1.5 million or that could have been made up of also interest earned on the investments in the General Reserves. This figure excludes the interest, this varies from what I gave earlier. But the raw figures excluding interest, $9.8 million, this would have recognised the transfer out of $3.5 million that was approved in July.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. Can the Member say then in 1990 and 1991 how much was transferred from the reserves or surplus or loans to make the deficits smaller?

HON. GEORGE A. McCARTHY, JP. Madam Speaker, taking into account the loans we have for 1990

and 1991, it amounts to approximately $15 million. The General Reserves reduction amounts to approximately $7 million in 1991 that was transferred out and also the $3.5 million that was transferred out in July of this year.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Can the Honourable Member say whether the $15 million in loans for 1990 and 1991, included the $16+ million recently approved for Cayman Airways? Secondly, and this is a question, is it correct that approximately $10 million of taxes was put in the 1989 Budget (it would be for 1990) and also approximately $10 million in the following year? Thirdly, whether taxes have an accumulative effect? In other words, the $10 million in 1989, would also be taken as $10 million in 1990 and $10 million in 1991?

HON. GEORGE A. McCARTHY, JP. To answer the last part of the question first, yes, the new tax measures would be recurring in that new measures introduced in one year would normally follow through. It is my understanding that in 1990 when the Government took the decision to award a salary increase that certain new tax measures were put in place in order to achieve the funding of that increase. Looking at what occurred in that year, the recurrent expenditure for the year ending 1989 was approximately $75,308,662. At the end of the 1990 it jumped to $97,043,109 an approximate increase of $22 million. So we can see, isolating the factors that would have been responsible for the depletion of the reserves and also the using up of a part of the surplus would also have gone into funding the salary increase.

It was also anticipated that new tax measures, as introduced, would have raised the level of revenue sufficient to offset the funding of the new salary increases but apparently it yielded approximately 50 per cent, or thereabout, or 60 per cent of what was expected. The reason being when tax measures are introduced in the middle of the year, it does not have the full year's effect until the following year as such, so it is only an increment that would have been obtained. Isolating the factor responsible for the expenditure, having to move funds out of reserves, having to reduce the balance under surplus and deficit account and having to carry over because in effect to the extent that there was a shortfall in funding the 1990's position, this was carried through into 1991 and it is also recurring in 1992 as well.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member agree that the amounts he has given us for new loans and plus the amounts transferred from reserves far exceed any surplus which is shown here and it is correct that if it had not been for these transfers and these loans there would be no surplus? Is that correct?

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I will stay away from offering an opinion. But dealing with the information in front of us, we have had loans totalling approximately $15 million. We saw where the balance under surplus and deficit account as at December 31st, 1989, is approximately $11.7 million. Also in the General Reserves there was approximately $18.1 million. Looking at this we are seeing that the total accumulated position would have been approximately $30 million.

When we look at the jump that occurred having to deal with the salary award which approximated 28 per cent of recurrent revenue over the previous year, the only way to have dealt with that really would have been to cut back on the salary position and that would not have been a popular decision to have taken. Therefore, there has been a substantial reduction in the reserves and the accumulated surplus and deficit position because we see when we look at the position as at the end of August 1990, that we have used up approximately $30 million in total.

MADAM SPEAKER: The next question is No. 189, standing in the name of the First Elected Member for West Bay.

THE FIRST ELECTED MEMBER FOR WEST BAY TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR TOURISM AVIATION AND TRADE

No. 189: Can the Honourable Member outline the factors which led to the sale of an aircraft for US$185,000.00 when the purchase price by Cayman Airways Limited was US$1.125 million?

HON. W. NORMAN BODDEN: It is assumed that the aircraft in question is the Shorts 330. The sale price of US$185,000.00 stated in the question is incorrect. The aircraft was sold for US$262,500.00. The tremendous weakness in the aircraft market, coupled with the fact that aircraft like the Shorts 330, has been superseded by newer and more efficient generation of aircraft accounts for the low value of this type of aircraft in today's market.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member say if that figure of $262,500

was a net figure to the airline or commissions were payable to anyone from it?

HON. W. NORMAN BODDEN: Yes, Madam Speaker, that was net to the airline. The sale was direct to the company concerned to the purchaser and no agent was involved.

MADAM SPEAKER: First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, can the Honourable Member say how old was the aircraft and how long did the airline own the plane?

HON. W. NORMAN BODDEN: The aircraft was manufactured in 1978. Therefore, the sale which took place in 1992, the aircraft would have been 14 years old at that time. It was purchased and put into service in February 1987, therefore it would have been in the company's possession for little over five years.

MADAM SPEAKER: If there are no further supplementaries, the next question is No. 190, standing in the name of 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. 190: Will the Honourable Member state the number of drug counsellors presently at the Centre; how long have they been employed; and what are their qualifications?

HON. EZZARD MILLER: There is a total of five Drug Counsellors at the Cayman Counselling Centre. This number is comprised of a Director, two Senior Counsellors and two Counsellors in training. The Alcohol and Drug Programme Coordinator has a double major B.A. in Psychology and Sociology, a Master's Degree in Education (Counselling) and has 18 years of experience in the field. He has been employed since August 1987.

One of the Senior Counsellors has been employed since August 1989. This person is qualified with a B.A., with a Psychology major and Sociology as a minor. An additional qualification is that of being a Certified Clinical Supervisor with 20 years experience in the field. The other Counsellor holds a B.A. (Sociology major, minor in Psychology) and is a Certified Alcohol and Drug Counsellor and brings over 15 years of experience to the post, having joined the staff in May of this year.

Two Caymanians are in training, one having been employed since 1989 and the other since 1991. One has a B.A. degree in Business as a major and Psychology as a minor and the other has completed a two year counselling programme from an accredited college in Canada.

MADAM SPEAKER: If there are no supplementaries, that concludes Question Time for today. The next item on today's Order Paper is No. 3, Private Member's Motion No. 13/92. Continuation of the debate on the Draft Constitution. The First Elected Member for Bodden Town.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS:

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

(Continuation of Debate thereon)

MR. ROY BODDEN: When we took the adjournment on Friday, I was outlining my position as regards to the section of the Draft entitled "The Legislative Assembly," which I will continue this morning. The Draft is significantly different from the document under which we are operating at present, both in the length and also in terms of specifics. No section is more indicative of this than the section which I am going to be addressing now; namely that dealing with the position of Speaker of the Legislative Assembly.

The Draft states in Section 44 that:

> "44.(1)At the first sitting of the Legislative Assembly after a General Election and as soon as practical after a vacancy occurs in the relevant office otherwise than on a dissolution of Assembly, the Elected Members of the Assembly shall elect-
>
> (a)a Speaker from among the elected Members of the Assembly, or persons qualified to be elected as members of the Assembly, other than members of the Executive Council or Parliamentary Secretaries;
>
> (b)a Deputy Speaker from among the elected members of the Assembly other than members of the Executive Council or Parliamentary Secretaries;"

The first point I would like to make is the significant difference between the Draft and the document under which we are presently operating, is that the Draft makes provisions for both a Speaker and a Deputy Speaker. I would like to offer my opinion on the position of Speaker as is suggested in the Draft. I believe that it would serve us well to continue with the arrangement which we now have. That is what I call the Speaker being a professional Speaker rather than for us to seek to immediately go to the position of an elected Speaker from among the Members of the Legislative Assembly. My reason for saying this is basically this one. After about 20 years we have now evolved to the position where we have a professional Speaker. I believe that the office needs to be a little more seasoned before we attempt to advance it. In essence, we are still in the initial stages of developing that office and I can see no reason to be hasty or to change the situation from one which we now have and which, I must say, to my mind, is working excellently.

On the other hand, I do appreciate the provisions made for the appointment of a Deputy Speaker because it would have to be an obstinate person who would not admit that perhaps sooner, rather than later, we are going to be headed in the direction of political sophistication where we will have some formal party systems. This provision, I think, is timely, in that while we do not need it immediately, it will be there when we need it. I would like to say too that the business of evolution to the point where we are now, where we have a professional Speaker, certainly to my mind helped us achieve a more businesslike sense in these chambers. It helped us to evolve to the point where there is more professionalism, less conflict and generally speaking, a better management of parliamentary affairs and of the time of the Parliament. I am sure if it is not a unanimous sentiment, it is a near unanimous sentiment that there is, generally speaking, a better feeling among Members of the Assembly now that we have a dispassionate professional Speaker, who is removed from the politics of the situation.

I would like to spend a fleeting moment on Section 47, which deals with the appointment of the Leader of the Opposition. If I am correct in predicting the direction which the politics of this country are headed, I think this again is a very timely provision and one that will certainly add to the orderliness and the functioning of the affairs of our Parliament. One of the things that concerns me is the amount of overlap in debates where individual Members are free to comment on all and sundry that is being discussed in the Parliament. Perhaps that might have something to do with the length of our Sittings. Therefore, I am suggesting that if the situation arose to the point where we were organised with a leader, for example, of the Backbench, it would be that person's responsibility to coordinate debates and replies to such an extent that the penchant for overlap and for one Member repeating substantially what had been said before would be greatly reduced. Hence, I must say that the provision of such an office or officer would undoubtedly lead to an even greater management of the time of the Parliament and certainly a better organisation of debates and replies upon the floor of the Parliament.

This again, as far as I am concerned, can only be seen as a step in the correct direction and a step in the better management and better allocation of the human resources as we have them in our Parliament. So I have no objection to this provision in the Draft Constitution at all.

I would like to turn now to Section 57, which can be seen as a rather controversial section and I would like to preface my comment by saying, there is under our system not much that can be done to curtail the Governor's reserve powers because when you tread on this kind of ground, you are really treading in the direction of which we do not wish to go. Let me, however, say that the problem exists when we may have an assertive personality who insists on carrying out the reserve powers to the 'T' and does not leave much room for interplay between the office of Governor or the Governor and the Executive Council or the Cabinet. This is an area where we, as representatives of the people, often hear complaints about. Sometimes we are approached with the observation of why does the Governor have so much power?

Let me say that one way that this can be handled, and one way in which it would seem that there is a greater balance or that the powers of the Governor have a counter-balancing effect, is if we arrive at the point in our political development where we have a ministerial system where the people's representatives can be directly involved in the implementation of policies. I would like now to go to Section 62 which deals with the business of proroguing and dissolving the Assembly. There is no radical departure in this section from what is the common and accepted practice now. The Governor: "62. (a) acting in his discretion after consulting the Chief Minister, may at any time, by Proclamation, dissolve the Assembly;". Some differences, if we go to a system where there is a Chief Minister and there are party politics. Of course some circumstances would differ because the House could then be prorogued if the Governor was satisfied that the Chief Minister or the Government had lost its majority or if there was a vote of no confidence and there was a defection of some of the Members, which is hardly the case now.

The Governor, before proroguing the Parliament would have to consult the Chief Minister. It is my understanding that maybe an arrangement could be made, depending on what time in the life of the Parliament it was, to avoid an election by asking the other party or the opposition if they could form a Government or it is possible that an arrangement could be made within the party, if it concerned only the Chief Minister. If there was a breakdown in the confidence between the Chief Minister and his Ministers perhaps it would be settled on a purely party basis. If a compromise cannot be formed with the Chief Minister, than all we would have, as is frequently the case, is the removal of the Chief Minister and the Government in power would continue with a new Chief Minister.

Section 65 gives me some concern. Largely because there is a problem which exists now in connection with electoral district boundaries, which I think should not have reached the proportions it has reached. Certainly I agree that we should have an Electoral Boundaries Commission. I do not have any great objections to what is set out here in the Draft Constitution except to say that one of the weaknesses of this kind of system is that it is subject to charges that the Government in power, whenever there may arise a situation where there is some weakness or marginality, would use the Boundaries Commission to so shift boundaries such as to give the Government a greater chance in an election. I might say that while there is merit to

setting up such a system, the system also leaves itself open to charges of gerrymandering.

Currently, we do not have a an Electoral Boundaries Commission and currently we do not have numerous complaints about these kinds of problems so that the charge of gerrymandering is one which is not common here in the Cayman Islands. I would only say that while there is merit in setting up this Commission, there is also some merit in seeing that the composition of the Commission is such that it satisfies both those on the Government side, and those on the opposition side and that when there are questions of changing boundaries, it is incumbent upon the Commissioners to see that the job is done dispassionately and as fairly as can be possible.

I would like to turn to Part 5 which deals with the Judiciary. I believe that there should be a clear separation of the powers of state. There should be clear lines between the Executive, Judiciary and the Legislative. There is no more important area where these lines should be clear and unblurred than that section which deals with the Judicature, as is listed in this Draft. I cannot subscribe to the notion where officers of the courts, people who have the responsibility for administering justice, are at the whims and fancies of politicians even though, for the most part, politicians set themselves up to be impartial and unbiased. It is a strength of the Westminster system that there is a clear definition and that this element is entirely and completely removed from the influence of ministers and politicians. I would crave the Chair's indulgence to share a brief passage from a book entitled *Constitutional Reform, Reshaping the British Political System*, by Rodney Brasser, 1991 edition, page 153.

The author poses the question, what does judicial independence properly defined, entail? He goes on to say in general the public must feel confident in the integrity and impartiality of the judiciary. Judges must therefore be secure from undue influence and be autonomous in their own field. That possibly implies that neither Government or Parliament should have any role in the appointment or removal of judges, which has never been the case in this country. More precisely, judicial independence may be said to require:

(a) That appointments to judicial office renewable or part-time appointments and promotions should not depend on uncontrolled ministerial patronage.
(b) That judges should be free from improper attempts by ministers, members of parliament or peers to influence the result of cases still under adjudication.
(c) That judicial salaries should not be reduced.
(d) Judges should not be removed from office unfairly or without reason.

Those four precepts should be the bedrock of judicial independence and should find broad acceptance in any western liberal democracy. As far as the independence of the judiciary goes, there can be no addition to that passage which will make it any clearer.

Reading through this Draft Constitution, I was taken by references to age limits in some sections. The point I wish to make on that is that while it is true that this is just a Draft Constitution I would not necessarily emphasise, and I know that it is probably not mandatory, but I would not necessarily emphasise that anyone should be removed from office because they had reached the age of 55 or even 65. In the United States, for example, the judges on the Supreme Court, some of them are into their late seventies and in the case of the recently retired Justice T. Marshall, go on until their eighties. The point I wish to make is that it strikes me that the kind of wisdom needed by judges is the kind of wisdom that is most often gained from years of experience, so one should not be hasty in emphasising a cut-off point because many people would argue that the longer they serve, the more experienced they become, consequently the better able they are to make certain types of decisions. I would suggest that while it is perhaps good to have a retirement age, certainly in these cases, it should be discretionary rather than strictly and entirely mandatory.

I am satisfied that the provisions as laid down in this Draft are provisions which support the continued independence of the judiciary and I am also satisfied that in the Cayman Islands, we are of the level of political sophistication where we realise that any attempt to unduly influence the judiciary and the court and course of justice, will only cast us in a bad light and destroy that reputation which has been so tenaciously and keenly built up by our political ancestors over the centuries. Also, any such attempt would be a radical departure of the Westminster system of which we, in the Cayman Islands, have pledged to continue and indeed should continue if we are to develop into the kind of society that we expect to be.

Part 6 deals with the Public Service. Again there exists no fundamental difference between the position I have taken and the position of the Draft. I would only like to see that where it comes to the appointment of officers to the Public Service Commission, that some provision would be made that where ex-civil servants are appointed to that Commission then those people should have left office for at least three years before their appointment. My saying that is that one cannot, in a small society, totally discount the influencing factor of someone on an important Board like the Public Service Commission and it would be in the ideal if a civil servant were to be appointed, particularly if that person was a civil servant from the senior ranks, if he or she could have left the Government Service for a period of anywhere from three to five years. I would settle for three but five would be more like my ideal. That would give them a chance to have sort of severed any connections they may have had and give the impression of impartiality in any recommendation or any position which they would have had to take dealing with persons who were in the Service at the same time that they were there. Other than that I am satisfied and can live with the provisions as laid down in this Draft Constitution with regards to dealing with the Public Service Commission.

Now, Section 86 of this part 6, dealing with the Public Service and that position which specifically deals with the appointment of an Auditor General. Let me suggest that in this society, more so than in many other larger countries and certainly more so than in metropolitan countries, I see the

position of Auditor General as being one of pivotal importance. If one were to ask me for a comparison, I would say that the position of the Auditor General should certainly be on a plane very similar to that of the Attorney General. The reason is that all upon the holders of this office lies the awesome and tremendous responsibility of ensuring that the Government gets the best value from money spent. Hence, there is bound to be, even in the best of times, some disagreement, some controversy, some difference of opinion between the position taken by the Auditor General and the position taken by the Government. Hence, I advocate the position of the Auditor General should be senior position in the Government towards the top of the hierarchy. It should also similarly be seen to be no less independent than the office of the Attorney General.

The office of the Auditor General should be free from governmental interference and it should also be free from political interference in much the same way as the office of the Attorney General or the office of Chief Justice, better yet, is. I would be happy to see it stated in the Constitution differently so that the office of the Auditor General and the holder of that office is by its very entrenchment in the Constitution guaranteed a certain independence and I have prepared a little draft of what I would like to see which bears some substantial differences from what is in the Draft Constitution. It is rather long, so I will not seek the Chair's indulgence in reading it. What I am prepared to do is to lay it on the table so that it becomes accessible to anyone who is interested.

I think why this is necessary is particularly in the case or cases of developing countries. One of the fundamental and basic criticism has been that very often there is a breakdown and governments suffer from a susceptibility to be charged with pursuing policies and directions which are not necessarily directions in which it can be indisputably proven that the best value has been obtained for the money spent. Certainly, if recent past history is any indication, we have our own examples of that in the Cayman Islands.

While I was preparing for this contribution, this particular section, I was reviewing some texts about this as some people claim it is, a fundamental weakness in the Westminster system and some authors suggest that this is one part of the Westminster system that Britain has not been successful in leaving with the developing countries, that is the developing countries in Africa, particularly, also the developing countries even in the Commonwealth Caribbean, governments are frequently charged with this weakness and there is frequent controversy between the Auditor General and the Government. If we set this clearly and unequivocally in the Constitution, I think that we will be on the way to strengthening our Parliament, to strengthening our governmental bureaucracy and certainly to conveying the impression that we are a strong representative democracy and that we are a strong example of the Westminster style of Parliament.

I would like now to deal with Part VII, Miscellaneous, and I am particularly interested in that section that deals with the setting up of the office of Complaints Commissioner. I see this office as being similar to, if not identical with, that of the office of Ombudsman which has been one of my objectives to leave in this Parliament and in this country. I welcome the suggestion by the Commissioners to the possibilities of establishing such an office of Complaints Commissioner as in the Draft and whilst some people may argue that it is strictly semantics, I would have been happy to see it stated as an Ombudsman because I think that the Ombudsman really conveys a little more shall I say, forcefulness or authority than that of the Complaints Commissioner.

I take it that a Complaints Commissioner would more than likely convey that the person is someone to whom one just complains and he perhaps just registers those complaints and nothing is done but the office of Ombudsman carries with it a sense of a greater importance of the office in that most people know that an Ombudsman has powers to investigate.

Madam Speaker, with your permission, I would just like to read the evolution of this whole business of Complaints Commissioner as far as the Westminster style of democracy is concerned. To say that contrary to what many people think, there has been some discussion of such a position in the British style parliament in the United Kingdom itself. I am reading from a book called, *Constitutional Administrative Law* by Stanley De Smith and Rodney Brazier. It is a 1990 edition dealing with the Parliamentary Commissioner for Administration, as it is called in Britain. It says that this office, while there had been discussions of such an office from the 1960s, it was really established in 1965 by the Labour Government. Then the Labour Government published a White Paper proposing the appointment of such a Commissioner.

On page 647, Brazier and De Smith go on to say that the Commissioner is appointed by the Crown on the Prime Minister's advice. His salary is charged on the Consolidated fund, he holds office during good behavior, subject to a retiring age of 65 and the power of removal on Addresses from both Houses of Parliament. His Terms of Reference are to investigate complaints by individuals and bodies corporate other than local authorities and other public corporations who claim to have sustained injustices in consequence of maladministration. The authors go on to say that he cannot act on his own initiative, nor can he be approached directly by a member of the public but since 1978, the Parliamentary Commissioner for Administration has adopted the practice of forwarding any letter sent by a citizen straight to him to a member of parliament, stating that he is willing to investigate the complaint.

The citizen's consent to this is still necessary and any investigation must be conducted in private. The official Head of the Department concerned and any other official implicated in the complaint must be notified and given the opportunity of commenting on the allegations. No set form of inquiry is prescribed, but the Parliamentary Commissioner for Administration has adequate powers to investigate the complaint thoroughly. It goes on to say that he can administer oaths and compel the attendance of witnesses. It is interesting to note that any findings are tabled in the Parliament and in some cases are debated by both Houses of Parliament.

The time has come for the establishment of such an office in these Islands and I would be happy to see it expanded to deal not only with the complaints of civil servants, when they believe they have been short-shifted but also to deal with the members of the public. I would like to see it with

such scope that not only can it deal with the government administration, as we know it, but also that the officer has powers to investigate complaints made against the statutory corporations. I believe that it is especially needed in the light of civil servants themselves who often complain sometimes that they have been unfairly treated perhaps by not being promoted as rapidly as they think they deserve or by some other forms of denial of what they see as their rights and privileges.

I would also like to see the office evolve to the point where the reports are laid in this House, are given to the Speaker and to the Members of this Parliament where they do form a part of the proceedings of this House, if no more than simple tabling, but where the possibility exists, if the Speaker and the Members deem it necessary and important enough, certain sections or elements of the report can be debated and discussed.

In keeping with what is common practice as regards to this office elsewhere, I would like to see the office established in a position where the Ombudsman or the Complaints Commissioner has powers to summon witnesses and to subpoena papers and reports and has full access to files. I would, however, maintain strict confidentiality in the processes and I would also, in keeping with what is common practice elsewhere, limit it to strictly administrative activities. That is, I would not go so far as to give the Commissioner or Ombudsman powers to prosecute. His powers would mainly end with certain recommendations and then if it were incumbent upon the Government or any aggrieved person or any corporation involved, then they could take it upon themselves, but certainly I would stop short of giving the Commissioner or the Ombudsman powers to prosecute.

I think if we so do, we would be lessening the temptation and the occasion for politicians to dip into the affairs of the Government because quite frequently, or quite often now, we, as politicians, are approached by our constituents, sometimes even by civil servants, with matters that are really in a grey area. If there was a specific office and officer, when we get these kinds of things, we could say well, that is out of the realm of me as a politician but I would recommend or suggest that you take it to the Complaints Commissioner or the Ombudsman. He will make his investigation and I, as your representative, will get involved again when the report is laid on the table of the Assembly or when it becomes public and the recommendations are made I would know what to do. I would also suggest that from my repertoire of experiences anyone who believes that such a position, such an office, is not powerful and influential, need take note from this anecdote.

During the years I lived in Ontario, Canada the Ombudsman for the province was a man by the name of Arthur Maloney, a very eminent and brilliant jurist. There were, during these years, complaints and as a result of that his office made an investigation into one of the Ministries and the Provincial Government was then headed by a conservative Premier by the name of Bill Davis. When Arthur Maloney presented his findings to the Ontario Provincial Parliament, there was a great debate and a great furor and it ended in a very serious embarrassment for the Bill Davis Government and Bill Davis, being the kind of politician that he was, thought that he would one-up Arthur Maloney and the next year no provision was made in the budget for the office of the Ombudsman. So the office had to be closed. However, the public and the other parties in the Parliament made such a fuss because of the firing of Arthur Maloney and the closing of the office of Ombudsman, in the next General Election that was the singular, most important issue. The result, that it caused Bill Davis the Government and brought an abrupt end to his career.

I say that to say that many people would say, "What is the sense of having such an office when the reports and the people in the investigations do not wind up in courts of law?" I would also suggest that the holder of such an office need not be a professional lawyer. Indeed, after Arthur Maloney, the holder of the office of Ombudsman when it was reinstituted was a sociologist. I note also in Britain that the Commissioners for Administration in many cases are not professional lawyers and in the Scandinavian countries, where the notion of Ombudsman originated, neither are they necessarily professional lawyers either.

Indeed, one could argue that there is a certain strength in not being professional lawyers and that would perhaps add to the efficiency of the office because maybe if they were professional lawyers in many cases they would take to crusading rather to an unbiased and objective investigation of the complaints.

MADAM SPEAKER: Would this be a time where we could take a suspension, Honourable Member?

MR. ROY BODDEN: Thank you, Madam Speaker.

MADAM SPEAKER: The House will be suspended for fifteen minutes.

AT 11:31 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:56 A.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. In winding up this contribution in regards to the establishment of a Complaints Commissioner or Ombudsman as I prefer to call it, I need only make two additional reiterations. The first is that there is one particular area that such an officer could be of tremendous help now and that is in the matter of the kinds of complaints we hear levelled against the Caymanian Protection Board. I think if there were such an officer, certainly he or she could be well utilized handling and investigating

some of these complaints.

The other point that I wish to make at this juncture is that there is a sense in which one can argue that the establishment of such an office would serve to immensely strengthen the checks and balances in our system and certainly give those people who now have complaints, an avenue through which those complaints could be routed and at the same time, lessen the potential for interference between the political arm and the strictly Civil Service arm, so that this office of Ombudsman or Commissioner of Complaints as it has been described in the draft, would be a buffer between the strictly political arm and also the strictly Civil Service arm.

I might add that in Jamaica, they even have established a political Ombudsman whose specific duty is to investigate the strictly political complaints in cases of political harassment, political injustice, etcetera. I noted from their last General Election that this officer who was a respected jurist, his office was very busy and indeed he took a prominent role in investigating complaints and tabling reports.

I have outlined my position as regards that; I am clearly in favour of such an office and of it being outlined in our constitution and no less than that of the Auditor General. I think that the provision should be laid out in the Constitution also to ensure the independence of this office and to ensure the officer would not be subject to any political victimization such as that which I outlined happened to Arthur Maloney on the account of Bill Davis and the Conservatives in the province of Ontario in the 1970s.

I am also for a Register of Interests as Section 94 of the Draft calls for. Let me make some specifics here. I am certainly not for any political candidate or aspirant baring his privacy. Indeed, let me say that I am very much satisfied with what is contained in this Draft. I think it would be unreasonable to expect of any candidate setting himself up for public office that he should have to, in intricate detail, give conditions of loans, mortgages, overdrafts, etcetera, that he or she may have and that he or she would have to spell out in intricate detail their financial life. I do not think that this is necessary. I do not think that it is wise.

If that is the case, then let me say that we would be precluding perhaps the largest element of desirable people in this country, because no one would like to sacrifice that kind of privacy even for an office as important as representing the people in Parliament. I think we should stop it at the position where the holder of any public office has to declare any interest he may have as an individual, as a shareholder or as a director in a company which has contracts with the Government or with any statutory body.

Once the powers that be are satisfied that such dealings are above board and ethical, then I think we should leave it at that. Generally speaking, the notion of a register of interests is a sound one and one that I would encourage and one that I could support if it is kept within the bounds of what is suggested in this Draft.

I have nothing more substantial to add as regards to the Draft, except to say that readers of this Draft will notice that in many instances it is significantly more amplified than the document under which we presently operate. This is good because the greater the amplification, the lesser the chance for guesswork and for misinterpretation. My observation is, that in most instances, the Draft is an improvement over the document under which we now operate. I believe that I have tried my best to outline the position upon which I stand with regards to the Draft and in so doing, I have consulted the Minutes of the meeting of the Select Committee and I am satisfied that my position now is in concert with my position then and that there has been no significant or radical departure on my part as far as the Minutes of that Committee go and as far as my position now stands.

When I was growing up, my mother used to repeat on occasion a passage which I subsequently learned came from Shakespeare; "To thine own self be true, and it follows as the day the night that thou canst not then be false to any man." At the time that she told me I could not understand the meaning and the significance of that statement. It was only after I had grown up and departed her wings that I understood the full implications of that. In outlining my position, I have tried to be true to myself and I can stand here and tell the Chair that I have spoken honestly and I believe what I say to be in the best interest of constituents and country at this time. If I were asked to venture an exhortation to my constituents, I would tell them what Demosthenes, one of the founders of the Greek democratic movement told the Athenians. "In God's name I beg of you to think.". Think about this draft. Talk about it. My colleague and I have set up times where we will b doing just that among and with our constituents.

Of talk on this draft? We shall have plenty. There will be many presumptuous, elites, special interest groups, individuals who will puff themselves up and suggest that the position they take is the best. To that, I will only say that some of these will be worthy of that description laid down by that mordant Tory Alexander Pope, when he said, "A little learning is a dangerous thing." I would not be so presumptuous as to suggest that the interpretations I have given are the only ones people could arrive at or that they necessarily are the best. What I am saying is that they come from my heart and what I believe to be in the true spirit and the essence of the representative I set myself up to be, honest, judicious, and well thought-out.

I would say if we linger smug and apathetic, and think that we are safe with what we have, without making provision for the future, we will be misleading ourselves and we may find ourselves in a position as laid out in the great medieval legend concerning Friar Bacon and Friar Bungay who, during the medieval times when England was subject to one of its periodic invasions, these two men of the cloth set themselves a task of manufacturing an oracle; an oracle which would tell them exactly when England would be invaded. Friar Bacon, who was the leader, so constructed this head of brass but the construction was so time-consuming that he became tired and exhausted by his labours and found it necessary to nap, while waiting for the brazen lips to part. So he appointed his apprentice, Friar Bungay to wake him when the oracle began speaking.

As the great scientist slept, the brazen oracle commenced to function. "Time will be," it pronounced. Friar Bungay became terrified and began foolishly and frantically to address

the oracle. "Time is," the head proclaimed, and still Bungay, instead of waking Bacon as were his instructions, continued to babble foolishly to the oracle. Then the head explained, "Time was," and it burst into a thousand fragments. Lo and behold, when Bacon awoke the opportunity was lost forever.

We have an opportunity but, above all, we have a responsibility - a responsibility to ourselves and to our constituents and to our country. It matters not what we personally feel about this Draft. It should not matter what our personal likes and dislikes are. What should matter is what is best for country and constituency. For this document, when it is complete and accepted, must be a document that can take us down the road long after many of us have departed these hallowed halls. This document must be the tool by which our successors administer the affairs of this country. It should not be viewed insularly and selfishly. I hope that it can be a document which is contrary to what Edmund Burke described, "Generation will not link with generation and men will be as the flies of a summer.".

I hope that this can be a document which links generation with generation and that men will be able, by this document in its finality, to administer the affairs of this country no less well than they have been administered and that it can be a document where all can be proud of and all can be happy to be associated with.

I have given my model. It is a model based on frankness, based on truth, based on independence of thought. A model construed out of the hope and out of the aspiration that what is best for the Cayman Islands should be best for Roy Bodden. I stand to spare no man for honour, for propriety, for wealth or for position but to call a spade a spade and to set down what is. I hope that when it is all over, that the end result can be something of which all and sundry who are citizens of this nation can be proud of and satisfied with. Thank you.

MADAM SPEAKER: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I wish to offer my contribution to the debate on Private Member's Motion 13/92, debate on the Draft Constitution.

I wish to thank the Third Elected Member for George Town, and the seconder of the motion, for placing this Private Member's Motion on the agenda for this Sitting, for two reasons in particular. One, it has forced the mover, the Third Elected Member for George Town, more than anyone else in this House, to at long last state publicly what his position is on the Constitution.

To my knowledge, he is the only Elected Member of this House who did not honour their commitment to the Select Committee to have public meetings and discuss the review process of the Constitution. I note, though with some disappointment, that even now he is still a little bit hesitant and he has used, as his training allows him, words which allow him to pander to the views of the electorate depending on what audience he is in, whether he is for or against the motion.

The motion in the resolve section reads:

> "NOW THEREFORE BE IT RESOLVED THAT this Honourable House take note of the said draft Constitution and the documents mentioned in the recitals.".

In listening to the contribution of the Third Elected Member for George Town to this debate, I think it is fair to say that he opposed any change to the Constitution and in particular, the introduction, as the Draft Constitution does, of the ministerial system of Government with a Chief Minister. My disappointment, therefore, is that he was not brave enough to make the resolve section say, NOW THEREFORE BE IT RESOLVED THAT this Honourable House reject the Draft Constitution. But you see, that would have been far too definitive for the Backbench Members of this House.

I gave consideration to moving an amendment of that nature and I was not able to get the required support to do so, but everybody knows what my position is on the Constitution. I have had a total of six meetings in my constituency and made it quite clear every opportunity that I got from the Floor of this House what my position was and what changes I would like to see to the Constitution. But should he change it from note to accept or to reject, if he uses the word accept, I will vote for his motion. If he uses the word reject, I will vote against this motion because I stand for the Draft Constitution which is before this House.

The second reason why I am glad that he has brought the motion is that it will force the other Backbench Members from their liquid state which allows them to take the opinion of the audience that they are discussing this draft with, that is in those areas where they feel support for Constitutional change. Let us be frank, it is mostly in the age group under 35 who want Constitutional change and want to see the Elected representatives be given more responsibility, but also more authority with which to deliver on that responsibility to the public. In those cases having debated a motion that said "note", they can say they support some Constitutional change in those instances where it would favour them politically not to support Constitutional change; they will do so.

The regret I have about the motion and in particular the mover's introduction of this motion is that he abused, misused and misquoted the Report and the Minutes to try and promote his political pandering while trying to make the Elected Executive Council, and here again he went at great lengths to pander to the electorate of North Church Street and the whole of George Town. He very carefully and deliberately removed the Member for Tourism from any criticism of the Elected Member of Executive Council in order not to offend that good gentlemen's majority vote in George Town. That is the only reason because we all know of other instances (not this close to an Election I might add) when he has not so differentiated between the Member for Tourism and the other three Elected Members of Executive Council.

Let us look for a brief minute at the make-up of the Select

Committee which tabled the Report to which that Member referred, and to which he claims that the three Elected Members of Executive Council, that is the Member for Education, the Member for Communication and Works, myself and the two Elected Members for Cayman Brac, made all of these wrong decisions in this Report. There are 12 Elected Members of Parliament. One of our Members, the Member for Tourism, was placed in the Chair and therefore not allowed to vote on any majority consensus issue. That left us, the three Elected Members of Exco, and even if we add the First Elected Member for Cayman Brac, because at the time this Committee was in deliberations there were seven Backbenchers, not six, the breakup has occurred since deliberation of the Select Committee, but even say that part of the reason for their breakup was the fact that the Second Elected Member for Cayman Brac stood for certain things in the Constitutional Select Committee that they did not agree with, that only gives us five out of 11.

At all times in this Committee, the six Backbenchers were in a majority position, at all times. At any time that our position might have enjoyed a majority consensus we had to have at least one or two of their Members voting with us. The Report of the Select Committee contains 42 recommendations, thirty-four recommendations about the Constitution itself and eight additional recommendations in terms of its implementation. Fourteen out of those 42 recommendations are clearly stated in the Report as being a decision by majority consensus, and interestedly let us look at the areas where those decisions were by a majority consensus.

Since there are only 14 recommendations which carry that phrase, "It is recommended by a majority consensus", it therefore means that all of the other recommendations were unanimous, because we can all check the Minutes and we will clearly see how often in particular, the Third Elected Member for George Town recorded his little legal terminology which gives him a way to weasel in and out of positions depending on which lawyer you talk to. The country will clearly remember his and my debate over the word "believe" as opposed to "suspect" with the Misuse of Drugs Law.

The recommendation, Bill of Rights - unanimous; the Governor and the Acting Governor and the Governor's Deputy - unanimous; Governor to consult Executive Council - unanimous; Committee on the Prerogative of Mercy - unanimous.

The first one where there is a majority consensus is Changes in Executive Council. What are the changes that the majority consensus agreed? That the Official Members be reduced from three to two. The one that they wanted removed was the Administrative Secretary and to increase the power and authority of their new found political colleague. Well he has always been with them from the time I have been in Executive Council anyway, but has finally declared the position. This Government clearly stood behind the three Official Members in the order that they now appear in the Draft Constitution. The Chief Secretary, being numero uno; the Attorney General number two; the Financial Secretary number three; now the country knows that none of the six of them support that position.

Interestingly, Creation of the Post of Chief Minister, no majority consensus - unanimous! I repeat, recommendation six Creation of the Post of Chief Minister carries no majority consensus qualification to it, it says: "(6) It is recommended that the post of Chief Minister be created and held by an Elected Member of the Legislative Assembly.". The very next recommendation seven - Composition of Quorum in Executive Council carries that famous phrase:

> "(7) Subject to the majority consensus that the post of Chief Secretary shall not be reinstated, it is recommended that the hierarchy of Executive Council shall be:
>
> (1) The Governor
>
> (2) Chief Minister (an Elected Member)
>
> (3) 4 remaining Elected Members (Ministers)
>
> (4) 2 Official Members (Ministers) (the Financial Secretary and the Attorney-General);".

Again, they are talking about they did not want any advancement in the Constitution. Here they are purporting to change the very hierarchy in Executive Council and to promote the Elected Members above the Official Members while reducing the Official Members from three to two and remember how often have the four Elected Members of this Government been accused of making all the decisions in Executive Council? Appointment of Chief Minister - by a majority of consensus. Creation and Appointment of Deputy Chief Minister, again, strangely enough, no majority consensus - unanimous! See the consistency? Unanimously they wanted a Chief, unanimously they want a Deputy, by majority consensus how they want to appoint him. And it is a known fact that some Members want to stick to the system of secret ballot. And, Madam Speaker,....

MR. TRUMAN M. BODDEN: Madam Speaker, I would like to take a Point of Order here and it is found in *Erskine Mays* at page 381. What the Member is doing is under the paragraph numbered (2): (2) The misrepresentation of the language of another and the accusation of misrepresentation:". He knows that the post of Chief Minister clearly set out in the Minutes, I, among others, at least I objected to and it is Minuted, as well as the other areas he referred to as being unanimous. The Minute does not say unanimous in it.

MADAM SPEAKER: The Member, as I understand is quoting from the Minutes and so far as I have seen, I have seen that he has quoted what the Minutes say. Would the Honourable Third Elected

Member for George Town bring an instance where he has misquoted the Minutes?

MR. TRUMAN M. BODDEN: Madam Speaker, he is taking and reading as in (6): "It is recommended that the post of Chief Minister be created and held by an Elected Member of the Legislative Assembly.". He is then interpreting that as being that I have voted for a Chief Minister when he clearly knows it is recorded in the Minutes, and in fact, there was a general statement in the Minutes, itself which stated that in areas where ....

MADAM SPEAKER: Excuse me, Honourable Member. I have asked for a specific item, what page is it on?

MR. TRUMAN M. BODDEN: Page 15, number (6). He is saying that he interprets that as my voting for a Chief Minister.

HON. D. EZZARD MILLER: Madam Speaker, on a Point of...

MADAM SPEAKER: One Member at a time, please. I want to hear what the Member for George Town has to say. What I see here is that (6) Creation of the Post of Chief Minister: "It is recommended that the post of Chief Minister be created and held by an Elected Member of the Executive Council.". That is what is contained here as part of recommendations, is that not correct Honourable Member?

MR. TRUMAN M. BODDEN: That is correct and it is signed by only a certain number of Members. But he has specifically misinterpreted it to say that I am for a Chief Minister in this Report when he knows clearly the Dissenting Statement says, no. That is why it took me awhile to get to this because I had to find it in Mays, but in the earlier stages he also stated that I had not stated my position on the Constitution when he knows I debated it and there are pages on top of pages of Minutes in February 1992, when my position was put out very, very, clear. That was another misrepresentation.

MADAM SPEAKER: Honourable Member, I see what the Member for George Town is saying, that the Minutes clearly state that the Creation of the Post is recommended of Chief Minister and the Members signing that Report would have been the Chairman, the Member for Education, Member for Social Services, Member for Communications and Works, First Elected Member for Cayman Brac, the Second Elected for Cayman Brac and the First Elected for Bodden Town.

Dissenting Reports were submitted by the Member for George Town including some others who said that they did not agree with the Post of Chief Minister. May I ask you then to just be a little clearer in your presentation so that there can be no confusion? Thank you.

HON. D. EZZARD MILLER: Madam Speaker, just to tell my side of the story. First of all I am not quoting from the Minutes as the Member accuses me of doing. I am quoting from the Report of the Select Committee of the Elected Members. My position is clear. In an instance where there was clearly a majority consensus - the Report states that. The converse to that is that if the Report does not clearly say it was a majority consensus, it must have been a unanimous decision. That is all I am saying.

MADAM SPEAKER: Well it is just a matter of interpretation. I have just asked that you would continue to be very specific about your contribution, thank you.

HON. D. EZZARD MILLER: Yes, Madam Speaker. I am not known entirely for my non-specific approach to anything, unlike that Member.

To continue, and I am quoting from the Reports, majority consensus deals with Appointment of Ministers, other than the Chief Minister. Select Committee's recommendation no qualification of a majority consensus. Assignment of Responsibility - by majority consensus. Limited Terms of Office - it is recommended with no qualification of majority consensus. Number 14 - The Legislative Assembly - (i) Composition of the Assembly - again we find the magic phrase "By majority consensus". Limitations on Terms of Office, I dealt with that - no qualification of majority consensus. Vacation of Seat of Elected Member on Prison Sentence - by a majority consensus it is recommended. Parliamentary Secretaries - by a majority consensus. Finance Committee -:

> "By majority consensus it is recommended that:
>
> (i) the provision for Finance Committee be entrenched in the Constitution;
> (ii) the Finance Committee shall comprise of all Elected Members of the Legislative Assembly;
> (iii) the Financial Secretary shall be Chairman of the Finance Committee, with a casting vote only; and
> (iv) section 37(2) of the Constitution be amended to provide that Finance Committee shall consider such matters as referred to it by the Legislative Assembly or Executive Council.".

The country knows that that majority consensus could not have been made up of any Member who supported Motion 3/90. So you see the use of the majority? Other Committees of the Assembly - it is recommended without the qualification of majority consensus. Number 19 Constituencies

(and a Boundaries Commission). Again by majority consensus. The Speaker - recommended that, no qualification of majority consensus. Vote of No Confidence - by majority consensus again it is recommended and we know who supported and voted for a motion to amend the Constitution without public consultation to do exactly that!

The *Hansards* of the House will show who brought the motion, who spoke for the motion and who voted for the Motion. Leader of the Opposition - again by majority consensus. Return of Bills by the Governor, it is recommended that, no qualification on majority consensus. Number 24 - Dissolution of the Assembly by majority consensus. Other Matters - Provision for Referenda, by a majority consensus. Number 26 - Public Service Commission (PSC) - by a majority consensus again.

Judicial and Legal Services Commission - it is recommended that, no qualification. They claim it was not unanimous, no qualification of majority consensus. Attorney-General - it is recommended. No qualification of majority consensus. Number 30 - Ombudsman - the Committee notes, no majority consensus. Auditor General - the Committee notes, no majority consensus. Register of Interests - it is recommended that, again no qualification. Pensions - it is recommended that, no qualification. Date(s) of Coming Into Force - it is recommended that, no qualification of majority consensus.

During the Point of Order raised by the Third Elected Member for George Town, he said that his Minority Report did not recommend a Chief Minister. Appendix I to the Report I was reading submitted by Mr. Truman Bodden, MLA; Mr. W. McKeeva Bush, MLA; Mr. John D. Jefferson, Jr, MLA; Mr. John B. McLean, JP, MLA, - under part 3:

> "3.We believe that the provisions for a Chief Minister could be put in a new Constitution but only brought into effect upon a resolution of the Legislative Assembly after a General Election in which the new Constitution is an issue and when there are established political parties.".

No objection to the post of Chief Minister. Only as to the timing and there is a reason for that and we are going to get to that as I go on because it is not that they do not want a Chief Minister, it is only how, when, where, what and who! Everyone knows that I am not one of those who is aspiring to Chief Minister. We all know who formed the political party and was worried about whether they could get Elected as leader when there was only one Member. And it talks in the press release about the leader of the political party automatically being Chief Minister. It was not me. I have told everybody, who I would like to see Chief Minister and that is the Honourable Benson Obediah Ebanks. And when talking to the Backbenchers I have referred to the Second Elected Member for Cayman Brac as my Chief Minister amongst them because that coalition that is held together by the glue of hatred for this Member is going to break up after the 18th of September when the House is dissolved because they will no longer have anything to hold them together. We can see them falling apart at the seams.

They have four Chief Ministers on the Floor and sometimes they have two in the Gallery. But they do not want a Chief Minister. The interesting thing is that they hasten to point out that they did not sign the Report of the Committee and technically, I believe therefore there is no Report. Because I think in order to file a Dissenting Report to something there first has to be a Report and therein might lie the reason why the United Kingdom Government did not, in its wisdom, take any recommendations of the Select Committee into consideration because they did not regard it as being a Report, as it was not signed. The interesting thing was that in at least one of their Dissenting Statements when they counted the numbers they had to take a pencil and rub one name off because it was a majority of the Committee that had signed it and that was not the position that they really wanted in the Report.

Let us look for a little while on how they intend to handle this business of a Leader of Government Business. The Constitution calls him a Chief Minister, I call him a Chief Minister, they do not want that. They want to call him the Leader of Government Business. Why? In my opinion there are a couple of reasons some of which are, they can do that in that back-room as an amendment to Standing Orders. No public consultation necessary.

It will not put in place, what in my opinion is the necessary accountability, responsibility and identity for the Leader of Government Business. Nor the authority because they intend to use the same authority that they used from 1976 to 1984. We all know what a gentle and Government of consensus that was and how they allowed the Civil Service to speak so freely. They, and in particular the Third Elected Member for George Town, have consistently maintained that the four Elected Members' of Executive Council have the voting majority in Council and are therefore responsible for every single decision in Government.

I do not have as many years experience in Executive Council as the Third Elected Member for George Town and I do not know how Executive Council operated when he was there. Maybe it was by vote, I do not know. My short term in Executive Council, nothing has ever been decided by a vote. The Member in trying to explain away the Governor's statement about who was Chairman (and I have a few things to say about that a little further on) at the time of Motion 3/90, said that nothing was deferred in Executive Council and that we could have deferred the Hospital and other things. The Executive Council's (of which I have been a part) deferral of items is a normal thing if it cannot get consensus. The Hospital was deferred in the decision several times for more information. That is routine in Executive Council. At almost every single meeting there are one or two papers that are deferred for additional information or input if we cannot come to a consensus. No vote is taken, the four Elected Members do not vote and use their majority to force any decision in Executive Council. Most of us rely on our individual experiences to say and justify what we say, how things should happen. I can therefore only conclude that maybe this is misrepresentation again, that that is how that Member will operate, did operate and intends to operate if he gets the opportunity to be in Executive Council again.

The civil servants, people like myself, or one or two other Members of this House, clearly remember how friendly and loving that Member was. He claims he does not want

any Constitutional advancement and in particular, the post of Chief Minister came in for severe criticism from that Member. In the time that I have been here we have heard them talk about placing a Bill of Rights in the Constitution. That is an amendment to the Constitution without public consultation. We have heard them bring motions about reducing the two-thirds majority to a simple majority - without consultation. We have heard them bring motions to place Finance Committee in the Constitution - another amendment to the Constitution without public consultation. Yet they will stand here in these Chambers and make people believe that they do not want any changes to the Constitution. At least two Members of that group on one occasion attempted to table a motion asking for Constitutional Review.

As I said earlier, the country must not be mislead that they do not want Constitutional change. All they want is for those changes to be on their terms and conditions, when they are in power and therefore the benefactors of. The Third Elected Member and more recently, some of his (I cannot call them colleagues, because although they are preaching the same gospel, they claim not to be worshipping the same master or sitting in the same church) but some of the people who have recently identified themselves as possible candidates for the 1992 Election, are all saying that this post of Chief Minister can only lead to corruption.

I think the Third Elected Member for George Town joked about it (I did not think it was any joke). He said, "If a Chief Minister is created it changes the position of corruption from a 10 per center to a 40 per center because the Chief Minister then tells his Ministers not to do it and he takes the whole lot." I only speak for Ezzard when I get up in this House and we talk about things like that. That Member has no Power of Attorney or anything else to speak on my behalf. I can see no difference between a Chief Minister and a Leader of Government Business, if the person intended to be corrupted. This Member is incorruptible.

The Member might have some concerns, I can understand that from some of the people I see lined up for their ticket, but I have no fear amongst those with whom I would associate myself to be a Minister under a Chief Minister. Like the First Elected Member for Bodden Town, I think that the Members of this Honourable House can handle the creation of a ministerial form of Government and that of a Chief Minister without it automatically and deliberately leading to corruption.

MADAM SPEAKER: This might be an opportunity to take the luncheon suspension. The House will be suspended until 2:15.

AT 12:56 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:18 P.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues on Private Member's Motion 13/92, the Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Thank you, Madam Speaker, when we took the luncheon break I was dealing with the position of Chief Minister. I had dealt with the contentions of the Third Elected Member from George Town, and his hypothesis that it would lead to corruption. The Member objected to me saying that in instances where the Report does not clearly state that decisions were by a majority, it is not fair to say that it was unanimous.

Let us look at what the Report (which contains the decisions of the Committee) says about that position and I fully realise that the Minutes will record Members' individual positions on any single matter that was deliberated. I am dealing with the Report, this is what the Report of the Committee says about the Chief Minister. Recommendation (6):

> "It is recommended (no qualification about majority or anybody dissenting from that recommendation) that the post of Chief Minister be created and held by an Elected Member of the Executive Council.".

Let us look at what the Minority, or the Dissenting Statement says about the provisions for a Chief Minister and this is what it says and I quote:

> "3.We believe that the provisions for a Chief Minister could be put in a new Constitution but only brought into effect upon a resolution of the Legislative Assembly after a General Election in which the new Constitution is an issue and when there are established political parties.".

We know they already formed a party. On Friday 23rd August, 1991, the *Caymanian Compass* carried as a headline "Political Party Announced Cayman Islands Progressive Democratic Party.". I might have missed it but I have not seen any disagreement by any of those Members in any public forum on the formation of this party and we know that they have consistently and deliberately spoken about "we" collectively. They have promised this Member, the Minister of Health. Now they claim they do no want the Chief Minister, but in my constituency they named five Members of Executive Council in their Government. The founding member of this political party was one of them and this is what it says:

> "Terming himself as the architect of the Party, Mr. Bush stressed that the party will come into full swing only if the proposed changes to the Cayman Islands Constitution are implemented.
>
> The Party would be registered and when the changes are implemented, he said. The Party has no

other Members as yet, as it will become open for membership if the Constitution is changed by the United Kingdom Government, Mr. Bush said.

[further down he says]

He was fairly certain the party would be fielding candidates in all the constituencies.".

It will be interesting to see in fielding these candidates in the next Election, if they appear under this banner or they appear under the banner of Backbenchers.

This Dissenting Statement does not say there shall be no Chief Minister. That is not what it says, maybe I am interpreting it incorrectly. Any Member who speaks after me can put his interpretation to it but it says, the provisions for a Chief Minister to be put into the Constitution and they or whoever wants to bring it in after the next Election and the Party system is in place. They have already had one Member form a Party. So they are gearing up to bring the Chief Minister into place.

They are not yet calling him a Chief Minister, they are presently calling him Leader of Government Business. They believe that the Constitutional Commissioners are correct but they are not absolutely sure that the country wants a ministerial form of Government with a Chief Minister, so they are hedging their bet. Once they get elected as a majority and form the Government, the first order of business can comply with that requirement. The political party is already formed. The other great difference as postulated by them is in the bringing the new Constitution into effect. Let us look at this great difference.

Recommendation (34) Date (S) of Coming Into Force:

"It is recommended that the following procedure for the implementation of the recommended constitutional changes shall be that:

(i) the section on the increase in the number of Elected Members of the Legislative Assembly be brought into force in early 1992;
(ii) the necessary consequential amendments to the Elections Law be made prior to the preparations for the next General Election to be held in November 1992; and
(iii) the remainder of the new Constitution be brought into force immediately after the General Election.".

Now, (i) and (ii) have already been done. They increased the Membership and this Government has brought the amendments to the Election Law so that it can be brought into force prior to the General Election; (iii) is left to be done. The Committee recommended that the remainder of the new Constitution be brought into force immediately after the General Election.

What does the Dissenting Report say?:

"(34) DATES OF COMING INTO FORCE

We disagree with the Committee and the Commissioners' recommendations. All representations to the Committee which expressed views on whether an election should be held on the changes to determine the views of the public were strongly for an election or referendum and against the Commissioners' and Select Committee's recommendations.".

That is not my recollection that every representative wanted that, but we will give them the benefit of the doubt and say that they did.

The next paragraph is the operative part:

"We believe that any major constitutional change should only be brought about after it has been made an issue in and decided upon in a General Election by the people of the Cayman Islands and the Legislative Assembly has passed a resolution bringing the new Constitution into effect.".

The Committee recommends it be brought into force immediately after the General Election. Therefore, it would have to have been an issue, it is impossible if you intend to bring a constitutional change about immediately after the General Election that that constitutional change is not a matter for debate during that Election. It is physically impossible, as happened in 1972, to bring about a constitutional change in this country immediately after Election and it not be an element of discussion during an Election. So we agree on that.

Their proviso added is: "and the Legislative Assembly has passed a resolution bringing the new Constitution into effect'". Note, Madam Speaker, no qualification on timing, yet, the Third Elected Member for George Town gets up here and accuses me of misrepresentation and what was said; what they intended was that he would move a motion, seek public opinion again, because they agree with what has been sent down by the Lords of London, to say that they want it debated by the next Parliament; they want public opinion sought or whatever, and they bring it in sometime in 1993. This does not say anything about 1993. They can pass that resolution that they are requiring on the day they are sworn in. That is going to be very soon after the 18th of November. As soon as they are sworn in as Members, and the House is constituted they can move that motion, debate it, inform the United Kingdom they want it brought into force and bring it into force as a Christmas present to themselves, while they make the public believe they did not want it.

If the six of them do not want the Chief Minister, do not qualify it with these kinds of statements. Why did not this Dissenting Report say, even if? Because in spite of them naming their Cabinet in my constituency, they have not won the Election by a majority yet. That is left to be accomplished. It is not a given thing that they are going to get the majority out of the 15 and form the Government. Why does this Dissenting Statement not say, 'if we form the Government we will never bring in a Chief Minister and we will not call him Leader of Government Business'?

Then they try to get around the issue even further by telling the people, we do not want a Chief Minister. We are going to call him Leader of Government Business and we can do that by amending the Standing Orders. The Government did not need to bring any motion about Constitutional Review to get a Leader of Government Business. We can do that in the back-room. In their usual style they will not be responsible nor accountable because they will not be reflected in the most important document for governing this country - the Constitution.

In my opinion that is the way they have always operated and they will continue to operate that way. They are talking about they want secret ballot. They have to have a secret ballot because they have no intentions of giving my good friend the First Elected Member for West Bay the Minister of Health. They have added a more eminently and qualified individual. "We need a Doctor in the House!". Certainly, they are not going to make the First Elected Member Minister of Health over him! But on a secret ballot, they can blame me, Linford and Benson for not voting for him or for voting for somebody else. They must do what we say we will do, we will write a letter to the Governor saying, "we support Mr. So-and-so", and sign it and it can be published. That is what I call no difference because there is no qualification here in time, it does not say we will wait six months or a year to bring this resolution.

He also went to town about this new Chief Minister and all the authority he was going to have. Both the Second Elected Member for Cayman Brac and the First Elected Member for Bodden Town, have pointed out the limitations on the powers of the Chief Minister in the Draft Constitution. Maybe I am wrong in this again in the eyes of the Third Elected Member for George Town, that if you have the power to appoint someone it is usually assumed that you have the power to revoke that appointment. It is like marriage, you are not allowed to marry two wives and no one is normally given the power to appoint two people to the same job without first disappointing the other one.

It is the Governor who the Draft Constitution says appoints the Chief Minister. I would like to see the instrument or the methodology to be used by the Governor in determining who commands a majority, spelled out in this too. Because I too have some concerns about him misusing his discretion without some checks and balances as to the method by which he will determine who commands the majority.

They also try to make you believe that this Chief Minister has all omnipotent powers and can hire and fire on a daily basis. The Chief Minister cannot fire one Minister. He can recommend to the Governor that he be fired, the Governor can refuse. He can say to the Chief Minister, "You want to disappoint your four Ministers, you cannot make it with them? I am going to disappoint you." That is quite possible. Or ask him to resign. The Chief Minister is appointed by the Governor and the Ministers are appointed by the Governor under recommendation of the Chief Minister. That is what the draft says. It does not say that the Minister can change them down here without even consulting the Governor on a daily basis.

[Interjections]

HON. D. EZZARD MILLER: Each of you will have your opportunity to read whatever you want to read. Have some respect for other Members when they are speaking.

The Chief Minister does not have the unlimited powers; and for somebody to get up here and talk about elected for life. . . ! Is that what they are aspiring to as Leader of Government Business? An election for life? Because they are the only ones I hear talking about being elected for life, and I believe there are some substantial differences between a Chief Minister and a Prime Minister of an independent country.

The Third Elected Member tried to put them all together and most of the examples he used about long tenure, were those of Prime Ministers, not Chief Ministers. He talks about me misrepresenting the facts? While we are talking, now is as good a time as any to deal with this. That Member, the Third Elected Member for George Town, in his contribution to the debate talked about an article which appeared in the newspaper interview with the Governor, and accused the Governor of being mischievous in stating in there that the former Financial Secretary of this country, being Chairman of Executive Council when Motion 3/90 was carried through, had full powers of the Governor and could have deferred it.

Let me refer to that good gentleman's statement in the *Newstar Magazine* with the inverted victory sign which parliamentary language does not allow me to interpret. In that article he said, talking about Motion 3/90, and I quote:

> "In this case a few minutes before the Executive Council meeting, Mr. Norman Bodden, who is normally the spokesman for the four Elected Members, told me there was a matter not on the agenda that he wished to raise. He did not raise it until nearly the end of the Meeting and then he did not raise it, he came with a paper already written out to remove the Financial Secretary as Chairman of Finance Committee.".

And indicating that he had not seen the motion. . . . That is not so. He had seen the motion the day before and he had corrected the language used in the motion. These are the

changes he made: Where the original motion said, "or by the Governor or by the Member of Government responsible for Financial Affairs", he changed it to "Financial Secretary". Then in another place where it talked about the Member of Government in subsection (4) "responsible for financial affairs", he changed it to "Financial Secretary." I leave it to the Third Elected Member to get up and explain who was being mischievous in their statements to the press about Motion 3/90 because I would not use the word 'mischievous' to describe that misstatement of fact. There are several other misstatements of fact in that same article and they will be dealt with in due course because the campaign is still young. That Member, from the day I went into Executive Council, took a special dislike to me and has treated me that way ever since.

Let me once again state for the benefit of those Members who would wish to colour my position on this constitutional draft and what that position is. I support this Draft Constitution almost in its entirety. There are one or two small changes that I would like to see made, and I will identify those. As outlined by speakers before me, this Draft Constitution is in several sections and by far the largest section deals with the fundamental rights and freedoms of the individual. I have never objected to Members having rights and privileges.

I have voted against the motions they brought on the following basis: They were trying to amend the Constitution without consulting the people and I have always felt that we already have in place the necessary laws on our books without which a Bill of Rights in a Constitution are meaningless. Since we are changing the Constitution, I have no problem with setting it out in the Constitution and then we can make sure that we do, in fact, have all the statutes that are required to protect these freedoms and privileges.

The second section deals with the Governor. Except for one or two instances where the Constitution now says he must consult with the Chief Minister, there are no changes in the Reserve Powers of the Governor. That is no large departure from what already happens. In most decisions that the Governor makes in his discretion, he consults Executive Council. What the discretion means, unlike those decisions which have to be taken by him in Council, he does not have to take Executive Council's recommendations. He has the right to decide against Executive Council with no explanation to anybody.

All this is saying is that instead of having to consult with five people, he consults with the Leader, making it less political, if anything because you only have one political view, instead of five. The Executive - I have no problems with this section. I think it provides the control and checks and balances on the Chief Minister and other Ministers of Government.

Part IV deals with the Legislature and there is only one minor change that I would like to see made to this and it is to do with section 42(f) where it talks about under the old Constitution or the existing Constitution, if a Member happens to become a party to, in one form or another, of a contract with Government, he had to declare it to the Governor. What this section is asking is that in that event, the Legislative Assembly must vote on it and I do not think that is right. I think the old system is fine, where you must declare it to the Governor and not come down here and ask the Opposition to give you permission because some company of which you are a minority shareholder, one share, has entered into a contract with Government, then they can vote you and declare your seat vacant. I do not think they should have that authority over my people in North Side who put me here and that is why I object to that.

We have not changed, as explained by other speakers, any of the qualifications to sit or the qualifications to vote. They remain the same. In fact, on a careful analysis as other speakers have indicated, there is not a great deal of difference between this Draft Constitution, and the 1972 Constitution except for the position of Chief Minister and Ministers. The Dissenting Statement (because I do not want them to get up and say I misquoted the title of it) talks about:

> "We feel that it is sufficient that the Members become Ministers with administrative responsibility for the departments under their Portfolios. Section 9(1) of the Constitution should include the words "including responsibility for the administration of any department of Government" similar to that provided in the Turks & Caicos Islands Constitution Section 12(1) and British Virgin Islands Constitution Section 18(1).".

What does that mean when you add to it a Leader of Government Business? Is that not the same as a Chief Minister and other Ministers? Or are they going to have five Ministers and one of them is going to be called the Leader of Government Business but not a Chief Minister? Semantics!

On the section under Public Service, unlike what some Members have said, this does not give the Chief Minister any jurisdiction over civil servants. This section is quite clear and the Civil Service remains in the Governor's discretion. We are not allowed to appoint any civil servant as Chief Minister. You check that Member's track record when he was the Member for Health and Social Services about requests to terminate. And they are talking about they do not want control? They want it! But they want it under the conditions in their Dissenting Statement. We go ahead and get it discussed by the public, so that they do not have to do that exercise. Then 11:30, after they are sworn in, between that and 12 o'clock, they would pass their thing and you know they will go to London. Seven of them will go to London to carry their resolutions from Parliament. Try walk it through the Privy Council, right? And bring it back in fact, there is nothing in that qualification that says it has to go to London, you know?

They can do with that what they did with the Speaker - that did not go to London. In that case, by 12 o'clock, we will have a Chief Minister/Leader of Government Business.

MR. W. McKEEVA BUSH: You should have supported the Speaker. That is what you

should have done.

HON. D. EZZARD MILLER: They will say, because all these little things are written in legalese, they spent about three days drafting this.

That is another thing, the Third Elected Member for George Town went to North Side and told the people that I had tried to deprive him of his right to put in a Dissenting Statement. And he quoted from the Minutes. What is in the Minutes? A stand-by. That is a requirement of the Standing Orders under which this House operates. They must be granted permission to put in a Dissenting Statement by the Committee and that is what I said in the Minutes. I went on to say the reason why I objected to it at that stage is because when we started the discussions we agreed we were going to come to a consensus and not try to take political advantage of what one Member said versus what another Member said.

That is exactly what they wound up doing in their Dissenting Report. It is drafted so that every one of those sentences has about six meanings depending on which one they want to put before the public at that time. I repeat: I do not believe that there is a great difference between what they want and what the majority of the Committee want. I go back to the point. . . remember what the Lords from England told us (our Masters) they ignored the Select Committee Report. This, they say is the finding of their unbiased Constitutional Commissioners that Her Majesty the Queen appointed to send out to the Cayman Islands to determine what, if any, constitutional change the people of this country wanted.

This is what my people want. It also happens to be what I want. I have no problem in supporting that. I do not need to tell my people one thing simply to get their vote and tell the Commissioners something else behind their backs. What I told the Commissioners, I told them in front of my people in North Side.

They know what my position is because in a close analysis, although they say they did not take the Select Committee's Report under consideration in doing this draft, there is precious little difference between what the Elected Members of this House wanted in that Select Committee and what the people of this country want as represented in this document. Very little, only some of those people that came in there who, the Third Elected Member for George Town asked, as he always says, the answer within the question so they have to given him back the answer that he wants. I respect his professional training in that light and he is good at it, he even confused poor old Mr. Cadian and he wrote down every word he said.

Those people, most of those who came in there do not represent the majority views of my constituents. I support the Draft Constitution before Parliament, thank you very much.

(PAUSE)

MADAM SPEAKER: As it would appear that no other Member would wish to continue the debate, I will call upon the Third Elected Member for. . . The Honourable Member for Education.

HON. BENSON O. EBANKS: Madam Speaker, there is an adage that I believe goes something like, "He who seeks equity must do so with clean hands." In the case of the Third Elected Member for George Town or the mover of the motion before the House, I am afraid that he is guilty of unclean hands both by acts of omission and acts of commission in dealing with this motion.

I would have thought that the opportunity given and accepted to debate the proposed Draft Constitution for the Cayman Islands would have been seized as an opportunity to give to the people a fair and unbiased view of what was being proposed and shall I say, offered or suggested by the United Kingdom as being an acceptable constitution. Instead, it appears to me, that scare tactics have been introduced and what I consider to be statements that are not supported by the evidence in the proposed Draft Constitution.

It has been said, by the mover in particular, that the choice at the up-coming Election is simple and that is that those who campaign saying that they are for a Chief Minister, will result in the Islands having a Chief Minister after that Election and if those who say they are not for a Chief Minister are elected, then there would be no Chief Minister. Madam Speaker, I have always heard that a rose by any name is still a rose. As far as I can see if we are going to deal with semantics the difference between what has been proposed in the Draft Constitution or proposed Draft Constitution, and what has been put forward in what is now known as a Minority Report and what is still being said from public platforms is no different.

The Report quite rightly sets out what a ministerial form of government would entail, including the Chief Minister and his powers. The Minority Report and the people who subscribe to that view say they want a full ministerial form of government but instead of a Chief Minister, they are going to have somebody called the Leader of Government Business. As I understand it, they are saying that that appointment will be made by the majority of Elected Members in the Assembly.

When I am saying that they are saying that they want a full ministerial form of government, this is covered by the fact that they say they want the Members of Executive Council to be known henceforth as Ministers and that those Ministers must be given administrative authority for their Portfolios and Departments under them. That is a full ministerial system, so the difference boils down to what we call the one who would be chief among them, whether he is to be called a Chief Minister or a Leader of Government Business. To me, the appointment of a Chief Minister is quite clear. His responsibilities under the Constitution are quite clearly laid out and it would seem to me that that is a preferred position to one where you have a nebulous head or leader with no stated constitutional position or authority, and where the actions of that person could only be by the dictates of the person who is elected to that position or nominated to that position and

supported by the other Ministers, if they are going to call them that, who serve with him in Executive council. In other words, a totally nebulous position. No stated responsibilities or authority and operating in a vacuum. Now, there is no doubt in my mind that that would suit some people, some people have proven that they operate best in confusion and muddle but there is no way that that can be best for this country.

It will be remembered that up until the election of the Executive Council in 1984, Members of Executive Council were known as the First Elected Member, the Second Elected Member, Third Elected Member and Fourth Elected Member. At the whim of the then Governor, it was suggested and that was changed that Members would be known by the Portfolios they were responsible for. Nevertheless, during those four years, and it continues until today, the Member of Executive Council receiving the most votes, that is the First Elected Member of Executive Council, is used as the channel of communication with the other Members when the matter to be discussed is one of general interest and not Portfolio specific. What I am saying is there is the accepted need for a channel of communication with the Elected Members of Executive Council and it seems to me that the suggestion that there should be a Chief Minister solves that problem. It is a natural development as far as I can see for Caymanians.

As far back as I can remember, and I have questioned people about it, Caymanians are accustomed to someone being in authority, someone being responsible in whatever form of organisation or endeavour that has been undertaken. Forget the schooners and motorships, we know that they all had a Captain, a Chief Engineer and a Chief Mate. The Captain was in overall command and had overall responsibility for the vessel; the Chief Engineer was responsible for the engine room and the Chief Mate ran the deck. But it can be contracted even more and, even more clearly defined.

There was a system in these Islands known as ranging. The men took a catboat on a much larger vessel to the Cays and went and established themselves a headquarters on a Cay or even in some instances a sand-bar. Most of the time that crew amounted to no more than three persons but one of them was always the Captain, somebody responsible for speaking for the group and somebody to make the final and ultimate decision. But it seems that for whatever reason, that system of responsibility has never taken hold in the political sphere and it seems that there are those of us who are, even today, prepared to forego that organisation and system of responsibility.

As to the Report before us, I want to make it clear that I am aware of what was done and what was said in the Committee, what the recommendations were. I am also very much aware of the position which I took and if it is one thing I do not need is for somebody to say what I said in that Report or in the Committee. I am capable of doing that and in fact, what my position has been and remains on the Constitution is well known to my constituents and to anybody who has taken the trouble to listen or to enquire.

I want to go back even further and I have heard and I have seen more accounts of how the request for constitutional change has gotten this far than I have heard on most things in Cayman, and that is saying something. I think that somebody should put it straight how this came about. I have heard suggestions that the constitution came about because of Government losing a majority and all sorts of excuses. The incident surrounding the Motion 3/90 possibly crystallized the question of constitutional standing but it certainly was not the basic reason for the motion that brought about this recommendation which we are debating today.

Our present Constitution was negotiated in 1970 and 1971 and it came into effect in 1972, some 20 years ago or 18 years at the time that this current request was made. Eighteen years is a long time, especially when it was accepted in 1972 that that Constitution was a halfway House between where we were in 1969 and 1970, and where the Constitutional Commissioner thought that the people were ultimately aspiring to reach, that is to a form of ministerial government which, according to him would be reached in a gradual approach. That is 20 years ago, Madam Speaker, and I believe I heard the mover of this motion say during his presentation that as far as he was concerned, it would take another 20 years before the country was ready for ministerial government. That is going slow, even in Cayman, if we are going to take 40 years to reach that point.

There is record of a meeting of Assembly Members held in 1985, which indicated beyond reasonable doubt that those Members present at that meeting felt that some constitutional advance and adjustment was necessary. We have had at least two motions asking for the inclusion of the Bill of Rights in our Constitution, and I am talking between 1988 and 1992, Madam Speaker. We have had several before the successful one to introduce the position of Speaker in this House. In 1989 a motion was circulated to Members, the text of which was Constitutional Advance.

Around the time of Motion 3/90, there were so many motions for piecemeal changes to the Constitution that I would not even hazard a guess at how many. It was this feeling or these actions within the House, coupled to items that appeared in the local press and in meeting people the expression that was heard, it was obvious that people were unsettled as far as the constitutional position was concerned. It was for this reason the motion was brought in 1990 asking for the Secretary of State to appoint a Constitutional Commissioner, or Commissioners, to come to the Islands to meet the people, to talk with them, to listen to them, to question them and to evaluate what they heard as regards possible constitutional advancement and to report.

Not, as I have seen in the local press by some of the organisations who seem to think that they speak for Government. In particular, I have seen them say that what was requested was for the Commissioners to come out to draft a new Constitution for the Cayman Islands. That was not done. Those people talked with the Constitutional Commissioners and they talked with the Committee of this House that studied the Commissioner's Report and that is as near as they could get to what took place.

It seems to me that they were capable of and totally disregarded the fact that they had made themselves available to any Caymanian or any resident who wished to speak to them,

both at the office which was set up for them and at public meeting arranged in the districts and which meetings and opportunities were widely advertised through the media. It seems to me that it suits some people to make it appear that the Constitutional Commissioners came here and either went back or sat down in a room locked away and made no effort at all to understand what people wished.

Maybe this is as good a place as any to say that to some degree I can understand why some people might have thought that the Constitutional Commissioners came with views as to what might be Caymanians' wishes. When one knows the facts it is not difficult to understand why they were in a position to make certain suggestions to members of the public when they met them because the Committee of the Legislative Assembly set up to study the Constitution and make recommendations to the Commissioners certainly had prepared their brief in writing, which they presented to the Commissioners in person so that we could get individual views across. There were written representations by several other organisations which they had to study. So that they had a fair cross section of views within a couple hours, in other words as quickly as they could read them, of their arrival here.

If one takes the time to read some of those representations, including the one from this Committee it is not difficult to understand why the Commissioners would have come to the view of what might be a possible constitution for the Cayman Islands. For example, the Committee in its initial recommendations to the Commissioners recommended that provision be made in the Constitution for an Appointment's Committee or a Governor's Committee to be used in connection with the appointment of Governors. That recommendation was to the effect that that be composed of all of the Elected Members of the Assembly and that the Foreign and Commonwealth Office be required to submit three or four names with curriculum vitae to that Committee some three months before it was intended to appoint the Governor and this Committee would make a choice from those three or four. I am sure I do not have to elaborate that when we reached that stage of authority in appointing our Governor that we are pretty far down the road to independence if we are not there.

There were other similar suggestions, obvious that Members and the public were anxious about gathering and retaining more control for Elected Members over their own affairs. It seemed to me that what the Commissioners eventually came up with, recommending a ministerial form of government with a Chief Minister, was not very far reaching at all. The biggest complaint I have heard mentioned by the Third Elected Member for George Town and the mover of this motion is that the Chief Minister has absolute authority. I do not know where the Member gets that impression from. It certainly does not come from practice nor what is written in this proposed Draft Constitution.

The Chief Minister has, in my view, very limited authority under the proposed Constitution. Nowhere in this Constitution is it suggested that the Governor's powers should be reduced one iota. The Governor would retain responsibility for the reserved subjects which he does today. That is, the Governor's special responsibilities would include defense; external affairs; internal security; the police; and the appointment (including the appointment on promotion or transfer, appointment on contract and appointment to act in an office) of any person to any public office, the suspension, termination of employment, dismissal, or retirement of any public officer or taking of disciplinary action in respect of such an officer, the application to any public officer of the terms or conditions of employment of the public service (including salary scales, allowances, leave, passages or pensions) and the like.

The powers of pardon are reserved to the Governor and what is more important section 23 of the proposed Draft Constitution still permits the Governor to act contrary to the advice of the Executive Council which includes this all powerful Chief Minister that the Third Elected Member for George Town refers to.

Section 23 says:

> "23(1) Subject to the provisions of this Constitution, in any case where the Governor is required by the last foregoing section to consult with the Executive Council, he shall act in accordance with the advice given him by the Council unless he considers it inexpedient in the interests of public order, public faith or good government to do so.".

In other words, whenever the Governor considers that the advice which he has been given by Executive Council is flawed, he has the authority under this proposed Constitution to act contrary to that advice.

He must of course, apply to the Secretary of State for permission to act contrary to that advice unless in his judgement the matter is so urgent or necessary in order that he must act before he can tell the Secretary of State that he proposes so to act. It would seem to me that is one of the sections of this Constitution that puts paid to this charge that a Chief Minister would be all powerful.

We go on and we see that the powers of pardon remain with the Governor. Section 26 continues to place in the Governor the powers to dispose of Crown lands, not the Chief Minister. So I cannot see where this Chief Minister has this absolute power that the mover of this motion claims that he has. In my view of the people and organisations who came before us, the problem with the Chief Minister post seemed to have been the way he would be appointed, not with the creation of the post of Chief Minister or of the ministerial form of government.

Everyone that came had their own view on the way the Chief Minister should be appointed if the post was introduced into the Constitution. In dealing with the appointment of the Chief Minister, I can understand the concern that has been raised in some people's minds about the Governor acting in his discretion but I believe when the section is read in its entirety and considered in light of submissions that have been made by the Committee of this House, that it is not an unreasonable position to have put into this Draft Constitution.

It says:

"(2) The Governor, acting in his discretion-

(a) shall, unless he causes a ballot to be held in accordance with paragraph (b) of this subsection, appoint as Chief Minister the elected member of the Legislative Assembly who appears to him best able to command the support of a majority of the elected members;

(b) may cause a secret ballot to be held among the elected members of the Legislative Assembly to determine which elected member commands the support of the majority of such members;

and, where such a ballot is held, the Governor shall appoint as Chief Minister the elected member who obtains a majority of the votes of the elected members.".

The question of the Governor acting in his discretion in my view, is terminology that is used to indicate and to leave no doubt in anyone's mind that it is the Governor who appoints the Chief Minister, and to show that the Governor's powers are unfettered and that that is the way it must be as long as we are a Crown Colony and no one, as far as I have seen in this Assembly, has suggested that that should not be the case. That is that we remain a Crown Colony.

The Committee had suggested that the Governor appoint the person who had been recommended to him in writing by the majority of Elected Members of the Assembly that the person was a person whom they could support as Chief Minister. It is my view that the Governor would have to use some way of determining who the person is that commands the respect of the majority and that written communication would be an acceptable way of doing that.

What I do not support is a secret ballot, that is the (b) alternative because I support the Second Member for Cayman Brac who said that in his view a Chief Minister must know people that he can trust as his other Ministers. The only way that could be done is if it was an open vote or in the case that we have suggested have it done in writing.

We go on. The other thing that seems to give much concern is the fact that the Chief Minister would then recommend to His Excellency the Governor, the other four Members to be appointed to Executive Council and the Governor would make those appointments. It has been argued that the power to hire and fire as they call it, is one of the absolute authorities of this Chief Minister, this monster that they see. The mere fact that the Governor is still under this system that is proposed, Her Majesty's representative in the Island, and the fact that Executive Authority of these Islands is stated in section 28 of the proposed Constitution, to vest in Her Majesty, and it says that those powers shall be exercised on behalf of Her Majesty by the Governor either directly or through officers subordinate to him.

There is no doubt that ultimate authority for the good government of this country rests in the final analysis in Her Majesty, through her appointed Governor. I think it is significant to read section 33 the assignment of responsibilities to members of Executive Council because here again it will be seen that the Chief Minister or his Ministers are not the all powerful people that the Third Elected Member for George Town would have us believe. That section is substantially the same as it is in our present Constitution. It reads

"33.-(1) Subject to subsections (2) and 93) of this section, the Governor, acting in accordance with the advice of the Chief Minister, may assign to any member of the Executive Council responsibility for the conduct (subject to the provisions and so on) of any business of the Government of the Islands, including responsibility for the administration of any department of government.

(2) A member of the Executive Council appointed from among the elected members of the Legislative Assembly shall not be assigned responsibility under this section for any of the matters mentioned in section 22(1)(c) of this Constitution...".

Now, Madam Speaker, that is the section where I read those subjects that I said were the Governor's reserved subjects, that is defence; external affairs; police; internal security and the Civil Service.

The other subsection is and this is important.

"(3) Responsibility for such matters relating to finance as the Governor, acting in his discretion, shall determine, shall be assigned to the Financial Secretary.".

Madam Speaker, I thought I was correct but I did not want to say so until I got the copy of our present Constitution and it is significant that in our present Constitution the section dealing with the assignment of responsibility says in section 9 (1):

"9.(1) the Governor acting in his discretion shall to the extent that he deems appropriate charge members of the Executive Council with responsibility.".

The proposal says "may" and that is significant, Madam

Speaker, because what that says is that if the Governor is not satisfied that any of those Members are capable and responsible of carrying those responsibilities out, he not do it. It says he "**may**" and our present Constitution says he "**shall**". So, Madam Speaker, I will give one more example of the ways that this Constitution shows that the Chief Minister does not have ultimate authority.

Section 35 (2):

"35(2) In the absence of the Governor from any meeting of the Council, the Chief Secretary, Financial Secretary or the Attorney General, in that order, shall preside at the meeting.".

Even if the Governor is not in the Island, the Chief Minister does not sit as Chairman of Executive Council. That red-herring of the Chief Minister being all powerful is only in the mind and imagination of the Third Elected Member for George Town. I believe that those Members who share that view, told that view, are the Members whom the Commissioners spotted while they were here and pointed out that their opposition to this type of government was based on the fact that they did not feel up to the job and they did not think that they should allow anybody else to do it.

If there is still some doubt, section 30 of the Constitution should put all fear to rest, because it says:

"30.(1) The Governor shall revoke the appointment of the Chief Minister if a motion that the Legislative Assembly should declare a lack of confidence in the Government of the Islands receives the affirmative vote of a majority of not less than two thirds of all the elected members thereof:".

It goes on of course quite rightly to say that:

"(2)... before revoking the appointment, the Governor shall consult the Chief Minister and if the Chief Minister so requests, the Governor, acting in his discretion, may dissolve the Legislative Assembly instead of revoking the appointment.".

For the avoidance of doubt it should be stated that that is a rose by another name. That is that if the Legislative Assembly is dissolved, the Chief Minister's appointment ceases. He must then go back to the electorate and seek a new mandate, the same as anybody else desiring to hold that job. It does not give him any advantage or new life.

What it does is possibly gives to the Chief Minister an opportunity to have the House dissolved rather than to say that his appointment is revoked so that the succession can be in an orderly way and that the Chief Minister can take his story to the electorate the same as any other group or individual. Of course, it follows that if the Chief Minister vacates his seat, the other Ministers follow. So let us not fool people and frighten people by telling them that once a Chief Minister is appointed he is there for life.

That is more likely to happen under the system of party politics which the Third Elected Member for George claims that is essential before the ministerial system can work, in spite of the fact that every other authority on the subject says that it is capable of being done, that is that the ministerial system can function without the party system being in place. It is the party which is more likely to give some credence to the fact that the tenure of office of a Chief Minister might be longer than would otherwise be. But not the fact that we have a ministerial government with a Chief Minister.

MADAM SPEAKER: Would you take a break at this time, Honourable Member?

HON. BENSON O. EBANKS: Yes, Madam Speaker.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 3:55 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 4:14 P.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues on Private Member's Motion 13/92, the Honourable the Elected Member for Education.

HON. BENSON O. EBANKS: Thank you, Madam Speaker. I crave indulgence to read just two more subsections of the Constitution to disprove this myth that the Third Elected Member for George Town is trying to sell as regards the Chief Minister having absolute power. In section 33 (4), I read the other sections previously, Madam Speaker, which deals with the appointment of Ministers and the assignment of responsibilities. This subsection (4) says:

"(4) It shall be the duty of a member of the Executive Council assigned responsibility in accordance with subsection (1) or (3) of this section, to act in the exercise thereof in accordance with he policies of the Government as decided in the Council and in accordance with the principles of collective responsibility, and to support in the Legislative Assembly any measure decided upon in the Council,

unless he has received the prior permission in writing of the Governor to act otherwise or not to support such a measure.".

That section or subsection is very similar to the present provisions or the provisions in our present Constitution. I am calling attention to this to show that the decisions of the Government are reached in Executive Council and not dictated by anyone individual as the Third Elected Member for George Town would have us believe. He went to great lengths in his submission or in his introduction to say that surely a system where you have seven people making a decision as opposed to one man having control and making the decision must be better.

That is flawed and erroneous reasoning. The proposed Constitution is clear. The Member of Executive Council carries out or exercises his authority in accordance with the policies of the Government as decided in the Council and in accordance with principles of collective responsibility etcetera, etcetera. Then as further insurance, subsection (5) says:

"(5) The Governor, acting in his discretion, may at any time call for any official papers or seek any official information or advice which is available to a member of the Executive Council with respect of any matter for which that member is assigned responsibility in pursuance of this section.".

What that means is that because His Excellency the Governor delegates Her Majesty's authority which is reposed in him, to the Member, he therefore retains overall responsibility and can at any time call for any and every document that goes before Executive Council or is used in any decision or act of the collective Council or of individual Members. So this business about the Chief Minister having absolute authority is unfounded and it can only have credence in the confusion that existed in the Third Elected Member for George Town's mind between a Chief Minister and a Prime Minister when he quoted the article from the economist written about the British Prime Minister.

So, let us do away with that and the one issue that I had hoped not to have to deal with in this House, although I had seen it in print many times is this bogey about this absolute power corrupting the Chief Minister. Anybody that is talking about corruption and 10 per centing up in here has to talk for themselves, they are not talking for me because it does not enter my mind that this proposed Constitution should, in any way introduce any more corruption in Government than can exist, than it is possible to exist, under the present Constitution. As I have shown, the powers of the Chief Minister or of the Ministers are still tied by what somebody calls, "the checks and balances" of the system.

I touched on this before but the Member also said that the majority of people that the committee talked with were not in favour of the ministerial system or a Chief Minister or were against it, whatever. But my note says the majority. I have just reread the submissions made to that committee and by and large the greater number of people accepted, as I see it, the Chief Minister's post. What many of them discussed and had differences about was the appointment. Most of them wanted them appointed in the same way that Members are appointed now, that is by secret ballot in the Assembly. As I explained earlier, I believe that a system where the Chief Minister is appointed by the Governor and then the other Members of Council are appointed by the Governor on the advice of the Chief Minister, is a more organised and mature approach to this business of Government.

After all, if party systems existed as is advocated by the Third Elected Member for George Town and most of the Backbenchers his supporters, there would be no question as to who would be appointed Chief Minister. It would be the political leader of the party with the most seats in the House. That would be automatic, therefore this proposal leaves the door open for the day when political parties become the reality in Cayman. Surely this House has matured beyond the stage where one has to hide behind secrecy to make it known whom his preference is for a Chief Minister or a Member of Executive Council. I have seen instances in this House where Members have had to turn their paper upside down to try to prevent somebody sitting next to them from seeing from whom they voted. That can only be likened to child's play. The time has come in my view when people must be mature enough to, without any ill feeling, express a choice for Chief Minister and the Chief Minister certainly, if he is going to be a Chief Minister should be mature enough to choose his other Members of Council and as I said, have them appointed by the Governor. Which, in itself is a form of appeal, shall I say. It is like a filter. Certainly, a Chief Minister would think twice before he went to a responsible Governor and said I want Tom Jones' appointment as Minister of so-and-so rescinded, unless he had very good reason for doing so.

The other area of this exercise that seems to have caused a lot of confusion and concern is how this change, if any, should have been brought into play. Basically there are two schools of thought or in fact, there are three schools of thought on this. I will highlight the third one a little later, but for the time being let us deal with the two.

In dealing with this, I have to beg permission to go back a bit into history again because when the changes were made to our Constitution in 1972, the method that was used at that time was, the Secretary of State sent out Constitutional Commissioner in the person of Lord Oxford and Asquith, who reported to the Foreign and Commonwealth Office. They sent back his report to the Cayman Islands and the then Assembly and the Governor, of course, made comments on that draft. The terms of the Constitution were agreed because there was no wide departure in Members' views from those which the Commissioner said he had gathered from his public meetings. The Constitution was agreed, Members in fact went to their constituents and said this is what is offered, we think it is a good thing, what do you have to say? and basically it was off and running.

It was sent back to the United Kingdom and the Constitution was drafted in such a form that the section dealing with qualifications for election and so on were brought in, in time

for the 1972 Elections. The rest of the Constitution was drafted in such a way that it required an Order in Council immediately after the Elections to bring the section giving Members of Executive Council responsibility for subjects into effect.

MADAM SPEAKER: Honourable Member it is now 4:30.

SUSPENSION OF STANDING ORDER 10(2)

MR. JAMES M. RYAN: Madam Speaker, I believe it is the wish of Honourable Members that this House do continue until 6 o'clock this evening and accordingly I move that Standing Order 10(2) be suspended to enable the House to continue.

QUESTION PUT: AGREED.

STANDING ORDER 10(2) SUSPENDED TO ENABLE THE HOUSE TO CONTINUE UNTIL 6:00 P.M.

MADAM SPEAKER: The House will accordingly continue until 6 o'clock. Please continue, Honourable Member.

HON. BENSON O. EBANKS: Thank you, Madam Speaker. I was saying that the section of the 1972 Constitution giving effect to responsibility to Members was brought into being immediately after the first Meeting of the Assembly after the 1972 Elections.

It is instructive to note that in 1971, when Elections would normally have been held under the 1969 Constitution, that is the three year rule, that the Foreign and Commonwealth Office on its own volition extended the life of that House for one year to enable the new Constitution to be brought into effect before Elections were held in 1972. Therefore, I certainly envisaged a similar exercise taking place in 1992. That is, the Commissioners would come out, listen to the views of the people and report and if it was considered that changes were desirable to our Constitution, then a draft of those changes would be sent out, examined and that it would be done in time that the section of the Constitution necessary for the holding of the Elections in November would come into play in time and other consequential amendments would come into effect after the House met after a new Election.

I believe that that is the route that it was intended to go until some people were backed into a corner by using language off of the cuff, that maybe they did not think too carefully about and giving assurances that no change would be brought into effect until all of this had been debated in an Election campaign. Much earlier it was on the advice of the FCO that the section of our Elections Law dealing with membership was increased to 15 members, which in my view is clear indication that at least the FCO foresaw those recommendations which called for increased membership in Executive Council being implemented. If that were not the case then it would seem to me that the increase of membership of this Assembly was an exercise in futility because the truth of the matter is when this House first meets after an Election in November, it is going to be lopsidedly constituted.

That is, there are going to be four only Elected Members in Executive Council, three Official Members for seven, with 11 Members sitting across. There is only one person that I know of that thinks that is good Government and it is the Third Member for George Town. That should make him happy. He has always advocated having more people on the Backbench than on the Government Bench. Until, and unless, that imbalance is corrected, then this country is in for a fiasco. That is why I foresaw the orderly, logical, and rational approach, as was followed in 1972, being followed now. And I repeat, the Commissioners came out, enquired of the general populace their wishes, reported, that report written into a new or amended form, sent back, debated with the people and sent back to London to be engrossed and implemented by orders in Council.

I am not sure about the Third Member for George Town but, certainly, when the report of the Constitutional Commissioners came back, I, in accordance with the agreement reached by all Members in the committee of this House, took those findings to a public meeting in my district. I explained those proposed changes and made it known where I stood on those issues and what I was prepared to give support to and I had no problem with that. It could be argued that I did not have 51 or more per cent of the voting public in West Bay at that meeting, and that is true. But I did my part. I advertised the meeting and I held the meeting and certainly, to use the jargon of the Chamber of Commerce, of those people who attended I had a vast majority in favour of these proposals.

MR. W. McKEEVA BUSH: That is not true!

HON. BENSON O. EBANKS: If this Member is going to challenge the veracity of what I am saying, I wish he would do it on the substantive motion. If the Member did not do likewise, that is his problem. I know what I did. What I am saying, there was concern expressed about the appointment of the Public Service Commission and the fact that the Chief Minister was going to have referred to him appointments of the level of Head of Department or above.

My position at that time was that I had no strong feeing on that, it certainly was not an issue that I had raised; that it was my belief that if that was inconsistent with our political status that the British Government would put paid to it. I still have reservations about the appointment of the Public Service Commission in the fashion that is suggested. I have no problem with reference of the appointment of civil servants to the Chief Minister and I am saying that because section 22 places total responsibility for the appointment, promotion, discipline, and all the rest of it, of civil servants squarely on the back of the Governor.

So that the appointment can only be basically a formality or a form of the Governor receiving some political advice or shall I say, his gauging the temperature of the political hierarchy on these appointments. If I can be convinced that that reference is more serious than that then I have to rethink my position on that. But, let me be clear it is difficult for me to understand how the Members of the Backbench, that is the Third Member for George Town and his cohorts, can feel so strongly about an issue like that. In other words, that that would seek to politicise the Civil Service, yet in this very Sitting, at least three mornings of Question Time have been spent almost entirely on questions about civil servants.

My question to them is, if they do not desire to express a view, or to be in a position to do something, why then question it? Is it merely to start or to engage in gossip? Members have gone as far as to ask for the list of some members of the Service about whom questions were asked, which in my view, is far more interfering than what is suggested in this Draft Constitution. As I said, having gone to the public in my district, ascertained their views, I was prepared and am prepared to make my decision on this proposed Draft Constitution based on that input. To use the argument that the people will be more informed and understand more clearly what is being proposed as a result of the Election campaign on this issue, is a joke!

One only need to refer to the introduction of this motion and one will understand the clarity with which this issue is going to be debated on the public platform in the run-up to the Election. It is my view that the public is going to be more confused than they are now. As I said, there were two main ways that this was to be implemented. One was as suggested by the Commissioners, because without the benefit of having their Report at hand, my recollection is that their comment on the timing of the implementation was basically an aside and that they said that that was not one of the terms of their reference but in their view that is what should happen - the report would be processed in time to enable those sections dealing with the conduct of the elections to be brought in, and the rest to come into effect immediately after the next Election.

As I said, somewhere along the line another view that this should be debated during the coming Election campaign gained credence. I maintain that there is yet a third suggestion as to the timing of the implementation of the main part of this proposed Constitution that is, the institution of the office of Chief Minister. The Dissenting Statement to the Report, the one that is the Report of the Select Committee of this House, the one which brought the retorts this afternoon about who wanted a Chief Minister and who did not want one, says:

> "3. We believe that the provisions for a Chief Minister could be put in a new Constitution but only brought into effect upon a resolution of the Legislative Assembly after a General Election in which the new Constitution is an issue and when there are established political parties.".

As the Member for Health pointed out, according to the press, we have got at least two political parties established in the Island. So that criterion has been met. There is no doubt that this is going to be an issue in the forthcoming campaign and whoever wins this section here, three can be carried out by a simple resolution of the Assembly. That would even mean a simple majority. Hopefully before I am finished with my contribution I will have an opportunity to search the *Hansard,* but my recollection is that during the course of the introduction of this motion by the Third Member for George Town, words to the effect that their position was that this provision could be put into a Constitution similar to what was done for the Speaker's Office in the 1972 Constitution. That is my recollection. If that is the case, then all that would be required after any new House is sworn in, is for a resolution to be passed in this House to the effect that the Office of Chief Minister be invoked or introduced. That is the third timing and method of introducing that section of the Constitution as I see it.

The point that I am making is that that in itself really gives no protection to anyone. That does not say that the Secretary of State has to be petitioned or whatever. If this is put into the Constitution in the form that the provision for a Speaker was done in 1972 all it takes is a resolution passed here and that is finito. One wonders whether that is why this term Leader of Government Business finds so much favour with some of the candidates for the November Election and with the six Members opposite or however many support that notion. I believe that the numbers are dwindling.

In order that it is clearly understood, I want to repeat the procedure as I see it for implementing any proposed Constitutional change based on the document that has been sent out and from the FCO. I want to make it clear that when somebody says that they support the provisions or concepts of this document, that is as much as they can be saying. Nothing more binding should be read into that because this is what the letter from the FCO said at paragraph four:

> "I enclose a preliminary draft of a possible new constitution which should form the basis for discussion in the run-up to the elections in mid-November. Once the elections are over and the new Government has been formed, there will no doubt, need to be a debate on the new constitution in the Legislative Assembly. I would like to have the recommendations of the new Assembly before coming to any final decision. This draft is therefore a discussion document which will need to be revised in due course.".

So, Madam Speaker, let us be in no doubt that we are talking here about no more than a discussion document but on the other hand, I want to make it clear that the people of this country should be under no illusion that when people talk about introducing the ministerial system of government, save for the Chief Minister, whom they will call a Leader of Government Business that they should not be lulled into any sense of false security on that promise. That a rose by any name is still a rose and as I read from section 3, page 23 of the Report of the Select Committee of the Assembly formed to review the Constitution the Chief Ministerial provision could be brought in by a resolution. So Members should be aware.

One should also be aware that during the debate running up to the November Election, one should listen to everything that is being said and form their own impression as to what is being undertaken or promised about a new constitution because they could be in for a rude awakening after the House meets after the Election.

I think I should also touch on that section or on the matter referred to by the Member for Health about what constituted a majority report. Because it seemed to me that what took place in the Committee, or what was included in the proposed Draft Constitution, was secondary to the Member moving the motion as compared to what he would have liked people to have believed that the Elected Members of Executive Council had done or said about the proposed Constitution. As has been pointed out, there are four Elected Members in Executive Council, one of whom was the Chairman of the Committee and therefore had no vote except in the event there was an equality of votes. Even assuming that the First Elected Member for Cayman Brac was of the same mind as the three Elected Members, that is four, and let us further assume that another Member from that side might have been of a similar mind, that would have given us five out of 11 or a minority. At no time was the Elected Government in a majority in that Committee or even with some possibly known support. So wherever any recommendation was made, it had to be with the concurrence of at least some people from that side.

The truth of the matter is that much of the recommendations in that Committee's report does not bear the stamp of the Elected Government in Council. For instance, the recommendations that only two Official Members be included in the Constitution is not our recommendation. Yet, that is stated as a majority recommendation. The fact that Elected Members of Government can be removed by a simple majority is not a Government position. The Minutes will show that the Elected Government recommended, in respect of the Official Members, exactly what is here now, except that we agreed with what the Commissioners agreed, that because of the unique circumstances pertaining at that time, that the office of Financial Secretary and basically Chief Secretary continue to be merged until the then holder departed. Of course that turned out to be quicker than we thought.

It has now been suggested that the office of Chief Secretary be reinstated and with that we totally agree. We recommended two-thirds majority to remove the Elected Government and that is in the proposed Constitution. There are many such instances. For example, it was recommended that the Finance Committee be enshrined in the Constitution, that it be returned to what it was prior to Motion 3/90. Can you imagine the Elected Government recommending that, Madam Speaker?

The truth of the matter is, that report, as was decided on the first day that we sat, that it would represent a consensus of the majority of Members attending it and that the Minutes would more clearly reflect individual positions. It was not until the 12th hour or even after midnight that the Third Elected Member for George Town and his cohorts pulled out the little piece of paper about they were going to make a Minority Report. Or, Madam Speaker, maybe the report might have been different.

Nevertheless, I believe that that type of loose arrangement and association, a disorganised and illogical sequence is what suits that Member. Let me be clear, since this was thrown into the arena too, that is the composition of Finance Committee, my position on Finance Committee is very simple. Finance Committee is but a Committee of this Honourable House to study in detail the provisions of the financial bill and anything else referred to it. That bill, naturally, represents the Government's budget for any given year.

It is impossible to have a situation where the Government with a majority in the Assembly, can be outvoted by a minority in a committee of the Assembly. Now, to cater to that situation, Motion 3/90 reconstituted Finance Committee with the four Elected and the three Official Members of Government, which still meant that Government has to, at least, carry one Member from the other side in order to implement its budget or any matter going to Finance Committee. When this matter was being discussed by the 1972, I am going to call him, Constitutional Commissioner, Lord Oxford and Asquith, he recommended or certainly considered recommending a Finance Committee comprised of the four Elected Members of Executive Council, plus three Members from the other side, with the Financial Secretary sitting as Chairman. That, I have no problem with.

In other words, if the majority of Members are of the opinion that Official Members should not sit in Finance Committee, then I have no problem that Finance Committee is constituted solely of Elected Members, providing the imbalance is not built in. In other words, that it is four plus three, or if under the new system it is going to be five, it is five plus four. Until such time as one has a party system where the Elected Government would be representative of the majority party, whether outright or by coalition, then any provision for a Finance Committee must sensibly have a built-in majority for the Government of the day.

It is as simple as that, that is my position and I believe the position of most Elected Members, but be that as it may, it is my considered view that as long as we have a Constitution that provides for Official Members in this House, then those Members are full Members and not Members some of the time and half Members the rest of the time. Madam Speaker, another thing which I want to correct this evening is the statement made by the Third Elected Member for George Town that the majority of Government debt has been incurred since Motion 3/90 was passed and I am sure he was only talking to hear himself talk, as is the case in most instances, because that is not the case. If he can prove that to me, then I would gladly say that he is correct.

Madam Speaker, I also want to make it clear that when the Third Member for George Town mentioned or called the names of several long serving, in my view, well respected and capable Prime Ministers, not Chief Ministers, of Caribbean countries and in my view spoke in a rather condescending way about them, he was talking about Prime Ministers and we all know of course that they function in independent countries, not in dependent countries like the Cayman Islands. What is significant is that the Third

Elected Member for George Town, (and it is being echoed by his proposed running mates for the November Election), always tends to talk about the competition that is being offered to these Islands by other territories. Of course, everyone of them is whipping that poor old Chief Minister to death, do not want him.

What they fail to acknowledge is that the only country they can be talking about in this region would be the British Virgin Islands. In fact, during a recent session, the Third Elected Member for George Town called attention to that fact that they were giving us serious competition. For the edification of that gentlemen, the Third Member for George Town, I want him to understand that that little country has had a ministerial form of government from the early 1960s or before with a Chief Minister. The point that I am making that a ministerial form of government including a Chief Minister would not necessarily mean the end of progress and stability for these Islands. The very one that he is pointing out that is giving us a hard time is a country that has a ministerial form of government. To end up where I started, what in my view is far more detrimental to this country, is to have a situation where there is political turmoil and political bickering constantly. It is far better to settle the Constitution to where it is smoothly working.

I know that there are those politicians who derive their strength and popularity from how often and how ridiculously they can tell off people in authority, including His Excellency the Governor, but that does not enhance the image of these Islands. The quicker we can get a stop put to that, the better off we will be.

I want to summarise my position on the proposed constitution so that the Third Member for George Town does not try to interpret the report differently. My position is that I support a ministerial form of government in including the appointment of a Chief Minister and I believe that the Chief Minister should be appointed by the Governor once he has determined the wish of the majority of the Elected Members in the Assembly, whether that be by an open show vote, or by written communication. I believe that similarly the Chief Minister should be able to recommend to His Excellency the other Members of Executive Council, that is Elected Members, to be appointed. Naturally that would be done, as the Second Member for Cayman Brac has said, in consultation with the other Members.

That Chief Minister as I have shown, does not have any unfettered power. He is very much under control, his appointment can be revoked by the Members in the House and let us be specific, it is idleness to talk about not wanting a ministerial government because me or the Member for Health or one of the other Members is this or that. A Constitution cannot be designed around individuals. That is what is being attempted by the people opposite. A Constitution has to be devised for the country and it has to suit the times. I have no doubt that the well thinking people of this country will, on election day, place in office people who cannot be corrupted and who can run a ministerial form of government well.

Thank you, Madam Speaker.

(PAUSE)

MR. GILBERT A. McLEAN: Madam Speaker,

MADAM SPEAKER: Excuse me, Honourable Member the tape is being changed. At the end of the changing of the tape I hope some Member will continue the debate since we have asked for suspension of Standing Orders until 6 o'clock.

MASTER TAPE CHANGED

MADAM SPEAKER: We continue proceedings now, the Second Elected Member for Cayman Brac did you have something to say, Sir?

MR. GILBERT A. McLEAN: Madam Speaker, under Standing Order 38, I move that the question be now put.

MADAM SPEAKER: I am afraid that I am not going to put the question because I think other people wish to continue. There are other people in the minority and I will have to call upon a Member immediately now, please, to continue the debate.

The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I rise to offer my contribution on the motion before the House on the Draft Constitution. I feel a little different from most Members here in that I feel at this time we should not be dealing with an issue like the Constitution when we have so many more pressing needs in this country, such as a recession; high unemployment; unprecedented Government public debt now amounting to approximately $134 million; unaddressed social needs; constant increase in crime; over-crowding at Northward Prison, where the majority of our inmates are young people; unbridled immigration problems and an escalation in juvenile delinquency - just to name a few of the problems we are presently faced with in this country.

I am also of the firm view that if this matter, that is the motion which was brought calling for a Review of the Constitution, was handled in the Legislative Assembly, as is the common practice in dealing with political matters, that is, where only Elected Members are allowed to vote on political matters, the Government Motion brought by the Member for Education would have failed as the motion was opposed by seven of the Elected Members of the Backbench.

The motion was only carried because the President at the time

obligated the three Official Members to vote yes, under collective responsibility. That is how Government was able to carry the motion. It has always been my contention that what we need is a change in Government and not necessarily a change in Constitution because it is my firm view that regardless of what type of Constitution we have in place, good Government depends or is determined by good leadership, not a Constitution, Madam Speaker, which has been sincerely lacking from the present Executive Council over the past four years.

I am as progressive-minded as any Member of this House, as far as advancement is concerned, but I do not believe the real issue here is that we need a change in the Constitution. I believe that what we need much more in this country is a change in the Elected Members of Executive Council. I saw the present Constitution work, and work very well, during the Government of 1976 and 1984. They operated under the same Constitution and under their leadership this country experienced unprecedented prosperity. Why? Because as an Executive Council and as a Government they were prepared to work together. When they thought of an idea, they got together and they supported that idea, all the way through.

I must say that if the excuses that the reason for the necessary change in Constitution is because the Elected Members need more authority, it will not be any different under a new Constitution if any new Government maintains the same policy as the present Members of Executive Council, where they have been in a position where the Governor has been able to divide them and that is how he rules. So a new Constitution is not going to change that, Madam Speaker, and as long as the Elected Members of Executive Council are prepared to stand together, I do not care who they have as a Chairman, the Constitution will work. That is not the problem. The problem is they have failed to work together and in the Executive Council they were able to be divided.

The Member for Education in his contribution mentioned that the reason for the review was because of the many attempts or proposed amendments to the Constitution that were mentioned during the debate on Motion 3/90. I do not believe that is the real reason why the motion calling for a review was brought. I believe it was brought because of the Elected Members of Executive Council grandeur vision of greatness and their continued quest and thirst for more power. They were under the firm opinion that if they were successful in getting a review, that the provisions of the new Constitution would have been brought into effect before a General Election in this country.

I also contend that if it was not for the Backbenchers, who had the foresight and concern for input for the people of this country on this very important issue, and they themselves bringing a motion calling for the review to be subject to a Select Committee where Members of the public could appear before the Committee and give their views, the Government would have pushed through the new Constitution with very little input from the public and put the changes in place before the 1992 General Election, As was mentioned and done with respect to the 1972 Constitution. In an attempt to have this done, that is the review completed and the new provisions put in place before the General Election, all other work of this House was put on hold. We spent many months in the Select Committee, and like I suspected and mentioned and as recorded in the Minutes of that Committee, the Draft Constitution basically reflects the views of the present Government and the Constitutional Commissioners.

Very little heed or notice was taken by the Commissioners in the public meetings that they held in this country to gather the feelings of the people on the proposed changes. If they were truthful, they could not say that a majority of the people in this country supported a ministerial form of government with a Chief Minister in place. They could not say it because it is not true. I believe that they came down here with a mandate from the FCO, and basically what they did was went through an exercise to give people the impression that the views of the people were going to be considered on this very important matter.

I remember in our Committee meetings, that is the Backbenchers' meeting with the Minister, that is Lennox-Boyd, he mentioned that the British Government is going to see to it that the Cayman Islands have a modern constitution. He made it plain that that was the objective and mandate of the British Government. I believe that even this debate here this week is an exercise in futility because I believe we are going to get exactly what the four Elected Members of Executive Council recommended which was very much in line with the findings or the recommendations of the Commissioners, and that is what we are going to get as a new Constitution.

Since a review of the Constitution has taken place, I would like to put forward my views with respect of those provisions in the Constitution that I support, as well as those provisions in the Draft Constitution that I do not support. I will start with those provisions in the Draft Constitution I support. The first provision that I support is an increase in the membership of the Elected Members of Executive Council from four to five Members. I believe in the increase in the responsibilities and the volume of issues and matters that the Elected Members of Executive Council are now responsible for that an increase by one Member is justified in order to help reduce the work load and Portfolio responsibilities of each Member of Executive Council.

This will also allow more attention to be devoted to each area of responsibility which should result in greater efficiency in the respective departments and a greater chance that all major issues and areas of concern will be sufficiently addressed. In order to make that possible it was found necessary to increase the membership of the House in order to keep a balance. I was one who felt that if that was necessary the House should have been increased by one Elected Member and that that one additional Member be added to the constituency of Bodden Town because it is the fastest growing constituency in this Island.

I support the notion that Government should be in a position where they can be defeated by a mere majority, not a two-thirds majority as the present Constitution calls for. The majority of the Members felt that it was probably wise to retain the two-thirds majority in order to remove a government and I have no problem with that but I believe that the real reason why Government supported the increase in membership by three is that it gives them, that is the four Elected Members of Executive Council, a greater chance of putting together the next Government.

That is they supported one additional seat in West Bay, one in George Town and the other in Bodden Town. But you know, if our polls are right, this is going to back-fire on Government because I can assure you that as far as the constituency of West Bay is concerned Government has little or no hope of getting their Member re-elected in that district. I also support that the title of Members be changed to Ministers and that they be given administrative responsibility. I believe that when Members go out and fight a hard political campaign, promises the people certain things and are then successful in being elected to Executive Council, they should be in a position to basically ensure that many of those promises are fulfilled. That is, they should have some greater say as far as those Departments that they are responsible for.

But you know, even under the present Constitution, and I heard the Member for Health on Friday, criticise a Member of his Portfolio, a Head of Department, in his Portfolio because he could not get anything done. It is a fact, that it depends on what kind of attitude you go in there with whether or not you get the cooperation of the civil servants who work under you. It is very evident that the Member for Health has had some problems in this area because he is frustrated now and he says that he cannot get anything done because his Head of Department refuses to take his instructions.

I also support the provision in the Constitution that deals with the Speaker and the Deputy Speaker of the House being elected by the Members of the House and not appointed by the Governor. I believe that this is the right way to go and I feel that the new Members should be in a position where they have some say through a secret ballot as to who the new Speaker will be. The Minutes of the Select Committee will bear out my position very clearly, I am not one who opposed the idea of Constitutional advancement but my contention has always been, and there are other Members of this House who know more about the ministerial form of Government than I do, but it is my understanding that a ministerial form of government can only work properly if a party system or parties are in place.

The Commissioners told us that it can work without a party system in place because according to them a party system already exists because of the loose groupings we have here in this House. I do not support that view and you can imagine the position we would be in in this country, because the Draft Constitution calls for this, that if a Chief Minister decides to run wild and rough-shod over the people of this country like the present Executive Council has done over the past four years, you will still require a two-thirds majority of Elected Members of this House supporting a motion of no confidence calling for his resignation. We could not get a two-thirds majority over the past four years dealing with the present Members of Executive Council and it would not be any less difficult getting that two-thirds to remove a Chief Minister.

My attitude is if this is the type of system or constitution we are going to have in place, then we should put in place the proper machinery to ensure that it works and works the way it was designed to work. How the party system works is that if the Chief Minister steps out of line and falls out of favour with his party, the party then has the authority and the votes to remove him and appoint somebody else, if that is possible. Otherwise, the Governor would be called upon to call for new elections,

I support a gradual moving into a ministerial form of government. It is my contention that we should move step by step and only as far as is necessary. The other recommendation that I supported, which I noted has not been included in the Constitution is a provision for a Finance Committee consisting only of Elected Members of this House with the Financial Secretary as Chairman. I wonder why that was not included? You know why I believe it has not been included is because it did not have the support of the four Elected Members of Executive Council and the First Member for Cayman Brac.

I feel very strongly that only Elected Members should be in a position to vote public funds. It has been a tradition down through the years and I see no reason why it should have been changed at this stage.

MADAM SPEAKER: It is now 6 o'clock, Honourable Member.

ADJOURNMENT

MR. JAMES M RYAN: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10 o'clock on Wednesday morning.

QUESTION PUT: AGREED.

AT. 4:30 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., WEDNESDAY, 9TH SEPTEMBER, 1992.

WEDNESDAY
9TH SEPTEMBER, 1992
10:08 A.M.

MADAM SPEAKER: Prayers by the Honourable Member for Tourism, Aviation and Trade.

PRAYERS

HON. W. NORMAN 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings in the Legislative Assembly are resumed. Item two on todays Order Paper is the Presentation of Papers and Reports. The Water Authority Annual Report 1991. The Honourable Member for Communications, Works and Agriculture.

PRESENTATION OF PAPERS AND OF REPORTS

THE WATER AUTHORITY ANNUAL REPORT 1991

HON. LINFORD A. PIERSON: Madam Speaker, in accordance with Standing Order 18, I beg to lay on the Table of this Honourable House the report and audited accounts of the Water Authority for the year, 1991.

MADAM SPEAKER: So ordered.

HON. LINFORD A. PIERSON: Madam Speaker, the report sets out the success and impressive amount and diverse scope of work carried out by the Authority during 1991. It is also a most useful record of the country's activities related to the Water and Sanitation Sectors.

The 1991 accounts attached to the report show a second year of growth for the Authority with profits of $999,703.00 as compared to $826,595.00 for the previous year. At the end of its second year of operation, it has achieved a general reserve of $1,826,298.00 which is an enviable position for an organisation only two years of statutory independence and in a development mode. It shows the wisdom of our decision to allow the Authority to properly establish itself and have all its systems operating prior to allowing it to operate fully independent from Government.

The accounts of the Authority speak for themselves. They show the success but what they might not show is that this success has not come without a good deal of hard work, commitment and responsibility on the part of the Chairman, the Board and staff of the Authority. In this respect, there are several other aspects of the Authority's operation that at this time should be known.

Firstly, it is very encouraging to know that the Authority is totally independent of Government's financial support. It meets all its own costs which, in addition, to all its normal operating and administrating costs now include principal repayment of loans, office accommodation, staff medical insurance cover, pension contributions, work permits and legal costs. Secondly, it operates a much needed public water supply in Cayman Brac which at this time is fairly heavily subsidised by the Grand Cayman operation. This is achieved because operation of the Authority is healthy and prudently managed.

Thirdly, the Authority has been able to fund from revenue, some fairly serious remedial works for the West Bay Beach sewage system. With respect to these sewage system problems, it has had the courage of its convictions and is actively seeking redress from the United States (US) consultants who advised on the project. Fourthly, the Authority is investing in Caymanians, particularly our youth. It

is so pleasing to see the number of young Caymanians employed by the Authority who are benefiting from overseas and in House training and education programmes provided by the Authority.

It is also pleasing to see that the Authority has been able to attract capable local staff to all areas of its work. Where the local expertise may not be available at this time, local people are in training to fill the few posts presently occupied by expatriates.

Finally, I am, and I believe so is the country, grateful that the Authority has been able to continue expanding its water supply distribution into the areas that are less populated and therefore less remunerative and in so doing, is able to continue with this Governments commitment to provide all our people with a safe and pure supply of piped water.

I am most pleased to report that the first phase of the Bodden Town extension that was agreed and approved at the end of 1991 is virtually completed ahead of schedule. The second phase will be commencing very shortly. I am also very grateful to the Water Authority for the statutory duties that it performs, relieving the Government of the considerable cost of performing these duties itself. The Authority was very much involved in advising Government with respect to the Cayman Water Company's proposal to supply piped water to West Bay. It was their advice and counsel that assisted Government in concluding their agreement for the supply.

I am happy to report that work on this project is now well in hand and indeed a good deal of properties in West Bay are receiving water by pipeline. Access to a pure supply of water is a basic human right that in a country of our sophistication, and stage of development, should rightly be available to all. I will continue with my support of this important part of our country's infrastructure to ensure that this basic human right is met.

In tabling these accounts, I would like to commend and express my appreciation to the Chairman, Mr. Derek White and the directors of the Authority who have obviously carried out a stalwart job of managing the business affairs of the Authority during a difficult year complicated by external economic pressures.

In addition to their excellent performance, they should also be thanked for their generous involvement in the fields of local sports, cultural and charitable organisations. It is good to know that the Authority is in a position to help those in need and those who make an effort to achieve for themselves, their teammates and their country.

Please allow me to reconfirm my wholehearted support of the Water Authority and all our other statutory bodies whose great success is a credit to this country and a bright reflection of the progressive nature of our modern Government. Our statutory bodies are an important part of our future. We must retain and support them to provide for the need of our children and our children's children.

Thank you, Madam Speaker.

MADAM SPEAKER:

Thank you, Honourable Member.

The Community College of the Cayman Islands Annual Report 1992, and Financial Statements 1991. The Honourable Member for Education, Environment, Recreation and Culture.

THE COMMUNITY COLLEGE OF THE CAYMAN ISLANDS ANNUAL REPORT 1992 AND FINANCIAL STATEMENTS 1991

HON. BENSON O. EBANKS:

Madam Speaker, I beg to lay on the Table of this Honorable House, the Community College of the Cayman Islands Report 1992 and the Financial Statements 1991.

MADAM SPEAKER:

So ordered.

HON. BENSON O. EBANKS:

Madam Speaker, it is not my intention to go into too much detail, since this document will now be public, but rather I will not a few highlights. The year 1992 was a good year for the Community College of the Cayman Islands. The new campus which centrally houses all aspects of the operations of the College, provides an identity which was lacking in the past and is serving the College well. During the year, 94 students were enrolled in the Business Studies programme, as compared to 72 the previous year.

In the part-time study courses, 58 were enrolled in the Accounting Technicians programme, 74 in the Banking programme, an increase of more than 100 percent. Course registration in the extension services, also part time, increased from 592 a year ago to 898 in the 1991 year. In addition, seven customized contract courses were offered with the College in collaboration with the Cayman Islands Chamber of Commerce, the Cayman Islands Hotel and Restaurant Association, the Immigration Department and Government Training unit. These statistics bode well for the future of the College not only because of the increased number of students, but also because of the improved quality of students who applied and were accepted to the full-time programmes.

In Cayman Brac, the College outreach programme centered at the Cayman Brac High School continued to grow from strength to strength, but perhaps the single most important improvement at the College during the year, was the development and growth of the library. Eighteen hundred volumes of books covering all subject areas offered at the College were added to the library and a further 1000 books are being added this term.

The Community College is rapidly becoming a centre for all post secondary developments in the community and it is well underway to achieving its mission which is to serve the further Educational needs of a diverse population; to give special emphasis to the preparation of individuals for

work and/or for further study; to combine practical field work experience with classroom instruction, and to assume special responsibility for service to adults and other persons generally excluded from the mainstream of higher education.

Thank you, Madam Speaker.

MADAM SPEAKER: Thank you, Honorable Member. The next item on today's Order Paper is Questions to Honourable Members.

QUESTIONS TO HONOURABLE MEMBERS

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 191: Would the Honourable Member say: (a) how many complaints against the Police have been reported during the past 12 months; (b) what was the nature of these complaints; and (c) how were they handled?

HON. JAMES M. RYAN: (a)During the past 12 months, 1st September, 1991 to 31st August, 1992, the total number of complaints made against the Police was 45. (b)The nature of these complaints was as follows:-

Improper treatment during arrest	1
Improper treatment during investigation	1
Abuse and/or threats by Police	4
Assault by Police	11
Unlawful Police action	4
Lack of Police action	3
Harassment by Police	5
Discourteous behavior	8
Damage to prisoners' property	1
Improper Police action	5
Abuse of authority	1
Missing property in Police custody	1
TOTAL	45

(c)All complaints received were fully investigated. A new Complaints and Discipline Branch has now been formed comprising an Inspector and a Sergeant. Of the 45 complaints received 22 were unsubstantiated; 8 were substantiated; and 15 are still under investigation.

The 8 complaints which were substantiated were dealt with as follows:-

(a) **Assault by Police**
The Constable involved who was a probationer, was suspended and he later resigned from the Police Force. The complainant was informed of the result of the enquiry.

(b) **Discourteous behavior by an Officer**
The Police Officer was severely reprimanded by his Chief Superintendent. A letter of apology was sent to the complainant.

(c) **Improper Police Action**
A letter of apology was sent to the complainant.

(d) **Improper Police action**
Letters of apology were sent to the complainants.

(e) **Abuse of Authority**
The Police Officer was given suitable advice and guidance. A letter of apology was sent to the complainant.

(f) **Lack of Police action**
An apology was sent to the complainant.

(g) **Assault by Police**
The Officer was given suitable advice and guidance by his Superintendent. A letter of apology was sent to the complainant.

(h) **Damage to prisoner's property**
The complainant was compensated for the damage.

SUPPLEMENTARIES:

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could say if instead of letters of apologies to individuals who have been insulted one way or the other by a police officer. Has any thought been given to bringing the individual and the officer together and having such an apology done?

HON. JAMES M. RYAN: No, Madam Speaker. I cannot be sure whether that idea has been explored.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank You, Madam Speaker. I noticed that there have been eleven instances of complaints of assault by the police during the past year. I wonder if the Honourable Member is in a position to say if any of these complaints are repetitions against certain officers, or if the eleven complaints deal specifically with eleven different cases? Also, if any of these complaints are against officers recruited from Great Britain.

HON. JAMES M. RYAN: Madam Speaker, I do not have the answer on either of those questions I am afraid.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Madam Speaker, I wonder if the Honourable Member would give an undertaking to provide those answers at this earliest convenience?

HON. JAMES M. RYAN: Yes, Madam Speaker.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I too would like an undertaking from the Member with regard to the question I posed earlier of bringing the officer and the individual together and having that type of apology done. My supplementary at this time; can the Member say whether or not a complaint of police brutality has been reported, whereby a young East End man was severely beaten by an English officer quite recently?

HON. JAMES M. RYAN: Madam Speaker, with regard to the first comment, yes, I will give an undertaking to have that idea considered by the police. In regard to the question, I do not have specifics on the cases mentioned.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank You, Madam Speaker. The Member said he did not have specifics, what I was asking if he could say whether or not he was aware of a report of that nature?

HON. JAMES M. RYAN: Madam Speaker, that is a rather difficult one. I do not have any official information on that question.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member then say if the Member for East End has made a report to him with regard to police brutality of young McLaughlin from that district by an English policeman?

HON. JAMES M. RYAN: Yes, Madam Speaker. I think I can clarify my earlier answer by saying that the Member did make a verbal report to me and I have requested a written explanation on the matter and as soon as that is available, I will convey it to the Member.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Thank you, Madam Speaker. I would ask the Member if in future when he has questions to answer regarding the police if he will bring the Commissioner or some high ranking officer who can help him with the supplementaries, as the Elected Members bring a full entourage of helpers. Will he do that?

HON. JAMES M. RYAN: Madam Speaker, in this case the Commissioner of Police has been very tied up with matters pertaining to Police Week but, yes, I will request on future occasions that the Commissioner or another high ranking police officer be present.

MADAM SPEAKER: The last supplementary, The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker.
In light of the large number of complaints stemming from their relations with the public, I would like to ask the Honourable Member if any thought has been given, or if there is at present, any system in place whereby there are periodic refresher courses given to police officers especially to those who are on street beats in public relations and in dealings with the public?

HON. JAMES M. RYAN: Yes, Madam Speaker. There are ongoing training sessions for police officers. I do not have details of the individual courses, but I do know that they are ongoing courses and I will discuss this with the Commissioner if it has not been done, that is dealing with officers on the street beat.

MADAM SPEAKER: The next question is No. 192 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 192: Would the Honourable Member say what factors account for the significant increase in overseas medical expenses in 1991, compared to the same period in 1990?

HON. EZZARD MILLER: The only factors which account for the slight increase in overseas' medical expenses are the patients' clinical needs.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member would care to explain what he means by the patients clinical needs as regards increase of expenditure between 1990 and 1991?

HON. D. EZZARD MILLER: Madam Speaker, as we improve the diagnostic capability and the medical standard of care in the Island, there will be increasing clinical needs identified. What I am talking here is the various sicknesses that people have because the decision to send people overseas for care is a medical, clinical decision. All other factors concerning funding come into play after that decision has been made. The increase for 1991 in expenditure over 1990 is only 5.35 per cent.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Would the Honourable Member, say what is now the balance of the overseas medical cases advance account and how much is likely to be collected during the balance of this year in relation to that account, please?

HON. D. EZZARD MILLER: Madam Speaker, is the Member asking for the cumulative balance or just for 1992?

MR. TRUMAN M. BODDEN: The present balance that is on it.

HON. D. EZZARD MILLER: Madam Speaker, the information that I have is that the total balance since 1989 amounts to approximately $4.1 million cumulatively, that is for 1989, 1990, 1991 and this part of 1992. The present cumulative balance of $4.1 million.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, can the Member say if they have been able to identify the reason why any special clinical need cannot be met here. That is if there is a recurrence of a specific test that could have been done here if they had had the equipment. Have they been able to identify if there is any special area that could be improved by having some additional equipment?

HON. D. EZZARD MILLER: By far the majority of this money is not to do with tests, it is to do with procedures which to do those here, things like open heart surgery and brain surgery and organ transplants

and such would lead to great capital investment and it is doubted that you could attract the calibre of professionals to come down here and do 12 by-pass surgeries a year, for instance.

In terms of tests, those are addressed in the plans for the new hospital. Those that can be done here at the secondary level because one has to recognise that we have made a decision to send people who need that tertiary level of care overseas. Most of those institutions are not going to accept tests done locally. They are going to re-test the individuals which they have to do for their own insurance purposes.

MADAM SPEAKER: If there are no further supplementaries, the next question is No. 193 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 193: Would the Honourable Member say what provisions exist for the training and promotion of capable young Caymanians at the Public Works Department and at the Land Registry?

HON. JAMES M. RYAN: The Public Works Department has actively pursued the training of young Caymanians in the various technical and professional fields related to its ambit, with the objective of achieving total Caymanian staffing.

Since 1987, three officers have gained Bachelor's degrees courses in Architecture; one a Bachelor's degree in Civil Engineering and two have gained Associate's degrees in Architectural Drafting. Additionally, there are several other young Officers on staff who are undergoing on-the-job training in various fields and who are expected to become candidates for varying forms and levels of training.

In the vocational fields, the Department also provides some on-the-job training and is establishing a good working relationship with the Community College aimed at both providing useful work experience to students and exposure for the Department of the opportunities which it affords. All such Officers are posted and promoted as their personal development and organisational opportunities warrant.

With the Land Registry there is a Departmental training programme on registry procedures. External training is not considered to be relevant. The Executive and Clerical Officer courses and other training modules provided by the Training Department are used. Promotion of Caymanian staff depends upon the availability of vacancies, relevant experience and aptitude of the available posts. There are no known overseas courses available which specialise in Registered Conveyancing. For the posts of Registrar of Lands, Deputy and Senior Assistant Registrar, a professional qualification plus relevant experience is necessary.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. In the case of the in-service training of the Public Works Department, I wonder if the Honourable Member is in a position to give some details as regards to this training, for example, what is the current number of Caymanians in such training? Who supervises the training? At the end of that training, what are they likely to achieve in terms of experience and promotion and finally, what is the next step in the ongoing preparation after they have completed such in-service training?

HON. JAMES M. RYAN: Madam Speaker, on the matter of who carries out the in-service training I do not have the details on that. I do know that the training department does in-service training but I do not have details beyond that. On the other answers, I am afraid I do not have those available. If the Member wishes, I could attempt to get his some written answers on these.

MR. BOY BODDEN: Thank you, Madam Speaker. I would welcome an undertaking from the Honorable Member to provide those answers. Especially in the light of the young Caymanians currently on training, and additionally I would like to ask the Honourable Member if his Portfolio has been aware that there are a number of young Caymanians in the two establishments concerned who have expressed frustration at their lack of progress, especially as they have indicated their willingness to train. Also in light of the fact that they claim they have been demoralised by an almost constant influx of foreign nationals in positions for which they claim they should be trained to hold.

HON. JAMES M. RYAN: Madam Speaker, if it would help any, I do have information of four persons from Public Works who were awarded Government Scholarships since 1987 in the areas of Architecture, Civil engineering and again in two other courses in Architecture.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Madam Speaker, with your permission, may I inform the Honourable Member that what I am speaking about does not lie so much at the strictly professional level, but rather at the more technical level which has to do with things like electricians, plumbers, air conditioning and refrigeration

technicians etcetera.

MADAM SPEAKER: I assume that was for his information? Thank you. If there are no further supplementaries, the next question is No. 194 standing in the name of 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 AGRICULTURE

NO. 194: Can the Honourable Member say: (a) how much profit was realised by Caribbean Utilities Co. Ltd. since 1984 to date; and (b) how do these profits compare with similar types of firms?

HON. LINFORD A. PIERSON: (a)Caribbean Utilities Co. Ltd's profits are published in its Annual Report for the years ended April 1984 to April 1992, total Cl$18,743,995.00.

(b)It is difficult to compare the operations and cost of running a small Island utility with those of continental America where there are economies of scale, cheap hydro power and fossil fuels, nuclear power and a national grid system.

Similarly, it is difficult to compare the costs of operations in Cayman with those of other electric utilities in the Caribbean due to vastly differing population densities, cost of living, quality of service, duties, etcetera. However, the following information has been extracted from an independent survey prepared by Caribbean Electric Utility Services Corporation which was published in June of 1992 and incorporates Caribbean Utilities Co. Ltd's figures as at April 1992.

Rate of Return
(Note 1)

Bahamas	9.5 %
Bermuda	10.5 %
Cayman	9.5 % (15% ROCE guaranteed under franchise agreement)

Note 1: Defined as Operating Income as a percentage of Net Plant in service.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Taking into account the profit margin, duty free concessions, loan guarantees offered to CUC, what has Government done in an effort to having CUC absorb some of the many increases they impose on the customer and blame on fuel increases?

HON. LINFORD A. PIERSON: Madam Speaker, the CUC Company operates on a franchise which was entered into most recently, I think in 1986 by Government and they are guaranteed a 15 percent rate of return. During the period that I just mentioned, 1984 to 1992, the company invested something like $61,426,689.00 in a new generator and plant equipment and distribution system, so they have reinvested much of their profits into new equipment.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I am not satisfied that I got the answer that I was seeking. What I am trying to find out from the Member is what has Government done with regard to trying to have CUC absorb or cut back on some of the many increases taken into consideration the many benefits Governments offer to them?

HON. LINFORD A. PIERSON: Madam Speaker, I have attempted to answer the Honourable Member by mentioning that Government has entered into a very specific franchise agreement with CUC and the operations of CUC are governed under that franchise agreement. Accordingly, it is very difficult for Government to interfere in the operations of CUC beyond the ambits of that franchise agreement.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Would the Honourable Member say what percentage or amount of import duty on diesel the recent increase in tax or import duties on it by the Government reflects either in the bill itself or in relation to the profit or whether that is in excess of this profit and passed on to the customer?

HON. LINFORD A. PIERSON: Madam Speaker, I wonder if the Member could rephrase that question, I did not get it fully.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: It was somewhat long. The first question is the doubling of diesel fuel, if he could say what impact that has had on the rate quoted here, the rate of return? Secondly, whether the $18.7 million profit from 1984 to 1992 would have been affected in any way by the increase in diesel, whether that is in addition to the $18 million profit?

HON. LINFORD A. PIERSON: Madam Speaker, this is a very difficult question without all of the information available. I think the best I could do for the Member at this stage, rather than giving him guesstimates to this question, would be to provide him the answer in writing.

MADAM SPEAKER: Thank you. If there are no further supplementaries the next question is No. 195 standing in the name of 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 AGRICULTURE

NO. 195: Can the Honourable Member say: (a) whether the proposed project by Caribbean Utilities Co. Ltd., of discharging liquids in the North Sound, will reflect an increased cost to the consumer; and (b) the benefits to the consumer of this new pipeline?

HON. LINFORD A. PIERSON: (a)Caribbean Utilities Co. Ltd. has advised that the 2.4 megawatt steam turbine project, with a pipeline designed to discharge water from the generating station into the North Sound, will not result in an increase in the cost of electricity to the consumer.

(b)It is anticipated that the benefits to the consumer, because of this new project, will result in the following.

(i) lower electricity rates because of improved efficiency due to the production of electricity without additional fuel cost;

(ii) provide environmental benefits through the reduction in exhaust emissions.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, can the Honourable Member say whether this work is not then considered by the company as being capital expenditure.

HON. LINFORD A. PIERSON: The work is regarded as capital expenditure and the project is estimated to cost $US 6.2 million.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Can the Member say whether it is not in fact an agreement that Caribbean Utilities increase cost to the consumer based on their capital expenditure?

HON. LINFORD A. PIERSON: Madam Speaker, the rate of return for Caribbean Utilities is calculated on the net income over the net plant value. I would further state that the value of $6.2 million in capital or assets would be added to that base rate.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Would the Honourable Member say whether this will increase the amount of profit and therefore the rate of return on the company?

HON. LINFORD A. PIERSON: Madam Speaker, the fuel cost factor would be reduced.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. My question is whether this increase in the assets will increase the profit and rate of return to the company because as the Member has said, it is added in to the formula, so it has to increase?

HON. LINFORD A. PIERSON: Madam Speaker, the way that the rate of return is calculated is that the net income position over the net asset value of the company, the additional asset would be added to that base rate and of course the company would receive an increased profit but it is calculated that that increased profit over that increased base rate, would not be in excess of what we have now. It would not produce and additional

cost to the consumer.

MADAM SPEAKER: It is now 11:00.

SUSPENSION OF STANDING ORDER 23 (7) AND (8)
11:00 A.M..

HON. JAMES M. RYAN: Madam Speaker, I move the Suspension of Standing Order 23 (7) and (8) to enable the remaining questions to be taken.

MADAM SPEAKER: The question is that the Standing Order be suspended in order be suspended in order to take the remaining question this morning. I shall put the question.

QUESTION PUT: AGREED. STANDING ORDER 23(7) AND (8) SUSPENDED TO ENABLE THE REMAINING QUESTION UPON THE ORDER PAPER TO BE TAKEN.

(Supplementaries on question No. 195 continuing):

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: The last on the area of this but would the Honourable Member therefore say whether the increase in plant, increases the profit to the shareholders?

HON. LINFORD A. PIERSON: Madam Speaker, I thought I had given the Honourable Member that information, because I can hardly see any company entering into that kind of heavy capital expenditure without anticipating an increase in their profits. The answer that I think he is seeking, is that the project should generate approximately five percent of the Islands' power requirement, that is the introduction of the turbine generator in the summer of 1993, without the costs of any additional fuel and fuel cost. Further, fuel oil presently amounts to about 50 percent of the Caribbean Utilities Company's operating expense but the fuel cost factor is about 19 percent of the total electrical bill. That is what will be reduced. The fuel cost factor will be reduced and thus, the expense to the consumer will be also be reduced.

MADAM SPEAKER: The next question is 196 standing in the name of 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 AGRICULTURE

NO. 196: Will the Honourable Member say whether a full environmental impact assessment will be carried out before approval for the proposed project of pipes to be laid in the North Sound by Caribbean Utilities Co Ltd for discharging liquids?

HON. LINFORD A. PIERSON: Madam Speaker, before answering this question, I would like to explain that since this question was submitted, I have received further information. I received the memorandum through the Principal Secretary from the Natural Resources Unit, so I will refer to that after I have answered the question in its written form.

When it was written the answer was: "Caribbean Utilities Co Ltd has advised that a full environmental impact assessment will not be carried out before a decision is made by the Central Planning Authority regarding its application for permission to place a pipeline along the roadway into the North Sound for the new 2.4 megawatt steam turbine project." However, as mentioned the Scientific Officer in his memo to the acting Principal Secretary, dated yesterday, advised us that an environmental impact study may be required and I would further state that Planning Department would take into account the recommendation of the Natural Resources Unit before coming to any conclusion in this matter. Further, CUC has also stated that if this is required by the Planning Department, they will be happy to comply.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, in the substantive answer, it talks about a pipeline along the roadway. What I am actually dealing with is on the ocean bed itself.

HON. LINFORD A. PIERSON: Madam Speaker, these details have not yet been submitted to the Costal Works Advisory Committee and it may be helpful if I just read for the information of the House, the information we received from the Scientific Officer and this might shed some light on the question raised by the Honourable Member. It was dated yesterday and it reads The Subject Discharges from proposed CUC pipeline, George Town Barcadere. He says:

"This application is currently with the Planning Department for consideration by the CPA and has not yet been reviewed by the Costal Works Advisory Committee. However, Natural Resources Unit has recently reviewed the data in order to advise the CPA and is of the view that an environmental impact assessment is necessary. This assessment can be done in-house as Natural Resources Unit has sufficient expertise and data to be able to evaluate the effects of any such discharge on the Turtle Grass and Mangrove habitats which are the two vulnerable biological communities in this area of North Sound.

Initial analysis of the figures which have been provided by CUC shows that the brine element of the discharge will not present a problem as it falls within or sufficiently close to ambient levels as to be tolerable to local marine life. However, the potential thermal pollution does need some research and the Natural Resources Unit will be requesting further information from CUC regarding flow rates at the discharge as well as expected mixing rates after discharge.

It is expected that this information would be provided by an independent and impartial expert provided by CUC and approved by Natural Resources Unit.".

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, can the Member say how many feet this pipe line will consist of and whether this goes into the environmental area or the protected Marine zones?

HON. LINFORD A. PIERSON: Madam Speaker, the answer to the first part of the question is that the pipeline extends some 1000 feet into the North Sound from the shore line. The discharged water will not be re-circulated within the bay area. As regards to the second part of the question, on its effect on the environmental area, I have no information on that but I would be happy to have it researched and provide the Member in writing with the answer.

MADAM SPEAKER: Thank you. That concludes Question Time for this morning. The next item on today's Order Paper is Other Business. Private Member's Motion No. 13/92, Debate on the Draft Constitution. The Third Elected Member for West Bay.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS:

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

(Continuation of debate thereon)

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. In the opening remarks of my contribution to the debate on the Draft Constitution which was started on Monday afternoon, real late, I mentioned that I felt that we should not b dealing with an issue like the Constitution at this time when we as a country have so many more pressing needs to address.

Needs, such as a prolonged recession, high unemployment, unprecedented Government public debt which now stands approximately $134 million, a constant increase in crime, overcrowding at Northward Prison where the majority of inmates are young people, the issue of unbridled immigration, and an increase in juvenile delinquency, just to mention a few of the issues which we fail to have addressed in this country.

I also mentioned that if the matter of the motion calling for the review of the Constitution was handled in the Legislative Assembly as is the common practice in dealing with such political matters, then in keeping with precedent, where only Elected Members of the Legislative Assembly are allowed to vote on political matters, the Government motion brought by the Member for Education, Mr. Benson Ebanks, would have failed as the motion was opposed by seven of the twelve Elected Members of this House. I also mentioned that the motion was carried only because the President at the time obligated the three Official Members to vote yes, on their collective responsibility.

I also mentioned that it always has been my contention that what we have, what we need in this country is not a change in the Constitution but a change in Government. That is, a change in the four Elected Members of the Executive Council because regardless of what kind of Constitution you have in place, good Government depends on or is determined by good leadership which has been almost nonexistent over the past four years by the Elected Members of Executive Council.

It is my firm contention that one reason for the review being brought is the Elected Members of Executive Council's grandeur vision of greatness and their quest and thirst for more power which has been so evident over the past four years. As a result, their quest for more power and in order to chastise another senior Member of Government, that was the real reason why they brought Motion 3/90.

Much has been said about this motion, that is His Excellency the Governor, in an article in *The New Caymanian*, the week of August 28 was interviewed by the paper and was

specifically asked about Motion 3/90. I believe it is important for me to read what the Governor had to say for not only the benefit of the Members of the House but members of the public at large. With your permission I would like to read a few excerpts of that interview. It says: (This is the paper asking the question.)

> "Is it correct that you were on leave when Government Motion 3/90, that is change in the composition of Finance Committee was approved by Executive Council?
>
> Mr. Scott - I was indeed on leave when that was approved to go before the Legislative Assembly.
>
> Would it have been possible for the Acting Governor to defer that motion or to seek the Secretary of State's advice?
>
> The Governor - Yes, the Acting Governor, Mr. Thomas Jefferson has the full powers of the Governor under the Constitution while he is acting.".

That is what the former Governor had to say about the issue and in his contribution to the debate, the Member for Health also had something to say about this motion. He mentioned that the article in the *Newstar* where the former Financial Secretary, Mr. Thomas Jefferson mentioned that the first time he say Motion 3/90 was when it was raised in Executive Council, was incorrect.

Being the type of person I am, I took it upon myself to confirm the position from the former Financial Secretary, Mr. Jefferson. I asked him if he heard the Member of Health's contribution to the debate and in particular the Member of Health's comment that the Financial Secretary was acting Governor at the time that same Motion 3/90, the day before the Executive Council meeting. The Member also mentioned that the Financial Secretary not only saw the motion, but had made changes to the motion. Mr. Jefferson's reply to me was that the Member for Health is suffering from a convenient memory loss. The facts as presented in the *Newstar* is what God likes to hear, the truth.

According to Mr. Jefferson, the motion was not seen by him until nearly at the end of the Executive Council meeting and yes, he was notified by Mr. Norman Bodden at about 2:10 p.m. that he had a matter to raise at the meeting which started a short time later. Mr. Jefferson said that he stands by the *Newstar* article as written. If I have to believe one version as opposed to the other, not only myself but the majority of the Members of this House and the listening public, believes the former Financial Secretary's version on this issue.

The Member for Health, according to the former Financial Secretary, is also under a misinterpretation because the Member for Health did mention that from the outset, the former Financial Secretary, Mr. Thomas Jefferson, took an automatic dislike to himself. Now, the House, and the world know that it is not Mr. Jefferson who holds grudges and dislikes for people who oppose him but the Member for Health is well known for this type of behavior.

What the Member for Health could not appreciate about Mr. Jefferson and I think is shared by the other three Members of Exco, that is the Elected Members of Executive Council, is that in Mr. Jefferson, they had a man who was prepared to stand up and did not subject himself to every whim and fancy that was raised by the four Members of Executive Council.

The Member for Health also mentioned that the Financial Secretary not only who was acting Governor at the time, saw the motion the day before, but had also made changes to the motion. Now according to my information from the former Financial Secretary, the first time he saw it was the day of Council and the next day, when he was summoned to meet with the four Elected Members of Executive Council because they knew that the Financial Secretary was not happy with the motion and that is when the proposed changes were made. He attempted to get them to agree to the wording that the Financial Secretary would remain as Chairman of the Finance Committee but they would not listen to this because the whole objective of Motion 3/90 was to chastise the former Financial Secretary.

It is my understanding that the original draft for Motion 3/90 mentioned or included the words Member for Finance, rather than Financial Secretary. This was intentional. It was the intention of the four Elected Members of the Executive Council to put an Elected Member of Executive Council in charge of Finance. That was the whole idea. The Member for Health also tried to utilise deferred Exco decisions when consensus could not be reached or agreed on in Exco to justify the correctness of the Governor's answer to the *Newstar* where he stated that Mr. Jefferson had the full powers of the Governor and could defer the decision and take advice from the Secretary of state.

The *Newstar* would have received from the Governor the right answer if they had asked him the following question. "Which advice given unanimously by Executive Council did he, the Governor, reject or defer during his five years and two months in office and advise the Secretary of State?" The answer would have had to be, not once. Mr. Jefferson also confirmed that in his 21 years in the Government he had not seen it happen once in Council, nor heard of it happening or being done.

Despite the Members' attempt to mislead or misinterpret the facts on this issue, I am of the firm opinion that what has happened in Executive Council is that the four Elected Members have gotten together and they have chosen the Member for Health to speak on their behalf in dealing with the former Financial Secretary. Despite all of this and the attempt to mislead the Members of this House and the public, it was obvious that the Foreign and Commonwealth Office was not unhappy with the way Mr. Jefferson, while acting Governor, conducted Executive Council Meetings.

In the Constitutional Commissioners Report, although they recommended that the post of Chief Secretary be recreated, the Foreign and Commonwealth Office accepted the Commissioners Report states; "That the Financial Secretary shall continue to act for His Excellency the Governor

until he leaves office." In other words, although there would be a Chief Secretary, the Financial Secretary, Mr. Jefferson would continue to act for His Excellency the Governor. That indicates to me that the Foreign and Commonwealth Office continued to have confidence in Mr. Jefferson's professional skills and professionalism. I believe the position is, up until this day, he is held in high regard in that office.

It is my considered opinion that the Governor answered the question in that mischievous way to cause the people of Cayman to think highly of the present Elected Executive Council Members and badly of Mr. Thomas Jefferson. Mr. Jefferson is well known for his services to these Islands. He has served his people well and they continue to hold him in high esteem. My colleague, the First Elected Member from West Bay and myself are proud to have a man of Mr. Jefferson's integrity, principles, and skills as our running mate in this year's general election to give West Bay and the Cayman Islands the honest leadership it deserves for the 1990s. His running for election is what the Member for Health is further annoyed about because it is my firm belief that neither the Governor nor the four Elected Members of Executive Council expected Mr. Jefferson to have the concern and courage to resign his position as Financial Secretary in order to make himself available for service to the people of this country through the political arena.

MADAM SPEAKER: Would this be an opportunity to take a suspension? The House will be suspended for fifteen minutes.

AT 11:35 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 11:57 A.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues on the Draft Constitution, the Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. When we took the break I was dealing with the present Government's underestimation of the former Financial Secretary, Mr. Thomas Jefferson. The Members of Executive Council underestimated this man's kind, quiet manner as being a sign of weakness only to learn on several occasions, and I witnessed those occasions in this House, that beneath that kind, quiet manner are principles of steel for honesty, freedom, justice and a sense of fair play for all people. And when the occasion warranted it, that Member fearlessly stood up and gave an account for himself.

Mr. Jefferson's ambition or desire is that he wants the people of this country to be the judge, not the four Elected Members of Executive Council, nor the former Governor, Mr. Alan Scott. The day of reckoning is coming soon and I believe that the people of this country will speak loud and clear in support of Mr. Jefferson. As I mentioned before, it is my contention that the reason for Motion 3/90 was that the former Financial Secretary had to be taught a lesson. And he is not the only one who has been politically victimised by the present Government. Over the past four years, there have been many such examples.

To name a few examples of victimisation, I would like to mention Doctor Payne, the former Chief Medical Officer; Randy Dounce, the former Accountant at the Hospital; Doctor McIntyre; Doctor Vivekanand; Doctor Kool; these were all subject to political victimisation because they had the guts, concern, and responsibility to speak out against the Member for Health and his quest.

MADAM SPEAKER: Honourable Member, I have been somewhat reluctant to stop Members in the midst of their debate, but I am afraid that relevancy comes into play now and I cannot see what reason you have to bringing in all these matters of victimisation under the discussion of the Draft Constitution. You have spent about 20 minutes dealing on a specific item, and I think it is time now that you move on to the points that you wish to raise under the Draft Constitution.

Thank you.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I do bow to your ruling, but later on in my debate or comments on the Constitution, I will establish the relevance of such comments.

All I would like to say in winding up this portion of my debate is that Government's worse nightmare has been realised, that is, Mr. Jefferson's entry into the political arena. The Member for Education in his debate mentioned that the reason for bringing a motion calling for a Review of the Constitution was that during the debate on the respective motions that were brought, Members of this House called for amendments to the Constitution he, being the concerned representative that he is, felt that is was his responsibility to see to it that a review took place not only including those amendments that were proposed by the other Members but an entire review of the Constitution.

The Member for Health, in my opinion, let the cat out of the bag as to the real reason for bringing the motion calling for the constitutional review. He mentioned in his debate that the Elected Members of Executive Council had decided that if a new Constitution was put in place their choice for Chief Minister was the Member for Education. I believe that was one of the driving forces behind the review being requested, because I believe that the Member saw himself in that highly established position of Chief Minister.

HON. BENSON O. EBANKS: Madam Speaker, on a Point of Order. The Member is totally misquoting. I never mentioned anything about the Office of Chief Minister, who it was going to be. He must be talking about the Member for Health, not me.

MADAM SPEAKER: I think he did say it was the Member for Health in his

presentation who had mentioned you as Chief Minister. (Some Members' Laughter)

MR. JOHN D. JEFFERSON, JR.: Madam Speaker, it shows how confused the Member is because I did mention that the comments were made by the Member for Health. I believe that was one reason why the Constitutional Review was called for because the Member for Education saw himself in this highly exalted position. And I cannot see if a Chief Minister is brought in, where he is going to settle for anything less, where he is chauffeur-driven in a big car, lives in a residence provided for the Chief Minister, probably in SafeHaven, and where he could enjoy all the services that go along with that position and have people at his beck and call.

I also believe that another reason for the review was a further attempt by the Elected Members of Executive Council to further chastise the former Financial Secretary.

MADAM SPEAKER: Honourable Member, may I ask you not to repeat what you have already said because you have said that already. Would you please continue your debate?

MR. JOHN D. JEFFERSON, JR.: Madam Speaker, I bow to your ruling but my comment before was with respect to Motion 3/90. I am now dealing with the Constitution. To substantiate my belief in this area, Executive Council in the Select Committee, that is a Member of Executive Council, was able to get the reference with respect to the Financial Secretary removed from the Draft Constitution. That is what they were recommending because it was their intention to put an Elected Member of Executive Council responsible for Finance.

It was not very difficult to get support for this in Executive Council, among the four Elected Members because the Member for Education was promised the position of Chief Secretary. If there was going to be a Member for Finance, that could only have been given to the Member for Communication and Works who has always touted himself as the only qualified accountant in the House. There are provisions in the Draft Constitution that I do support and there are provisions in the new Constitution that I do not support. I think on Monday when I started my debate I mentioned a few of those provisions that I did support.

I do support an increase in the membership of Executive Council by one Elected Member, that is where the membership is increased from four to five Members of Council. I believe that over the years the responsibilities of the four Elected Members of Executive Council have reached a stage where the individual assignments have become over-burdensome. I believe by adding one additional Elected Member on Executive Council, that this will allow the respective Portfolios to be better divided and I think it also provides a greater chance of proper attention being given to the Members for their respective responsibilities. It also ensures that all areas of their responsibility can be properly addressed.

I also mentioned that in order to make this possible I supported an increase in the membership of the Legislative Assembly and at the end of the day it was agreed that in order to retain the present balance, that is the balance between Executive Council and the Backbench, the increase should consist of three Members. I also support provisions in the Constitution for a Speaker and Deputy Speaker to be elected by the Elected Members of the House. I think it is essential not only to have a Speaker, but also a Deputy who will be in a position to fill in whenever the Speaker finds it necessary to be away.

Being the type of conservative person that I am, I support a gradual moving into a ministerial system of Government. I believe that they are some steps which can be taken before we get to a full ministerial form of Government. I would support at this stage a Leader of Government Business being an Elected Member. How that would work is that once the Election is over the new House is convened and the Elections are made for the Ministers to Executive Council, the five Ministers could themselves elect from among themselves someone to be their Leader.

There is a vast difference between the role and powers of this individual than that of a Chief Minister. A Leader of Government would basically be the spokesman for Executive Council when the Legislative Assembly is called into Session, that person would be responsible for presenting Government's Business at that Sitting. He will have no authority to hire or fire his Ministers and he will be an equal in Executive Council. I believe that this would be a much more sensible approach to the Constitution at this stage because it is my contention and I mentioned it before, that the present mess that this country is in has not been caused by a lack of a proper Constitution. It has been caused by the Elected Members of Executive Council's failure to regard the wishes of the majority of the people of this country.

I also supported the recommendation calling for a provision in the Constitution for a Finance Committee consisting only of the Elected Members of the House with the Financial Secretary as Chairman. I very strongly feel that only Elected Members should be in a position to vote on public funds. I wonder why this recommendation is not in our Draft Constitution. I believe the reason why it is not in the Draft Constitution is because the Members of Executive Council did not support it. That is why it is not there.

I personally believe that it would be wise to create a provision in the Constitution with respect to the post of Chief Minister and the post handled the same way that the post of Speaker was handled in the 1972 constitution. That is only brought into effect when the views of the people have been obtained by way of a referendum or a campaign in a general election. I think if we do this it would prevent the necessity of reviewing the Constitution a few years down the road when it might be the wish of the people to bring in such a position.

I believe and support the provisions of a Bill of Rights which guarantees the basic human rights of every citizen in this country. The reason for this being included is because the Backbench requested it because on two previous attempts in this area, where Private Members Motions were brought calling for such rights, they were defeated by the Government. We also recommended that a provision be placed in the Constitution for a referendum law. This would provide us with the means of obtaining the wishes of the people of this country on important national issues and it is a common practice in the major world

democracies.

A provision has not been placed in the Constitution for this but I have no difficulty with the recommendations of the Commissioners that such a provision could be provided through a law to this effect. On page 52 of the Draft Constitution, Section 86 it reads:

"86.(1) The office of Auditor General shall be a public office and power to make appointments to the office of the Auditor General is vested in the Governor acting is his discretion.".

This provision in the Constitution I support and is also a result of the requests from the Backbench because we feel very strongly about this position in that the Auditor General is the watch-dog for the Legislative Assembly and should be in a position to review Government's operations and report objectively his findings without fear of victimisation. This request is a very wise one because we all know what happened to the present holder of that post. His term or contract has been terminated because he had the courage to report objectively on his findings even if those findings included criticism of Government's policies and practices.

I do not support at this stage the post of a Chief Minister being brought in without the necessary machinery in place to control it. That is, it is my understanding that in order for this system to work properly, a fully operational party system must be in place. We have been told by the Commissioners that this is not necessary because at the present time we have a party system in place. Nonsense, Madam Speaker! Each Member of this House, other than Members of Executive Council once bound by collective responsibility, has the independence to do whatever he feels like doing, vote the way they feel like voting, irrespective of who supports or does not support the issue. I can imagine the chaos that would result if we attempted to put such a position in place without the proper safeguards because in the Constitution it does mention that the Chief Minister could be removed by a two-third support of a motion of the Elected Members of this House.

The present Government we have attempted to remove since 1989 when they lost their majority of Elected Members and it has not been possible. You can imagine attempting to remove a Chief Minister who has much more authority under that type of system. I also do not support the recommendation in the Draft Constitution that calls for the Chief Minister being consulted with respect to the appointment of members of the Public Service Commission or the appointment of senior officers to the Civil Service. It is my contention that it is very essential that we continue to maintain an independent Civil Service which is free, as much as possible, from political interference in order to ensure that we continue to have a vibrant, efficient Civil Service which is so essential to the growth and stability of this country.

The Draft Constitution also calls for the Chief Minister being consulted with respect to the appointment of magistrates. I feel that it is very essential that the political and judicial arms of Government remain separate and independent of each other to insure the fair administering of justice for all in this country. I can imagine the chaos that would result if we have political appointees to these very senior and responsible positions in the court.

I do not support the provision of Parliamentary Secretaries as is called for in the Draft Constitution because I feel that our Parliament is presently too small for this and it would seriously further threaten the democracy of this country because with these appointments it would prove virtually impossible to remove the Chief Minister if that became necessary. I agree that the position of Parliamentary Secretary could serve as a very good training ground for new members of the Legislative Assembly, for them to get a feel of how Government works. With the present size of our Legislative Assembly, I think it would be very dangerous to make such a provision at this stage because I can assure you that as soon as a Chief Minister is appointed he will appoint the Parliamentary Secretaries to ensure his tenure in office.

I believe that the provisions of the Draft Constitution need much review and amendments in order to satisfy what we need in this country at the present time for the Constitution. I do agree with the process that has been outlined with respect to the implementation of a new Constitution. That is the Constitution being an issue in a General Election once the new House has convened, a motion brought and debated and supported before a new Constitution is triggered and put into place.

What is surprising is that the mover of this motion, that is the Member for Education, moved the motion calling for Constitution Review, when in his manifesto in 1988 the first provision says, "Retaining our present Constitutional status as a Crown colony, thereby ensuring our continued economic and political stability." I do not believe that the majority of the Members of this House, who ran in the 1988 political campaign, maybe with the exception of one or two, can truthfully say that they had a mandate from the people calling for a constitutional review. Because I have reviewed several manifestos and most say, "No constitutional advancement". On an issue as important as this, it is very important that we have indicated clearly what the views of the general public are on this issue.

Those are my thoughts on the Draft Constitution. I still contend that the timing for such a review is not good because I do not believe that the people of this country at the present time are seriously concerned about the deficiencies of our present constitution. If you took a poll out there today as to what the issues are, as far as the populace of this country is concerned, number one would probably be their concern over the state of the economy, their concern over unemployment, their concern over Government's uncontrolled spending, uncontrolled immigration, Cayman Airways, to name a few. I believe that the time of this House could have been better spent addressing such issues.

Madam Speaker, Thank you.

MADAM SPEAKER: The House will be suspended until 2:15

AT 12:43 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:17 P.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues on Private Member's Motion 13/92. The Honourable Member for Communications, Works and Agriculture.

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. I consider it a privilege to have this opportunity to add my contribution to the debate on the Draft Constitution, 1992. Despite the importance that some other Members have placed on other subjects in priority to the Constitution, I feel that this is the most important debate that has come to the House in many years.

In my debate I will attempt to refrain from as much politics as possible and deal with the Constitution as that is the subject before the House. Many of our people have asked us to avail ourselves of every opportunity to explain this very important document. Further, we have been asked by various groups and even the media to try to explain the Constitution whenever the opportunity arose and this is a golden opportunity for every Member of this Honourable House.

I do not think that we should find it necessary to have to wait out other Members in order to speak. I am speaking at this point in time because I am ready to speak, if I had been ready before, I would have done so because a matter this important should not be used for politics. In my attempt to debate this motion I will try to give this Honourable House and the listening public, my impressions and my opinions on the sequence of events leading to the constitutional review and why I regard this exercise as necessary. Further, that all proper procedures, constitutional and otherwise, were followed in this exercise. I will, therefore, try to be as comprehensive as possible within the time allowed.

I would first like to refer to the background to this whole exercise and this is on page two of the Select Committee's Report. In order to get the right sequence of my debate with your permission I would wish to read some of these sections. The background to the Constitutional Report is as follows:

> "1. The Select Committee to review the Cayman Islands (Constitution) Order, 1972 was established by the Legislative Assembly on Thursday, 15th November, 1990, upon the unanimous passing of Private Member's Motion No. 25/90.
>
> 2. The Motion was brought to the House by the Second Elected Member for Cayman Brac and Little Cayman, Mr. Gilbert A. McLean, MLA, and seconded by the First Elected Member for West Bay, Mr. W. McKeeva Bush, MLA (in the absence of the original seconder of the Motion, the Third Elected Member for West Bay, Mr. John D. Jefferson, Jr., MLA),
>
> [as a way of giving a background on this]
>
> "3. The Motion came as a result of the passing of Government Motion No. 9/90 on 24th July, 1990, by an eight to seven majority, which sought a request through the Secretary of State for Foreign and Commonwealth Affairs to appoint a Commission for a Constitutional Study to ascertain and evaluate opinion in the Cayman Islands upon possible paths of constitutional evolution, having regard to political developments in the Islands and to the social and economic development of the Islands since the introduction of the present Constitution in 1972.".

The Government Motion that brought this into effect reads as follows and that was Government Motion No. 9/90 which was the request for Constitutional Study. The recitals are as follows:

> "GOVERNMENT MOTION NO. 9/90
> REQUEST FOR CONSTITUTIONAL STUDY
>
> WHEREAS the last comprehensive examination of the Constitution of the Cayman Islands was conducted in 1971;
>
> AND WHEREAS since that time the Islands have enjoyed considerable social development and economic growth;
>
> AND WHEREAS there have recently been proposals for piecemeal alterations to the Constitution;
>
> AND WHEREAS the debate in this Honourable House upon Government Motion No. 3/90 has focused much attention upon provisions of the Constitution including the role of the Official Members of this Assembly;
>
> BE IT THEREFORE RESOLVED THAT this Honourable House request, through His Excellency the Governor, the Secretary of State for Foreign and Commonwealth Affairs to appoint a suitably qualified and experienced person or persons as a Commission to ascertain and evaluate opinion in the Cayman Islands upon possible paths of constitutional evolution, having regard to political

developments in the Islands and to the social and economic development of the Islands since the introduction of the present Constitution in 1972; in conducting this assignment to consult with the Governor, the Members of Executive Council and of the Legislative Assembly, interested organisations and members of the public; and to report.".

This motion was brought by the Honourable Member for Education, the Honourable Benson Ebanks. To show that this followed in a very orderly fashion and procedure I will also refer to the Terms of Reference under which the Select Committee was appointed and they are contained in Private Member's Motion No. 25/90, which was the Select Committee to Examine the Constitution of the Cayman Islands. I would like to refer to those terms of reference and which reads as follows:

"PRIVATE MEMBER'S MOTION NO. 25/90

SELECT COMMITTEE TO EXAMINE THE CONSTITUTION OF THE CAYMAN ISLANDS

WHEREAS by a majority vote, Government Motion No. 9/90, "Request for Constitutional Study", was passed:

AND WHEREAS a Constitutional review was not a campaign issue in the last General Elections, nor was it publicly debated during the last General Election by any candidate or any present Elected Member;

AND WHEREAS it is considered reasonable and desirable that the bipartisan views and opinions of Legislators and the views of the public be solicited;

BE IT THEREFORE RESOLVED THAT a Select Committee, comprising all Elected Members of this Honourable House, be established:

(1) to examine the present Constitution in the light of Members' experience of working with it and to formulate a submission to the Constitutional Commissioners;

(2) to consider the report of the Constitutional Commissioners, once it is tabled in the Legislative Assembly, and to invite representations and hear witnesses thereon;".

Madam Speaker, on that particular point I intend to speak in more detail later on because the wrong impression has been given to the public that sufficient time was not given to the public to be heard by the Constitutional Commissioners and during the deliberations of the Select Committee. And this is not correct, Madam Speaker.

"(3) to consider whether any recommendations necessary for the conduct of a General Election should be implemented prior to a General Election; and

(4) to report to this Honourable House upon their consideration of the Commissioners' report.

AND BE IT FURTHER RESOLVED THAT this Honourable House recommends that the implementation of any recommendations for Constitutional changes with the exception of the paragraph numbered 3.".

Which had to do with any recommendation necessary for the conduct of the General Election and more specifically with the addition of the three Members. These were the specific Terms of Reference for the deliberation of the Select Committee.

On the 15th of November, 1990, the Presiding Officer of the Legislative Assembly, in accordance with the provisions of Standing Order 69(2), nominated as the Chairman of that Select Committee the Hon. W. Norman Bodden, OBE, JP. As stated, the Members' of that Select Committee were the Elected Members of this House. None of the Official Members were involved in the deliberations of the Select Committee on the Constitution. And that is very important to note as I will be referring to that later on.

Relevance of that is in part, that the Report before this House, which is the Report of the Select Committee of Elected Members to review the Cayman Islands (Constitution) Order, 1972, was a Report from the 12 Elected Members. Not from four Elected Members of Executive Council, plus the two Members for Cayman Brac, as has been alluded to and stated in this House, but from the 12. The Select Committee's Report was a report from the 12 Elected Members of this House despite the few changes contained in the Dissenting Statement. The listening public must understand that, that this was not a Select Committee's Report from the Elected Members of Executive Council and the two Members for the Brac. It was from the 12 Elected Members of this House.

Before addressing the details of the Draft Constitution I feel that it is only appropriate that we recognise the sequence of events, the evolution of our political growth in these Islands over the years and in so doing we realise that this constitutional review that we are now considering, the Draft Constitution, 1992, is the fourth constitution that these Islands will be considering. When you hear Members make reference to not wanting constitutional changes, they must understand that this has been necessary within our economic, political and social growth in this country and this is the fourth time it has been seen necessary to have a change in our Constitution.

While Madam Speaker was outside these Chambers, she wrote in the 1990 Cayman Islands Year Book and Business Guide a very interesting article on the sort of road from a Crown Colony to internal self-government. I found that very, very informative. I have decided to refer to these steps that were outlined there because it is important that the listening public understand that the Members who may support this Draft Constitution in whole or in part are not advocating full internal self-government, neither are we advocating any form of independence because this has been a red herring thrown across the track to mislead our people.

Further, it must be understood that within the history of our constitutional growth, our political growth, that it is precedented where we have decided to use more than one step at one time to accomplish our aims and I would like to point out to that fact mainly because the Third Elected Member for George Town would like to have the people believe that it is wrong to include the position of Chief Minister within a ministerial government at this point in time and I will also deal with that in more detail later on.

As mentioned earlier, in the *1990 Cayman Islands Year Book and Business Guide* the Honourable Sybil McLaughlin, who is Speaker now, but not at the time, provided from her experience as a long-serving Clerk in this House and person versed in constitutional affairs, very useful information on the road from Crown Colony to internal self-government and I am referring to an article in the *Caymanian Compass* dated Friday 7th, August, 1992. I would like to read those nine steps. It reads:

> "The road from Crown Colony to internal self-government usually involves a series of steps from one to nine. The following is an example:
>
> ONE:Crown Colony Status, with all executive powers in the hands of the Governor.
>
> TWO:The Governor appoints unofficial members to enter the House.
>
> THREE:Some elected members enter the House, but the majority is non-elected.
>
> FOUR:There are no nominated members. Elected and Official Members as 'quasi ministers' represent Departments in the House and Executive Council. Permanent Officials have administrative authority.".
>
> I will later on deal with the question of more administrative authority which the Third Elected Member for George Town is advocating.
>
> "FIVE:The Governor is given reserved powers.
>
> SIX:Quasi-Ministers become full Ministers, acting on the advice and with the assistance of the Governor. They may be removed by a vote, perhaps by two-thirds of the Legislative Assembly (elected members).
>
> SEVEN:The Governor appoints a Prime (or Chief) Minister from among the elected members. The Governor retains certain responsibilities and powers.
>
> EIGHT:The Governor and Officials no longer belong to Executive Council. The Prime Minister presides over Executives Council meetings....[and that is number eight, and I will point out that we are only at number four and five now, but I am just giving this information for the benefit of the House and the listening public] ....There is an independent Speaker in the Legislative Assembly.
>
> NINE:Full internal self-government.".

Mrs. Sybil McLaughlin at the time, now the Honourable Madam Speaker, said in this article: "Broadly speaking, the Cayman Islands are at steps FOUR and FIVE.". Two steps, and I wanted to stress that, that it is not unprecedented that even if the appointment of a Chief Minister was another step that this country has seen it necessary within our political and constitutional development to take more than one step at a time. It has happened in the past.

It went on to say: "On the basis of this explanation, then, should all the provisions of the Draft Constitution come into force, Cayman would be, broadly speaking, at steps SIX and SEVEN.". Steps six and seven - Quasi-Ministers become full Ministers, acting on the advice and with the assistance of the Governor. They may be removed by a vote, perhaps by two-thirds of the Legislative Assembly - as is contained in the Constitution - and number seven - the Governor appoints a Chief Minister from among the elected Ministers. I cannot understand why any Member would stand in this House and deliberately try to mislead the

House and the public into believing that we have to wait for 19 or 20 years before we could even consider the position of a Chief Minister but stated that they are accepting that we need a ministerial government and that we are ready for it at this point. That is down right misleading.

I would further wish to comment on our constitutional growth or political maturity by referring to another article and quoting the words of wisdom from none other than that long-serving statesman, Mr. T. W. Farrington in his remarks on the introduction of the 1959 Constitution. It was during the days of people like Mr. Farrington and others that as far back as 1959, they saw the need for Members that would represent their constituents that were not backward in their thinking. They were forward thinking people and that is what this country needs. Not people that are so buried up in their own wishes that they would pull this country back into the 19th century if they were given a chance.

Reading from the article in the *Caymanian Compass*, again on Friday 7th August, 1992, is an extract from a speech made by Mr. T. W. Farrington in 1959 when the 1959 Constitution was being brought into effect. It reads:

> The speech of long-serving legislator Mr. T. W. Farrington of West Bay contains a far-sighted observation.
>
> "Tomorrow marks the beginning" (and that was when he was speaking on the 1959 Constitution) "of a brand new era in the history of theses islands, when a new Constitution comes into being, a constitution which though not perfect" (and nobody is suggesting that this constitution is perfect) "is really intended to give the people of these Islands a greater voice in their own internal affairs".

I submit that the Third Elected Member for George Town in his motion and presentation is in effect trying to take this right away from the people. They should be given their say, they should not be silenced because the Third Elected Member for George Town is not far-sighted enough to see that in 20 years, it is now necessary for certain constitutional changes. I say "certain" because I do not want to be misquoted as I saw in the paper today, the big headlines "Exco Members Support Constitution", or something to that effect. I want to make it abundantly clear that in the most parts I support the Draft Constitution, but there are certain areas that I disagree with and I will be pointing them out as I go along.

Mr. Farrington continued in his speech:

> "As time goes by it is perfectly obvious that amendments and indeed perhaps a completely new Constitution will have to be written, depending entirely on how we as a people progress both economically and politically, and in this we ourselves will have to determine by our own performance, how soon this should be brought about.".

That was in 1959 and yet, today, in 1992, we have some 30 odd years since, the Third Elected Member living in the past. He would still like to take us backwards beyond 1959, and I will deal with that, Madam Speaker. I daresay that had the Third Elected Member for George Town been around in this Assembly in 1959, that we would now still be a dependency of Jamaica because that Member would not have agreed to any constitutional changes. I want this Honourable House and the listening public to know how serious this is, that even when we need constitutional changes this Member is out there, he and his Unity Team disciples, preaching that we do not need any constitutional changes.

Similarly, these Islands would have been held back by any MLA of his thinking when other needed amendments were required during the process of our political growth. In 1962, that was our second constitutional change or review, when Jamaica achieved her independence and the Federation of the West Indies disintegrated. Again, the third, is our present constitution in 1972. Yet that Member, the Third Elected Member for George Town, is very happy with the 1972 Constitution, but what he does not realise or tell the people is that that is the third constitution that this country has had.

I intend to show the relevance of that because the Member is so opposed to any constitutional changes that he is speaking as if the constitution we are using now has never been changed and is our first and only Constitution. It has been necessary over the years to change our constitution with the economic, social and political evolution of growth in this country. This is why it is important now in 20 years' time for us to be seriously looking at our constitution. The people of this country must not be mislead into thinking that the four Elected Members of Council and the two Members for Cayman Brac have brought this about for any sort of mysterious or ulterior reasons.

We know that the Members who spoke, some of them, excluding the Second Member for Cayman Brac, and to a certain extent the First Elected Member for Bodden Town, we know that they endorse most of this constitution and I intend to point out to the listening public that with the exception of a very minor part of the Draft 1992 Constitution that the Third Elected Member for George Town and many of the other speakers support the changes. Yet we have some of his colleagues out there saying that they do not want any constitutional changes. Let us be truthful with the public.

During my first term in this House, 1984 to 1988, a major attempt was made to revise the 1972 Constitution. So let nobody get up in this House and mislead the public into believing that this only came about, the idea of any changes in the constitution, as a result of Government Motion No. 3/90. There has been a lot of thinking about this for a long time. It is not just something that came about as a result of Motion 3/90.

In 1986, to be specific, Elected Members of the Legislative Assembly met to discuss subjects relating to the constitution during which time it was resolved that the present

system of Government be reviewed and examined and any constitutional amendments deemed necessary be put forward for the public's comments. It had nothing to do with Motion 3/90. That was in 1986. Though this committee met an early demise due to a leak in the confidentiality initially requested for the conduct of this exercise, there were certain recommendations made for discussion before that happened.

I make no secret of the fact that I was one of the seven Members who met on the 25th day of August, 1986, to deliberate possible constitutional changes but there were six others along with myself. Those Members were Captain Charles Kirkconnell, Honourable Norman Bodden, Mr. Jim Bodden, Honourable Ezzard Miller, Mr. McKeeva Bush and Mr. Vassel Johnson, as the Chairman at the time. It is interesting to note some of the subjects agreed for discussion following the acceptance by Members of the resolution referred to. I would like to read some of these so that the House and the listening public will be aware that this is not a thinking that has just come about as a result of Motion 3/90 and that the Elected Members of Government brought it upon us, as was alluded to and stated in this House. This is incorrect. This might have been propelled it along but this thinking has been going on for quite a long time.

It was decided in the meeting that the suggested agenda would briefly touch on areas of the British Virgin Islands (BVI) Constitution and they were summarised as follows. Madam Speaker, I want the Members of the House to hear the items that were decided from that meeting to be dealt with:

1. Membership of Parliament to increase from twelve to sixteen with two officials.
2. Membership to the Cabinet, because it was going to be changed from Executive Council to Cabinet, to increase from four to five with two officials.

I have already stated for the interest and the edification of the Third Elected Member for George Town who seemed to be making copious notes of what I am saying, that in addition to myself there were six others and I have named them. No, the Honourable Third Elected Member was not here at the time, he had lost the 1984 election. The Unity Team Group had been kicked out of office as we intend to do again this year.

3. Official Members to decrease from three to two retaining a Chief Secretary and an Attorney General.

Listen to that, Madam Speaker, no provision was being made to retain the position of Financial Secretary at the time, yet I am now being accused, as an individual, of wanting the position of Minister of Finance. Not that I feel that I would not be able to handle it, but I do not have that ambition.

MR. W. McKEEVA BUSH: You should say that it was you that brought it up then, too.

HON. LINFORD A. PIERSON: Madam Speaker, ask this gentleman to please not disturb me over the microphone. That Member that just disturbed me, the First Elected Member for West Bay, Mr. McKeeva Bush, was very much a part of this, like myself, and he says he has a copy of it and I am happy because if he does not, I would let him have this copy gladly. There was also an item of that agenda that: "4. The Portfolio of Finance and Development be placed under a Cabinet Member." These were the matters that were discussed from 1986, yet the four Elected Members now are being blamed for creating all of these new ideas. They were in the making long ago, yet some of the very individuals that were involved in these decisions are now trying to tell the public that they are so opposed to them. "5. Three Elected Members to be appointed Parliamentary Secretaries."

I wonder if a lot of these Members disturbing me would say where that idea came from? Yet, we have some of them saying now that it is not necessary. Time changes a lot of things. It went on to say: "6. Three Elected Members to be appointed Parliamentary Secretaries or Junior Ministers without Portfolio to assist in Portfolio Management and stand in for Elected Ministers of Exco in their absence from office." This has been something that has been in their minds for a long time, but it is only politically expedient that they try to disassociate themselves with this now. This is really what they want.

It went on to say that: "7. Junior Ministers are appointed by the Governor on the recommendation of the [listen to this word] Chief Minister after consultation with his elected representatives in the Cabinet." Yet, Madam Speaker, at least one of the Members that oppose the Constitutional Review now was asking for a Chief Minister then. It went on to say: "8. Members of the Cabinet would be designated Ministers and the leader, Chief Minister." It did not say anything then about Leader of Government Business. This seems to have been something that is concocted by the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Madam Speaker, on a Point of Order, the Member said earlier that I was not a Member of the House and I was not in there when this went on. He cannot now say that I concocted this in the meeting.

MADAM SPEAKER: Honourable Member, I do not think this is a Point of Order because I think from what I understand is that he is now saying that now you have concocted that. That is my understanding.

MR. TRUMAN M. BODDEN: I am sorry. If he is saying now it is all right once he does not bring me into this meeting.

MADAM SPEAKER: That is my understanding, Honourable Member.

MR. TRUMAN M. BODDEN: As you rule, Ma'am.

HON. LINFORD A. PIERSON: Madam Speaker, I am not going to say much about this because the Third Elected Member for George Town knows that I do not have any personal feelings against him but I believe that he is aware that there is an old saying that goes "if the hat fits, you wear it". I believe that this is what is happening with this Member. He must learn to take as good as he is prepared to give in this Honourable House. It is therefore misleading to this Honourable House and the listening public for any Member to suggest or state that the supporters of the constitutional change are concerned only with their own selfish objectives or that proposed changes will endanger the future of this country.

In order to justify their arguments, they are using some kind of red herring by labeling any Member of this House or future Member of this House that may be appointed by his colleagues, and I make this point because it is on the recommendation of his colleagues that the position of Chief Minister must, of necessity, be corrupt. That is wrong. I do not share this view and if the Member is speaking, he is certainly not speaking on my behalf.

My view is that the opposite is true and that is if we do not ensure that the most important document in this country, the most important law in this country, which is the Constitution, if we do not ensure that this is kept up-to-date and it keeps abreast our economic, social and political development, then not only will we suffer, but the country and our children and our children's children will suffer because of our failings and because of political expediency. Because some Members feel that if they sit on the side of objecting to constitutional changes that it will attract certain votes and this is the only reason, political expediency.

I know that my people, the people of these islands are very discerning and sensible people. Many times they are misunderstood because they are not as militant as some other countries. There is a silent majority. They can distinguish between political fluff and rhetoric and what is real. I wish to take this point to pause to congratulate the *Caymanian Compass*, in particular Miss Carol Winker, for the clear explanations and comments that she has written in the papers on the constitution. I have found her writings and explanations to be very helpful to me because we are dealing with a very complicated and a most important document in this country and the explanations could not have been given by a better person than someone of her background. An ex-school teacher with her experience and where she was not sure, she sought advice. That advice was sought from our legal draftsman on matters that were somewhat complicated.

In addition to meetings we will have and in addition to availing ourselves of the opportunity to speak on the Draft Constitution, 1992, in this Honourable House, the media has also tried to assist the people of these Islands in understanding fully the Draft Constitution and I do believe that many of our people understand that these proposed changes, not all of them, as I have said, but most of them, are needed. By inference the opponents to the constitutional changes seem to be confused as by virtue of their dissenting statements to the report of the Select Committee, they have indicated their support for all other sections of the draft constitution as Members of that Select Committee.

It should be understood that the Third Elected Member from George Town and all others who support his views have agreed to the majority sections of the Constitution and I want to stress that. The same people that are telling you that they do not want any constitutional changes have stated in this House that they support certain constitutional changes as contained in the Draft 1992 Constitution. It should be fully understood that the Draft Constitution that has been sent to us from the Foreign and Commonwealth Office, is an exact replica of the Constitutional Commissioners Report. That is important because no account was taken of the recommendations of the Select Committee, so the Draft 1992 Constitution is not one from the four Elected Members of the Executive Council and the two Members from Cayman Brac because the Foreign and Commonwealth Office saw fit not to include any of our recommendations, they gave us an exact replica of the Constitutional Commissioners Reports.

None of the recommendations made by the Select Committee were taken into account by the Foreign and Commonwealth Office as contained in the Select Committees' Report. It is therefore misleading for any Member to pin the Draft Constitution which we have received from the Foreign and Commonwealth Office on the shoulders of the Elected Members of the Executive Council and the two Members for Cayman Brac, unless they want to dispute the letter from Lennox-Boyd.

I believe that the statements being made are either being made deliberately to mislead the people of this country or are being made out of ignorance. What would be interesting to know is how many people, how many candidates, how many Members of this House that are so vociferous, that expound so eloquently on the Constitution, have taken the time to even read it or whether they are parroting what their esteemed leader is telling them to say. I say that because I am putting out a challenge right now that I would be prepared to debate any opponent to the Constitution on any forum that they would wish to have it done, and preferably on CITV, even though I would say not preferably because at least one Member would not be seen on that but on any forum of their liking. Let the people know I have nothing to be ashamed of. Let us go and debate it. We have a lot of people over there that say they are super-intelligent, let us go and debate it. Let us debate it and let the people know.

I would be happy to be in a forum where we have a moderator that would moderate that forum and that the people of this country could watch and then they will know how many of our representatives really understand the Constitution as it is given to us. Most of them, the only thing they know about the Constitution is the section dealing with the Chief Minister but later on I will go on to show that there are at least seven parts to the Constitution with at least 95 sections to it and all they have been dealing with is one small section. This is being deliberately done to mislead the people.

Other misleading statements have been made regarding the

procedures followed in the process of the Constitutional Review. As stated, there have been those individuals, including the Third Elected Member from George Town and other Members of this House that oppose this, they have gone out there and told the people that they did not have sufficient time for the review process. This is ludicrous. There is an old saying; you can take the horse to the well but you cannot make him drink! Every opportunity was given for the public and the public's input into the Constitutional Review but again this is a red herring. You can give some of these Members the time suggested by the Third Elected Member for George Town another 18 to 19 years and their views would not change. They would not see the light as long as they have people like him advising them.

The process of the Constitutional Review was not rushed. Any Member that stands in this House and repeats that is misleading not only the House but the listening public. Every attempt was given to obtain the public's input, not only by the Constitutional Commissioners but indeed in the Select Committee of this House and through public meetings held by various candidates.

Initially, 24 meetings were held by the Select Committee to formulate opinions for submission to the Constitutional Commissioners. I would like to substantiate what I said by reading from the Select Commissioners Report, page four of the Report, which is entitled The Early Publication of Committees Report.

> "In order to give members of the public a sufficient period of time to review the Select Committees Report, it was agreed that a motion be brought before the September 1991 Meeting of the Legislature to waive Standing Orders to enable the Report to be published before being tabled and debated in the Legislative Assembly."

Everything that was possible was done to facilitate the public's input in the Draft Constitution. This motion was moved by the Chairman of the Committee Hon. W. Norman Bodden and unanimously carried by the House. I will also, during my debate, point out that the proper procedures were followed by using documentations and papers relevant to a Constitutional Review to ensure that the widest possible input was available to the Select Committee from other British Colonial and Commonwealth countries, in addition to local interest group the Committee had before it quite a number of papers. I would like to just mention a few of them. In order for the Committee to be guided in a proper fashion, the Committee had before it the following papers and legislation to assist it in making recommendation for Constitutional changes. It was properly done.

1. The Cayman Islands Constitution Order, 1972.
2. Report of the Constitutional Commissioner, the Right Honourable Earl of Oxford and Asquith on the 71 proposals for Constitutional Advance.
3. The Bermuda Constitution, 1981.
4. The British Virgin Islands Constitution Order, 1976.
5. The Turks and Caicos Islands Constitution Order, 1976 and 1988.
6. The St. Christopher, Nevis and Anguilla Constitution Order, 1967
7. The Federal Constitution of the Swiss Confederation.
8. The Montserrat Constitution & Elections (Revised) 1965.
9. First and Second draft Constitutions for the Cayman Islands prepared by the Caymanian Bar Association.
10. Members' Portfolio Responsibilities (as revised in 1990).
11. The Cayman Islands Public Finance and Audit Law, 1985.
12. The Constitutional Commissioners' Report, 1991,

And, of course, the various oral and written representations made to the Select Committee by the people of the Cayman Islands.

This process, this review, was done in a proper manner. There was no rush as some of the Members would try to make the listening public believe. It was done in a very orderly manner, so much so that at the end of the day, every Member of the Select Committee congratulated the Chairman for his handling of the deliberation of the Select Committee. As stated earlier, I do not necessarily agree with every item contained in the new draft of the Constitution, 1992 but it nonetheless has many important provisions to ensure the good order and government of our Islands and the protection of our people whilst maintaining the foundation for our development or developing democratic society as a British Crown Colony.

None of my colleagues on Executive Council, elected colleagues (and I think I can speak for the Members from the Brac), would advocate any move from a British Crown Colony. I am therefore committed to maintaining our status as a British Crown Colony and I will therefore not support any move towards any form of independence. That said, I would now wish to deal with the contents in more detail of the draft of the Constitution of the Cayman Islands, 1992.

As stated earlier, the Draft Constitution is divided into seven parts and sub-divided into 95 sections. However, if I may quote the words of the First Elected Member for Bodden Town, I believe that the most important section of this Constitution has to be the section dealing with the fundamental rights and freedoms for the individual. The fundamental rights and freedoms of our people cannot be underplayed and if for no other reason for this revised constitution, the Draft Constitution, 1992, it is most important that we have enshrined in the most important document of this land, the most important law of this land, the fundamental rights and freedoms of our people and I would hope that no Member of this House can get up and say that he does not support this. This is a fundamental change in the constitution.

It has been said in the past that most of these fundamental

rights and freedoms are already contained in our laws and that is perhaps correct. I feel that it is only right that they should be spelled out in our Constitution so that it is not necessary for our people to have to pay some expensive lawyer huge sums of money to tell them about their rights and their freedoms. They should be able to turn to our Constitution and read them. I want to congratulate the First Elected Member for Bodden Town for his tenacity in bringing this motion the number of times he did. I am happy that it is now contained in our Constitution because I am always happy to say if I feel I have made a mistake, that I am wrong. I do not have to say that now because I did not say that that was not a good thing to start with but I feel that it is important that this be enshrined in our Constitution. It is important to note that even though previous speakers and no doubt speakers to come that normally have an ongoing debate in this House will get up and say that they do not support any constitutional advancement. That is one such advancement and I will deal with others.

That very important part (and I do not want to depart before punctuating this) that very important amendment or advancement in our Constitution should be supported by every Member of this House and the listening public, despite what we see printed in the media and what we hear in this House, that candidates and opponents to the 1992 Draft Constitution do not support any constitutional changes. Then they are actually telling the people of this country, "You should not know your rights and your freedoms and it should not have been given to you in a Constitution." This is really what they are saying to them. Yet they are asking them again the incumbents of this House and other candidates to let me represent you but I do not want you to know your rights and freedoms.

I did say that there are certain parts of this Draft Constitution that I differ with slightly and I feel should be amended but other than those sections which I will mention in a few minutes, I, for the most part, support the Draft Constitution. Bearing in mind, and I want to make this abundantly clear, even so the Third Elected Member from George Town can get it right, that there are certain recommendations contained in the Select Committee's Report which I support and which I will deal with in my debate later on but first I wish to comment on the first section with which I might differ with slightly. That is under Part VI, Section 84. This has to do with appointments to public offices, discipline and removal. I wish to make it abundantly clear that I believe in the preservation of the independence of the Civil Service, free from any form of political interference. It is important to understand why the Select Committee found it necessary to focus attention on this particular point.

It is my understanding, as I heard deliberated in the Select Committee that the reason for this is because of the difficulties that many Members have experienced in getting things done in their Portfolio because certain heads of departments and certain Principal Secretaries may be of a political leaning other than the Members, and decide to drag their feet to make the Members look bad. Under the present system, we know that Members have the responsibility for their subjects, but the elected Members of Government have no authority at all to have their policies carried out. That was the reason, as deliberated in the Select Committee, why that section was being addressed. I am not standing here and stating that I am having any problems with any of my Portfolio staff or for heads of departments, I am just stating the reason as explained in the Select Committee why this was seen to be necessary.

It was said that certain Members find it most difficult to get certain things done. Just to elaborate on this, the way that the system works, even though as I said I am not supporting the amendment, the way the system works, is that Members are assigned certain responsibilities by the Governor, but they have no authority to ensure that something is done, as Civil Servants are governed under the General Orders of this country. This is a matter on which I am seeking advice, I have indicated to the legal department I would wish to have this clarified to find out whether in fact the Elected Members of Government can also demand that their policies are carried out because I have heard of certain instances where a head of department has refused to carry out certain directives of the Portfolio and not even the Principal Secretary was able to change that head of department's view. That is the basis for this change but I believe that it can be addressed in a different way.

I do not, as I have said, believe in any political interference by Government and my position as a Member of Executive Council is unlike many of my colleagues, as I have had the benefit of also being a Civil Servant and a Civil Servant in high standing. So, I have had to deal with political heads as a Principal Secretary. It is most important that Principal Secretaries and heads of departments try to be as loyal as possible to whatever Government is in power, whether they may be of the political persuasion or not.

The way as I see as an answer to this problem (which is not a problem of just this administration and I have heard past Members saying the same thing that they cannot get such and such done) would seem to be a joint effort to reach a solution in this matter. I feel that the Civil Service Association and the Public Managers' Association should meet to discuss this matter and try to arrive at a solution whereby, in particular, senior officers agree that they will attempt to work with whoever is assigned responsibility for their departments and Portfolios. I believe if it is done in that way, rather than through some legal or constitutional means, that the results will be much more acceptable and can be more amicably attained.

That is my first objection to the Constitution. It reads and I would like to read in particular what I am referring to. Section 83 of the Draft Constitution, under Part VI, under The Public Service, Appointment, discipline and removal it reads:

> "83.The Governor, in Her Majesty's name and on Her behalf, may constitute such offices for the Islands as may lawfully be constituted by Her Majesty; and any person appointed to any such office shall, unless it is otherwise provided by law, hold office during Her Majesty's pleasure.".

Section 84 is perhaps the more relevant.

"84. (1) Subject to subsections (2), (3) and (4) of this section, the power to make appointments (including appointments on promotion or transfer, appointments on contract and appointments to act in an office) of any person to any public office, to suspend, to terminate an appointment, or to dismiss, or require the retirement of, any public officer and to take disciplinary action in respect of such an officer is vested in the Governor acting in his discretion.".

Subsection (2) reads:

"(2) Before exercising any such power as is referred to in subsection (1)-

(a) in respect of the offices of Chief Secretary, Financial Secretary, any office which in accordance with the regulations regarding the public service is the office of a head of department or any office senior to that of head of department, the Governor shall consult the Chief Minister.".

That is what I am saying that I do not agree with. I feel that the system that now obtains should continue but with the reservations that I have just made. In sub-section (b) of section (2), it continues:

"(b) in respect of any office of magistrate or registrar of a court, the Governor shall consult the Chief Minister.". [I also do not support that.]

"(c) in respect of any other office in the public service, the Governor shall consult the Public Service Commission.".

I support that for all these sections. This is one section and I have to give credit where it is due of the dissenting report that I support. I am now going to move on to part (3) of the Constitution. That is perhaps the most controversial and has caused the greatest amount of controversy and in particular the section dealing with the appointment and tenure of the office of Chief Minister.

MADAM SPEAKER: Honourable Member would you take a suspension before?

HON. LINFORD A. PIERSON: Yes, Madam Speaker.

MADAM SPEAKER: The House will be suspended for fifteen minutes.

THE HOUSE WAS SUSPENDED AT 3: 44 PM

THE HOUSE RESUMED AT 4:02 PM

MADAM SPEAKER: Please be seated. Proceedings are resumed. Debate continues on Private Members Motion 13/92.

The Honourable Member for Works, Communication and Agriculture.

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. Before the break, I was dealing with areas of the Constitution that I have certain problems with. Before moving to the subject of the appointment and tenure of office of the Chief Minister, there is another section which I would just like to mention contained in Section 54 (2) of the Constitution, that I have a problem with and it is something that I would wish to see looked into closer before the final draft is approved. We must understand that we are now looking at the draft of the Constitution and that by the very meaning of the word, we will be finalising this draft into a final copy and in that process, I feel if we have reached that far with it that there will be certain other amendments brought in this draft.

Section 54 (2) states:

"54.(2) The Speaker or other Member presiding shall not vote unless on any question the votes are equally divided, in which case he shall, if he is an elected member of the Assembly, have and exercise a casting vote.".

I have a problem with that. I feel that whether the Speaker is an elected member of this Assembly or not, that individual should have a casting vote. So, there again, is a matter that I would wish to see looked into.

On the question of the appointment and tenure of office of Chief Minister, I would just like to read what was recommended by the Constitutional Commissioners and then by the Foreign Commonwealth Office (FCO) in the Draft Constitution and to highlight the other objection or other area that I disagree with. In section 29 under part (3) it reads:

"There shall be an Executive Council for the Islands which shall consist of-

(a) The Governor

(b) A Chief Minister appointed by the Governor in accordance with subsection (2) of this section.".

[Madam Speaker, that is the specific area that I will be dealing with.]

"(c) four other Ministers appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Legislative Assembly;

(d) the Chief Secretary, the Financial Secretary and the Attorney General Ex officio.".

The subsection that I have a problem with is subsection (2) of section 29 under part 3, and it reads: "(2) The Governor, acting in his discretion". This is what bothers me, the discretion of the Governor. It reads:

"(2) The Governor, acting in his discretion-

(a) shall, unless he causes a ballot to be held in accordance with paragraph (b) of this subsection, appoint as Chief Minister the elected member of the Legislative Assembly who appears to him best able to command the support of a majority of such members:

(b) may cause a secret ballot to be held among the elected members of The Legislative Assembly to determine which elected member commands the support of the majority of such members; and where such a ballot is held, the Governor shall appoint as Chief Minister the Elected Member who obtains a majority of the votes of the Elected Members.".

My disagreement with this, as I stated, is that this should not be left to the discretion of the Governor. This was one of my disappointments with the FCO not including the Select Committee's recommendation into this draft document. Then we, who supported the Constitution and with the part of the Select Committee, whether it was the majority report or the minority dissenting statement, would have been better able to defend this Draft Constitution but they saw fit to put a replica of the Constitutional Commissioners Report into this draft document.

The Select Committee's Report stated on page 15, section 8, the following under the caption: "Appointment of Chief Minister.". (Because we were very concerned and we expressed this to the Constitutional Commissioners that appointment of a Chief Minister should not be left to the discretion of the Governor to appoint someone who appears to him best able to command the support of a majority. This should be taken completely out of the Governor's hand).

The following is what was recommended by the Select Committee, and that is one of the disagreements I have with the Draft Constitution and I would have preferred to have seen the following instead under that section. It reads:

"Appointment of Chief Minister

By a majority consensus" (of the Members of the Select Committee, that is the Elected Members of this House), "it is recommended that the new Constitution include the following provisions for the appointment of Chief Minister.".

It is in three parts and this was our recommendation and this is what I associate myself with:

"(a) In the absence of a Party System the Governor shall appoint as Chief Minister the Elected Member of the Legislative Assembly who has been recommended to him in writing by a majority of all Elected Members of the Legislative Assembly as having their confidence and support for the appointment as Chief Minister.".

That is a totally different situation. This takes it out of the hands of the Governor and outside his discretion. This is specific and it is so important that I would like to repeat it because it is fundamental to what I will say later on. "In the absence of a party system [which contemplates that at some stage there will be a party system, I will say a little more on that because I want to make it abundantly clear that I see as inevitable a party system emerging. Of course we already have two parties. We know that, but I am speaking of officially recognised parties on both sides of the House.] the Governor shall appoint as Chief Minister, the elected Member of the Legislative Assembly who has been recommended to him." It is not his discretion, he is going to do as recommended to him, in writing by a majority of all Elected Members of the Legislative Assembly as having their confidence and support.

"(b) If a political party gains a majority of the seats of Elected Members of the Legislative Assembly the Governor shall appoint as Chief Minister the Elected Member of the Legislative Assembly recommended in writing by a majority of the Elected Members of the Legislative Assembly who are Members of that Party.".

[This is contemplating a situation where there is an official party system but it is also suggesting that a ministerial system, with a Chief Minister in charge, can work without a party system in place.]

"(c) If no such Member is recommended as in (a) or (b) above, the Governor shall appoint as Chief Minister the Elected Member of the Legislative Assembly who, in an open ballot, obtains a majority of votes of the Elected Members of the Legislative Assembly for such appointment as Chief Minister.".

I said earlier that I support a secret ballot because there are many problems associated with open balloting. If open balloting was the procedure to be followed there is much to also be said, because a previous speaker said this would be one way of the Chief Minister ensuring that he had the loyalty of the people who say to him, "I support you", so that when he is appointing his ministers he would know that he has their loyalty.

That is a fundamental part that I disagree with in the Draft Constitution and in the process of any amendments being made, if it reached that stage, I would wish to see that section amended. Whilst I see, as mentioned earlier, a party system as being inevitable in the long run, I wish to reiterate that this is not necessary at this time, even though I know that certain Members have already prepared their Party Constitution which incidentally makes provision for a Chief Minister. As I said, I understand that there are at least two parties that have already been named in the media.

I would now like to refer to the Minutes of the 2nd of August to substantiate some of what I have said on the history and evolution of a party system before continuing. During the Select Committee's Report and deliberations, I was very careful with any comments that I had to make on this very important document. I stand by whatever I have said and whatever is recorded in these minutes. As I said earlier it is only a fool sometimes who realises that he may have made a mistake that will not change his mind and if and when such an occasion arises, I will be the first to say that I have made a mistake.

On page 3 of the of the 2nd of August, I would just like to record in the *Hansards* of the House what I had to say in the Select Committee on the question of the Constitutional Review. It reads:

"Honourable Linford Pierson noted that the Committee appreciates the necessity of the review. In 1972, the country had a population of 10,000 and a budget of about 3 million and that ultimately, the 1972 Constitution has become redundant in certain areas as would be the case in regards to any household matters over a period of 20 years.

In regard to any perception that there should exist corruption in the system and that a Government of 5 elected members and 3 Parliamentary Secretaries could not fall, he noted that Parliamentary Secretaries would not be bound by collective responsibility so there could be no room for corruption or the misconception that a Chief Minister could not be removed, for both Parliamentary Secretaries and Members alike could sanction a vote of no confidence if there was profound reason to remove the Chief Minister.

Political parties, he intimated, are not new to the country. From 1976-1984, Mr. James M. Bodden was regarded as the leader of the Unity Team. Parties are inevitable and a necessary ingredient of any disciplined and good government, in order to keep the machinery operating.

There are two distinct party groups on the Island at the present time, he noted.

A party system would only formalise what the country already has. Political parties are not necessary in order for a Westminster System to function he advocated. It is a sad indictment upon Members, he suggested, when the issue of the establishment of a Chief Minister is beclouded with perceptions of corruption.".

That was my statement on the question of a Chief Minister. There are too many incumbent members and prospectives, either deliberately, or out of ignorance misleading the public on the question of the role of a Chief Minister.

Some of these Members prefer to call the Chief Minister by a different name, they prefer to call him Leader of Government Business. They can, within the hallowed chambers of this Legislative Assembly, switch around the Standing Orders without even consultation with the people to bring that about. They envisage that this position of Leader of Government Business would be tantamount to the function of a Chief Minister. It is not the function that they are concerned about, it is the name. In discussing this with one of my friends, his remarks were, "If it looks like a duck, if it quacks like a duck, if it walks like a duck, you can bet it is a duck!"

I feel that this is too important and serious a matter to mislead our people on, when they should know that the position of Chief Minister forms an integral part of a ministerial system that they strongly support. We have heard the Third Elected Member from George Town get up and say he supports the ministerial system but maybe in 20 years time we can get a Chief Minister. It seems so ridiculous that this Member is so opposed of having a chief among equals. The position of Chief Minister is no more powerful than his colleagues would allow it to be. It is just as ridiculous as saying that in the private sector you could have your shareholders, appoint a board of directors but you have no chairman of the board. Anybody who wants to do

anything they wish to do can do so, even though the directors are equal. They should not have a chairman, someone who leads out and is recognised as chairman, that can keep the board of directors and the meeting in order. A Chief Minister is nothing more. He is not as powerful and as dangerous as the Third Elected Member for George Town is painting. I just wonder what is his problem! Is it that he is opposed to a Chief Minister or is it because he feels he might not get that position?

A lot has been said in favour and against the appointment of the Chief Minister and I believe I have said sufficient on that. I would like to now move on and let us now look at what the Constitutional Commissioners had to say about the tenure of the Chief Minister and other ministers. Not just what Members of this House including myself have to say, but what people with the experience of the two Constitutional Commissioners had to say about it.

I would like to read sections 30 and 31 of the Draft Constitution 1992, before quoting the Constitutional Commissioners in this instance. Section 30 has to do with the tenure of office by the Chief Minister and section 31 of the Draft Constitution deals with the tenure of office by ministers. We have heard that this man, this ogre, is such a powerful person that he cannot be removed. He is there for ever and ever and by association the Third Elected Member for George Town included anybody who would aspire to that position to be corrupt. The Chief Ministers in our neighbouring islands by inference are all corrupt. It is unfortunate that that Member feels that way. Section 30 of the Draft Constitution reads:

> "30. (1) The Governor shall revoke the appointment of the Chief Minister if a motion that the Legislative Assembly should declare a lack of confidence in the Government of the Islands receives the affirmative vote of a majority of not less than two thirds of all the elected members thereof.".

I do not know where this notion comes from, that the Chief Minister cannot be removed, it is not in the Draft Constitution. It is stated quite clearly that there are ways, if necessary of revoking the appointment of the Chief Minister. It continues:

> "Provided that before so revoking the Chief Minister's appointment the Governor shall consult the Chief Minister and if the Chief Minister so requests, the Governor, acting in his discretion, may dissolve the Legislative Assembly instead of revoking the appointment.".

This is done in all democratic systems under the Westminster systems. What is so different?

Subsection (2) of section 30 reads:

> "(2)The Chief Minister shall vacate his office if, after the polling in a general election and before the Legislative Assembly first meets thereafter, the Governor, acting in his discretion, informs him that he is about to appoint another person as Chief Minister.".

There is no truth about the Chief Minister not being able to be removed. I have read two sections here which clearly stated in the Draft Constitution where this can happen if necessary. On the question of tenure of office by ministers, it reads:

> "31. (1) Any Minister shall vacate his office-
>
> (a) if he ceases to be a member of the Legislative Assembly for any reason other than a dissolution;
> (b) if he is not a member of the Legislative Assembly when it first meets after a general election:
> (c) if he resigns his office by writing under his hand addressed to the Governor, or
> (d) if he is absent from the Islands or absent from three consecutive meetings of the Executive Council without-
>
> (i) in the case of the Chief Minister, having given the Governor prior notice of such absence;".

If the Chief Minister is so powerful, how is the Governor able to remove him for something that may be as relatively simple as missing three meetings of Executive Council without his permission, how is he able to revoke his appointment?

When the Third Elected Member in his winding up I would invite him to comment on that.

> "(ii) in the case of any other Minister, having obtained written permission for such absence from the Governor, acting in accordance with the advice of the Chief Minister.".

I do not know why it is felt necessary for certain representatives of our people to create and spread such scare tactics. It is certainly not in the best interest of this country and it cannot foster the continued stability of this country. We should give the people the facts. It is a fact that the Third Elected Member for George Town and many of his Unity Team candidates (and I am mentioning him because this

whole motion is his idea, he brought this motion for debate. It does not even have a resolution to it, only to be noted, yet he is blaming the Exco Members for the motion coming forward) are telling the people that they do not want constitutional changes but they should understand that the Third Elected Member for George Town advocates a number of changes and I will be dealing with his dissenting report in a minute.

Let me now read what the Third Elected Member for George Town and a few other MLAs had to say in their dissenting statement. This is found in Appendix 1 on page 23 and 24 and Appendix 2 on page 25 of the Select Committee's Report. As mentioned there were 95 sections reviewed during the constitutional review but the dissenters took this Select Committee Report or parts of it and have in effect accepted all changes except two, which are contained in their dissenting statement and I want to repeat, yet they tell the public that they are opposed to constitutional changes I want, and I invite, him and I think he has the right and also the obligation, to tell the people of this country in his winding up why he has, in one statement said that he is dissenting to the Constitutional Committee's Report, but in fact it is only a very minor part.

MADAM SPEAKER: Honourable Member, it is now 4:30.

SUSPENSION OF STANDING ORDER 10 (2)

HON. JAMES M. RYAN: Madam Speaker, I believe it is the wish of the majority of the Honourable Members that we continue on until 5:00 so I accordingly move that Standing Order 10 (2) be suspended to enable the House to continue.

MADAM SPEAKER: The question is that Standing Order 10 (2) be suspended in order that proceedings may continue until 5:00 p.m. I shall put the motion. Is there a debate?

If there is no debate, I shall put the motion. Those in favor please say Aye. Those against, No. The Ayes have it.

QUESTION PUT: AGREED. STANDING ORDER 10 (2) SUSPENDED TO ENABLE PROCEEDINGS TO CONTINUE UNTIL 5:OO.

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. The truth is that the Third Elected Member for George Town, together with all other elected members of this House, have already accepted certain constitutional changes from February of this year when we decided to accept the constitutional change to increase the numbers from 12 to 15. That was one of the recommendations but it came into effect in February of this year.

Just to show that that Member and other opponents to this, contemplated an increase in Executive Council and no doubt a Chief Minister, the whole reason for the additional three members was in order that we would be able to have a fifth member on Executive Council increased from four to five and also be able to retain the two-thirds majority. Of the 15 Elected Members there would have been five on Executive Council and 10 on the Backbench, giving the Backbench a two-thirds majority.

When we agreed in February to increase by three, it was contemplated at that point that it was being done so that we would be able to have another member on Executive Council to share some of the responsibilities of the Elected Members. If any Member disputes that, I would invite him to clear it up on the floor of this House. The Dissenting Statement to the Select Committee's Report states that the Chief Minister and Leader of the Opposition, should not be consulted on appointments to the Public Service Commission. As I said I support that position because as stated earlier I believe that it is fundamental to the stability of our country that our Civil Services should be independent from any political interference.

However, Madam Speaker, it seems to me that the Third Elected Member for George Town and those others who signed the dissenting statements plan to accomplish their aim of controlling the Civil Service through other means by amending Section 9 (1) of the present Constitution to include the words, and I quote: "Including responsibility for the administration of any department of Government similar to the provision in the Turks and Caicos Islands Constitution Section 12(1)"." Section 12(1) was quoted but in checking that out I believe it should be 13(1), of course, I am open to correction: "and the British Virgin Islands Constitution Section 18(1).". I would just like to read what those sections state:

Section 12 of the Constitution deals with the performance or function of the Chief Minister in certain events, so Section 13, as I rightly said, deals with assignment of responsibilities to Members of Executive Council. I intend to also speak on the question of collective responsibility because I believe that this is very highly misunderstood by a number of people I have heard speaking on this.

Section 13 (1) of the Turks and Caicos Constitution reads:

> "13. (1) The Governor, acting in accordance with the advice of the Chief Minister may by directions in writing assign to any Member of the Executive Council responsibility for the conduct, subject to the provision of this order and of any other law, of any business of the Government of the Islands, including responsibility for the administration of any department of Government.".

Section 18(1) of the BVI Constitution provides a similar wording but the important point here is the term "including responsibility for the administration of any department of Government.".

I want and invite the Third Elected Member for George Town, in his winding up to tell the people of this country and particularly the Civil Servants, exactly what he means by wanting to have additional administrative responsibility over departments. What does that mean? If he has any

doubts as to how it works, let him contact a minister from Turks and Caicos or BVI and ask them how they operate and he will find out that it means more political interference in the Civil Service, yet he would stand up in here and say, "No, I do not want any part of the appointment or dismissal of Principal Secretaries or heads of departments, I am going to go around it in a different way. I will get administrative responsibility so that I can ensure that they are going to do exactly what I want them to do.".

I want to emphasise that point because that is exactly how the administrative responsibility works, so he will be getting more political interference in the operation of the Civil Service.

MR. W. McKEEVA BUSH: On a Point of Order, Madam Speaker, the Member is saying that the Dissenting Statement is saying that we are going to appoint civil servants when, in fact, what they are talking about, as he mentioned just now, is administrative responsibility but that does not have anything to do with the appointment of civil servants to the Public Service Commission which we object to. The Member, if he is sensible, and I think he is, knows and understands that.

MADAM SPEAKER: Honourable Member, that is not a Point of Order. It is a Point of Explanation but it is not a Point of Order.

Please continue, Honourable Member.

HON. LINFORD A. PIERSON: Madam Speaker, what can I say? I cannot comment on that Member's mistakes because he makes so many of them. In continuing, I submit that that term which states "including responsibility for the administration of any department of Government," contemplates giving politicians more direct administration or administrative authority over Principal Secretaries and heads of departments. That is precisely what it means and if I am wrong, I would like that Member in his winding up to prove me wrong.

On the question of collective responsibility, Section 9(1) of the Cayman Islands Constitution Order 1972 is perhaps one of its most important sections as it also deals with the question of collective responsibility. On the one hand the Third Elected Member for George Town wishes to give himself more administrative power to control civil servants, I call it political interference. On the other hand, his unity team colleagues who have declared as independents, but will soon appear on his platform, are stating that we should do away with collective responsibility. It is a very dangerous position, when one understands what collective responsibility entails.

Regardless of the restrictions and as a member of Executive Council, I have had occasion when I wish it was not there but it is good for the Government of any country. You must have it there. The principle or doctrine of collective responsibility may be imposed on Exco Members including myself and these restrictions may be imposed on us, but no democratic system could properly work if every member of Government was free to do as he pleases. Collective responsibility ensures that the democratic process of majority rule, that is the majority consensus prevails and is kept intact.

I would like to refer to what the architect of our present constitution, The Right Honourable Earl of Oxford and Asquith had to say about enshrining the principle of collective responsibility in our constitution. I will read Section 29 on page 14. This says:

> "29. Tenure of office of members of the Executive Council
>
> In all modern systems of Government, other than the wholly autocratic forms, the principle of collective responsibility is an important one. The need to establish this principle in the Cayman Islands has been mentioned in paragraph 25 (iii) of Chapter 3.".

I will also like to read that. It reads:

> "It is generally recognised that the colony's administrative framework and 'infrastructure' has been unable to keep pace with its rapid economic development.".

This is what I have been talking about all evening and this has again happened in twenty years. One aspect of this which has a direct bearing on constitutional matters is the field of legislation. Laws appropriate to this stage of development are in many instances still absent from the Statute Book because in the Cayman Islands, the need for them has only very recently been felt. Unfortunately, much of the legislation now required is of an unpopular kind. During the coming years, the needs may well arise for further unpopular legislation which is nevertheless essential to the colony's well being.

Constitutional arrangements should take account of this so that passage of such legislation may be eased or at any rate not rendered impossible. It would help if the convention were to be established that a measure decided upon in Executive Council must normally be supported in the Legislature by all Members of the Council unless they prefer to resign or be dismissed. In modern cabinet government this convention is common place. It said in the Cayman Islands it is not yet fully accepted or understood although it is all the more important in as much as the preponderance of Elected Members could mean that there was always a potential opposition majority in the Legislative Assembly. This is from the time we were looking at the 1972 Constitution.

The Honourable Earl of Oxford and Asquith said that any modern Government unless it is an autocratic system should encourage and foster the doctrine or principle of collective responsibility. Yet we hear a lot of people saying "Do away with it, we do not need it." I submit that they

do not fully understand what it all stands for. Otherwise they would not be making those statements. Those individuals advocating a change in collective responsibility would wish these Islands to take a retrograde step to the stage which existed before the present constitution came into effect in 1972. They lack foresight or otherwise they do not understand the whole principle.

In my effort to try and conclude before 5:00 p.m., I will just skip some of what I had to say, but I have been consistent in my position on the question of a ministerial system and the role of a Chief Minister. This, in my opinion, seems to be the most controversial and misunderstood section of the proposed changes. I believe that because of personal reasons, certain Members have deliberately set out to mislead the people on the role of a Chief Minister within our system of Government. As far back as August 1991, the Honourable Norman Bodden and I held a public meeting in George Town to discuss proposed changes to the Constitution. During this time we made public our views on the proposed constitutional changes.

I had brought an excerpt to read on that but that is already used. I wanted to refresh the memory of the Members of this House and the listening public of our position. The most controversial of the proposed changes relates to the appointment and tenure of the Chief Minister, but I do believe that this is thoroughly misunderstood. I do not believe that such a person or position must carry with it the shadow of corruption. It is, therefore, most unfortunate that someone of the intelligence of the Third Elected Member for George Town seems to think so little of his colleagues in the House and those who fill these hallowed chambers in the future.

The Draft Constitution, 1992, has many important provisions. To ensure good order and Government of our Islands and protection of our people, while maintaining the foundation for our developing democratic society as a British Crown Colony. As stated earlier, it may not be perfect but it will certainly form the basis for the foundation for regulating our society as it reflects the country's moral fibre, sets out the freedoms and rights of our people and lays the base for the moral, cultural and political development of our country.

I thank you, Madam Speaker.

MADAM SPEAKER: I doubt if any other Member would wish to commence his debate at this time. I will ask the Honourable First Official Member to move a Motion.

SUSPENSION OF STANDING ORDER 14 (3)

HON. JAMES M. RYAN: Thank you, Madam Speaker. Whereas by a motion to suspend Standing Order 14 (2) moved by me on Thursday, last, it was agreed by this Honourable House that Standing Order 14 (2) would be suspended to enable Private Member's Motion 13/92 to take precedence over Government Business until the debate is concluded.

Whereas it now appears that certain items of Government Business including Public Bills will need to be taken during this meeting of the Assembly and it is the view of the majority of Honourable Members, that the conduct of the business of this Honorable House, be more orderly carried out by completing the items of Government Business tomorrow and Friday the 10th and 11th of September and then reverting to the present debate. Accordingly, I beg to move once more in accordance with Standing Order 83, the suspension of Standing Order 14 (3) to enable the items of Government Business to be taken tomorrow and Friday the 10th and 11th of September and to enable the return to the present debate of Private Member's Motion 13/92 upon the completion of the said Government Business.

MADAM SPEAKER: The question before the House is, as read out by the Honorable Member, the suspension of Standing Order 14 (3) in order that Government Business may be taken on Thursday the 10th and Friday the 11th and thereafter return to the debate on Private Member's Motion 13/92 for completion. The motion is open for debate.

Honourable Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I have to oppose this. Tomorrow is normally the day for Private Motions anyway. I think we should continue this debate which we have started. This is the most important item on the agenda for the entire meeting. Government has some bills which I believe will be supported by most of the Members on this side of the House, but Government itself has not attached any urgency to these bills, they have been sitting here for years and have only seen fit to bring them on the eve of their departure, so there cannot be any urgency at all.

Some time ago a Private Member's Motion was brought which I believe set up a committee to deal with the rights of women and to my knowledge the committee never met, so Government itself, all along until now, has attached no importance, no urgency to these matters and I see no reason for setting aside the most important item on the agenda which has been started. To break this debate would interfere with the smooth running of this item and would deprive the people of this country the only opportunity that is available for everyone in the country to hear in the debate on constitutional matters. Through Radio Cayman is the only way that individual Members can reach the public. You cannot reach them by public meetings or television which is so expensive or even newspaper advertisements.

It would be a great injustice to the public if we set aside, if we suspend the Standing Orders to stop this debate and it would be a curtailment of the freedom of speech and the rights of the minority of the Members who have not spoken, seeing that the majority of the Elected Members of Executive Council have already put forward their views and the only other Elected Member to speak, will not be a candidate, he has said, in the upcoming election.

Islands. I oppose this vehemently on behalf of the people of the Cayman

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I am wondering whether we are getting near to 5:00 p.m., whether the motion could be typed out. It is quite long, perhaps given to us to have a further look at over night and I would reserve my right to speak then, or if it is not, as I understood we were finishing at five. If not, if I could just go on and speak and ask if I could look at the draft in the Member's writing, depending on the wish of the House.

MADAM SPEAKER: Would you let him see your draft, Honourable Member?

HON. JAMES M. RYAN: Yes, Madam Speaker.

MR. TRUMAN M. BODDEN: Madam Speaker, this motion nor indeed have any of the Members of the Elected Government given reasons why there should be a break in what they have said, not just Backbenchers, is the most important debate that this House has seen in years.

Indeed, it is detrimental to any debate, especially one as major as this, for a substantial amount of the Members who have taken one position, to have spoken, leaving remaining literally all of the Backbench Members who hold a differing view, so the public will have had a position put out by those who are putting forward specific views for this Draft Constitution, and the views of another four Backbench Members plus my winding up, so there would be five of us who would then have to be put in suspense.

What I do not understand is why is there such an urgency on these bills at this stage to break this debate. It seems to me that nothing at all is, or can, be done with those bills, in any event until this House finishes. It is not a matter of bills which are subject to emergency or powers that have to be brought in right away. I think it is political tactic on the part of the Elected Members of the Government to put out their views on the Constitution, break the debate, bring in minor laws that have no urgency and indeed laws which were not even published in time to be taken when they should be taken. If they were so important, they would have had their House in order and would not have had to go on with this debate now.

I am unconvinced, because there are no reasons why they should be taken tomorrow. I would therefore ask that this House and the public be not inconvenienced by having a major debate broken mid-stream when only the position of one side has been put out basically to the public and leaving this gap. I do not support this, in fact, we have been making very good progress and it would appear that this could be finished within the next few days.

I would just wind up by saying that I think it is a political move by the Elected Government to enhance their position and to affect us detrimentally in this debate on this Constitution.

Thank you.

MADAM SPEAKER: The Honourable Member for Education.

HON. BENSON O. EBANKS: Madam Speaker, I support the resolution before the House. The position is that Government agreed to allow the debate on Private Members Motion to continue instead of taking Government Business in order that this could be finished in one continuous effort. The truth of the matter is, Members on the other side who are now crying foul did not come forward as quickly as they could have to speak. Even those that spoke, instead of sticking to the issue, were campaigning.

This move by Government is purely to ensure that Government Bills are properly dealt with and it is hoped that by doing this it will put the onus on the Backbench to stick to the issue and get back to the debate in time. It is not designed to deprive them or anyone else of the opportunity to speak and put forward their views on the constitution. I support the motion, Madam Speaker.

Thank you.

MADAM SPEAKER: First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, we could have been debating the motion all this time. I cannot agree with this resolution. I am a Member of this House Business Committee and I have been for the past eight years. We agreed to put the Constitutional Motion, not only because of the importance to get it debated, where a majority of our people would hear, but we agreed to take that motion first because Government Business, those same bills that they want to move now were not ready. The Member for Education just now mislead the House. He talks about putting the onus on this Backbench. I think the Third Member from George Town is very correct in what he said. It is politics that is going on now. They had their chance, told a lot of foolishness because that same Member spoke must be nigh over two hours and really confused the issue, did not edify the public.

I cannot support the Government in this move. I, for one, plan my business when the resolution was moved a few days ago. The Leader of Government Business knows that it was I who pushed the issue to sit late. I set my business accordingly and I have an arrangement for 6:30 this afternoon too, but I was prepared to stay till the time of the House allotted for 6:00. I move that we continue this debate on the Motion. I am ready to speak.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Madam Speaker, I cannot support the motion to change the order of business at this time because I believe the function of Parliament is to discuss the nation's business and if the Government wants to conduct their affairs, then certainly they have their Cabinet or Executive Council meetings in which to do so. They cannot now come because of political convenience or because of the necessity to posture politically and change the agenda from discussing such an important issue, to discuss issues which are going to bring them political mileage. Certainly none of them over there can accuse this Member of not speaking when it was time to speak.

The last thing I have to say on the matter is that if they were so concerned about the rights of women, then they should have done something when this Honourable House passed the motion and agreed to set up a Select Committee where they could have heard first hand from the women themselves whom they claim they are so concerned about those rights now.

MADAM SPEAKER: The Member for Health an Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I support the motion before the House. The Members on the other side never cease to amaze me in their ungratefulness of the procedure of this House. Several days ago the Government suspended Standing Orders to give their motion priority over Government Bills and for the debate to continue.

MR. W. McKEEVA BUSH: You were not ready!

HON. D. EZZARD MILLER: They are sitting over there twiddling their thumbs, while five and ten minutes expire with no one speaking and they take no opportunity to get up. This is no attempt by anybody to glean political advantage over anybody else. The facts are the House is not meeting on Monday because of the arrival of the new Governor. It is not meeting on Tuesday and the business of the Government, from where I sit, comes first and if they want to talk about we have not had any interest for years, we now know what their approach to the debate on the legislation and therefore the Government is correct in its perception to deal with these two pieces of legislation Thursday and Friday and not run the risk of them filibustering next week for political reasons to deny women and children their rights and privileges that they claim that they should have.

MADAM SPEAKER: I am now prepared to put the amendment moved by Mr. Bush that the debate will continue and Private Member's Motion. I am going to put that amendment first and then the proposed amendment is moved by the First Member for West Bay that the debate on Private Members Motion should continue.

QUESTION PUT ON AMENDMENT: **THAT DEBATE ON PRIVATE MEMBER'S MOTION NO. 13/92 CONTINUE WITHOUT INTERRUPTION.**

AYES & NOES

MR. W. McKEEVA BUSH: Can we divide, Madam Speaker.

MADAM SPEAKER: You certainly may. Madam Clerk.

DIVISION NO. 21/92

NOES:10	AYES: 5
Hon. James M. Ryan	Mr. W. McKeeva Bush
Hon. Anthony Smellie	Mr. John D. Jefferson, Jr
Hon. George A. McCarthy	Mr. Truman M. Bodden
Hon. W. Norman Bodden	Mr. Roy Bodden
Hon. Benson O. Ebanks	Mr. G. Haig Bodden
Hon. D. Ezzard Miller	
Hon. Linford A. Pierson	
Capt. Mabry S. Kirkconnell	
Mr. Gilbert A. McLean	
Mr. John B. McLean	

NEGATIVED BY MAJORITY: **THAT DEBATE ON PRIVATE MEMBER'S MOTION NO. 13/92 CONTINUE WITHOUT INTERRUPTION.**

MADAM SPEAKER: I shall now put the question that as was moved by the Honourable First Official Member, that Government Business would commence on Thursday and Friday and on the completion thereof the debate would revert to Private Members Motion 13/92. Those in favor please say Aye. Those against, No.

QUESTION PUT: THAT STANDING ORDER 14(3) BE SUSPENDED TO ENABLE ITEMS OF GOVERNMENT BUSINESS TO BE TAKEN ON THURSDAY, 10TH SEPTEMBER, AND FRIDAY, 11TH SEPTEMBER, AND THEREAFTER TO RETURN TO THE DEBATE ON PRIVATE MEMBER'S MOTION NO. 13/92.

AYES AND NOES.

MADAM SPEAKER: The Ayes have it.

MR. W. McKEEVA BUSH: Can we divide, Madam Speaker?

MADAM SPEAKER: You certainly may.

DIVISION NO. 22/92

AYES: 9
Hon. James M. Ryan
Hon. Anthony Smellie
Hon. George A. McCarthy
Hon. W. Norman Bodden
Hon. Benson O. Ebanks
Hon. D. Ezzard Miller
Hon. Linford A. Pierson
Capt. Mabry S. Kirkconnell
Mr. Gilbert A. McLean

NOES: 6
Mr. W. McKeeva Bush
Mr. John D. Jefferson, Jr
Mr. Truman M. Bodden
Mr. Roy Bodden
Mr. G. Haig Bodden
Mr. John B. McLean

AGREED BY MAJORITY: THAT STANDING ORDER 14(3) BE SUSPENDED TO ENABLE ITEMS OF GOVERNMENT BUSINESS TO BE TAKEN ON THURSDAY, 10TH SEPTEMBER, AND FRIDAY, 11TH SEPTEMBER, AND THEREAFTER TO RETURN TO THE DEBATE ON PRIVATE MEMBER'S MOTION NO. 13/92.

MOTION WITHOUT NOTICE

MADAM SPEAKER: First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I wonder if the Government would consider taking the Constitutional Resolution at 4:30 in the afternoon? It is a late hour for anyone to begin debate but it is a very important matter.

MADAM SPEAKER: Are you moving that motion now? Do you have a seconder to the Motion, sir?

MR. W. McKEEVA BUSH: Madam Speaker, I might stand alone. That is my feeling and I move it.

MR. JOHN D. JEFFERSON, JR.: Madam Speaker, I would be glad to second that motion

MADAM SPEAKER: I shall put the question.

QUESTION PUT: THAT THE GOVERNMENT CONSIDER TAKING THE DEBATE ON PRIVATE MEMBER'S MOTION NO. 13/92 AT 4:30 P.M. EACH SITTING.

AYES AND NOES:

MADAM SPEAKER: The Noes have it.

MR. W. McKEEVA BUSH: Can we have a division, Madam Speaker.

MADAM SPEAKER: Certainly.

DIVISION NO. 23/92

NOES: 10
Hon. James M. Ryan
Hon. Anthony Smellie
Hon. George A. McCarthy
Hon. W. Norman Bodden
Hon. Benson O. Ebanks

AYES: 5
Mr. W. McKeeva Bush
Mr. John D. Jefferson, Jr
Mr. Truman M. Bodden
Mr. Roy Bodden
Mr. G. Haig Bodden

Hon. D. Ezzard Miller
Hon. Linford A. Pierson
Capt. Mabry S. Kirkconnell
Mr. Gilbert A. McLean
Mr. John B. McLean

NEGATIVED BY MAJORITY: **THAT THE GOVERNMENT CONSIDER TAKING THE DEBATE ON PRIVATE MEMBER'S MOTION NO. 13/92 AT 4:30 P.M. EACH SITTING.**

MADAM SPEAKER: Motion for the adjournment please. Honourable Member.

ADJOURNMENT

HON. JAMES M. RYAN: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10:00 A.M. tomorrow.

MADAM SPEAKER: The question is that the House do now adjourn until 10:00 tomorrow morning. I shall put the question. Those in favor please say Aye, those against, No.

AYES AND NOES

MADAM SPEAKER: The Ayes have it.

MR. W. McKEEVA BUSH: Can I have a division, Madam Speaker?

MADAM SPEAKER: You certainly may.

DIVISION NO. 24/92

AYES: 12

Hon. James M. Ryan
Hon. Anthony Smellie
Hon. George A. McCarthy
Hon. W. Norman Bodden
Hon. Benson O. Ebanks
Hon. D. Ezzard Miller
Hon. Linford A. Pierson
Capt. Mabry S. Kirkconnell
Mr. Roy Bodden
Mr. G. Haig Bodden
Mr. Gilbert A. McLean
Mr. John B. McLean

NOES: 3

Mr. W. McKeeva Bush
Mr. John D. Jefferson, Jr
Mr. Truman M. Bodden

MADAM SPEAKER The result of the division is 12 Ayes, three Noes. The Ayes have it. The House is accordingly adjourned.

AGREED BY MAJORITY: **AT 5:20 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., THURSDAY, 10TH SEPTEMBER, 1992.**

THURSDAY, 10TH SEPTEMBER, 1992 10:05 A.M.

MADAM SPEAKER: Prayers by the First Elected Member for West Bay.

PRAYERS

MR. W. McKEEVA BUSH: 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings in the Legislative Assembly are resumed.

Item number two on today's Order Paper, Presentation of Papers and Reports. Report on Street Naming and Property Numbering in Cayman Islands. The Honourable Elected Member for Communication, Works and Agriculture.

PRESENTATION OF PAPERS AND REPORTS

REPORT ON STREET NAMING AND PROPERTY NUMBERING IN CAYMAN ISLANDS

HON. LINFORD A. PIERSON: Thank you, Madam Speaker.

In accordance with Standing Order 18, I beg to lay on the Table of this Honourable House the Report entitled Street Naming and Property Numbering in the Cayman Islands.

MADAM SPEAKER: So ordered.

HON. LINFORD A. PIERSON: Madam Speaker, Private Member's Motion No. 3/87 recited the concerns for this exercise to be carried out in view of the increasing difficulty being experienced by residents and visitors in finding the location of property, homes and businesses. Many familiar landmarks, be it a tree, a building, or a curve in the road, have been removed, relocated or realigned. Additionally, the sheer number of new developments and new and expanding roads have altered the landscape sufficiently to confuse even the most knowledgeable road traveller.

Road naming, historically, has been sporadic and uncoordinated. No official register of street names is kept which has resulted in duplicate and sometimes triplicate names. Private roads are not required to be named or signed. To address these and other problems that were identified by the committee by emergency services and service vehicle operators, five street naming systems were identified and analysed. It was recommended that two of these systems, the Thoroughfare Designation System and the Neighbourhood Unit System were the most suitable for the Cayman Islands. The Thoroughfare Designation System provides for a specified set of suffixes to road names and aids tremendously in locating properties, for example, by having avenues running in one direction and streets in another.

The Neighbourhood Unit System allows for easy identification of an area. For example, a subdivision as the concept is a name to each road under a theme. Both of these systems are very flexible and do not require grid systems of blocks such as are necessary to adopt other street naming systems. These systems are mutually supporting systems and can best be used in conjunction with each other. The Roads Law invests in the Governor the authority to name public roads by via regulations. Since 1974 there have been two major road naming efforts. In the mid-1970s the first street naming committee formed was chaired by the Chief Surveyor. This committee completed its work in 1976, recommending road names for public roads in George

Town. The suggested names were adopted as regulations and published that year.

A second committee was formed in the early 1980s, chaired by the Principal Secretary for Agriculture Lands and Natural Resources. This committee recommended names for the remaining public roads on Grand Cayman. These names were adopted as regulations and published in 1982.

On the question of property numbering, no attempt has been made in the past to undertake this exercise as it was considered too complex and difficult. Firstly, many property numbering systems rely on a grid and roads in Cayman do not follow a typical grid pattern adding to the complexity of issuing numbers. Secondly, distributing property numbers requires significant resources. A total of seven property numbering systems were evaluated of which three were deemed to be appropriate for the Cayman Islands. The first of these, the Uniform Measurement System, was developed in the United States for the United Postal Service. The second, the pie slice system was developed by the committee in an attempt to address the Islands' unique road system and the third system was developed and used in the United Kingdom.

Each of these has a number of positive and negative attributes but additional research and local public participation is considered necessary before the most appropriate system can be chosen. Despite the reservation experienced by the committee they have provided in this report a number of detailed and thoroughly considered recommendations for both the street naming and property numbering systems for the Cayman Islands. These systems are outlined in Chapter 6 of the Report commencing on page 27 through page 33. Included with recommendations are proposals for amendments to the Roads Law, for administrative arrangement and for a phasing programme. It is therefore recommended to this Honourable House that this Report be accepted with the understanding that immediate action will be taken by both the Planning and Public Works Departments to assign street names in accordance with the recommended systems as detailed in Chapter 6 and Appendices II and III.

Madam Speaker, it should also be noted that anyone of the three property numbering systems that are proposed for consideration could be incorporated into the recommended street naming system. As indicated in the Report, as per Appendix V, an amount of $253,500 has been allocated in the 1992 Budget to undertake the street naming and property numbering exercise, with the street naming portions scheduled to commence in September 1992. A request will be made for the unused portion of the budget to be revoted in the 1993 Budget to allow for the completion of this project.

Thank you, Madam Speaker.

MADAM SPEAKER: Thank you, Honourable Member. The next item on today's Order Paper, Questions to Honourable Members. Question No. 197 is standing in the name of the First Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS AND AGRICULTURE

NO. 197: Would the Honourable Member say what provisions exist for the management of Town Halls and Civic Centres throughout Grand Cayman?

HON. LINFORD A. PIRESON: The Portfolio of Communications, Works and Agriculture provides management for all the Town Halls and Civic Centres throughout Grand Cayman, with the exception of the South Sound Community Centre which has its own management committee. Caretakers are appointed in each district to provide janitorial services and to open and close the Halls.

SUPPLEMENTARY:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member could say if a part of the responsibility of these caretakers or management committees is to report to the Portfolio on the structure and maintenance of these buildings?

HON. LINFORD A. PIERSON: Madam Speaker, as regards to structure of the building, this is a responsibility of the Public Works Department who should be doing a periodic check on these Government buildings. As far as maintenance is concerned, the caretakers should report this to the Portfolio or to the Public Works Department, whereupon the matter would be dealt with.

MADAM SPEAKER: If there is no further supplementary, the next question is No. 198, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS AND AGRICULTURE

NO. 198: Would the Honourable Member say what is Government's policy toward large developers who wish to bring in heavy equipment and machinery, for their projects,

where such equipment is already available from Caymanians?

HON. LINFORD A. PIERSON: Madam Speaker, this question will be answered in reference to the Customs Law 1990, I am not sure whether I am the right person to answer it, but nonetheless, I have the answer available.

ANSWER: Government's policy is outlined in section 19 of the Customs Law, 1990 (Law 17 of 1990), which states that:

(1) Subject to such conditions as the Collector may think fit to impose, goods which the Collector is satisfied are temporarily imported with a view to subsequent exportation may, at the Collector's discretion, be imported free of duty for retention in the Islands for a period not exceeding six months or on prior receipt of a written request for retention for such extended period as the Collector may authorise.

(2) Any goods temporarily imported which are not re-exported within the period or extended period permitted under sub-section (1) shall become liable to the full duty payable in respect of such goods or such part thereof as the Collector may deem appropriate in the circumstances of the case as if the same had been imported without reference to this section.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member can say if equipment which has been brought in to develop the proposed new golf course was brought into the Island under this Customs Law?

HON. LINFORD A. PIERSON: Madam Speaker, the section which I have just referred to applies to any importations brought into the Islands.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member would be kind enough to tell the House, if he or any of his colleagues, that is the Elected Members of Executive Council, have received any objections or expressions of concern from members of the Heavy Equipment Operators Association of the Cayman Islands, in objection to this equipment which we have just been talking about?

HON. LINFORD A. PIERSON: Madam Speaker, the question is a general one. I am not sure if there is any specific case the Member has in mind. Perhaps he could elaborate.

MR. ROY BODDEN: Yes, Madam Speaker, with your permission I can elaborate because I spoke to the Member concerning the equipment being brought into the Island as it was expressed to me by some of my constituents. He directed me to the Honourable Member for Tourism as he said it fell under his Portfolio, so I am wondering if the concern was wide-spread among them?

HON. LINFORD A. PIERSON: Madam Speaker, I do recall the Honourable Member bringing a matter to my attention. I also recall that, in the area of Tourism Development, the project in question is a project that is being monitored by the Tourism Department, namely, the Safe Haven area. The golf course that is being developed there, it was in that context that I referred the Honourable Member to the Member for Tourism. But as I said, any importations into the country are governed by the Customs Law, Law 17 of 1990.

MADAM SPEAKER: If there are no further supplementaries, the next question is No. 199 standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS AND AGRICULTURE

NO. 199: Will the Honourable Member outline the provisions which currently exist for the management of Government properties?

HON. LINFORD A. PIERSON: Overall responsibility for the Crown Estate lies with the Portfolio of Communications, Works and Agriculture. However, housing and office accommodation responsibilities (and until recently, the George Town Craft Market) lie with the Principal Secretary, Personnel. All physical construction, design, repairs, maintenance and improvement aspects are the responsibility of the Chief Engineer, Public Works

Department. Economic or strategic management, i.e. valuation and negotiation for acquisition or disposal, collection of rents, letting, etcetera, is the responsibility of Lands and Survey Department.

MADAM SPEAKER: If there is no supplementary, the next question is No. 200 standing in the name of 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 AGRICULTURE

NO. 200: Can the Honourable Member say why the report prepared in 1986, by a team from the University of Tennessee regarding proposed revisions of the Development Plan, has not been tabled in the Legislative Assembly or made available to Members?

HON. LINFORD A. PIERSON: The documents produced by the University of Tennessee were a series of technical studies rather than revisions to the Development Plan. These were produced under agreement with the previous administration. The format did not lend itself to presentation to the Legislative Assembly as a Development Plan Review. I am made to understand that philosophical differences between the former administration and the study leaders from the University resulted in the project being aborted.

Additionally, the land use variables such as the number of households, the number of lots in subdivisions and the build-out rates in subdivisions became outdated. These are the reasons given why the studies were not tabled in the Legislative Assembly. Nevertheless, copies of these documents are retained at the Planning Department and the historical data and analysis of the institutional arrangements of the planning function are good reference materials for future planning studies.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. In lieu of the fact that the 1976 to 1984 Government has been ridiculed for not revising the Development Plan, could the Member please tell us what plans are in place for a revision and if he could also tell us at what cost was this study done that we are speaking of?

HON. LINFORD A. PIERSON: Madam Speaker, it is quite true and I concur with the Honourable Member for East End that his Government from 1976 to 1984, neglected in revising the Development Plan every five years.

MR. JOHN B. McLEAN: On a Point of Order, I did not say 'neglect', Madam Speaker.

HON. LINFORD A. PIERSON: Madam Speaker, I added that embellishment. Neglected in the eight years that they were there to revise the 1977 Development Plan, every five years as the Law stated. As regards the progress being made, we have in place a committee now that is studying the Revision of the Development Plan 1977. We have also requested Members from various districts to serve on district committees and we are now trying to find chairmen in the various districts who are willing to chair these sub-committees.

The reason for this is to ensure that we get the benefit of the very broadest cross-section of input into the study. We had a bit of delay in getting this started, even though these plans were put in place for quite some time but we now have a suitably qualified individual who will head up this study. As regards the cost of this, I do not have readily available this information, but I would be very pleased to provide it to the Honourable Member in due course if he so wishes.

MADAM SPEAKER: The First Elected Member for West Bay. I saw your hand some time ago.

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Would the Honourable Member say whether it is not a fact that until 1982 (leaving only two years for no revision of the Plan), was the only period between 1976 and 1984 that was left for the Plan to be revised? Secondly, can he tell this Honourable House why in the past eight years he and his colleagues have not revised the Plan?

HON. LINFORD A. PIERSON: Madam Speaker, to deal with the second part of the Member's supplementary, perhaps I can remind him, refresh his memory, that I have only been on Exco since 1988, almost four years. He can check my record and I would put it up against any Member before me as to my accomplishments in those four years. As soon as I could make it possible, after being sworn in to Executive Council, that was one of the issues I started looking at.

As the Honourable Member is aware, the reasons that we have recorded in the Portfolio, why this was not done was because of political repercussions as the question of the Development Plan is a very sensitive one. That is why. It was recorded in the Portfolio as the reason why the 1976 to 1984 Government did not revise it every five years, as was stated in the Law.

MADAM SPEAKER: Supplementary, the Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I would like to repeat my first supplementary. Is it not a fact that under the Law, the Development Plan could only have been revised after 1982 and secondly, why in the last four years that you have had the Portfolio,...

MADAM SPEAKER: Honourable Member, please do not use the word "you" instead of "the Member" please, because that means you are talking directly to him.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I always begin by saying to the Member in the beginning, so I take your point.

Would the Honourable Member therefore say why in the last four years the Honourable Member has not revised the Plan? And is he blaming it on the fact that the last two years of our Government, we did not revise it?

HON. LINFORD A. PIERSON: Madam Speaker, I can only stick to what I said and to the provisions of the Law. The Development Plan 1977 came into effect in that year. The 1976 to 1984 Government had eight years to look at it, whether they choose to do it between 1982 and 1984, is a matter he knows best. Madam Speaker, I cannot answer for that, I can only say what the provisions of the Law call for and that is that it should have been revised every five years after it came into effect.

MADAM SPEAKER: The next question is No. 201, standing in the name of 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 AGRICULTURE

NO. 201: Can the Honourable Member inform this House - (a) of the total number of post boxes provided at the West Shore Post Office; and (b) of the capital and recurrent expenditure of the West Shore Post Office?

HON. LINFORD A. PIERSON: (a) The total number of post boxes installed at the Seven Mile Beach sub Post Office, which is located in the West Shore Centre, is 1,500.

(b) The capital and recurrent expenditure for the Seven Mile Beach sub Post Office is as follows: (i) capital - $163,435; (ii) recurrent - $112,771 (1992).

SUPPLEMENTARIES:

MADAM SPEAKER: If there is no supplementary - the Second Elected Member for Cayman Brac & Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. Would the Honourable Member say if Post Office Boxes in the West Shore Post Office are limited to people who live in certain sections of George Town or beyond a certain point on the West Bay road?

HON. LINFORD A. PIERSON: Madam Speaker, that is a very good question. Initially when the sub-Post Office was opened, it was the policy that we would have limited the boxes to people within the West Bay Beach area, mainly to attract individuals from the General Post Office in George Town to use the boxes at the West Shore Centre where they were living in that immediate area. However, later on we found out that this was not working as we had planned and we then opened up the policy so that all individuals requiring the boxes, regardless of where they were residing, would be able to rent a box.

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Madam Speaker.

I wonder if the Member could say if all the 1,500 boxes have been rented?

HON. LINFORD A. PIERSON: No, Madam Speaker, only 511 boxes have been rented so far.

MADAM SPEAKER: The Second Elected Member for Cayman Brac & Little Cayman.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. I have heard some people complain about the fact that they could not rent boxes there and I wonder whether the policy is known, whether the policy to now offer the boxes for rental to persons who are not limited by particular boundaries where they live. If that is widely enough known and perhaps if some notice could be made on it would the Member consider doing that?

HON. LINFORD A. PIERSON: Madam Speaker, my Portfolio has advised the Post Master

General of this policy but I would undertake to ask that this be published in the media so that the general public would be aware of this.

MADAM SPEAKER: If there is no further supplementary, that concludes Question Time for today. The next item is item 4, Government Business. Bills, First Readings.

GOVERNMENT BUSINESS

BILLS:

FIRST READINGS

THE MAINTENANCE (AMENDMENT) BILL, 1992

CLERK: The Maintenance Orders Amendment Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a First time and is set down for Second Reading.

THE MAINTENANCE ORDERS (ENFORCEMENT) (AMENDMENT) BILL, 1992

CLERK: The Maintenance Orders (Enforcement) (Amendment) Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a First time and is set down for Second Reading.

THE AFFILIATION (AMENDMENT) BILL, 1992

CLERK: The Affiliation (Amendment) Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a First time and is set down for Second Reading.

THE SUMMARY JURISDICTION (DOMESTIC VIOLENCE) BILL, 1992

CLERK: The Summary Jurisdiction (Domestic Violence) Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a First time and is set down for Second Reading.

THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 1992

CLERK: The Trade and Business Licensing (Amendment) Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a First time and is set down for Second Reading.

THE LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 1992

CLERK: The Local Companies (Control) (Amendment) Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a First time and is set down for Second Reading.

SECOND READINGS

MADAM SPEAKER: Second Readings.

THE MAINTENANCE (AMENDMENT) BILL, 1992

CLERK: The Maintenance (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I beg to move the Second Reading of a bill entitled, A Bill for Law to Amend the Maintenance Law, (Revised).

This short Bill seeks to amend one specific section of the Maintenance Law, that is the section which deals with the amount of money that can be ordered by a court to be paid by an individual who is required to maintain another person. The Bill does this by removing the proviso from

the 1977 Maintenance Law (Revised) which reads: "Provided that no person shall be entitled to receive more in the aggregate than twenty dollars a week from any party or parties required by this Law to maintain him.".

Madam Speaker, the quantum of money in that proviso was amended in 1985 from $20 to $50. The effect of this amendment will place the operative word on the remaining part of section 6 of the Maintenance Law which says: "....such periodical sum as necessary, having regard to the means of the party or parties complained against and all the circumstances of the case, the court thinks just:". In other words, it will be up to the court to set the amount of money required by the Maintenance Order, taking into consideration the means of the party to do so and all of the circumstances surrounding the case.

I recommend this short Bill to Honourable Members of the House.

MADAM SPEAKER: The question is that a Bill entitled the Maintenance (Amendment) Bill, 1992, be given a Second Reading. The motion is now open for debate. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, the country has moved along since 1977, and has moved along since 1985, making those amendments in some cases somewhat out of place. I am sure that the Honourable Court will be judicious with the discretion which this Bill gives in handing out sentences. I have been often confronted with these cases and I have been in court at times and those in court are not usually the white collar worker, you could put it, but mainly those are the ordinary men on the street.

A man who fathers a child must take responsibility for that child's welfare. In saying that, the court has to be careful in the sentences where a person goes to court for the maintenance of more than one child, for instance. I know persons, ordinary men on the street, let us call them transients, who have been to court for the maintenance of four children but could not pay the required $50 for one child. This is where the court would have to be careful in their sentencing.

Family planning is what is needed in this country. In my opinion I do not think that all available means have been used enough in this country to educate. I have seen children having children, Madam Speaker, common day affair in this country. We cannot put the entire blame on the Government, a home has a lot to do with it, but I believe that there needs to be serious programmes of family planning. What I have seen in the country is certainly not good enough. What I have seen is help or assistance after the fact; more money from Social Services to buy Pampers, clothing and baby food, sometimes other weekly assistance.

Madam Speaker, this has been pointed out to me by recipients and I believe that the country needs a serious programme to head off the problem, not to treat it.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I support the Bill which is before the House. It has always been my view that children should not suffer because parents fail in their duties. There are many instances in this country today where mothers bear children and at the same time they have to bear the expense too while we see many fathers ignore their responsibilities and in some cases squander their money on less important things.

I would say that $50 is useless for a mother to even pay lunch fees, much less to help with clothes and the other necessities. I would, however, be more satisfied if there was a figure placed in this Bill rather than leaving it open. But I hope and trust that it will be watched and watched closely because while there are many genuine cases, there are some instances where this will be abused. I have heard of instances where fathers have been taken to court, paid fees and in turn instead of the money being spent wisely on the children, it is taken and handed on to another man. These are the sort of things that can definitely cause people to get themselves involved and it is no use of us saying that it does not happen because it is a fact of life, it happens. So for this reason I mention this and I hope that once this amendment comes into law these areas will be monitored and monitored closely.

I give it my full support.

MADAM SPEAKER: The First Elected Member for Cayman Brac & Little Cayman.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker. I rise to give my full support to a Bill for a Law to Amend the Maintenance Law Revised. As a Member of this House in 1985, we looked at this section 6 of the Law of 1977 and realised that the cost of living had increased considerably in this country during that period of time and thought best to increase from $20 to $50. Today, all of us here will agree that the cost of living continues to rise. We are lucky that inflation is not higher here in the Cayman Islands, but certainly having to import all that we have to from the outside world, it will continue to increase.

I feel for these unfortunate children we must make provisions. As Legislators it is our responsibility to place into the law what will benefit the underprivileged. I would like to read section 6 of the Law of 1977 for the benefit of the listening public:

> "6. At the time and place named in the summons the court on the appearance of the party summoned, or on being satisfied by affidavit that such summons was served on such party, shall proceed to enquire into the case and if the court is satisfied that the party complaining, or on whose behalf complaint is made as aforesaid, is entitled under this Law to be maintained by the party or

parties complained against, and that such party or parties had or have neglected his or their duty in that respect, the court shall proceed to enquire into the means of the party or parties complained against, and if satisfied that he or they or any of them are of ability to maintain or contribute to the maintenance of the party complaining, or on whose behalf complaint is made as aforesaid, the court shall proceed to make an order (to be called an order of maintenance) against such party or parties, ordering him or them to pay either to the party complaining, or to some person approved by the court and to be named in the order, such periodical sum as, having regard to the means of the party or parties complained against and all the circumstances of the case, the court thinks just:".

This amending Bill is removing the proviso which reads: "Provided that no person shall be entitled to receive more in the aggregate than $50 per week from any party or parties required by this Law to maintain him.". Madam Speaker, from what I have read it is clear that the learned judge will determine the means of the parties before the court and it will be awarded accordingly. I have, on several occasions, had fathers, knowing that their children were not properly being taken care of, brag of the fact of "giving her $50 and that is all she is going to get, and that is all the law says I have to give". Well, that is really not assuming the responsibility of a father, and there are some people who do not assume their responsibilities and that is what the courts are for. That is why we make laws to provide in cases such as this.

I do realise that to some people in our society, as has been mentioned with more than one child, the aggregate of $50 per week could be a problem - a sum that would be difficult. But it is their responsibility and once they put their position before the court, the court will make a decision according to their means to pay. I feel they should take this into consideration. Their responsibility is to providing for their children when they become fathers or mothers.

Thank you, Madam Speaker.

MADAM SPEAKER:

The Second Elected Member for Cayman Brac & Little Cayman.

MR. GILBERT A. McLEAN:

Thank you, Madam Speaker. I rise to give support to this amending Bill which is before the House. I do so however, with a certain amount of caution for I think, while the Bill is being amended, it is attempting to address what is a sociological condition or problem in our society.

I am the first to acknowledge that $50 per week in real terms is a very small amount as far as money goes in this society nowadays and in terms of buying power too, it is very limited as to what it can purchase. However, from the knowledge I have of the conditions where persons are required to maintain children at this weekly amount, the persons who fall within this category are normally those persons in the wages scale and who do not earn large salaries themselves. Whether or not the amounts are paid to maintain illegitimate children of which the man is the father, or whether it is children from a marriage where there has been divorce, it is really immaterial. I understand that there are many instances, in fact too many instances, where this amount of $50 is not paid. Mothers who are under great financial strain and children who have a need of receiving these amounts, certainly do not do so because these amounts are not paid.

I have no problem with the court being given jurisdiction to determine how much money should be paid and taking into account the financial circumstances of the persons involved. However, I would hope that any court would move very cautiously or gingerly when they are applying these amounts, particularly where persons of lessor financial means are involved. For while a court might award more than $50 per week to be paid by a particular person the big question in the whole scenario is whether this amount will be paid? Therein lies my concern for the removal of the prescribed amount to make it an amount which will be set by the court as the circumstances may warrant, as determined by the court.

Unfortunately, there are many fathers in the Caymanian society who, for whatever reasons, do not feel a great compunction to pay towards the maintenance of their children. I believe it is something that should be done and should be enforced but simply allowing the court to set a higher amount for them to pay does not solve the problem. As the previous speaker has said, I think there needs to be a change of heart and the idea of family planning and some message that we can get across in the country here that the business of being a participant in creating a child, is a very important one and that there is an obligation, a moral obligation and otherwise, to get that across to change the thought process which now often is not there to guide many men in this society in accepting such obligations.

So while I support this amending Bill, I think it is more than just changing it to where the court can prescribe an amount. I believe for it to truly work in our society as I believe is the intention, there needs to be some sort of an education programme.

Thank you.

MADAM SPEAKER:

The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN:

Thank you, Madam Speaker. I support this Bill. I think it is long over-due and it is something that should have been brought somewhat earlier. I take the points that were mentioned earlier in relation to the amounts in this but basically the court, in deciding on amounts for a child, will look at the child's welfare as a paramount importance and put that first and before the welfare of the family as a whole. That is the way it operates in the normal matrimonial case. The court will secure the provision for the child first and because of the obvious reason that the child cannot provide for him or herself. I think that is the way it should remain and the court looks very jealously, guards very jealously the rights of the child.

My only comment on this is now that we are increasing the provision, in relation to these, what has happened to the increase for persons who are on welfare, who many times

are some of these children and who have no father to support them? I think the time has perhaps come and I know it has been raised here many times, that there should be an increase from the $50 a week that is given to children, and to adults as well, from the welfare side. I would ask the Member for Health, once again, to think about this because it is on all fours with this. This is the private support from the father but if circumstances require that this should now be increased then I think it is the same in its application to the welfare from the Social Services Department. That should also be increased, similarly.

I support the Bill. Thank you.

MADAM SPEAKER: If there is no further debate, I would ask the Honourable Member if he would like to reply?

HON. D. EZZARD MILLER: Yes, Madam Speaker. I thank Honourable Members for their support. However, in replying I must remind Members of certain things for which they have asked. The First Elected Member for West Bay was very much concerned about the introduction of some form of family planning. We have in place at the hospital already, free family planning services which involve counselling, all contraception devices, both orally and intrauterine, are free from the Health Services Authority. Part of the counselling services offered by the Cayman Counselling Centre in their family counselling deals with family planning.

We also are tackling the prevention side of it, even much earlier with the sex education in schools and the whole skills for living approach that is being offered as part of the school curriculum now from primary school all the way up to the Community College level. One Member asked about a minimum being set in the Bill. This was considered and it was felt that the danger in setting a minimum is that in particular the defense lawyers would probably place before the court that that minimum of $50 is a benchmark and would have to produce to court additional justification to go beyond that point. So we decided to put it to the discretion of the judge, taking into consideration all of the financial and various aspects of the individuals and the case involved. I think we can rely fairly reasonably that no judge is likely to fine less than what is currently in the law, because certainly he would know that the intent of Parliament would have been, and from the debate, to increase that quantum. It is $50 now per week, which is $200 per month.

I would take this opportunity to remind Members, and the country at large (because this side of the Maintenance Law is becoming more and more important and a bigger and bigger problem), that this amendment applies to the orders under section 4, for children to maintain their parents as well. This should have some significance on, for example, people being put in the Pines and other such facilities in that this Law, I believe, can be used to insist that children who can afford to, do, in fact, contribute to the maintenance, in particular in our case, of their elderly parents.

In response to the Third Elected Member for George Town, about the timing, I will ignore that but just to reply to his question about the welfare side of it, he thinks it is long overdue. He is a lawyer, he could have drafted a Private Members's Bill anytime in the last four years and it is only two lines. I had to get the legal people to do it, but he could have done for himself and tabled it. In terms of his question about increasing the welfare payment, that is under consideration. The Portfolio had the Department of Social Services do an exercise with the assistance of the Statistical Unit in pricing a basket of goods, and that exercise suggested something like $1,000 per month which is rather unrealistic when one looks at some of the things that they placed in the basket of goods. They have recommended a doubling of the present quantum and that should be reflected in the 1993 Budget.

However, Members must not be led to believe that all the people get is that quantum that is specified there. That is increased in many forms of vouchers for Pampers, vouchers for food, vouchers for water, so that the total package that an individual person is receiving from Social Services is somewhat greater than it appears in just the dollar value given out under the welfare payments. While it might not be most generous in its provision, I think that the combination of services which the individual gets under the welfare, tend to make it somewhat adequate.

Madam Speaker, I thank Members for their support and commit the Bill to the Honourable House.

MADAM SPEAKER: The question is that a Bill entitled the Maintenance (Amendment) Bill, 1991, be given a Second Reading.

QUESTION PUT: AGREED.

THE MAINTENANCE (AMENDMENT) BILL, 1992, GIVEN A SECOND READING.

MADAM SPEAKER: Continuing, Second Readings.

THE MAINTENANCE ORDERS (ENFORCEMENT) (AMENDMENT) BILL, 1992

CLERK: The Maintenance Orders (Enforcement) (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I wish to move the Second Reading of Bill entitled A Bill for a Law to Amend the Affiliation Law, 1973. Members will have before them in addressing some of the other concerns on the previous Bill a number of pieces of legislation, four in total, which tend to improve the

whole welfare of the child and the whole concerns that they have.

This Bill seeks to amend the Affiliation Law, 1973, by doing two things. Namely, to substitute for certain maximum amounts specified in the Law in respect of the maintenance of an illegitimate child, its confinement costs or its burial costs, a provision that will allow these amounts to be decided by the courts having regard to the means of the parties and all the circumstances.

Secondly, to give the courts power to require persons involved in the question of a paternity of a child to undergo certain tests to determine whether a particular man is or is not the father of a child. This is to bring this Bill in line with the one that the House just passed in the Second Reading.

I recommend the Bill to Honourable Members.

MADAM SPEAKER: The question is that a Bill entitled the Maintenance Orders (Enforcement) (Amendment) Bill 1992 be given a Second Reading. The motion is open for debate. The Honourable Second Official Member.

HON. ANTHONY SMELLIE: On a Point of Order, Madam Speaker. I think you did call that Bill as item number two on the Order Paper, but the Honourable Member must have misunderstood and has spoken to item number three. The Affiliation Amendment Bill.

MADAM SPEAKER: Yes. Honourable Member, would you please go over your presentation of that bill? Thank you.

HON. D. EZZARD MILLER: Yes, Madam Speaker. I apologise to the House, these are all similar pieces of legislation and just happened to have gotten shifted out of order. I wish to move a Bill entitled A Bill for a Law to Amend the Maintenance Orders (Enforcement) Law (Revised) Second Reading.

Madam Speaker, this Bill amends the Maintenance Orders (Enforcement) Law (Revised) to provide for the enforcement in our courts of foreign affiliation orders (an affiliation order is an order for court finding a man to be the father of a child) in addition to other maintenance orders. This does in this short Bill, by amending the definition of Maintenance Order, which presently excludes affiliation orders to bring it in line with the definition included in the Maintenance Orders (Reciprocal Agreement) Act 1972 of the United Kingdom.

The Bill also amends the Law to allow for the enforcement in Cayman of maintenance orders of any country that would be prepared to enforce our maintenance orders. Presently our courts are limited to enforcing maintenance orders of any "British possession, Commonwealth country or any territory under Her Majesty's protection". In other words, the great United States is not covered and most of our departing fathers normally go in that direction.

The extension of our powers under this Bill would also allow us to comply with our obligations under the United Nations Convention on the Recovery Abroad of Maintenance a convention done in New York on the 20th of June, 1956.

I recommend the Bill to Honourable Members, Madam Speaker.

Question Proposed: Debate Ensued:

MADAM SPEAKER: The question before the House is that a Bill entitled the Maintenance Orders (Enforcement) (Amendment) Bill, 1992 be given a Second Reading. The motion is open for debate. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Once again I support this Bill and it is one that I think is necessary because there are times when parents change the country in which they live, change the jurisdiction and unless there is reciprocity to enforce maintenance orders, then the parent's duty for providing for his or her child can be avoided by merely, as the phrase goes, "skipping the country". This will open it beyond the traditional reciprocal enforcement in Commonwealth countries that has existed in fact for a very long time.

Now we will have a situation where any country, whether Commonwealth or not, who is prepared to enforce our orders in which we can get the agreement under the necessary 1956 Convention, we would be able to have the orders enforced there. Reciprocally, we would enforce their orders. I think it is good, Ma'am.

MADAM SPEAKER: If there is no further debate, would the Honourable Member wish to reply thereto? I shall now put the question. The question is that Bill entitled the Maintenance Orders (Enforcement) (Amendment) Bill, 1992 be given a Second Reading.

QUESTION PUT: AGREED.

THE MAINTENANCE ORDERS (ENFORCEMENT) (AMENDMENT) BILL, 1992, GIVEN A SECOND READING.

THE AFFILIATION (AMENDMENT) BILL, 1992

CLERK: The Affiliation (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Thank you, Madam Speaker. I wish to move the Second Reading of a Bill entitled the a Bill for a Law to amend the Affiliation Law, 1973. This Bill seeks to amend the Affiliation Law, 1973 by doing two things, namely, to substitute for certain maximum amounts specified in the Law, in respect of the maintenance of an illegitimate child, its confinement costs or its burial costs, a provision which will allow these amounts to be decided by the courts having regard to the means of the parties and all the circumstances and to give the courts power to require persons involved in the question of the paternity of a child to undergo certain tests to determine whether a particular man is or is not the father of the child.

I recommend the Bill to Honourable Members, Madam Speaker.

MADAM SPEAKER: The question is that a Bill entitled the Affiliation (Amendment) Bill, 1992 be given a Second Reading. The motion is open for debate. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Once again, I think this is a good Bill and I support it. The necessary means test is put into this, as it was with the previous bill, despite the fact that the amount has been removed leaving no maximum on it. The test that is being brought in under section 12 is one of the newer amendments that are being found in many of laws around countries throughout the world. For many years medical science could disprove but not prove whether a child was the child of a father in these cases. I think medical science has now reached a stage where I understand that it is possible to prove with a very great degree of certainty as to whether or not a man is the father of the child.

I think it is important to bring this in because many times there are children and the wife on welfare when it has not been proved who the father was to bring into operation the maintenance provisions of the law. Secondly, it is a test that will probably speed up the time before the court and I understand because of its reasonably high degree of accuracy, the courts will rely on this testing. I think it is good. I commend the Member and as I would hope it has become obvious to this Member and the public when good bills come here, we naturally support them.

MADAM SPEAKER: If there is no other debate, would the Honourable Member wish to reply?

HON. D. EZZARD MILLER: Yes, Madam Speaker. I want to thank the Third Elected Member for George Town for his support and the only thing wrong with the Bills that I bring here is that his definition of good and my definition of good sometimes varies, but I have never brought a bad bill to this House. Time will bear that out, but I thank him for his support.

I recommend the Bill to this Honourable House.

MADAM SPEAKER: The question is that a Bill entitled the Affiliation (Amendment) Bill, 1992 be given a Second Reading. I shall put the question.

QUESTION PUT: AGREED.

THE AFFILIATION (AMENDMENT) BILL, 1992, GIVEN A SECOND READING.

THE SUMMARY JURISDICTION (DOMESTIC VIOLENCE) BILL, 1992

CLERK: The Summary Jurisdiction (Domestic Violence) Bill, 1992.

MADAM SPEAKER: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I wish to move the Second Reading of a Bill for a Law Relating to Domestic Violence.

Family violence is not a new problem in society. It has often reflected an imbalance of power between the sexes. It affects all age and economic groups and cuts across cultures and geographic regions. Some researchers believe it to be a reaction to sexism and tolerance of violence that continues to exist in our society. In fact, historically violence against women by their husbands or common-law partners has been condoned by the majority of society. In earlier times, for example, a man could beat his wife with a stick provided it was no wider than his finger. This was known as the rule of thumb. Ideas such as this reflected the general view of society that the wife was subordinate to and the property of her husband. As a result she was to be treated and punished as he saw fit. Thankfully, Madam Speaker, our society has progressed socially and morally beyond that point.

This legislation now before this House has been given a great deal of press exposure and I am particularly grateful for that. However, it is only the first step, so to speak, in legislative terms of an attempt to protect, particularly women and children, but also husbands from exposure to matrimonial violence. Because of the growing assertiveness of women, there are a few husbands who are being abused, and this Law might also help their particular problem. It is my job to ensure that the rights of all are equally protected. I would add here as well that this legislation refers not only to legal marriages, but also to common-law marriages.

Every day in the local and international press we see examples of how family life is under pressure from the stress of modern living. The word family would signify, or should signify, safety and security, where family members can find comfort from the pressures and difficulties of the outside world.

It is envisioned to be a place where all can live in harmony. However, and regretfully, Madam Speaker, recent studies, most of these directed towards women, have shown a great deal of violence occurring in the home. The evidence suggests that the risk of violence within the home is one thing women, irrespective of their social position or race, have in common. Some researchers estimate that no fewer than one in 10 of North American women are assaulted by their husbands or common-law partner at some point.

While we have no hard statistics for the Cayman Islands, I believe that public support, especially through the Business and Professional Women's Club, shows that domestic violence, violence towards women, is a problem in the Cayman Islands and this legislation is an attempt to begin to address the situation. It is a well known fact that even with the statistics available violence continues to be a largely hidden and denied problem. In fact, research shows that by the time an assault is actually reported it can be assumed that several assaults have already occurred. Victims are often reluctant to report offences and the reasons for this are varied but can include loyalty to spouse and family, guilt and shame, the threat of loss of economic support and sometimes perceived negative response of the police.

I would like to deal for a few minutes now on the reality of domestic violence. First of all, there is no stereo typical victim or abuser. Men or women who abuse their wives or husbands often have been abused as children or witnessed in some form or other the mistreatment of other family members. Those who are victims of family violence often report being abused as children or were witnesses to it as well. Many times a woman will think her actions have something to do with provoking the abuse. She may try to change her behaviour in order to avoid these situations. In reality there is little or nothing she can do in this regard that is of her own.

This Law provides some recourse in that a spouse can request that the magistrate allow that a man or a woman who is violent is removed from the matrimonial home. We know that some women will remain in an abusive home out of concern for the children, that is, they need a father. However, studies have shown that violence has a significant effect on them as well. Fear and guilt are common reactions of children to domestic violence. They might think that they could have prevented the situation in some way or they might think that they have been responsible for it. The children may be emotionally damaged by witnessing ongoing violence and there is also considerable evidence to support the cycle of violence theory that individuals who are subject to or witnessed abuse as children become abusers as adults.

Some individuals who are being abused, do in fact leave home immediately, however, they often return in the hope that the husband has changed, the battering will stop and the marriage will continue. For many women the choice is between this life or a life of poverty, not only for themselves, but for their children. If a woman is fortunate, she will have somewhere to go as well as the financial support of family and friends. In reality, she probably has little or no financial resources at her disposal. The reality is that at present our community options, the places the women can go for help remain limited. I would, however, like to commend the family counsellors at the Cayman Counselling Centre which provide significant support and counselling to women and children at risk and those experiencing domestic violence. I would remind the public that presently this service is free.

I would also like to mention the NCVO's lifeline, which is a call in counselling service. This programme is also supported by the Business and Professional Women's Club. As I said in the beginning, this legislation is the first step. It reflects a significant step forward in the thinking of Caymanian society that family violence will no longer be swept under the carpet, will no longer be tolerated. I hope at future sittings of this Honourable House to see legislation brought which will further strengthen the legal response to domestic violence. I hope to see greater coordination between all the agencies and departments involved in working with families so that we can provide the best and the most efficient response to families who are at risk or who are being affected by domestic violence.

For decades society has condoned violence in the home by treating it as a private matter. A change in thinking is long overdue. I urge Members of this Honourable House to give this Bill their full support.

MADAM SPEAKER: The question is that a Bill entitled a Summary Jurisdiction Domestic Violence Bill, 1992 be given a Second Reading. The motion is open for debate. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I can give wholehearted support to this Bill. This matter is long overdue. The Bill gives protection for persons in a family when family life so breaks down that it results in violence. The *Hansard* records that between 1984 and 1988 this Member made many speeches about the need to do something about violence in family life. I have been called out of bed, I have been confronted on numerous occasions about family life and I have seen women ill-treated, I have seen men ill-treated and this is why I am glad that this legislation talks about both.

We have persons, candidates who constantly talk about they have to do something for women and they are going to get into this House to do something for women. We cannot go in today to the reasons why family life breaks down, but I can tell this House that in my time, in my eight years here, I have seen some sorrowful cases of men who have been taken advantage of by women. The Bill is good in that it covers both.

In May of last year at the Commonwealth Parliamentary Regional Conference in Trinidad, I had occasion to listen to a Minister in the Trinidad Parliament proposing such legislation, or dealing with it, talking about it. On my return here, in an interview with *Caymanian Compass* reporter Miss Winker, I noted that I thought we needed to do something about it and I intended to move a resolution. This

House saw that resolution but it came from the two Members, the Third Member for George Town and the First Member from Bodden Town. From then until now, nothing was done.

Too often as Members of this Assembly we get called out, as I said, late hours of the night to try to calm disagreements in families. A lot of times it is those families that are what is known as common-law wife and husband. Many times all we could do as representatives was to talk and try to calm both sides. We would go to the police, inform the police and the police would simply tell you that they could not interfere unless there was bloodshed. That had to be a sorrowful state of affairs in a progressive country where legal response to practically every facet of life has been put in here. When I say here, I mean in the country.

I believe that this Bill, if administrated upon by the courts fairly, judiciously, can help and I do not believe that the Bill is meant to legislate any morals because we cannot do that. That again has to come from the family, from the person and not from a government. But when we look at the breakdowns they are caused by the moral destruction. Those things that Caymanians were so strong in, the family unit, and this is where we have to concentrate.

I can offer my support to the Member for this legislation, though he was pressured into bringing it here at this twelfth hour, or in his twilight years in his administration. That resolution that I spoke about earlier did call for a committee, did set up a committee, which, as far as I can remember (subject to correction, Madam Speaker), never met. That, I believe, was well over a year ago. That is typical. We know that this is an election year and the Member is pandering to votes but I do congratulate him, although he will not get those votes on bringing this legislation.

Thank you, Madam Speaker.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. In rising to give my support to this motion I would like to congratulate the mover in making what can actually be described as a very late attempt to address a glaring need in our society, a need which I believe has been brought on by increasing economic and social pressures which have lead to a deterioration in the family life of this country.

I believe that it is correct to say that there is wide spread international concern with these issues, that is, the issues of violence against women and children, particularly, domestic violence. Just as an item of interest, I have read that in societies where there is a high degree of firearm crimes that by far the greatest percentage is committed by one member of the family against others and not, as we would think, by total strangers. So that the penchant exists for certain types of crimes to happen within the family setting.

While it is wise to move to address this and to give the court certain powers and certain discretions it would be fool hardy to lull ourselves into the false sense of protection in believing that the penalties imposed by the court are in themselves sufficient to deter these types of actions and activities. I am a firm believer in preventative measures when it comes to these kinds of things. I say that if we are to eliminate these or the most effective way of treating these kinds of maladies in our society is by a total community effort. The schools, the churches, the social organisations, and indeed, the families themselves have to unite to provide one dedicated strong front against these kinds of things.

I notice that while much has been made of physical and sexual abuse, little mention has been made of emotional violence. With the Chairs indulgence, I would like to take a moment or two to expand on that and I want to say that the whole notion of emotional violence and emotional abuse is perhaps just as great, if not greater than physical abuse because many so called respected and respectable people, while they refrain from committing actual physical abuse are emotional abusers. That is, those people who curse or put down or slander their family members, destroying the self-esteem, destroying the self-respect, destroying those members' ability to believe in themselves. Harassing them, calling them on the phone, telling them that they are no good because they might not be successful in getting a job, or the job might not be considered a good job, harassing them because they did poorly at the exams in school because their grades are not what they should be according to some other person's notion.

This type of abuse, although it is not as manifest as the physical abuse, is just as bad and just as destructive. So we have also to pay some regard to that and what is worse about this, emotional abuse does not bear any outward sign. Quite often it leads people to suicide or to dependencies which are chemical or alcoholic in their manifestations. So we need also to pay some attention to this. I would be happy to see the counselling services strengthened and I notice that the schools now have heavily gone into counselling. I think that this is a good thing, even from at the primary level. I also think it is incumbent upon family members who are knowledgeable about this to be on guard and to be ever watchful about this kind of thing creeping into the family in however insignificant or seemingly trivial an entry, because it is safe to say that these kinds of behaviours violate the old Caymanian sense of propriety which held the family in an almost sacred esteem.

I believe that these kinds of issues could have best been handled by hearing from some of the victims themselves, by hearing first hand from some of the trauma that these people have been subjected to and I can tell this Honourable House that the whole notion of physical abuse and abuse of women is a revolting and traumatic one. I first witnessed this when I left the Island and was a student in another jurisdiction where, in one of my sociology courses, the professor took us on a week-end to visit a home for battered wives. It was a sickening sight. But not only did we visit a home for battered wives, on a subsequent week-end we also (as the First Elected Member for West Bay made mention of battered husbands), we visited a home for battered husbands as well. So let us not believe that only wives are victims of physical abuse, husbands can be as well.

To come back to the matter of the Honourable Member moving

this, I think it is a step in the right direction and one in which I am glad to lend my wholehearted support because by moving to remedy these kinds of cases, we are certainly moving to strengthen the Caymanian society.

Thank you.

MADAM SPEAKER: I think that, as is usual, we should now take a 15 minutes suspension and I would ask Honourable Members if they would please be so good as to keep it to 15 minutes. Thank you. The House will be suspended for 15 minutes.

AT 11:50 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 12:05 P.M.

MADAM SPEAKER: Proceedings are resumed. Debate continues on Second Reading with Summary Jurisdiction (Domestic Violence) Bill, 1992. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Once again, I support this Bill that the Government has brought. I think it is good. I would like, however, to make comments in relation to certain areas of this. Before I do so, I would like to congratulate the Business and Professional Women's Club and, specifically, Mrs. Karen Thompson and Mrs. Berna Murphy, whom I believe have been instrumental, among other distinguished ladies, in moving this specific piece of legislation and actually achieving in a very short period of weeks what the Backbench in this House have not been able to achieve since the 23rd day of July 1990, when we brought a motion to the House on this.

I believe that it is important that associations such as the Business and Professional Women continue to take a very active part in areas of the society and that they champion causes which are good for the country, as they have done in this instance. It is approximately two years ago that we saw the focusing by the world on the rights of children and the rights of those who are in a less protected position than others within the society. This specific legislation, in my view, only goes a short distance or I should say it goes a reasonable distance but it stops short of what must ultimately be brought in to deal with the problems that we have within society.

These problems have resulted to a large part from a deterioration of the family unit as development within the country has progressed mainly over the past two decades. It is a problem however that has to be looked at not only by good organisations, such as the one I previously mentioned, but needs the active and united effort of the churches, schools, the social and service clubs and the voluntary organisations. This specific piece of legislation fills a very important link in that overall outlook on dealing with this problem.

It has been in the past year that the rights of the child and of women have become important in many of the developed and developing countries. Perhaps the most striking statement on this that I have found was found in the magazine called *Counsel*. It is the magazine of the *Journal of the Bar of England and Wales*, in September and October of 1991. They said at page 13 that "Justice delayed is justice denied, is a truism that has often had poignant consequences for young children whose conception of time is different from that of adults." That difference is one which triggered the Childrens Act of 1989, in which a whole system had been set up to deal with family rights in the United Kingdom and a new court structure was adopted, (reading here) consisting of a Family Proceedings Court, the County Court and the High Court.

Perhaps near to this, but not directly on this legislation, there was a statement that there is a prohibition on the outright surrender or transfer of parental responsibility and its exercised in a way that is incompatible with any child care order. Further focusing on this point came at an early stage in the United States and *The American Bar Association Journal*, of December 1988, carried about eight pages on an introduction to children's rights. It, in fact, advocated a Bill of Rights for children and a court ruling that the United States Bill of Rights and Constitution applied equally to children as it does to adults. Many instances were set out in that journal of instances of abuse and the problems thereunder.

This Bill, in my view, and I think in the view of others in the Caymanian society, while it goes a considerable distance, it does not go far enough and whether or not there can be a consideration by the Government of the extension of this at this stage, would be a matter to be seen. Firstly, I feel that there will be instances in which a child is being abused, perhaps in an extreme case, by both parents, alternatively by one parent who also abuses and controls the second spouse. In that case, then an application to the court would not be made by the parents, and in this area I believe that if we could get an extension of it, so that either the equivalent of what in a civil court is referred to as a next friend, because we have to appreciate that a minor at law cannot make an application, but, if we could have a next friend which could be a grandparent, or it could be an uncle, or just a next friend who could, perhaps, make that application, I believe that extension to section 3 is one that should be looked at.

The law also follows quite closely the English Legislation on this matter but many times within a family unit there are other family members who also suffer abuse within the family and I believe that rights of those such as grandparents, uncles, aunts, nephews, nieces, is an extension that the Government should look at in due course.

I appreciate that the specific legislation before us is dealing with a specialised area and it is one which has not been totally addressed in other countries but I think it is important because especially with grandparents, many times they are elderly, they are in a home, and they have been the subject of abuse. It is correct that the child is not directly in the position of someone like a grandparent who has the legal capacity to deal with the matter, to call the police or to apply, if necessary, to have a civil case brought.

There is some protection, for children for example, is found in section 30 of the Juveniles Law, which deals with the right of a police officer to search and remove a child who is in need of care and attention. There is a further section in it, among other sections, namely section 41, that while directly on the point, is a criminal act section. It is a section relating to a criminal act. If I may just read that it is section 41 (1)"

"41. (1) Any person who having the custody, charge or care of any juvenile, wilfully assaults, ill-treats, neglects, abandons or exposes that juvenile, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause that juvenile unnecessary suffering or injury to health (including injury to or loss of sight, hearing, limb, or other organ of the body, and any mental derangement), is guilty of an offence, and is liable-

(a) on conviction on indictment to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding 2 years, or both;

(b) on conviction by a Summary Court to a fine not exceeding three hundred dollars or to imprisonment for any term not exceeding 3 months, or both;

and in addition the Court may order such convicted person to attend Counselling Services for a period not exceeding 2 years.".

This deals with the question of cruelty to children. As I said before, this legislation now relating to domestic violence, gives in my view, a much quicker, more effective way of dealing with the problems relating to families and it is indeed known that in the past the police quite rightly in many instances, would rarely intervene in domestic matters unless a specific criminal offence was committed. In those instances many times when they go to court, by then the spouses have made up and it is difficult, if not impossible, to have the evidence that is needed to carry on with the case.

I can see where there was some reluctance there, however, in this instance I believe this law will allow them in the instances set out in section 8, which is the power to arrest, to effectively and fully within the law deal with arresting a person in the circumstances set out in it which is basically to prevent physical injury and other things set out therein.

Back on the 23rd of July 1990, the motion which was referred to by earlier Members, I would just like to read to show that it is a matter that has been fully before the Government for some time. It is Private Member's Motion No. 9/90, Select Committee on the Rights of Children, Young Persons and Women.

WHEREAS Government has promised from some time to review the Juvenile Legislation and has not brought forward new Legislative proposals;

AND WHEREAS the Caribbean Parliamentary Symposium on the Rights of the Child, attended by the seconder of this motion and two other Members of this Honourable House, passed a resolution on the 3rd of October, 1989, which noted that inter alia:

"Children are more vulnerable than any other group of human beings and therefore need comprehensive legal and social protection, as set forth by the convention on the rights of the child, and the commitment of Government leadership at all levels, including the very highest.";

AND WHEREAS the Symposium further recommended inter alia:

"The creation, within each country, of a parliamentary committee to review national legislation and propose measures aimed at ensuring a better and more widespread protection of children, women and the family."; and

"That the Governments of the region adopt a convention on the rights of the child at the 1989 United Nations General Assembly, and encourage its prompt ratification in order to work for a better future of the children of the world.";

NOW THEREFORE BE IT RESOLVED THAT this Honourable House appoint a Select Committee of the Elected Members and the Honourable Second Official Member to study and make recommendations for the introduction of comprehensive legislation and develop programmes, particularly through the media, to prevent children, young persons and women from being victims of physical and emotional violence, neglect, sexual abuse, drug and alcohol addiction."

I moved it and was seconded by Mr. Roy Bodden, First Elected Member for Bodden Town. The motion was passed. However, there has actually on this legislation, I know there has been no Select Committee and no parliamentary procedure by which we could get a much fuller airing of the views of the public at large and specifically the organisations that are more interested in this.

The problem of domestic violence is many times triggered by

much wider problems within the society. I would like to just briefly deal or mention areas that the convention relating to, mainly children but it relates to family units as a whole, that was urged by the United Nations Children's Fund and this was at the symposium that I referred to and several of the articles focused specifically on points that are relevant here today.

Article 19 was protection from abuse and neglect and it stated as follows:

> "State parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation including sexual abuse while in the care of parents, legal guardians or any other person who has the care of the child.".

While not reading them, the other articles that were on this point were article 34, which dealt with sexual exploitation, article 36, that dealt with other forms of exploitation and article 39, that dealt with rehabilitative care. I have mentioned these matters to lead on to an area that has been focused on by Mrs. Angela Martins the Director of Social Services and indeed, it has been mentioned by earlier Members in this House who spoke. I am reading here from the *Caymanian Compass* of 27th July 1992. I would like to mention here that the reference made by the First Elected Member for West Bay in relation to the motion and his considering bringing a further motion to get action on this, was really to see whether the earlier resolutions that had been passed and accepted by Government earlier, whether these could be brought on and dealt with at an earlier stage. It stated this:

> "Mrs. Martins considered mental abuse -- which receives relatively little attention -- as serious a problem as physical abuse. Mental abuse, she asserted, was "the type of abuse which could lead people to kill. It can be more destructive than physical abuse -- more damaging in the long term. 'Mental abuse is also more difficult to spot than physical abuse,' noted Mrs. Martins. While a person suffering from mental abuse may suffer radical changes in behavior, to friends and observers there was unlikely to be an obvious cause of those changes.".

She is a very competent and professional Head of Department and it would have been good if, in this specific bill we could have widened it once again to cover this area. Obviously her words, because she is in a position to know what is needed in the Social Services area, have to be looked at and taken seriously by Government and by this Member for Health. If not, I can assure you that any new Member for Health coming behind had better look very carefully at those words because the impact of mental cruelty, especially on children, is one that is perhaps the most devastating because they live with it without any outward signs of what they are living with. That goes towards spouses and I am happy that the law covers wives as well as husbands.

I support what the First Elected Member for Bodden Town submitted that this is an area that obviously needs a lot of attention. I know there are programmes in place. I know they are at the schools. We have psychologists, we have obviously psychiatrists here, counsellors and I am not saying Government is not doing anything, I want to make that clear. It is not, as such, a criticism of Government as an urging for Government to do more in an area which this specific bill does not cover. I had looked at this with perhaps the view of whether it may have been appropriate to add, in some way, mental abuse to wherever the use of the word violence is used. But it is obviously a bill that is tailored specifically for physical violence even though it does not specifically say physical violence, I think that would be the normal interpretation of it.

The section on cruelty to children does include mental abuse and that is very specific in that law so that at least there is some residual rights under it. Another section that perhaps could have been widened was under the supplementary provisions, where under 5(2) it is stated:

> "5.(2)A magistrate may include in an order a provision that the respondent must not incite or assist any other person to use, or threaten to use, violence against the applicant or, as the case may be, a child of the family.".

This happens, I am sure, at times where a spouse gets someone else to make the threats. If that could have been widened that it would have been a criminal offence to conspire with one of the parties, whether or not he was within the family unit, it could have widened that a bit more. This is a good Bill. I support it. What I have said in relation to the extensions by no means detracts from the fact that this is an important piece of legislation but important area that I think that much more needs to be done to ensure that the problem is looked at and dealt with more comprehensively, looking at all of the units both on the private as well as the Government side, that can assist with wiping out this abuse within our society.

I commend the Government on bringing it, and I would hope that future Governments will more readily move to bring in good legislation when urged by the organisations and people within the society.

Thank you.

MADAM SPEAKER: The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker. I, too, would like to offer my support to this Law, a Bill for a Law Relating to Domestic Violence. Long has this existed in our society and it seems

to be increasing, therefore there is a necessity that legislation be put in place and I would like to compliment the Government on bringing it at this time.

I would like to go a bit further and to say that I feel not only do we need legislation in the most extreme cases, but we need more community support where we, as members of a community, try to help people who have problems and to prevent them before they get to where it is absolutely necessary that the courts have to intervene. This has been a policy of mine over the years, if you can afford advice or help in anyway to an individual, do it when they need it, not wait until it is beyond your ability to help.

We are seeing all of the problems of the developed world thrown upon a very small country, a country that is made up of three islands - each island having development at considerably different stages of development - but all having problems. Even in the very undeveloped or very slightly populated Little Cayman, they have their problems. Cayman Brac has problems, I am very glad to a much lesser degree than Grand Cayman, but nevertheless, problems exist there as well.

Government has done much to provide counselling service and establish facilities within the Islands but I hasten to say most of these facilities have been naturally in Grand Cayman. I have repeatedly stood in this House and asked that the counselling services to Cayman Brac be further developed on a more frequent basis in order that we can prevent many of the problems that other representatives for the Island of Grand Cayman have to deal with, that those of us representing Cayman Brac and Little Cayman are not faced with to that extent.

But I think we, as Caymanians in general, are tending to forget the less fortunate people so I think it is our responsibility not to depend entirely on Government but to put forth individual effort within our community. The churches and the social and services clubs have done much but when it comes to dealing with domestic violence, I know from personal experience on many occasions the Law has had to tell one in the past, it can do nothing about it because that is a domestic quarrel and they cannot get involved in it. It is my understanding that this Law will now make that not the case and certainly it will be able to help.

We see a deterioration in our family unit and that is what is causing the problems in our society. The parental guidance that was once so evident all over these Islands is now almost non-existent. It is a responsibility of parents to guide their children and very often if you talk to one parent the blame is put on the other and it goes vice-versa.

It is my hope that this Bill, no doubt from the support it has received this morning, will pass and when it becomes Law, all future amendments which will be made to it, will enable this country to eliminate much of the domestic violence and the sufferings which we have seen in our little small group of Islands.

Again, I congratulate the Government for bringing this and look forward to the benefits which the country will derive from this Law.

MADAM SPEAKER: If there is no further debate, I would ask the Honourable Member if he would like to reply?

HON. D. EZZARD MILLER: Yes, Madam Speaker. I would like to thank Honourable Members for their grudging support, and for taking the opportunity to seek political mileage, not only for themselves, but for their future running mates. I intend to deal at some length about the unjustified criticism of the delay in bringing this legislation and also the unsubstantiated claim that it is represented in the motion which they brought in 1990.

Let me first take the opportunity to explain to the public how this Domestic Violence legislation is going to work and what specifically the Law does. The Bill seeks to confer upon a Summary Court the power to make certain orders in relation to domestic violence, a specific form of violence. The Third Elected Member [for George Town] requested certain expansion. He did himself a favour, in fact, of identifying that some of what he wanted done, is done and addressed, and has to be addressed in other legislation and not in this piece of legislation. The Juvenile Law, the Penal Code and three other pieces of legislation now before Parliament deal with other benefits and rights for children.

Clause 2 simply provides a list of the definitions for certain terms used in the Bill. Clause 3 allows a magistrate to make certain orders on application of either party to a marriage where the magistrate is satisfied that violence has been used or threatened against the applicant or a child of the marriage.

Madam Speaker, some Members were concerned about emotional violence. I think that this Law goes as far as legislation can go in terms of dealing with the threats. When it comes to emotional violence, I do not think that is something that can be addressed in legislation. That has to be addressed through counselling services to both parties and that is provided through the Cayman Counselling Centre at the present time in their family programmes. We have a part-time psychologist as well as access to the Hospital psychiatrist involved in this whole business of counselling in emotional disturbances from threats or other problems within the family setting.

This Clause also includes requiring the respondent and the court to deal with the respondent not to use violence against the applicant or a child of the marriage and to leave and not enter the matrimonial home. Prior to this I think the only way to achieve that was through a legal separation agreement or through divorce proceedings. This legislation is intended to allow the complainant to ask that the person who is doing the violence be removed from the matrimonial home so as to prevent a reoccurrence.

Clause 4 allows a magistrate to make interim orders without hearing the respondent where there is imminent danger of violence. In other words, if somebody complains about an imminent threat of violence, the magistrate can make the order to remove the person from that environment

even without hearing that person's side of the story.

MADAM SPEAKER: At this time we will take the luncheon break. The House will be suspended until 2:15.

AT 12:48 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:18 P.M.

MADAM SPEAKER: Proceedings are resumed. The Honourable Member for Health and Social Services concluding the debate on a bill entitled The Summary Jurisdiction (Domestic Violence) Bill, 1992.

HON. D. EZZARD MILLER: Madam Speaker, when we took the break I was dealing with the law, trying to explain for the benefit of the listening public and to some Members on the other side who spoke on the Bill, how it is envisaged that the Law would work. We had reached as far as Clause 4, where I was talking about the ability of the court to make an interim order in case of an emergency without even hearing the case of the person being complained against.

Clause 6 allows a magistrate to revoke or vary an order on the application of either party to the marriage. Clause 7 of the Bill provides for a penalty for not complying with any provision of an order. And, Madam Speaker, Clause 7 sets that penalty as:

"7.(1)A person must not fail to comply with any provision of an order applicable to him.

Penalty: Fine not exceeding $500 or imprisonment for a term not exceeding 6 months.".

Clause 8 allows a police officer powers to arrest without warrant any person who breaches certain provisions of an order or where it is necessary to do so to prevent certain other behaviour. An arrested person will be dealt with in accordance with section 19 of the Bail Law which provides that such a person will normally be released on bail unless, for example, he is likely to commit another offence. This includes continuing to break any provision of an order made under this Law.

That section deals with the problem which existed with the legislation as Members know which was drafted in early 1990 for Domestic Violence. When we had the administrative problem of having to incarcerate people complained against, arrested by the police from Friday until Monday morning, or in the case of a Public holiday, maybe as long as Tuesday. That was part of the administrative problem identified by the Justices when this Bill which was drafted in early 1990, not after any motion brought by any Backbencher to tell me and the Government what to do and when to do it. Much earlier than that and I will deal with that when I get to their motion.

Clause 9 makes it clear that an order under this Law does not affect any interest of any person in the matrimonial home. In other words, Madam Speaker, if the order says you cannot go back there, that does not mean that you use any economic claim or financial claim to the matrimonial home. Clause 10 allows the Summary court rules to be made for the purpose of the Law.

Quite frankly, the Law is based mainly on sections 16, 17, and 18 of the Domestic Proceedings and Magistrates Court Act, 1978 and section 25 3 (d) and (e) of the Police and Criminal Evidence Act 1984, both of the United Kingdom. We have my learned friend, the Third Elected Member for George Town, who is a lawyer and they keep up-to-date with all the laws being formulated and passed in the United Kingdom, (this is based on a 1978 Law) and he comes here and chastises me about the timeliness and the tardiness in bringing the legislation. He could have brought this in Cayman in 1979.

As I said in moving the legislation, we do not pretend that this is the be all and end all to deal with any and all domestic problems in the Cayman Islands. As I said this is but a first step and much is left to be done in the terms of legislation in other areas and also in putting in place administrative services to deal with these kinds of problems.

Now, Madam Speaker, let me deal with the representations of the three Members who spoke, supposedly in favour of the legislation. The Members of the Backbench have said they support the Bill and that the Bill is long overdue. I think the First Elected Member for Bodden Town used words to the effect that it could only be aptly described as a late attempt to address a major issue, a need for the society. The Third Elected Member for West Bay claimed that he brought (of George Town, Madam Speaker, I apologise to the Third Elected Member for West Bay, he did not even see fit to speak on the Bill), the Third Elected Member for George Town claimed that this Bill was brought as a result of some motion he brought and was seconded by the First Elected Member for Bodden Town. The First Elected Member for West Bay was all confused about the motion and claimed it was done in 1991, after he attended some conference in Trinidad. I do not know whether his attendance at the conference was a year out of whack, or whether the motion was a year out of whack. They have some magical and mysterious powers over there when it comes to what needs to be done to this country.

The Third Elected Member for George Town also went on to identify one Member of that team that he is running with in George Town. The team, as I understand it, of himself, Doctor Tomlinson, Mr. Eldon Rankine and Mrs. Berna Murphy, and he claimed that Mrs. Berna Murphy had achieved in doing to me and the Government what the Backbenchers could not do in two years. Now I want to make it abundantly clear that this Member responsible for bringing this legislation, responsible for this Portfolio, has had absolutely no discussions with Mrs. Berna Murphy on this legislation. Period! I received no representation from

her other than that she signed after the fact, a paper prepared by the Business and Professional Women's Club. I had to look hard to find her name.

So he should not try now to get political mileage for her on this issue because their motion does not have anything specific to say about domestic violence, nor maintenance orders. Let us look at their motion, because they not only claim that in here, they have claimed that outside on CITV and in other areas of the press. They wrote letters to the press, signed that they had brought this thing forward way back when, in ancient times, and I had done nothing. This is the motion that they brought, Madam Speaker.

Motion 9/90 - Select Committee Rights of Children, Young Persons and Women. I think the Third Elected Member of George Town said it was on the 20th of July. I agree with him on that - 1990. It says:

"PRIVATE MEMBER'S MOTION NO. 9/90

SELECT COMMITTEE
RIGHTS OF CHILDREN, YOUNG PERSONS AND WOMEN

WHEREAS Government has promised from some time to review the Juvenile Legislation and has not brought forward new Legislative proposals;

AND WHEREAS the Caribbean Parliamentary Symposium on the Rights of the Child, attended by the seconder of this motion and two other Members of this honourable House, passed a resolution on the 3rd of October, 1989, which noted that inter alia:

> "Children are more vulnerable than any other group of human beings and therefore need comprehensive legal and social protection, as set forth by the convention on the rights of the child, and the commitment of Government leadership at all levels, including the very highest.";

AND WHEREAS the Symposium further recommended inter alia:

> "The creation, within each country, of a parliamentary committee to review national legislation and propose measures aimed at ensuring a better and more widespread protection of children, women and the family."; and
>
> "That the Governments of the region adopt a convention on the rights of the child at the 1989 United Nations General Assembly, and encourage its prompt ratification in order to work for a better future of the children of the world.";

NOW THEREFORE BE IT RESOLVED THAT this Honourable House appoint a Select Committee of the Elected Members and the Honourable Second Official Member to study and make recommendations for the introduction of comprehensive legislation and develop programmes, particularly through the media, to prevent children, young persons and women from being victims of physical and emotional violence, neglect, sexual abuse, drug and alcohol addiction.".

Let us look at the operative phrases in their "Whereases". It says, "Whereas the creation within each country of a Parliamentary Committee", to do what? To review national legislation, and based on that review proposed measures aimed at ensuring a better and more widespread protection of children, women and the family.

The second part of that "whereas", that the Governments of the region - do what? Adopt a convention on the rights of the child at the 1989 United Nations General Assembly and encourage its prompt ratification in order to work for a better future of the children of the world. Note, the convention had not yet been ratified. Now, Madam Speaker, the mover of the motion talked about a lot of things but he did not have very much to say about domestic violence. I cannot find any reference to it. Now let us look at my reply to the motion and what did I say? I said, and I quote: "However this motion, although it is well intended, is too late as the Government has already acted.".

Note, the Government has already acted on these matters as I will demonstrate during my contribution to the debate. To deal with the first "whereas", that is the Government's promise to update the Juvenile Law, which it has not yet done. In response to that, the House and the public at large is well aware that this updated legislation has been long in coming.

That Law was passed in September of that same year, this motion was brought in July. When the motion was on the floor the Law was circulated to the Departments for input and to ensure that it complied with this very International Convention that they were talking about us adopting. I said that in my debate. I can also assure Members that one of the International Conventions, which is being considered and in respect of which all compliance possible will be made, is the United Nation Conventions on the Rights of the Child.

I went on to quote: "The Government also supports the second "whereas" which recites the resolution passed on the 3rd of October 1989, of the Commonwealth Parliamentary Association Conference which reads as follows", and that was part of their motion. I went on to explain to Members, "However, the Government has already done" (this is on the 20th of July, 1990) "what is being asked by the third "whereas" through the expert and learned Chambers of the Honourable Attorney General our laws have been

reviewed and were not found to be in any disgraceful state relating to those conventions.".

By the middle of January 1990 (this is July 1990), all this had been completed and Executive Council advised that the Governor should indicate to the United Kingdom that the Cayman Islands wished to be joined in there, that is the United Kingdom ratification of the United Nations Conventions of thee Rights of the Child, provided that suitable reservations can be made in respect of the Government's concern over the immigration issues and if necessary in the other issues identified by the Attorney General.

We all know that our Immigration Law cannot comply with the international rights of children because we make special restrictions on children born in Cayman, not of Caymanian parentage. This action to review this convention and indicate to the United Kingdom was done in the middle of January 1990, six months before this motion was brought here. I went on to explain the various articles of the convention which the Attorney General had indicated the Cayman Islands should express to the United Kingdom some reservation about and they included things like boy soldiers, articles to the right of privacy.

Article 27, dealt with the obligations of all appropriate manners to secure the recovery of maintenance for children from parents, both within the state and from abroad. We had not complied with that at that time. The jurisdiction of our Summary Court to award maintenance against all illegitimate children is somewhat limited - corrected that today. In the context of a matrimonial breakdown the Grand Court does have wide powers to order maintenance. The enforcement of international maintenance orders is recognised in principle by the application of the United Kingdom Maintenance Orders, Reciprocal Enforcement Act, 1972 to us. At least the index of Cayman Laws shows it as applying to us although it does not cite a Statutory instrument. I took care of that today too.

Honourable Members must be aware that it is not the only job of the Legal Draftsman to draft laws for my Portfolio. We have all seen the extensive legislation that has been drafted since this and these Members getting up and talking they called for it in July 1990, and I have not done anything about it. I concluded by saying, "Therefore with this motion being after the fact, the Government sees no need to appoint a Select Committee of the Elected Members and the Honourable Second Official Member to study and make recommendations for the introduction of comprehensive legislation to cover this matter. You hear them over there touting their chests about they won the vote. Yes, they won the vote, but how? Because two Members of Executive Council were out of the Parliament at the time.

Madam Speaker, their motion - they won the vote you know! What is the next step? Ask the President to select a chairman for the committee. Did they do that? No! They had no intention, the motion did not ask for this or any Member of the Government to be a chairman. Their next step was to ask the President of the Assembly. You see Madam Speaker! Then they are talking about me pandering for votes. They had achieved their public discussion and their voices on the radio. No chairman was ever appointed to the committee.

MR. W. McKEEVA BUSH: Madam Speaker, I wonder if the Member would say what our Standing Orders require? Or whether you could inform him that the Standing Orders require that the Presiding Officer appoints a member of a Select Committee?

MADAM SPEAKER: Well, I think all Members know that once a committee has been appointed it is the Presiding Officer who does appoint the chairman.

HON. D. EZZARD MILLER: Madam Speaker, that is exactly what I said. All I said was the Presiding Officer appoints the chairman. I said if they had the interest of the people at heart (because you know how much respect they had for that Presiding Officer), they would have insisted there and then with their *Erskine Mays* and their Standing Orders that the chairman be appointed. But they had achieved their objective - public credit for doing nothing. Remember that Member does not remember whether he is in 1991 or 1990, so we have to understand that and accept that.

MR. W. McKEEVA BUSH: On a Point of Order, Madam Speaker. At the relevant time I am going to make an explanation under Standing Order 31, if you, as Presiding Officer, permits - Standing Order 31.

MADAM SPEAKER: Why do you not do it now, Honourable Member? You can do it now, I permit you to do it now.

MR. W. McKEEVA BUSH: Under Standing Order 31?

MADAM SPEAKER: You have risen on a Point of Explanation and the Member has sat down. I will allow you to make your explanation now.

MR. W. McKEEVA BUSH: Madam Speaker, the Member has referred to a comment I made in my debate regarding the time of the motion. What I said was, that I said when I came back from Trinidad that I would have moved a motion but two Members had moved it and there had been no action on it. I think that is very, very clear. I do not see how the Member can confuse the issue by saying I do not know what I was talking about. I think I was clear enough to say that I wished to move the motion but it was already moved and I could have moved one if there was no action.

MADAM SPEAKER: Thank you, Honourable Member, you have made your

explanation. Would the Honourable Member for Health and Social Services continue the debate?

HON. D. EZZARD MILLER: Yes, Madam Speaker. In terms of the Member's contention that this is a last ditch effort on this Government's part and a very late effort, the first draft of this Bill, in its final draft form, was circulated to the Chief Justice in early 1990; we received comment back in the middle of the latter part of 1990, explaining the problems they saw with the difficulty of administering the legislation in its present form.

Then it was up to the good offices of the Honourable Attorney General to find a legal way around that and that opportunity presented itself when, after the passing of the Bail Law, which gives the policeman the right to release someone on bail (because we have to admit that most of this domestic violence probably takes place on weekend when the courts are not in session), we have had many complaints in these Honourable Chambers of the police incarcerating people for what some Members regard as long periods of time waiting for appearances in court. The justices were quite right in that if we arrested somebody on a Friday afternoon or a Friday night, and Monday was a holiday they would spend a couple of days in the lock-up and it might not have been a very serious offence. Now, it is up to the police officer who can release the person on bail, under suitable conditions or if he thinks the person will continue to be a threat in a situation he can keep him in the lockup.

The Third Elected Member for George Town asked whether the Government would consider expanding certain sections of the law to cover what I believe he identified, as in the cases of child abuse and violence concerning children, "next friend" which, Madam Speaker, I guess is some legal term that has some significance in a court of law, I really do not know. But the advice I have is that that is better addressed in other legislation. In fact, that Member himself knows that when he was saying it because he picked up the Juvenile Law, which he claims is so inadequate and identified where the Juvenile Law allows that protection and intervention for the children. Then he tried to present that as if that was some process that would take a long time to complete.

That process under the Law is as immediate as the Social Worker wants it to be. There is no reason for bureaucratic or legal delay in removing a child from a situation of child abuse under the Juvenile Law. So that is not something that has to take days or months to process. I would go on to add that in his reading of the section on Cruelty to Juveniles, the 1990 Juvenile Law is fairly adequate in its provisions. I would like to read it, the first and second sections to refresh Members' memories:

> "41. (1) Any person who having the custody, charge or care of any juvenile, wilfully assaults, ill-treats, neglects, abandons or exposes that juvenile, or causes or procures him to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause that juvenile unnecessary suffering or injury to health (including injury to or loss of sight, hearing, limb, or other organ of the body, and any mental derangement), is guilty of an offence, and is liable -
>
> (a) on conviction on indictment of a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding 2 years, or both;
>
> (b) on conviction by a Summary Court to a fine not exceeding three hundred dollars or to imprisonment for any term not exceeding 3 months, or both;
>
> and in addition the Court may order such convicted person to attend Counselling Services for a period not exceeding 2 years.
>
> (2) For the purposes of this section -
>
> (a) a parent or other person legally liable to maintain a juvenile shall be deemed to have neglected him in a manner likely to cause injury to his health if, being able to do so, that parent or other person refuses to consent to medical treatment which is specified as necessary for the juvenile by the Chief Medical Officer or fails to provide adequate food, clothing, rest, medical aid or lodging for him;
>
> (b) where it is proved that the death of a child under three years of age was caused by suffocation (not being suffocation caused by disease or the presence of any foreign body in the throat or air passages of the child) while the child was in bed with some other person who at the time of going to bed was under the influence of drink or any drug, then that other person shall be deemed to have neglected the child in a manner likely to cause injury to the child's health;".

[That can even include nicotine and tobacco smoke, that is a drug.]

> "(c) whoever having the custody, charge or care of any juvenile under the age of seven years, allows that Juvenile to be in any room or yard containing a gas, oil or petrol stove, or open fireplace, not sufficiently protected to guard against the risk of that juvenile being burnt or scalded without taking reasonable precautions against the risk, and by reason thereof that juvenile is killed or suffers serious injury, is deemed to have neglected that child in a manner likely to cause injury to its health.".

It goes on with several other sections. There are several sections in this Juvenile Law for which we have not been able to put the administrative arrangements in place. As an example the protocol for sexual abuse.

He also talked about other "next friends" like aunts and nieces and I think that maybe some improvements to the Guardianship and Custody Law, or to the Penal Code will help in that and as I said in moving this legislation, this is but the first step. That Member lamented the fact that I had not brought the Bill through a Select Committee to allow input and referred it to them months in advance for their input. May I remind them of the time I wasted in referring the national Health Insurance legislation to them for a year without input? Madam Speaker, my job is to get it before Parliament and I cannot rely on them to give input. They want to give it here where the people can hear them chastise me and try to keep me from getting elected while they think they are getting themselves elected. That is the process they have operated for four years.

I must emphasise that for the large part the emotional violence has to be treated through counselling and we do provide those services through the Cayman Counselling Centre and their family programmes. They have access to proper qualified counsellors and I think it is going to be very difficult to legislate against emotional violence, other than the threat.

He also hoped that a future Government would more readily move to bring legislation when urged by certain organisations, well we know he was not including himself in that Government because he was the Member from 1976 to 1984, the Domestic Violence Law on which this is based is a 1978 United Kingdom Statute and he did nothing about it. Two years was too little time for the Planning Review we heard this morning, I guess seven years was too short a time to draft the Domestic Violence legislation.

We are going to see that the future Governments will respond as this Government has done because this Government is going to be the Government in the future as well, for some time.

I am not really too worried about the First Elected Member for West Bay's claims that I am only pandering to votes and I am not going to get the votes. I believe I am going to get my share of votes in my constituency. I hope that his pandering gets him his share of his votes in West Bay but I have my doubts. I will tell you what, Madam Speaker, I am going to do my best to see that he does not get any.

The First Elected Member for Cayman Brac mentioned in his debate the need for improved services to Cayman Brac. That is a matter that we have had under review with his concurrence and the Second Elected Member for Cayman Brac as well, for some time. We have put in place a programme for the Cayman Counselling Centre to visit the Brac, along with the other medical specialties that visit once a month. We have in fact almost concluded negotiations with a Bracker to head it up, a Major George Walton, who is retiring this year from the U.S. Army, who is a qualified Counsellor and also has provided duel services to the army in health promotion. We expect to have him in post in January 1993, and he will also, in addition to doing the counselling, take care of the health promotion programme for Cayman Brac.

I think it is fair to say that the Government has done its part in trying to deal with the problems in society of children, women and other people who need help which my Portfolio provides and this package of legislation brought to Parliament today is just one more step in the direction of trying to provide adequate support and maintenance services for the people which we represent.

I recommend the Bill to this Honourable House.

MADAM SPEAKER: The question is that a Bill entitled the Summary Jurisdiction (Domestic Violence) Bill, 1992 be given a Second Reading.

QUESTION PUT: AGREED.

THE SUMMARY JURISDICTION (DOMESTIC VIOLENCE) BILL, 1992, GIVEN A SECOND READING.

THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 1992

CLERK: The Trade and Business Licensing (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable First Official Member.

SECOND READING

HON. JAMES M RYAN: Madam Speaker, I beg to move the Second Reading of the Trade and Business Licensing (Amendment) Bill, 1992. The Memorandum of Objects and Reasons reads as follows:

> "This Bill amends the Trade and Business Licensing Law (Revised) consequent on the enactment of the Immigrating Law.
>
> Clause 1 provides the short title to the Law.
>
> Clause 2 provides for the Law to come into force (or be deemed to have come into force) on the same day as the Immigration Law.
>
> Clause 3 defines the 'principal Law' when used in the Bill to mean the Trade and Business Licensing Law (Revised).

Clause 4 amends section 2 of the principal Law to redefine "Board" consequent on the enactment of the Immigration Law.

Clause 5 repeals and replaces section 7 of the principal Law to make it clear that the Board when dealing with applications under the Law must generally follow the procedures and policies prescribed by the Immigration Law.

Clause 6 amends section 8 of the principal Law consequent on the enactment of the Immigration Law and the amendments to the Local Companies (Control) Law (Revised).

Clause 7 replaces section 14 to increase the penalties.

Clause 8 provides a penalty for a breach of section 15(1) of the principal Law. Presently it lacks one.

Clause 9 updates a reference to a Law referred to in the Schedule to the principal Law.".

Madam Speaker, this Bill, together with the Local Companies (Control) (Amendment) Bill, 1992, which will be moved separately, provides a package of Bills governing the licensing and control of Immigration, Local Companies and Trade and Business Licensing in the Cayman Islands. The amendments contemplated in this Bill are generally tidying up and consequential amendments arising out of the comprehensive review of the principal legislation. This review was undertaken by a Select Committee. The opportunity has been taken to increase penalties to more realistic levels. This Bill provides that it shall come into force or be deemed to have come into force on the same day on which the Immigration Law is brought into force. The date for this is being considered for October the 1st.

Madam Speaker, accordingly I commend this Bill to the Honourable House be given Second Reading.

MADAM SPEAKER: The question is that a Bill entitled the Trade and Business Licensing (Amendment) Bill, 1992 be read a second time. The motion is open for debate. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. A short while ago the Member for Health tried to announce my political platform for me. I would just like to point out that after this Legislative Assembly I will begin further talks with other George Town candidates who have similar views to me and at a later date I will announce who I will be running with in due course. I do not need the help of the Member in doing this.

MADAM SPEAKER: Honourable Member, you did not ask whether you could make that explanation. That is not allowed unless permission is granted because we are now dealing with the Trade and Business Licensing (Amendment) Bill, 1992.

MR. TRUMAN M. BODDEN: Yes, Madam Speaker, but nor did the Member for Health ask you to make the announcement which he made against me. He made an announcement.

MADAM SPEAKER: That was in a course of debate and if he brought that in now this is a different thing. The debate on that has already finished and we are starting a new business. If you want to make an explanation you could have asked me at that time, or risen on a point of explanation or elucidation. Now please are you going to debate the Trade and Business Licensing Bill?. Thank you.

MR. TRUMAN M. BODDEN: Sure, as you rule Ma'am. This Bill, Madam Speaker, is another good Bill that I support. We have now dealt comprehensively with the Protection Law, or the Immigration Law as it is now called. The Committee has gone on to deal with this and the subsequent Bill for the Local Companies (Control) Law, that will be coming before this House.

I think it is important that constant review be made to these Trade and Business Licence and the three group of Laws that make up the Trade and Commerce Licensing within the country. What has been done in many respects is really to bring this more in line with the new Immigration Bill such as stopping references to the Protection Board and bringing in references to the Immigration Board.

Penalties have been increased, as the Honourable Member has pointed out, and I hope that when these last amendments to this and the other Law are brought in that after a period of time, whether that is six months or a year, that we have had to see the workings under the different Laws relating to Immigration and Trade, that at that stage any further adjustments that may be necessary could be brought in at that time.

This Law is not a very complex one, it is simple in many respects and fairly short but it is a very important Law. I think that also with the different amendments from time to time that had taken place to this Law especially (it came out, I think in March of 1972), it probably has been amended more times than nearly any other Law other than the Road Traffic Law. It is now going to be amended again and it had been revised. I would really just ask the Honourable Second Official Member, if naturally the Government would keep revision under review in relation to the Laws. I know he does, especially those that affect people who have to work under these that many times will look at the Law and do not go to the amendments because most people operate under this Law without going to lawyers. I know he does that and I would just merely

put in a further request.

Other than that, I support this and I must say at least I can support this with the clear knowledge that hopefully the Government is not going to get up again and go on as if we were opposing the Laws which we have basically agreed to all morning despite the constant attacks, especially on me in relation to Laws on which I support Government.

Thank you.

MADAM SPEAKER: If there is no further debate would the Honourable Member wish to exercise his right of reply?

HON. JAMES M RYAN: Thank you, Madam Speaker. I want to thank the Honourable Third Elected Member for George Town for his comments on this and for his support, also to other Honourable Members for their silent support of this. I, accordingly, commend this Bill to this Honourable House.

MADAM SPEAKER: The question is that a Bill entitled the Trade and Business Licensing (Amendment) Bill, 1992 be given a Second Reading.

QUESTION PUT: AGREED.

THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 1992, GIVEN A SECOND READING.

THE LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 1992

CLERK: The Local Companies (Control) (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable First Official Member.

HON. JAMES M RYAN: Thank you, Madam Speaker. I beg to move the Second Reading of the Local Companies (Control) (Amendment) Bill, 1992. This Bill is the final companion piece of legislation which together with the Trade and Business Licensing (Amendment) Bill, 1992, makes up the package. It will be administered by the Immigration Board established under the recently enacted Immigration Law, 1992, which is intended to be brought into force in the near future.

It is of course proposed that the companion legislation should also come into force at the same time. I believe the Bill is sufficiently important that I go through the Memorandum of Objects and Reasons and I accordingly crave your indulgence.

"This Bill amends the Local Companies (Control) Law (Revised) to take account of the enactment of the Immigration Law and to make more specific requirements and enforcement procedures in respect of local companies that are allowed to carry on business on the Islands without obtaining a licence under the Law.

Clause 1 provides the short title to the Law.

Clause 2 provides that the Law shall come into force (or be deemed to have come into force) at the same time as the Immigration Law.

Clause 3 defines references in the Law to the "principal Law" as meaning the Local Companies (Control) law (Revised).

Clause 4 amends section 2 of the principal Law to redefine certain terms consequent on the enactment of the Immigration Law.

Clause 5 amends section 4(1) of the principal Law to provide that a local company can carry on business on the Islands without a licence granted under the Law if when doing so it is complying with the requirements of the new section 4A.

Clause 6 includes in the Law the new section 4A (which replaces the present schedule to the Law) and sets out the Caymanian participation that is required in a local company before it can carry on business on the Islands without a licence.

Clause 7 amends section 5 of the principal Law and sets out amendments consequent on the enactment of the new section 4A.

Clause 8 amends section 10 of the principal Law and specifies additional matters to be taken into account by the Board when considering whether or not to grant a company licence to carry on business on the Islands.

Clause 9 amends section 13 of the principal Law to give the Board additional powers to investigate whether or not a local company is complying with the requirements of the new section 4A.

Clause 10 amends section 21 of the principal Law to provide that the Governor in Council is to make regulations (not the Board) and to specify additional matters in respect of which he may make regulations.

Clause 11 replaces section 25 to give teeth to the new provisions of section 13 (see clause 9) by providing that anyone who fails to appear before the Board when summoned to do so, or who lies to the Board is guilty of an offence. The existing penalties are also increased.

Clause 12 incorporates a new section 27 into the Law which makes it clear that the confidentiality obligations placed on the Board by the Immigration Law apply in respect of the principal Law.

Clause 13 repeals the schedule to the principal Law - its revised provisions are now included in the new section 4A.

Clause 14 contains a saving for certain local companies.".

Madam Speaker, the Immigration Board should find easier administration of these new provisions which seek to bring clarity to the legislative intent in respect of regulating local companies and companies with foreign and Caymanian participation.

The proportion of Caymanian participation required in a company before it may carry on business without a licence remains at 60 per cent. Companies with less than 60 per cent Caymanian participation are required to be licensed under this Law. These amendments seek to make this licensing procedure effective and unambiguous. It seeks to tighten the provisions relating to the shareholding and directorships of companies. The penalties have also been substantially increased. In future, should a Caymanian be found guilty of "fronting", which is the expression used when a Caymanian enters into an agreement with a person who is not a Caymanian, in an effort to satisfy the provisions of this Law, fraudulently, this constitutes an offence and is what is commonly referred to as "fronting". The penalty for this in the amendment proposed is a fine not exceeding $30,000 or imprisonment for a term not exceeding three years.

This Bill, it is hoped, will ease the administration of licensing under this Law and facilitate an efficient and effective immigration control on companies. This Bill is accordingly recommended to this Honourable House for a Second Reading.

MADAM SPEAKER: The question is that a Bill entitled the Local Companies (Control) (Amendment) Bill, 1992, be given a Second Reading. The motion is open for debate. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: This is, as the Honourable Member has mentioned, the last of the three Bills that make up this group of Laws it deals with Trade and Business and Immigration.

I support the Bill, even though I believe that some of the areas that deals with are probably the most difficult to legislate in relation to. The sections that are dealing with matters such as "fronting" as it is commonly called are somewhat difficult not only to legislate for but also to deal with controlling from the point of view of the Board. The major sections, perhaps, or the major areas of change that the Honourable Member has mentioned, I would only like to deal with a few of these briefly.

I think that the section which repeals and replaces section 25 which allows the Board to have further powers when requiring information in relation to a company and any agreement or arrangement, whether binding or in law, or in or on or only, and it is that aspect is where I say the difficulty comes in perhaps with legislating is one which hopefully will reduce, if not abolish the "fronting" that goes on from time to time.

There are very clear ways in which Caymanians can benefit under this Law by going about it in a bona fide and proper way and genuinely taking in partners and the Law does not affect that at all. I would like to point that out clearly. What it is dealing with, is where the screening that goes with the Local Companies (Control) Licence which is where the company is more than 40 per cent foreign owned, comes into play. There is nothing wrong with a genuine partnership, properly licensed, carrying on business and this does not materially affect that. It is only in relation to where there is a position of "fronting" and indeed section 13 has also been amended to allow further powers there for the Board to deal with this matter.

The section on confidentiality I think is good. It has been also put in the Immigration Law in relation to the performance of certain duties of the Board (because there are instances when I believe that some matters have to be kept confidential), I say this guardedly because I have always been more tended towards having matters dealt with public, which can be dealt with publicly, but many times if we are dealing with wild allegations that, if published, would otherwise be defamatory and thus actionable at law, then some semblance of sense and protection to the business community and to persons who are applying for licenses under this law has to be given.

The position in Cayman and in other countries is that the Immigration Boards sit in private, in fact, the same as Boards of companies do and in due course facts are published as to the reasons or not in a general form, at least in relation to Immigration matters. The section that moves the power to make regulations from the Board to the Governor in Council, I have no problem with. The duty of confidentiality, I would like to stress again is one that no one likes and I do not like it either but I think there are times when this does become necessary and indeed the new Law on Immigration has opened up the Board more publicly from the respect that now general reasons are given for decisions made by the Board. It is really this

aspect of it that I know there has been objection to having the meetings confidential when there are no reasons generally given in relation to a matter.

Other than that, I think that the Law is good. I think it will go a good distance to updating this Law and I would hope, as I mentioned with the last Bill, that in due course all three of the Laws will be reviewed at earlier periods perhaps than we did and I know we have been in here for four years and we took a long time reviewing it.

Sometimes more important things such as the Constitutional Select Committee intervened in this respect. I support the Bill and I commend the Member for bringing this, it is the work of the Select Committee and I am sure that Members of the House support it.

Thank you.

MADAM SPEAKER: If there is no other debate, would the Honourable Member wish to reply?

HON. JAMES M RYAN: Thank you, Madam Speaker. Madam Speaker, I again wish to thank the Honourable Third Elected Member for George Town for his comments and for his support of the Bill and also for the silent support of other Members of the House. Accordingly I commend the Bill to the House.

MADAM SPEAKER: The question is that the Bill entitled the Local Companies (Control) (Amendment) Bill, 1992 be given a Second Reading.

QUESTION PUT: AGREED.

THE LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 1992, GIVEN A SECOND READING.

MADAM SPEAKER: The House will now go into Committee to consider six Bills.

HOUSE IN COMMITTEE AT 3:19 P.M.

COMMITTEE ON BILLS

THE CHAIRMAN: Please be seated. The House is now in Committee. With the leave of the House it is assumed that as usual, the House will authorise the Honourable Second Official Member to amend any minor printing errors, etcetera, to these Bills.

The first Bill is the Maintenance (Amendment) Bill, 1992, and the Clerk will now read the Clauses.

THE MAINTENANCE (AMENDMENT) BILL, 1992

CLERK: Clause 1 Short Title.
Clause 2 Section 6 amended.

THE CHAIRMAN: The question is that Clauses 1 and 2 do stand part of the Bill. If there is no debate, I shall put the question.

CLAUSES 1 AND 2 PASSED.

CLERK: A Bill for Law to amend the Maintenance Law (Revised).

THE CHAIRMAN: The question is that the title do stand part of the Bill.

TITLE PASSED.

THE MAINTENANCE ORDERS (ENFORCEMENT) (AMENDMENT) BILL, 1992

THE CHAIRMAN: The next Bill is the Maintenance Orders (Enforcement) Law (Revised).

CLERK: Clause 1 Short title.
Clause 2 Interpretation.
Clause 3 Section 2 amended.
Clause 4 Section 12 repealed and replaced.

THE CHAIRMAN: The question is that Clauses 1 through 4 do stand part of the Bill. If there is no debate I shall put question.

CLAUSES 1 THROUGH 4 PASSED.

CLERK: A Bill for a Law to amend the Maintenance Orders (Enforcement) Law (Revised).

THE CHAIRMAN: The question is that the title do stand part of the Bill. I shall put the question.

TITLE PASSED.

THE CHAIRMAN: The next Bill is the Affiliation (Amendment) Bill, 1992.

THE AFFILIATION (AMENDMENT) BILL, 1992

CLERK: Clause 1 Short title.
Clause 2 Interpretation.
Clause 3 Section 5 amended.
Clause 4 Section 12 repealed and replaced.

THE CHAIRMAN: The question is that Clauses 1 through 4 do stand part of the Bill. If there is no debate I should put the question.

CLAUSES 1 THROUGH 4 PASSED.

CLERK: A Bill for a Law to amend the Affiliation Law, 1973.

THE CHAIRMAN: The question is that the title do stand part of the Bill.

TITLE PASSED.

THE CHAIRMAN: The next Bill is the Summary Jurisdiction (Domestic Violence) Bill, 1992.

THE SUMMARY JURISDICTION (DOMESTIC VIOLENCE) BILL, 1992

CLERK: Clause 1 Short title.
Clause 2 Interpretation.
Clause 3 Matrimonial orders.
Clause 4 Interim matrimonial orders.
Clause 5 Supplementary provisions.
Clause 6 Power to vary or revoke order.
Clause 7 Offence for failing to comply with order.
Clause 8 Power to arrest without warrant.
Clause 9 Matrimonial home.
Clause 10 Summary court rules.

THE CHAIRMAN: The question is that Clauses 1 through 10 do stand part of the Bill. If there is no debate - Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. I mentioned earlier one area that I wonder if the Government could look at. In section 3(1) where we have: "3. (1) Either party to a marriage may apply to a magistrate for an order under this section.". Then it goes to set out the sections relating to the application. I am wondering whether that could be widened perhaps to say either party to a marriage or a guardian or a next friend, in the case of a juvenile, or whether this is something the Honourable Member may wish to think about-and leave for a later time or something?

THE CHAIRMAN: Honourable Member, Mr. Miller.

HON. D. EZZARD MILLER: Madam Chairman, the legal advice I have is that it is better to do that under other legislation as opposed to trying to expand this and I will give an undertaking to look at those areas of legislation.

MR. TRUMAN M. BODDEN: That is fair enough, Ma'am. Thank you.

THE CHAIRMAN: Thank you. If there is no further debate, I shall put the question.

CLAUSES 1 THROUGH 10 PASSED.

CLERK: A Bill for Law Relating to Domestic Violence.

THE CHAIRMAN: The question is that the title do stand part of the Bill.

TITLE PASSED.

THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 1992

THE CHAIRMAN: The next Bill is the Trade and Business Licensing (Amendment) Bill, 1992.

CLERK:
Clause 1 Short Title.
Clause 2 Commencement.
Clause 3 Interpretation.
Clause 4 Section 2 amended.
Clause 5 Section 7 repealed.
Clause 6 Section 8 amended.
Clause 7 Section 14 replaced.
Clause 8 Section 15 amended.
Clause 9 Schedule amended.

THE CHAIRMAN: The question is that Clauses 1 through 9 do stand part of the Bill.

Mr. Smellie.

HON ANTHONY SMELLIE: Madam Chairman, we have served notice of a Committee stage amendment in respect of Clauses 6 and 8, and would ask that they be noted at this stage.

THE CHAIRMAN: I am afraid that I do not have amendments. I have an amendment to the Local Companies.

HON ANTHONY SMELLIE: I am sorry. I am getting the order wrong. We are on to the Trade and Business Licence, I am sorry.

THE CHAIRMAN: Yes. That is no problem. If there is no debate, then I shall be the question that Clauses 1 through 9 do stand part of the Bill.

CLAUSES 1 THROUGH 9 PASSED.

CLERK: A Bill for Law to amend the Trade and Business Licensing Law (Revised).

THE CHAIRMAN: The question is that the title do stand part of the Bill. I shall put the question.

TITLE PASSED.

THE LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 1992

THE CHAIRMAN: The Local Companies (Control) (Amendment) Bill, 1992.

CLERK:
Clause 1 Short title.
Clause 2 Commencement.
Clause 3 Interpretation.
Clause 4 Section 2 amended.
Clause 5 Section 4 amended.
Clause 6 New section 4A.

THE CHAIRMAN: The question is that Clauses 1 through 6 do stand part of the Bill and Members have been circulated with a proposed amendment to Clause 6. First of all, as Chairman, permission is granted for consideration of the amendment. I would ask the Honourable Member if he would like to speak to the amendment.

HON JAMES M RYAN: No, Madam Chairman, I think I have circulated the motion and it is just merely a matter of tidying up something that was caught at the last moment.

THE CHAIRMAN: Mr. Smellie, would you like to explain because this was not covered in the general debate.

HON ANTHONY SMELLIE: Yes I will, Madam Chairman.

THE CHAIRMAN: Thank you.

HON ANTHONY SMELLIE: This amendment to Clause 6 would read as follows, if Members were to follow by using the Green Paper Bill, along with the notice. It would be the in new section 4A (3) to read as follows:

> "4A (3) For the purpose of subsection (2) (c) the Directors must serve written notice on the person who is not a Caymanian and beneficially owns more than 40% of the shares in the company requiring him to divest himself of at least so many of those shares as will result in at least 60% of the shares in the company being beneficially owned by Caymanians.".

As originally drafted, the provision in the Bill we considered did not make it absolutely clear that the last person who acquires shares in the company and that acquisition results in more than 40 per cent of the shares been held by non-Caymanians, is a person in respect of whom notice should be given requiring him to divest himself of those shares. This Committee stage amendment makes that clear and that is the objective of the notice.

Thank you.

THE CHAIRMAN: The amendment is as proposed by the Honourable Member and accordingly the proposed sub-Clause 3 would now read:

> "(3) For the purpose of subsection (2) (c) the Directors must serve written notice on the person who is not a Caymanian and whose beneficial ownership of shares in the company results in the percentage of shares in the company owned by Caymanians falling below 60%.".

If you have a question please ask it so we can all understand. Thank you.

Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. I am just wondering whether maybe we should not just add in there requiring him to "divest himself of at least" down to the end, I think typographically we left out that last little piece there.

HON ANTHONY SMELLIE: I have taken on board the point of the Honourable Member, Madam Chairman. May I have just a moment to look at the draft?

THE CHAIRMAN: Certainly.

HON ANTHONY SMELLIE: Thank you. Yes, Madam Chairman, I think it is necessary to add that phrase. In the draft it was very quickly prepared earlier on, that was overlooked so we will need to add a further expression: "requiring him to divest himself of at least so many of those shares as will result in at least 60 % of the shares in the company being beneficially owned by Caymanians.".

THE CHAIRMAN: Would you now please like to read the new amended sections, thank you.

HON ANTHONY SMELLIE: May I have just a moment?

THE CHAIRMAN: Yes.

HON ANTHONY SMELLIE: Thank you, Madam Chairman. Shall we have a final go at this? Thank you. It should read as follows:

> "(3) For the purpose of subsection (2) (c) the Directors must serve written notice on the person who is not a Caymanian and whose beneficial ownership of shares in the company results in the percentage of shares in the company owned by Caymanians falling below 60% and requiring him to divest himself of at least so many of his shares as will result in at least 60% of the shares in the company being beneficially owned by Caymanians.".

I must apologise for this irregularity, Madam Chairman, and we will undertake to have this typed up and handed in to the Clerk, so that the Green Paper can be completely amended.

Thank you.

THE CHAIRMAN: Thank you. If there is no debate on that may I put the question that Clause 6 as amended do stand part of the Bill.

AMENDMENT PASSED.

CLAUSES 1, 2, 3, 4, 5, AND 6 AS AMENDED PASSED.

CLERK: Clause 7 Section 5 amended.

THE CHAIRMAN: The question is that Clause 7 do stand part of the Bill. I shall put the question.

CLAUSE 7 PASSED.

CLERK: Clause 8 subsection 10 amended.

THE CHAIRMAN: Question is that Clause 8 do stand part of the Bill. An amendment has been circulated in respect of Clause 8. Would the Honourable Member wish to speak to this?

HON ANTHONY SMELLIE: I will, Madam Chairman. It is on the face of it explanatory. The Law as it presently stands in section 10, does have a paragraph (f). Clause 8 would amend section 10, among other things by adding further paragraphs but the Clause begins at paragraph (f) and because there already is such a paragraph we are seeking to amend the Clause to begin the lettering at (g) instead.

THE CHAIRMAN: Members have had copies of this amendment. I shall put the question that Clause 10 as proposed to be amended do stand part of the Bill.

AMENDMENT PASSED.

CLAUSE 8 AS AMENDED PASSED.

CLERK: Clause 9 Section 13 amended.
Clause 10 Section 21 amended.
Clause 11 Section 25 replaced.
Clause 12 New section 27.
Clause 13 Schedule repealed.
Clause 14 Saving.

THE CHAIRMAN: The question is that Clauses 9 through 14 do stand part of the Bill. If there is no debate, I shall put the question.

CLAUSES 9 THOUGH 14 PASSED.

CLERK: A Bill for a Law to Amend the Local Companies (Control) Law, (Revised.

THE CHAIRMAN: The question is that the title do stand part of the Bill. I shall put the question.

TITLE PASSED.

THE CHAIRMAN: That concludes proceedings in Committee on six Bills. The House will now resume.

HOUSE RESUMED AT 3:40 P.M.

MADAM SPEAKER: Please be seated. Reports on Bills.

REPORTS ON BILLS

THE MAINTENANCE (AMENDMENT) BILL, 1992

CLERK: The Maintenance (Amendment) Bill, 1992.

HON. D. EZZARD MILLER: Madam Speaker, I have to report that a Bill to amend the Maintenance Law was considered by a Committee of the whole House and passed without amendment.

MADAM SPEAKER: The Bill is accordingly set down for Third Reading.

THE MAINTENANCE ORDERS (ENFORCEMENT) (AMENDMENT) BILL, 1992

CLERK: The Maintenance Orders (Enforcement) (Amendment) Bill, 1992.

HON. D. EZZARD MILLER: Madam Speaker, I beg to report that a Bill for a Law to amend the Maintenance Orders (Enforcement) Law (Revised) was considered by a Committee of the whole House and passed without amendment.

MADAM SPEAKER: The Bill is accordingly set down for Third Reading.

THE AFFILIATION (AMENDMENT) BILL, 1992

CLERK: The Affiliation (Amendment) Bill, 1992.

HON. D. EZZARD MILLER: Madam Speaker, I have to report that a Bill for a Law to amend the Affiliation Law, 1973 was considered by a Committee of the whole House and passed without amendment.

MADAM SPEAKER: The Bill is accordingly set down for Third Reading.

THE SUMMARY JURISDICTION (DOMESTIC VIOLENCE) BILL, 1992

CLERK: The Summary Jurisdiction (Domestic Violence) Bill, 1992.

HON. D. EZZARD MILLER: Madam Speaker, I have to report that a Bill shortly entitled a Bill for Law relating to Domestic Violence was considered by a Committee of the whole House and passed without amendment.

MADAM SPEAKER: The Bill is accordingly set down for Third Reading.

THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 1992

CLERK: The Trade and Business Licensing (Amendment) Bill, 1992.

HON JAMES M RYAN: Madam Speaker, I beg to report that a Bill for a Law to amend the Trade and Business Licensing Law, (Revised) was considered by a Committee of the whole House and passed without amendments.

MADAM SPEAKER: The Bill is accordingly set down for Third Reading.

THE LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 1992

CLERK: The Local Companies (Control) (Amendment) Bill, 1992.

HON JAMES M RYAN: Madam Speaker, I beg to report that a Bill entitled a Bill for a Law to amend the Local Companies (Control) Law, (Revised) was considered by a Committee by the whole House and passed with amendments.

MADAM SPEAKER: The Bill is accordingly set down for Third Reading. The House will be suspended for 15 minutes.

AT 3:43 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 4:03 P.M.

MADAM SPEAKER: Please be seated. Proceedings are resumed. The First Elected Member for West Bay.

OTHER BUSINESS

PRIVATE MEMBERS' MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

(Continuation of Debate thereon)

MR. W. McKEEVA BUSH: Madam Speaker, I would be remiss in my duty to my constituents and to the country at large if I did not make a contribution to this debate. Although in the past days I was hesitant to rise, as you can see when you called on me I was still preparing notes.

We feel that bringing this resolution was most important in that it

gives the public the opportunity to hear what our opinion is on the proposed constitution. In a public meeting you can get a good crowd at times but Radio Cayman cuts across the whole nation. Our motion calls for no action to be taken on the Constitution and Members have derided this position but we knew what we were doing. We wanted it debated and for those Members who thought that the Third Member for George Town and myself were fools, they have another guess coming. If they felt that the present Draft is good enough, it is what they want, then those Members should have been smart enough to move a resolution saying to accept the Draft Constitution and stand by it. But they do not have that kind of guts.

We quite understand what the Foreign and Commonwealth Office (FCO) has said. In fact, the FCO's position is exactly what our Minority Report has said. The Constitution should be the subject of a General Election where each candidate should be honest with the pubic and say what they stand for whether they support the Draft Constitution or not. So indeed, we will come to no definitive conclusion on this great debate but yes, we do have a duty to lead public opinion and the national discussion on this most significant matter of constitutional advancement for this territory.

Many reasons are being given by the Executive Council and by those who have supported and who have said in this House that they have supported this Draft Constitution, why we need to have this changed. The thought has been pushed by many people in Government, many in the private sector and many ordinary Caymanians of all walks of life that the present Constitution has worked well and that these Islands have progressed while the present Constitution has been enforced. But for a few minor changes which I will later on clarify, my opinion is that we should have moved cautiously. Some changes proposed in the Draft Constitution are not cautious changes. I said earlier that the majority view in the country is that the present Constitution has served well. That is also my opinion.

The country at large quite well understand that the problems experienced has not been brought about because of a breakdown in the present Constitution. The problem; regardless of which Member of Executive Council says otherwise, arose when the four Elected Members of Executive Council took a very important and far-reaching decision with Cayman Airways and another matter which was the abortion issue these gave rise to distrust of our leadership in those four Members. These matters caused a split in the majority of the Government at the time and they therefore lost their majority.

They could not control their budget in the Assembly in that the large programmes they were pushing the Backbenchers moved some of those votes to district projects and refused support of the large expenditure programmes. This in effect was as if the Members of Executive Council had no power in the Assembly. So the Member for Education moved to change the Finance Committee where the three Official Members are forced to vote with the four Elected Members thereby allowing them to do as they please with the public finances in this country. This is where the problem exists. I listened to the Member for Education who is most responsible for the mess the country is in today saying that Finance Committee must contain the three Official Members since they are full Members of this House.

Is it not strange that he has been here for 23 years and that he spent 16 years in Executive Council but had not the foresight to see that those Official Members have always been full Members of the House but had no vote in Finance Committee. That statement is even more ludicrous when we read what he said in the Select Committee on the Constitution, that as long as Official Members remain in the House there will not exist in the true sense, responsible Government, yet he is the strongest promoter of Constitutional advancement and representative Government at this time.

The present Constitution, 20 years old, though it be, has served well and it only needs clear-minded, stout-hearted, caring individuals to work it again while allowing for some minor workable changes which can only advance the territory for its betterment. As much talk, beautiful language, old stories, nice phrases that we have heard from the proponents of the Chief Minister system and control of civil servants, no one has yet said of what benefit will it be to these Islands and the people that reside here. Therefore I must pose the questions, will the Chief Minister system make Caymanians better off? Will it enhance the poor state of public finances? Will it make businesses in these Islands any better for Caymanians? Will it restore confidence and lift the morale of civil servants? Will it arrest the deteriorating social fabric of this country? Will it restore the foreign investor confidence in these Islands after so many changes in the country in so short a time, a change in Governor, a change in Financial Secretary, a change in Attorney General, a change in Auditor General? Will the Chief Minister system give the international business sector the assurance that these Islands are still the safe environment to want to do business and invest their money? We are moving into unchartered waters for this country, therefore we move cautiously.

From the beginning my colleagues and myself, that is the Third Elected Member for West Bay, took this matter of constitutional advancement to our people and we held meetings in Northwest Point, we held meetings at the Town Hall, we held meetings in Bosun Bay and we held meetings in Mount Pleasant. We also met the Commissioners with a large delegation of our constituents and presented them with a petition as to what those people desired to see in the proposed constitutional advancement. I am therefore satisfied that the course I have taken over the past several months, though it has not found favour with the Second Member for the Brac, and the four Members of Executive Council, or at least three of them (the Elected Members that is), I have kept in tune with the wishes of my constituents and I also believe a majority of the people of these Islands.

Apart from having to deal with some of what has been said by other speakers, and some general comments, I wish to deal with those points. In doing so, I bear in mind that our forefathers established a firm foundation on British Parliamentary democracy and I believe, I hope and I expect that whichever Government is in power, that they would continue to accept those traditions as our foundation and upon these foundations they would seek to build upon what has been left in trust to us. Political institutions, be it constitutions or otherwise, like education, religion and all sociological institutions are made by the people, not only

for the people. In many cases political institutions have achieved high success in certain countries of the world, but are not as successful as you would expect them when introduced in other countries. I ask that we observe that because it is often easy to transport ideas and to transplant them in countries such as ours, simply because they have worked in other territories.

What we must seek to do is to use the British Parliamentary democracy in our country as a foundation so as to establish a parliamentary structure that will fit the sociological pattern of this country. That is why I have, in the Minority Report, that has been so abused by some Members, that we wish to see gradual change and that is why I said in opening my debate that we need to move cautiously.

What we are designing now, is a social contract, a contract between our people and their country. A contract which will embody agreements which will not only be designed to give a Government some authority in order to be able to work but we are also seeking to come to agreements on all the relationships of those parts of our Government should work. We know that at present we have an Executive and a Legislative body and we have other services which are supposed to carry out a balance of power, such as the Police, Judiciary, and Civil Service. Apart from these, we have the individual, who, himself must be protected and who has his rights. I take note that the Draft Constitution is inclusive of a Bill of Rights. Such a Bill of Rights seeks to establish the relationship that must exist between the individual and the state would seek to establish rights and safe-guards for the individual.

Someone once said that there can be no Bill of Rights without a bill of wrongs. It is one thing to protect the individual from the state. It is yet another to protect the state from the individual. It is wrong and it must also be constitutionally wrong for people who are members of those services I named, which are the bulwarks and safe-guards of the democratic structure we are seeking to erect - the Police, Judiciary, and Civil Service, not to carry out their duties in the way it was designed for them to do - politically impartial. When they do so, they are destructing the whole balance of power within the framework of the Government that we have laid down in a democratic fashion. It is not right for them to act this way. It is wrong and it must be constitutionally wrong.

If Members of this Honourable House, who are constitutionally bound to uphold the Law, cannot be prosecuted for minor infractions of the Law, will those constitutionally bound to enforce the Law - namely the Police - be capable of carrying out their duty, I ask? Must they turn their head and say in this matter I have no ears, so I cannot hear? I have no eyes, therefore, I cannot see? No, Madam Speaker, the due process of Law must apply to all.

Those services must be bound to uphold the Constitution. Must they be the very ones to abridge it when they prevent justice from taking its course in the very halls of justice, namely the courts? Must those who are constitutionally bound to enforce the Law pilfer the property of those they arrest and say it happens all the time, as a matter of course? It is no use having certain understandings for people who are employed in certain services if those understandings are not kept. No Bill of Rights can protect these wrongs. If something is wrong that destroys the whole democratic framework that we are trying to build, it must be constitutionally wrong. We must be careful then that as we bring about a Bill of Rights, that we do not entrench minority rights to the point where we effect or put the majority at a disadvantage.

It is all right to speak of freedom but freedom sometimes given in large doses are often abused and misused. What is freedom, must remain as freedom and not licence. We are a small country and perhaps the problem that another country might handled appropriately, we might find ourselves open to abuse. I support the Bill of Rights, bearing in mind the qualification that a 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 movements? Does it mean that people can march whenever and wherever they like? What is meant by freedom of expression, of association?

In most constitutions containing a charter of fundamental rights and freedoms they are followed by a long list of exceptions setting out what is to be done in spite of these freedoms. Let our people know there are no rights without exceptions. We all know the moment you start to put down the rights you find no country can live unless those Rights are modified by a variety of exceptions.

It may be so that by the time we have written all the exceptions, it is difficult to say what would have happened to the rights, it would almost be accepted out of sight. Nevertheless, it is good to say to the world, this is what we stand for and they form a framework within which, if our intentions are good, we must work, and outside of which we may not stray.

A Bill of Rights must apply to all. It cannot apply to the Police, it cannot apply to the Judiciary or it cannot apply to Executive Council alone who might get in minor infractions but never be taken to court as an ordinary citizen. That happened recently with a certain Member of Executive Council, namely the Member for Education. We cannot tell the people of this country that we stand four-square before God and man, talking about a Bill of Rights and this is why we should have constitutional advancement, when we, as leaders of the country, cannot stand the test of due process. Enough said on that, Madam Speaker.

I fully support the entrenchment of the office of Auditor General as provided for in section 86 of the Draft Constitution. The whole idea of an Auditor General is for that office to be able to keep a check on the management of public funds and to be able to do so independently and that office must remain independent. Certainly we have seen a serious erosion of the independence of that office in the past four years. Finally, they have got rid of the present Auditor General and have appointed one with less qualifications than some of the staff of that Department.

It is most distressing to experience a Government which talks about the need for a leader of the country, to make the country better, as this Government is doing, yet they take every move possible to avoid proper accountability, the very tenant of parliamentary democracy. I trust that a new government will see to it that the post of Auditor General is once again made independent, free of the likes or

dislikes of any elected Member in this country. Because I believe, as I said earlier, I repeat again, for parliamentary democracy to work, it must work with accountability, strong, capable accountability.

I am particularly happy to see that pensions will be given the protection of entrenchment in the Constitution but I am seriously against pensions being handled at the discretion of any Governor. I believe that after any civil servant has put in his years as a public officer, pension should be his as of right, rather than a Governor having a chance because of perhaps some petty grievance with a civil servant to whom he has taken a dislike, find an excuse to withhold his hard earned pension. Absolutely a situation which I will not tolerate as a Member or a representative in this country.

I support the Register of Interests. The House might recall that it was this Member who moved a motion here calling for such a kind of vehicle with my colleague the First Member for Bodden Town. I believe it is of paramount importance to have a vehicle where rules are written for all to adhere by and since it is undoubtedly possible that there will be those individuals who will seek to become parliamentarians, while not simultaneously having the best interest of the people in general at heart, some form of clear rules and similarly a workable system of enforcement must be necessarily introduced.

We all cherish, or say we do, our successful democratic experience if we can call it that. Two fundamental requirements of our system are the integrity of the system itself and of the people who operate it. Sometimes you hear from some Members here all sorts of references to other Members. We hear of "gruntors", we here of "gruntees", even some members of the public have taken to criticising the House for bad behaviour. I find that it really does not bother me as much because such action or behaviour does not really tear down our democratic system but is normal and expected in the cut and the thrust of debate as I know you understand it, Madam Speaker. What I must worry about is behaviour and business practices on the outside of this House which altogether are unacceptable, dishonest and damaging to the country's image and reputation.

It is our duty then, as responsible citizens and representatives of our people to zealously ensure that those who operate our democratic system are at all times persons of the very highest integrity. Some may argue that it is unreasonable to ask an individual to disclose his or her personal economic interest, for example, to the public. However, I fully subscribe to the belief that he who enters politics has, in some respects, become less of a private person and more of a public servant. There is a necessary balance between the two and politicians of high integrity should have no qualms about conforming to a Code of Ethics. That Code must imply to the surrender of privacy to whatever extent it may infringe upon the public interests.

Morals cannot be directly legislated, and parliamentarians should be of good, personal, moral fibre by their personal choice, but realistically this will not always be the case or in some instances, it would be difficult to ascertain whether or not it is the case. Relationships of trust cannot exist if a parliamentarian's personal honour and integrity are open to public doubt. So those values of professional obligations should be clearly stipulated.

Bearing in mind that no parliament can bind a future parliament, it is my opinion that it is practicable to enshrine such a code in our Constitution to bestow some higher form of significance upon it. Even though parliament can alter the Constitution too the procedure is longer and different. Therefore, Madam Speaker, these are the kinds of changes that I support for any new constitution.

I believe the manner in which it is proposed to appoint the Chief Minister is altogether bad. I believe after long and soul searching months that at this time and stage of our development and maturity, that the interest of these Islands would best be served without the office of Chief Minister and all his general powers.

I had hoped to have been able to debate this motion without reference to any one Member, giving the debate the due deference it deserves since we are discussing a constitution which will make or break this country. Certainly it bears heavily on the making of our future. After listening to some of the Members, to the Member for Health, the Member for Education and the Second Member for Cayman Brac and Little Cayman, I will respond to their attacks and misrepresentations. The Second Member from the Brac chose again to highlight his split with this Backbench by referring to certain situations. It is proper time to deal with that Member in the context of his debate and I choose this part in my debate because it is precisely here, the Chief Minister section that our problems with that Member began.

He would like the House and country to believe that the reason for the split is because we, the others in the Backbench, were always, as he put it...

MR. GILBERT A. McLEAN: Madam Speaker, on a Point of Order.

MR. W. McKEEVA BUSH: ...picking on him.

MR. GILBERT A. McLEAN: On a Point of Order, Madam Speaker. The Member is misleading the House in that I did not at any stage in my debate refer to any split with the so-called Backbench to which he is referring. I did not refer to any such thing in my debate, Madam Speaker. I would like if this Member would stay away from that because he is imputing something to me that I did not say and I think that is the whole....

MADAM SPEAKER: Two Members should not be on their feet at the same time. Honourable Member that is not a Point of Order. You have not brought any Standing Order to my attention. I expect that you want to elucidate a point that was made. That is a different thing from a Point of Order. If you want to elucidate that what he said was wrong or something, you are privileged to do so.

MR. GILBERT A. McLEAN: Madam Speaker, perhaps you could guide me. I thought there

was a Standing Order here that says that a Member cannot mislead the House.

MADAM SPEAKER: We are talking about elucidating a Point of Order. Elucidating a matter, that is explaining something, to attempt to...

MR. W. McKEEVA BUSH: Madam Speaker.

MADAM SPEAKER: Just one minute, the Honourable Member is still on his feet. Just a minute he has to bring something to my attention.

MR. GILBERT A. McLEAN: Madam Speaker, I cannot find it at this moment in time, but I. . . . Again, if Elucidate is what would be proper to be termed here now, I made no such reference in my debate.

MADAM SPEAKER: Well, I think I appreciate that, because I heard no reference to a split. Now if you would like to talk about something else, use some other term, Honourable Member.

MR. W. McKEEVA BUSH: Madam Speaker, I said he highlighted a split by saying and talking about those of us that were picking on him and we are here in a debate and I say that I have ample room, giving all that that Member has said in his Constitutional debate or the debate on this motion to put my story to the House and I pray, with your indulgence, that I be able to do that because the Member did mention it.

MADAM SPEAKER: Well, he did not mention a split, that is the point that I have brought to your attention so please do not use that phrase.

MR. W. McKEEVA BUSH: I will try to stay away from the word 'split', but I am pointing out to you that he highlighted the split by talking about these things.

Yes, Madam Speaker, the Member in his debate talked about (and you must remember this that the Member called us fools for even putting our Minority Report), the Member also talked about gruntees and gruntors, he also talked about those of us who were picking on him. Talking about those of us and I am saying....

MR. GILBERT A. McLEAN: Madam Speaker,...

MR. W. McKEEVA BUSH: ....I am not giving away this time, Madam Speaker, he had his say for a whole day. I am only here in the late evening hours,...

MR. GILBERT A. McLEAN: Madam Speaker,...

MR. W. McKEEVA BUSH: ...and I am not giving way.

MR. GILBERT A. McLEAN: On a Point of Order, Madam Speaker.

MADAM SPEAKER: May I hear the point? *[Addressing the First Elected Member for West Bay]* Please, sit down.

MR. GILBERT A. McLEAN: Madam Speaker, the Member is continuing to make statements about me which I did not utter and I am asking for your ruling on him to please stop it.

MADAM SPEAKER: I am afraid you have not given me a Point of Order because it is on a Point of Order that I must rule and if he is saying that he understood you to say gruntees or gruntors, he is right to do that unless you can show...

MR. GILBERT A. McLEAN: Madam Speaker, he said that I called him fool.

MADAM SPEAKER: Honourable Member, just a minute, unless you can show that he did not say that. Can you say that?

MR. GILBERT A. McLEAN: Madam Speaker, I called no one in this place a fool. I understand that is unparliamentary language and I did not say such a thing.

MADAM SPEAKER: Honourable Member, have you got evidence that he did say fool?

MR. W. McKEEVA BUSH: Madam Speaker, if I may carry on. The Member - and I am not going to particularly deal with that, but the Member did say that he would not be "so fool" to put in a Minority Report. There were five of us who put in the Minority Report, therefore he was calling us fools. Anybody that understands the English language, understands that that was the context he put it.

Madam Speaker,...

MADAM SPEAKER: Honourable Member, just a minute. If those were the words he said, I will have to accept that that would be an interpretation unless I can be shown that he did not say those words. Second Member for Cayman Brac, that was not a Point of Order and the Member must continue. Please continue, Mr. Bush.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. Since he claims he did not talk about the split amongst us, I will talk about his flight from this Backbench to the company of the Government and the First Member for the Brac, who he claims he has always had a gentlemanly agreement with. When the Government motion to bring about the review was moved by the Member for Education, everybody knows that the Backbench, including the Second Member for Cayman Brac and excluding the First Member for Cayman Brac, voted against the resolution. Nevertheless, it passed.

This Backbench, formulated a motion which said, (Pause) because that motion has been read so often, I do not think I need to read it, but which called for the setting up of a Select Committee. Having successfully been able to get a committee set up, the Backbench then, amongst ourselves, that is the present six Backbench Members together, the Elected Member for East End, the Third Elected Member for George Town, the Third Elected Member of West Bay, and myself, the Second and First Elected Member for Bodden Town and the Second Member for Cayman Brac, met to discuss the route we would take once the Select Committee started. So that all of us Backbenchers would be on all fours in regard to the way forward.

We met for two days, I believe, and it was decided by all of us that we would support a gradual move to a ministerial form of government, put the provision in the new Constitution and institute it, when it was thought necessary, with a referendum so that people could have input. The truth of the matter is, although the Second Elected Member for Cayman Brac agreed with us to proceed with a gradual move, this was not his real intention. He had every intention to deceive us. When we began the Select Committee with all the Elected Members, that is the Select Committee on the Constitution, that Member showed his true colours on what would be his position on constitutional advancement. Because, instead of his sticking to the agreement he had made with us, he joined the Members of Executive Council and proceeded to recommend the Chief Minister system with all its power. He turned 360 degrees from what we had agreed. During the course of the committee meetings, he openly said many things which put him in opposition to us.

That Member had many secret meetings with the Member for North Side and God only knows who else and found cause to poke and lick the Third Member for George Town, whose position always was, no Chief Minister.

MR. GILBERT A. McLEAN: You must be thinking about yourself.

MR. W. McKEEVA BUSH: You can go ahead, Madam Speaker, but I am in good form and I am ready to tell the public exactly the position.

MADAM SPEAKER: Excuse me, sir. Did you say "You can go ahead Madam Speaker"? What do you mean by that?

MR. W. McKEEVA BUSH: Madam Speaker, because when I am talking to you, I have to address you, I mean the Member can carry on grunting in the microphone. To make matters worse, Madam Speaker, the Member for North Side and the Member for Education saw the division among us and took advantage of it by naming the Second Member for Cayman Brac Chief Minister, openly. This swelled his head and to really put the icing on the cake, the Member for Education...

MR. GILBERT A. McLEAN: ...The sooner you have a one party system...

MR. W. McKEEVA BUSH: *[Addressing The Second Elected Member for Cayman Brac and Little Cayman]* Never mind old chap, I will get to that one party group).

To really put the icing on the cake, the Member for Education made it known in the committee, as he did here in the debate, that he was pushing for the Draft Constitution as recommended now to come into force before the General Election in November. This really carried away the Second Member for Cayman Brac because, in order to keep the peace, most of us on the Backbench told that Member we would probably support him as Leader, if the Chief Minister system came into being.

Being the devious person he is, he started in a very stealthily organised manner to sow seeds of discord among the group, especially to those he figured could challenge him for that leadership, when the time came. The Third Member for George Town, and this Member, the Member that was referred to many times and, at least in his debate, were his main targets.

All I ever wanted was to have the Portfolio responsible for Social Services carry out an agenda which put in place the programmes I have been pushing for, for years. I have no advance preconceived ideas about being Chief Minister because I can see that the country does not want it, I can see that we are not going to get the system to run it. I am going to deal with that, after I have dealt with that Second Member. However, that Member took no chances and distrusted us to the extent that he would go to the Third Elected Member for George Town, and tell him something about me and come to me and tell me something about the Third Elected Member for George Town.

He would also go to my colleague, the Third Member for West Bay, and try to split us. He went to the Member for East End and did the same, he would come to us and do the same...

MR. GILBERT A. McLEAN: Madam Speaker.

MR. W. McKEEVA BUSH: ...he also went to the then, Financial Secretary,...

MR. GILBERT A. McLEAN: Madam Speaker, on a Point of Elucidation.

MR. W. McKEEVA BUSH: ...and tried to sow some seeds of discord there too.

MADAM SPEAKER: The First Elected Member for West Bay, would you sit a moment please?

MR. GILBERT A. McLEAN: Madam Speaker, the First Elected Member for West Bay is making statements in here and laying charges of me taking certain actions which are only and synonymous with himself and it is not related to the debate on the Constitution nor any statements that I have made here, Madam Speaker. I totally deny the things that he is saying.

MR. W. McKEEVA BUSH: Madam Speaker, what is the Point of Order?.

MADAM SPEAKER: First Elected Member for West Bay, I am sitting in the Chair and please do not ask. I am in charge here and I make a decision. *Erskine May*, page 381, refers to misrepresentations and if the First Elected Member for West Bay has any information that what he is saying has been done by the this Honourable Member, would you present it? If not, please refrain from making any aspersions of what he did unless you have concrete evidence. Now I cannot allow that to continue.

MR. W. McKEEVA BUSH: Madam Speaker, I am not going to get...

MADAM SPEAKER: Please do not shake your finger at me either, when you are speaking. That is not allowed.

MR. W. McKEEVA BUSH: Madam Speaker, are you disgruntled with me for anything?

MADAM SPEAKER: Disgruntled? I do not know the term.

MR. W. McKEEVA BUSH: Yes, because I am not going to get in any hot water with you. But in a debate we are allowed to refer to what has been said. And that Member carried on without anybody stopping him and ...give me a chance, Madam Speaker. I have a right too, you know!

MADAM SPEAKER: Well I have a right because I have not finished what I was saying. I am saying that you have made aspersions about this Member talking with this Member, that Member, and the other, and I am saying that if you have evidence, present it. If not, we are not dealing in Aesop's Fables of what or we assume that somebody did. That is the point that I am bringing to your attention. If you have evidence that he discussed things with other people, please present it; but if not, avoid saying that and continue with the debate.

MR. W. McKEEVA BUSH: Madam Speaker, this is not any Aesop Fable, this is a matter of truth. What other evidence can I have but to stand here and debate his statements and the cause of what he has said?

MADAM SPEAKER: Honourable Member, I have said nothing about what you said about his statements. I am saying that you have been referring to the fact that he has gone to this Member and that Member and tried to do this or something else. I am not allowing that. If you are referring to the specific points that he has raised in his debate, I will allow it.

MR. W. McKEEVA BUSH: Madam Speaker, do you want the Members themselves to rise in the House and say, "yes, what the First Member for West Bay is saying is correct"?

MADAM SPEAKER: If that is required, I will ask for it.

MR. W. McKEEVA BUSH: Well Madam Speaker...,

MADAM SPEAKER: If you cannot do that, please just continue the debate, if you want to talk about the comments that he has made and explain them, or have your interpretation, well and good.

MR. W. McKEEVA BUSH: Madam Speaker, I did not know that this was a court! I thought that this was a debate! And in a debate I can make reference to happenings in reply to what has been said. I beg the Chair for your patience because I think it is time that my side be put out. Now I have been called "fool", I was called a "grunt", and sometime ago we were called "pigs", it is time that we reply! I am telling the truth! God knows it!

MADAM SPEAKER: But, Honourable Member, I have already made the decision,

and I am just asking if you want. . . . Would you please sit until I have finished? I am just asking you, if you want to reply to the words that he has said. . . but if they are accusations that he did this and that, I am not accepting that unless there is proof of it. Now that is my final word and I will not have any further argument. Please continue with your debate.

MR. W. McKEEVA BUSH: Madam Speaker, I will bow to your ruling, but I want you to know...

MADAM SPEAKER: Please, I have already said I. . . .

MR. W. McKEEVA BUSH: Madam Speaker, please give me a chance.

MADAM SPEAKER: If you bow to my ruling, why is there a but?

MR. W. McKEEVA BUSH: Because I want to tell you...

MADAM SPEAKER: There is no argument...

MR. W. McKEEVA BUSH: ...how unfair I think you are!

MADAM SPEAKER: Well, that is your opinion.

MR. W. McKEEVA BUSH: Madam Speaker, allegation, after allegation has been made in this House. I did not hear you once stop anybody else! But I knew my time was coming and I knew that I would be stopped because that has been my whole situation for the last couple of years in this House. I hardly get a chance to make my full statement before I am put down. But, Madam Speaker, time is longer than rope.

Anyway, let me say that after all of the divisions and after he departed from us, he made some overtures to come back but we could not put a wolf in sheep clothing among the sheep. He made his bed with the Government, now he must lie in it, whether we lose or not. Yes, Madam Speaker, I know the Member would get some support and I would not be able to tell all of it. But I think I have said enough to let the people understand that all what the Second Member for Cayman Brac has said is not one-sided, as all people said there is always two sides to a story.

He tried to split us, but he has not split us. He tried to split everyone of us. The last split he tried was Bodden Town. That back-fired. I apologise if I have taxed your patience, I apologise if you might have thought I was rude to you, but I know my Standing Orders, Madam Speaker, I know when I am correct. We hear from the Executive Council and others that the country needs a leader, therefore we must have a Chief Minister. It is said that we can no longer carry on without this Head of Government.

I tried to have great respect for Government and the institutions of parliamentary democracy that make Governments a vehicle by which the people benefit in their total life. Some Members of Executive Council have tried very hard to put forward the idea that I was supporting or had supported full scale constitutional changes. This is a serious untruth. Everyone knows that I supported the idea of Parliamentary Secretaries. That was in the papers, I spoke it in several speeches in this House, I told my people so. But after further discussion and in-depth research I found out that in a small territory you have to have full ministerial government with all its attachments - Chief Minister - everybody, for those Parliamentary Secretaries to work. In our small House, it would not be able to work.

From the outset, from the start of the Select Committee meetings, I stuck to our Backbench agreement and in fact the Minutes confirm that it was I who put up the proposal that all of us Backbenchers had agreed on. That statement said, "The Committee wishes to see a gradual move into a ministerial system of government and considers it prudent to make provisions in the Constitution." That was on the very first day, that was my position throughout the meetings and that is my position today. It is important to note that I further stated, to make crystal clear my position and I had better read the Minutes here:

> - "Mr. McKeeva Bush said that in his view on the constitutional changes, are bound to what he expressed at the first meeting when he said a "gradual moving into a ministerial system of government" and considers it prudent to make provisions in the Constitution. He further said that his subsequent views were hinged on the position that any recommendations he made were submitted for bringing what he thought would be a workable solution in the particular matter.".

Madam Speaker, everyone understands what that meant. For instance the Exco Members were pushing the Chief Minister system; I felt to have a Chief Minister we needed the party system to have public accountability.

In my opinion Members of the Elected Executive Council, and the Second Member for Cayman Brac, want to be Chief Minister without having to account to the public. They want the status, they want the prestige, most of all they want the power. The cry is for a leader of the country, but should the people of this country have a leader without having a chance to say who they feel must be the leader? In the present proposed constitution, the scenario is that there would be a General Election and after the General Election, a swearing in, and at that occasion a Member for Cayman Brac could vote for the North Side Member while his people would not have known when they were electing him, who their Member would support.

It is not fair to the people of this country. It is not fair to any

system of parliamentary democracy in the Westminster style, as we adhere to, to have a leader whom they did not support or might not even have heard about. Time and time again we have leaders, maniacs, who have destroyed systems and countries. We should not take that chance. A worse case scenario is to have a Governor determined to run things his way and using his discretion, appoint someone who he knows he would be able to control.

This is utter nonsense and we know that in the past we have had Heads of State in this country who use a vehicle in the nominated Member to displace a government that was elected in majority. It is not far-fetched that something could happen along those lines. A system of government must be uncluttered and unambiguous. Reference was made by Members of Executive Council who spoke, and also by the Second Member for Cayman Brac sitting in his chair just now, about the party system.

I have never been afraid and have never worked in any devious way, if I had something to say, Madam Speaker. This is why you and I catch at it so often in this House, Madam Speaker, because when I feel I have something to say I say it. I am not a hypocrite. I cannot be a hypocrite. I am not afraid to say that I am an unashamed and unapologetic partisan of the party system.

A party system needs honest men, sincere men, and all my life I have been that. I have never had any problem of giving an organisation or even loose groupings or anything I have been a part of my sincere and unstinting support. If I belong to a party, I would give that party good and fair support. I am not a hypocrite. I cannot sit in an office and take things out of office belonging to a Member that I purport to support. No, Madam Speaker, I cannot be that kind of leader to my people. I believe the party system can only work in certain conditions. The system of Government as proposed by the Draft Constitution, if they are going to put it in place, needs a party as the lubricant that makes the formal mechanisms of that constitution work. I see nothing unnatural, disturbing, unlawful or shameful in that fact. I do not understand why voluntary partisan political activity should be held in disrepute. Everybody claims to be a statesman, but nobody wants to be a politician.

The only political organisation whose nature forces them to work towards a national consensus, is a national political party. Whatever their faults, whatever their weaknesses, and shortcomings, political parties must put together and keep together by adjustment a consensus which is acceptable to the majority of people in order to be able to govern. The classic role of a party is first an effective role for men and women to do useful things together for their country, a way the individual can weigh and count on the collectivity. Secondly, to clarify issues and thereby make decisions and third, make elections possible by helping the choice by the elector among a multitude of candidates. There is nothing unlawful about forming a political party. It is lawful.

The Progressive Democratic Party that was referred to by both of those Members was formed and it was publicly stated why it was formed. I put out a manifesto or the constitution and some ideas that I thought would be acceptable to the public. I stated that if the Government was going to move this country in the unchartered waters of full ministerial government in a short time with a Chief Minister with all his powers, I believe and believe that the public needed a vehicle where they would be able to have a say in who that Chief Minister would be.

A lot of people defer with that. In particular, the Members of Executive Council, at least the three - the Member for Communication Works, the Member for Education and the Member for Health, because they want the Chief Minister position without first the people knowing who that Chief Minister will be. That is why they do not want the party system. They do not want the people to be able to control and in this system this is the only means that the public would have a way of controlling that Chief Minister. Because after he got in office, it would take hell and all to remove him, especially in a new stage where they have all the perks, privileges and immunities. Madam Speaker, you could not move him. You could not move him and I am going to deal with it later on. And so, Madam Speaker, therefore that is why I felt that you would need a party and that is why I put out the Progressive Democratic Party Constitution. I said publicly there were no members. It could not really be a party, it was only a party's constitution because you cannot have parties without people.

I said that if they shouted, and you heard them, Madam Speaker, you heard the Member for Education say that his view was that we were going to get this system now before November. You heard that, that is contained also in the *Hansards* and it contained in these Minutes. So what I was doing was trying to give the people a chance of having a say, if the Government had gone ahead and done it. That is the only reason why because I full well understand that under the present system, party system will not work under our present Constitution. As I said, that party would only have come into effect if they had moved forward with the proposed constitution. They planned it, you heard the Member for Health say that he would move the motion but he could not get any support at this late stage, of course.

If the people do not want a party, and I have never gone against their wishes, and therefore there would not be a party but I will tell my public that under the monstrosity that is proposed now, in the present Draft Constitution, the country is in for a bad time if they allow the Government or any government, to go ahead and institute the Chief Minister system without them having a vehicle for appointing that Chief Minister.

Let us look at how we can be led down the blind alley. In this Draft Constitution the Members of Executive Council say that the Chief Minister has no powers. They say that he cannot do anything without his Ministers. In this Draft Constitution it says that his appointment can only be revoked if the House takes a censure motion against the Government and it is carried by two-thirds of all the Elected Members in the House. He could never be removed even the proviso is here that before revoking the Chief Minister's appointment, the Governor shall consult the Chief Minister and this is what the proviso says, if the Chief Minister so requests the Governor then even acting in his discretion may, not would, but may dissolve the Legislative Assembly instead of revoking that appointment. All kinds of things. There are all kinds of scenarios that we could put to that proposition, Madam Speaker. I say it is detrimental for our country to head into that kind of

situation. I cannot support it.

On his appointment the Governor will have the say. I cannot agree with this. They say you do not need a party, they say Constitutions, as the Member for Education said so often in Select Committee, Constitutions do not provide for parties. That is noted in the Minutes, that is the Member for Education.

I would have to look at the arrangement of the sections. I do not know what section it is, Madam Speaker, but section 47 dealing with the Leader of Opposition. Section 47 of the Draft Constitution before us says:

"47. (1) Subject to the provisions of this section, there shall be a Leader of the Opposition who shall be appointed by the Governor.

(2) The Governor shall appoint as the Leader of the Opposition -

(a) the elected member of the Legislative Assembly who, in the opinion of the Governor, is the leader in the Assembly of any opposition party whose numerical strength in the Assembly is greater than that of any other opposition party; or.".

Yes, Madam Speaker, we heard from the Constitutional experts that you cannot put provisions for parties in the Constitution.

HON. BENSON O. EBANKS: Madam Speaker, I wonder if the Member would give way for a second, because he is misquoting me. I would just like to put that matter straight.

Throughout these Minutes, and it is on the very first day, what the Member will find me saying is that I have never seen a constitutional requirement for a party. Not that the word party was never mentioned in the constitution. I am saying that a constitution cannot require the establishment of parties. In other words, if the party is there it is acknowledged but you do not require it to be established by a constitutional requirement.

MADAM SPEAKER: You have made your point Honourable Member.
First Elected Member for West Bay would you continue?

MR. W. McKEEVA BUSH: Madam Speaker, the Member for Education knows that he said those words in the context. Words can be changed to mean anything.

HON. BENSON O. EBANKS: Madam Speaker, the Member is deliberately misquoting. I call his attention to page 2 and 3 of these Minutes and it is word for word what I have said.

MR. W. McKEEVA BUSH: Madam Speaker, let the Member say what he may. If you go through all the Minutes you will find out where he further said it. Anyway, I am not going to give him the benefit of the doubt because I know what I sat in committee and heard, and I am not going to change my mind on that. I heard him say that many times.

What I am dealing with here is not so much what the Member for Education said. I am dealing here with a system. I am saying that the bunch of them claimed in their debate that you do not need to have a party system to be able to have a Chief Minister. Well no, if you do not want to have accountability. What I am saying here is, let us look at how we could be led down blind alleys when the United Kingdom Government would put that you do not need a party to appoint a Chief Minister in the Draft Constitution, but to appoint the Leader of the Opposition you need a party system.

I am saying our system for the good of our country must not be cluttered up with these sort of ambiguities. It must be clear, it must be a workable Government or we would be suffer. My children, your children and everyone's children. Let no one believe when they hear them say that you do not need the parties, the United Kingdom Government must have felt propelled by some reason or another to put in the word party there. Why is it there?

I do not believe that we, as I said, should give this Chief Minister this sort of power. The Chief Minister has the chance to definitely remove his Members. Why should he remove them if the Members of the House elected them? These are things that I cannot go along with. That is why I say we must move gradually, take our time, crawl before we walk and we heard that the country has moved along. I will come to that to see whether we are ready for such changes, for such gigantic steps. I will look at how the country is progressing to on all fronts.

When you take the Chief Minister in section 32...

MADAM SPEAKER: Excuse me, Honourable Member the tape has to be changed. Would you give the electrician a couple of minutes?

MR. W. McKEEVA BUSH: Certainly.

MADAM SPEAKER: Thank you.

AT 5:28 P.M. PROCEEDINGS WERE INTERRUPTED TO ENABLE THE TECHNICIAN TO CHANGE THE MASTER

TAPE

PROCEEDINGS RESUMED AT 5:31 P.M.

MADAM SPEAKER: The First Elected Member for West Bay, you may now continue your debate.

MR. W. McKEEVA BUSH: Madam Speaker, as I said before, what the proponents of this Draft Constitution are proposing will do irreparable damage to our country. I said also that a system of Government must be very clear, must be clear enough to the point that you could run it without having the hiccups that this one had.

I could never agree for a constitution to propose a Chief Minister without a Deputy Chief Minister. Here the Draft Constitution proposes that in the case that we have a Chief Minister and he is unable to act or unable to perform or leaves the country, the Governor may authorise some other Minister to perform those functions. Why should we have a Deputy Speaker, but not a Deputy Chief Minister? The Governor to go and appoint some Minister who might not be just capable, might not be capable of performing that duty, why not the Elected Ministers, who elected the Chief Minister have a say or elect the person to act? Why should the Governor have all this discretion? This sort of thing will cause danger, trouble in our country.

This Constitution provides that you will not be having a full political constitution in that the Draft Constitution takes away the power of the Official Members, although the Draft Constitution provides for three Official Members, they could not form part of the quorum. It would have to be eight Elected Members changing the present status quo changing what is now the normal. Changing what is presently the case. There is no doubt in my mind that what they are giving us is a political constitution. The Member for Health rambled on some days ago talking about oh the Chief Minister is not going to have any powers because in the Constitution the Order of Precedence, I think he said, would be the Chief Minister and three Official Members. If that is what he said, that is not true.

He said the Governor and three Official Members, but that is not what is provided here. The precedence, as provided by this Constitution, in the Executive Council, would be (a) the Governor; (b) the Chief Minister; (c) four other Ministers; and (d) the Chief Secretary, the Financial Secretary and the Attorney General. That again tells us that we are going into full political machinery. When it comes to the position of Speaker, and I have some other areas to deal with on the Chief Minister bit, but when it comes to the Speaker and Deputy Speaker as provided for in section 44, I give my support to that situation and I think that it is good for the Constitution to provide for it. The Members see fit if the need arose to have an Elected Member as Speaker, the new Constitution would provide for it and it is good in case something happens and the Speaker needed to go some place or needed to be off the Island, the House could convene and the country's business could go on. Therefore that has my support.

There are many reasons and given for the new change. When we went to the Committee stage we went through the Committee, we discussed one matter and we found out that three or four days later, that what we had discussed was not really workable. I was one who did not support the increase of three Members. I told the Commissioners, I told my people, I noted it in the Select Committee that I do not believe that this country needed three extra Members, elected to this House to be able to do the country's business.

What had been proposed at one time that we would reduce the Official membership and at that time the Member that we thought would have been able to be taken without any problem from the House, was the then post of Administrative Secretary. The only reason I supported the change was to be able to keep the balance, so we said remove one Official Member, elect one more Member and you would be able to keep a balance in the House. So for those Members who went around talking that we had tried to throw out the Chief Secretary, that is a completely untrue story. At that time I do not believe that we had the post of Chief Secretary. Those people are good at dividing and rule. That is what they tried to do between us and the civil servants.

At this late stage in the evening I have some other very important subjects to deal with but I want to leave that for the morning and at this time to answer a few things that were said to mislead the public. Yesterday the Member for Communications and Works said that the Minority Report was purporting or was trying to control civil servants, the provisions in that Minority Report were trying to control civil servants. That is not true. He said that he now supports, or he supports, or he always supported what is now proposed in the Draft Constitution. First he says he does not want to control civil servants, then he says that they need to have, (they meaning them as Executive Council) Members or Ministers need to have administrative control. Then he took our Minority Report and said that what we were proposing was to control civil servants because we said we would agree with moving the Ministers with administrative control but nothing else.

That shows you the desperation in the Member, to try and mislead the public about what administrative responsibility is all about. Administrative responsibility will not be able to appoint or fire any civil servant. We would not recommend it because of our fundamental belief in the independence of the Public Service Commission. But that Member, what he should have told the public, that the report that he and his colleagues and the two Members for Cayman Brac agreed on, had in that provision where they would have had political control of the Public Service Commission. He may now try to make people believe, he may now try to make the voters in George Town believe that he was not in agreement with it, but the Minutes bear out, their report bears out that he, the Member for Communication and Works, the Second Elected Member for George Town, was in complete and in full control of where there was politicising the Public Service Commission.

Our Minority Report is something completely different, as I

understand it, and I know the learned Member from this side, the Third Member for George Town in his winding up will be more able to deal with it. But I know that when we talk about administrative responsibility that (and I must be very clear about it), does not give any Elected Member opportunity to hire or fire. Mention was made about my supporting Parliamentary Secretaries. Mention was made of a Draft Motion years ago. Let me tell the House, if I can do this, because I do not know whether you will rule me out of order since we cannot say anymore what took place in our lives.

The one thing that I always desired was to be able to be an effective representative, to have and to be able to assist in the Government, to help, to do something. Madam Speaker, and through that we thought we could do it through the Parliamentary Secretary. Years ago they told me, and I say years ago, I mean in 1989, that they could not appoint Parliamentary Secretaries under the present Constitution but we needed a constitutional change to get it. Therefore they said that we should try to get a change in the Constitution. I agreed with them, a draft motion to look at the Constitution, to get the Parliamentary Secretary. We asked the Third Member for West Bay to second the motion. He refused and the motion was not placed in the House. But that is as much as was done. What they did was try all the time to let us believe, before they were appointed to Executive Council, that you could get the Parliamentary Secretary. After we put them in to Executive Council, they said we cannot do it under the present system. That is the truth behind that story.

I too, have to wonder why the United Kingdom Government would increase the membership of this House by three when the basis for the increase was to get an increase in Executive Council, but have not provided for that increase to Executive Council. The Member for Education was lamenting this fact in his debate. He could not find out why the United Kingdom Government would give us three Members but would not provide for the extra Member in Exco.

Why did he not do something about it? He agreed with them to give us the three Members, why did he not do something about the one Member for Exco when they knew from July 1st that this is what was being proposed by the Foreign and Commonwealth Office? They too want a cluttered up system where they can shift positions and promise things, get into Executive Council and do nothing about it. Now the Member for Education referred to his meeting, his one meeting because he only had one. He says he had overwhelming support, overwhelming support. But at that meeting he only had 22 people. I was one, there was a reporter, two of my known supporters and a policeman. It left him with 18 possible supporters, one of which was a civil servant who questioned him and some of whom wrote letters to the Select Committee objecting to the provisions where the political interference in the Public Service Commission is proposed.

That Member before he moved the motion to get that review, should have gone to his public because in our manifesto that we ran on, we said that we would not move forward in any constitution that was going to change the territory or make any change in the Constitution different from what the territory had. (or words to that effect) Maybe he can clear it up.

HON. BENSON O. EBANKS: Madam Speaker, the Third Elected Member for West Bay waived that manifesto in the House yesterday and I suggest that the First Elected Member get that and table it and he will find out that what that said was that we would not make any constitutional change that would change the position of the Colony from a Crown Colony. Not that there would be no change to the Constitution. There would be no change altering the position of the country as Crown Colony. And while I am on my feet, maybe if the Member is interested....

MR. W. McKEEVA BUSH: Madam Speaker, tell me something. Is this a Point of Order or what is it?

HON. BENSON O. EBANKS: ...in truth he should read....

MR. W. McKEEVA BUSH: ..I cannot debate....

HON. BENSON O. EBANKS: ....section 47 that he had left off awhile ago.

MADAM SPEAKER: First Elected Member for West Bay, would you continue?

MR. W. McKEEVA BUSH: Yes, Madam Speaker. I do not know whether we are having debates within debates but the Member for Education, I say should have gone to the public first. The step that he has taken in this Constitution puts us that much closer to moving from the United Kingdom. That is where we are at, any step we move. That is what I am saying. Any step we take especially with a Chief Minister with full ministerial powers, we are going one step further closer to independence. Of course he is not going to say that because he will not tell the public that in this twilight of their administration.

The Member for Communication and Works yesterday referred to a meeting that was held back in 1986. At that meeting there was discussion of some constitutional changes. I must say that in my meeting in 1986, that he referred to, was not a meeting called to discuss constitutional changes, it was called to discuss the high water mark on the beach. This matter of constitutional change was raised at that meeting out of complaints at that meeting about problems with the then Governor, Mr. Lloyd.

I supported what, and I say it again, the only thing I supported there was the Parliamentary Secretaries because I saw it as training ground. I have never failed to tell the country the truth about any matter. I have never failed when a meeting of this House is called. It is my duty to be here if I am on the Island. When that meeting was called, it was not called to discuss constitutional changes and the Member for Communication and Works knows that but the way he put his debate yesterday, it was as if we had gone ahead,

planned meetings and got this committee together to change the Constitution when that Member well knows that that was not the case. But he was using that to try to kill me. I have the meetings, I save some paper too.

What happened at that meeting, there was a second meeting to these Minutes and I believe in the second meeting the Member for Education showed up but when he found out they were going to talk about any proposed changes, he stayed outside and he said I am not going in there. He said to me, if I were you I would not go in there, but at one point he finally came in where a draft motion was made and he made some changes to the draft motion, the Members did not accept it. In fact, the Member for Health took the draft copy and tore it up and that was the last ...(you left, you are right, you left). That broke up the meeting because the Member for Education would not agree and he told me that we were being set up. He said, do not get into it, you are being set up. (I know you would say that now).

Anyway, Madam Speaker, the facts remain that I supported Parliamentary Secretaries but I cannot support them in the context of this House, the size of this House. The Member for Communications and Works talked a lot about who wanted constitutional change but there is one part in here which deals with the wording, "Minister of Finance". What he should have said that that was his proposal and every Member sitting there along side of him knows that that was his proposal to have a Minister of Finance. It was him also who helped in the Select Committee meetings to get that wording in about the Minister of Finance. But he would not say that, he did not tell us that did he? No, he went on and tried to lay blame on people passed on who cannot defend themselves at this time. Everyone of them likes to do it because people cannot defend themselves anymore to get up and say what they did from what they did not do.

This finishes this part of my debate. I am not finished, I believe that it is now 6 o'clock, at least one minute to by my watch, unless you have otherwise. If you say otherwise, I will carry on, if not I expect to finish up in the morning.

MADAM SPEAKER: I will take the motion for the adjournment at this time, please.

ADJOURNMENT

HON. JAMES M RYAN: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10 a.m. tomorrow.

MADAM SPEAKER: The question is that the House do now adjourn until 10 o'clock tomorrow morning.

QUESTION PUT: AGREED.

AT 6:00 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., FRIDAY, 11TH SEPTEMBER, 1992.

FRIDAY,
11TH SEPTEMBER, 1992
10:13 A.M.

MADAM SPEAKER: Prayers by the Honourable Member for Education, Environment, Recreation and Culture.

PRAYERS

HON. BENSON O. EBANKS: 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly. Item 2 on today's Order Paper, Presentation of Papers and Reports. The Port Authority of the Cayman Islands Annual Report 1991. The Honourable the Elected Member for Communications, Works and Agriculture.

PRESENTATION OF PAPERS AND REPORTS

THE PORT AUTHORITY OF THE CAYMAN ISLANDS ANNUAL REPORT 1991

HON. LINFORD A. PIERSON: Thank you, Madam Speaker. In accordance with Standing Order 18, I beg to lay on the Table of this Honourable House the Report of the Port Authority of the Cayman Islands for the year ended 31st of December 1991.

MADAM SPEAKER: So ordered.

HON. LINFORD A. PIERSON: Madam Speaker, I am pleased to present this Report as, again, it highlights the outstanding performance of the Port Authority during what can be truly described as a very difficult year due to the economic slowdown in most of the industrial countries of the world, and more particularly, the external pressures from the economic problems of the United States.

As a result of these pressures, the year 1991 has not been the easiest, or the most financially rewarding, for the Port Authority. But as stated in my Chairman's message in the front part of the Report, 1991 proved to be a positive year insofar as it afforded the opportunity for the Authority to demonstrate that it is capable of successfully riding the rough seas of world wide economic recession. Once again, we have before us a tangible demonstration of the good management of this Government, despite one of the worst worldwide economic recessions in history. I believe that the performance of one of Government's Statutory Authorities at such a commendable level speaks to the prudence and sound management of our Government even under the most adverse economic conditions.

It is a well-accepted and recognised economic theory that any good Government does not sit and complain when the country is experiencing a slowdown in the economy, but, rather, takes the lead in stimulating the economy. This is precisely the position adopted by the Port Authority, a statutory body of Government, during 1991. By so doing, not only did the Port Authority continue the development of a most important infrastructural institution, but it also provided a most significant contribution to maintaining a healthy economic climate in these Islands.

The Port Authority is not only profitable in a world of economic woes, but it is also able to move forward and grow with continued investment in new facilities. I feel we can conclude that the Port Authority has certainly demonstrated its maturity by successfully addressing all the difficult problems that were presented during 1991. In actual experience the Port Authority's overall activity was only

marginally below that of the preceding year. However, while there were downturns in some areas there were simultaneous gains in others. The net income of the Port Authority for the year under review, 1991, was CI$745,228 as compared to CI$973,041 for the financial year ended the 31st of December, 1990. The General Reserve at the end of 1991, for the Port Authority, had increased to $5,180,592 from a position of $4,435,364 in 1990. I would say that this is a very healthy position indeed.

Despite the satisfactory performance of the Grand Cayman operation it should be noted that the Cayman Brac operation continues to experience a loss with accumulative deficit of $1.8 million up to the end of 1991. During 1991, capital development was concentrated in the continuing preparation of the $4.7 million cargo distribution centre on its nine acre site in the Airport Industrial Park. As most Members are aware this project was completed earlier this year and named the Berkeley Bush Cargo Distribution Centre, in honour of the late Mr. Berkeley Bush OBE, JP, who was recognised by my Portfolio for his invaluable contribution to the initial development of the Port Authority in 1976 during his tenure of service to these Islands as the then Member for Communication and Works.

It was at the end of 1991, in accordance with the policy of our Government to ensure that the independence of Statutory Authorities was kept intact and, as far as possible, free from any political influence, that I decided to step down as the Chairman of the Board of the Port Authority. I am, however, most pleased that I was able to find a gentleman of the integrity and capability of Mr. David Ritch to assume the responsibilities as the new Chairman, commencing January 1992. Mr. Ritch brings to the position many years of experience in the legal profession as well as his past experience serving on Government Boards, Tribunals and committees.

I am also pleased to note that initial plans discussed during 1991 to commission a consultant study for a 10 year Master Port Development Plan came to fruition during 1992. This most important study will address, inter alia, the principal concerns of the Port Authority regarding berthing facilities for cargo vessels, as well as cruise ships, as this is a major concern to not only the Port Authority but also my Portfolio.

May I, therefore, in closing, take this opportunity to publicly express my sincere thanks to all the Board Members of the Port Authority, the Authority's very able Director, Mr. Errol Bush MBE, and the staff of the Authority for their full and loyal support during my Chairmanship. The Port Authority is well managed and is, therefore, reflective of the sound and prudent decisions taken by our Government in the past years. Thank you, Madam Speaker.

MADAM SPEAKER: Thank you. The next item on today's Order Paper, Questions to Honourable Members, No. 202 standing in the name of the First Elected Member for Bodden Town.

QUESTIONS TO HONOURABLE MEMBERS

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR COMMUNICATIONS, WORKS AND AGRICULTURE

NO. 202: Will the Honourable Member explain Government's position regarding a possible amendment to the Division of Fences Law, 1990, so that it would distribute the expenses of enclosing properties more equitably?

HON. LINFORD A. PIERSON: Government is considering an amendment to the Division of Fences Law, 1980, after recommendations are received from a committee headed by the Chief Agricultural and Veterinary Officer, and the Development Plan Review Committee.

The Law, at first, seems straightforward and provides for the cost of construction, repairing and maintaining of a fence to be borne equally by the owners of lands which the fence divides when both are used for agricultural purposes. It does not, however, address the issue of when one property is used for something other than agriculture, and the other one for agriculture. On the one hand if property is used for, say, grazing of cattle, and residential lots are adjoining it, surely one would expect that the responsibility to contain the cattle lies with their owner. Nevertheless, one would not expect the owners of the adjacent residential properties to be content with the erection of barbed wire fences on their boundaries. Aesthetically, and for the safety of very young and elderly people, barbed wire fencing would be unacceptable.

On the other hand, one could not reasonably expect a farmer to provide chain link or other similar costly fencing for a large tract of land on which cows could be grazed. Were this to be done, the economics would likely force the farmer to abandon the farming effort and utilise the property for some other use. Clearly, a dilemma is created if the adjoining properties are not used for agriculture. With increasing sub-urbanisation in traditional grazing areas, such as the Savannah, Newlands and Lower Valley areas, conflicts such as these are bound to increase. Any review of the Division of Fences Law cannot ignore this.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say if his Portfolio has received any representation from cattle rearers concerning the necessity to review this law and, also, if in the review the views of cattle rearers are going to be sought?

HON. LINFORD A. PIERSON: Yes, Madam Speaker.

MADAM SPEAKER: If there are no further supplementaries. . . The Member for East End.

MR. JOHN B. McLEAN: Sorry, Madam Speaker, I was just trying to read the answer. I wonder if the Member could say, with regard to the answer given, where he states concerning barbed wire fence adjacent to residential properties, what would be the situation whereby somebody constructs a home against a farm? Am I to understand that the farmer is wrong for having his farm in that area? I mean, if they are going there and they actually found him there, then the onus should be as much on them as the farmer.

HON. LINFORD A. PIERSON: Madam Speaker, the Member has raised a very good point and this is precisely why I said it is a very difficult matter to solve. But, we have discussed a possible solution and also we have already selected a committee to look into this matter which is an on-going committee. Perhaps the most equitable solution would be to have a fence for agricultural purposes, and as this is a hypothetical question and I will give a possible solution. The most probable solution would be to have a fence for agricultural purposes, that is, grazing, set back from the common boundary with a non-agricultural use, for example, residential. In planning parlance this would effectively create a buffer zone between conflicting land uses if no mutually acceptable alternative for the provision of a fence could be arrived at.

Another suggestion is that if the adjoining land is a zone for agriculture but is lying fallow, the active user would be solely responsible for providing, repairing etcetera, the fence. If land lying fallow becomes active, the repair and maintenance would then be shared equally by adjoining users. So it is not a very easy solution, but, the Committee is looking into possible ways of dealing with this matter.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. To the Member. I understand the problem that we are faced with, it is not an easy one. But, I would like to ask the Member if we are not creating a monster, but that suggestion - because as he well knows there are many people who settle in agricultural areas and expect that it can change overnight to suit them. To put it in a question, Madam Speaker, I wonder if the Member is aware of instances where individuals have moved into agricultural areas and have actually put forward those views, for example, with the Pavilion?

HON. LINFORD A. PIERSON: Madam Speaker, as mentioned previously to the Member, we are looking at various ways of dealing with this matter. It is not a matter that has cropped up overnight, it has been going on now for many, many years. As a matter of fact, the last law, which is just one page on this, was done in 1980. So it is a matter which has been ongoing for quite some time. But it is not an easy matter. The Committee will be looking at various scenarios and trying to arrive at what will be the most equitable situation. I do know of certain suggestions that have already been made to the Committee.

The Committee will consist of the Chief Agricultural and Veterinary Officer as Chairman; and, we will have from the Legal Department, Mr. Michael Marsden; from the Humane Society, Mrs. Nancy Harris; from the Veterinary Board, Doctor Joseph Jackman; from the Cayman Islands Agricultural Society, a representative; from the National Trust, Mr. Fred Burton; from the Livestock Owners' Association, Mr. Paul Bodden. The Committee will have powers to co-opt a representative from among residential home owners, so this is being actively looked into at present.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, can the Member say if the Committee is investigating the possibility of the cost of sharing a fence that would be suitable to both parties, where the uses of the land are different, that is, if the farmer is satisfied with a barbed wire fence and somebody adjacent wanted something better, if that person would be prepared to pay the difference in the cost of the two fences?

HON. LINFORD A. PIERSON: Madam Speaker, yes, these are matters that are being addressed by the Committee, and forms a part of the terms of reference.

MADAM SPEAKER: The next question is No. 203, standing in the name of the First Elected Member for Bodden Town.

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 203: Would the Honourable Member say: (a) what is the current amount of money invested in both hardware and software in the Computer Services Department; and (b) what is the rate of increase per annum since 1989?

HON JAMES M RYAN: (a)The current amount of money invested in both hardware and software in the Computer Services Department is $2,725,155.00. (b) The rate of increase in 1990 over 1989 was 38

per cent. 1991 showed an increase of 17 per cent over 1990 and 1992 shows 25 per cent increase over 1991.

SUPPLEMENTARIES:

MADAM SPEAKER: Supplementary, the First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member can say just how much of this equipment is purchased through local suppliers and computer hardware and software dealers or distributors?

HON JAMES M RYAN: Madam Speaker, I do not have the information on the amount of hardware or software purchased through local dealers or suppliers.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is aware that there is some concern among the local computer hardware and software suppliers, in that they do not receive any business from the Government and, indeed, are concerned that the Government continues to purchase most of their equipment abroad, even when this equipment could be purchased from dealers and distributors in the Cayman Islands at similarly competitive prices, and also with an equal or greater backup and warranty source?

HON JAMES M RYAN: No, Madam Speaker, I am not aware that this is the case. It is my understanding that hardware and software could be purchased from overseas and imported at a lower cost than purchasing it locally.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say whether the Government, prior to its purchasing, advertised in the local paper or communicated with any of the dealers or distributors in the Cayman Islands as to their needs with a view to inviting tenders?

HON JAMES M RYAN: Madam Speaker, I am not in a position to answer that.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could tell us who is responsible for purchases abroad? Is there a middleman involved or is it done directly by Government?

HON JAMES M RYAN: Madam Speaker, it is my understanding that it is purchased direct from overseas. To my knowledge there is no middleman involved.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, what does he mean by directly from overseas? Does he mean that the purchases are made from the manufacturer? Are they made from a wholesaler or from a retail dealer?

HON JAMES M RYAN: Madam Speaker, it is difficult for me to answer that with any degree of accuracy. I do know purchases are made from overseas, and I would expect that the very best prices would be obtained and, therefore, probably directly from a manufacturer.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member. Would the Honourable Member say whether the payment of these large sums, I think it is now $4 or $5 million worth of equipment, is in-line with Government's policy of buying local and buying Caymanian?

HON JAMES M RYAN: Madam Speaker, I think the inventory that the Honourable Member speaks about has been built up over many years and it is, therefore, difficult to evaluate it in terms of buying locally or buying Caymanian.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. It is my understanding that many of the computer hardware and software suppliers are in a position where they can meet some, if not most, of the demands of the Government. I would, therefore, Madam Speaker, ask the Honourable Member if he would give an undertaking to communicate with these suppliers so that in the future they may have the option of expressing an

interest in dealing with the Government, if it is feasible?

HON JAMES M RYAN: Yes, Madam Speaker, I will give that undertaking.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member say whether the equipment purchased on the basis we have heard is maintained by the individuals from whom it is purchased?

HON JAMES M RYAN: Madam Speaker, the Computer Services Department has an in-house maintenance staff and all maintenance repairs on equipment would be carried out by that staff.

MADAM SPEAKER: The next question is Deferred Question No. 157, standing in the name of the First Elected Member for Bodden Town.

DEFERRED QUESTION NO. 157

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE THE TEMPORARY FIRST OFFICIAL MEMBER RESPONSIBLE FOR INTERNAL AND EXTERNAL AFFAIRS

NO. 157: Will the Honourable Member say: (a) what is the number of group employees currently in the Government Service; (b) what are the titles and salary scales of posts held; and (c) how many workers in this category are Caymanians?

HON JAMES M RYAN: (a)The number of group employees currently in the Government service is 495. (b) The titles and salary (wage) scales of posts held are specified within General Orders and in the 1992 Annual Budget on page 356. Copies are available for perusal. (c) The number of Caymanian workers in this category is 246.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say whether there are any plans to reduce the number of non-Caymanians in this category of workers?

HON JAMES M RYAN: Madam Speaker, the Personnel Department is now arranging to take a closer look at the Group Employees as a whole - the whole concept of Group Employees. No doubt, when this is being done, consideration will be given to reducing the number of non-Caymanians employed, where possible.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Could the Member please tell us the nationalities and years of employment of the other 249 individuals?

HON JAMES M RYAN: Madam Speaker, the Honourable Member will be aware that I had to defer this question for over a week to collect the information. It has been a massive task and we are dealing with 26 Departments employing these people in this category and I was simply unable to obtain that information within the time frame.

MADAM SPEAKER: The Elected Member for East End.

MR. JOHN B. McLEAN: Madam Speaker, because the question was deferred I thought that all of this information would have been at hand.

Could the Member please given an undertaking to have this supplied in writing? I do consider it very important.

HON JAMES M RYAN: Madam Speaker, I will give that undertaking.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, the answer shows that more than half of the people in this category of workers are non-Caymanians, that is 249 against 246. Can the Member say how this situation has been allowed to develop?

HON JAMES M RYAN: Madam Speaker, the fact of the matter is if there are no Caymanians to fill these posts, then, if work is to continue in these Departments, we must employ non-Caymanians

to do the work.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member tell us what is the work done by these Group Employees?

HON JAMES M RYAN: Madam Speaker, I mentioned in the substantive answer that the job titles are all available in this year's estimates and there are just simply a host of jobs within the Group Employee category and it would be very difficult to name them all here. But I believe it is true to say that some Departments employ more than others.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, will the Member say if it is correct that these people are mostly just the ordinary workers, for instance some day workers at Public Works, or one of the other Departments? Is that not correct?

HON JAMES M RYAN: No, Madam Speaker, that is not correct. There is in the category a section for unskilled and semi-skilled workers and then there is the category for skilled labour. So while I do not have the breakdown on the number of persons employed, there are no doubt a number employed in skilled areas as well as semi and unskilled.

MADAM SPEAKER: That concludes Question Time for this morning. The next item on today's Order Paper is Government Business, Bills, Third Readings.

GOVERNMENT BUSINESS

BILLS:

THIRD READINGS

THE MAINTENANCE (AMENDMENT) BILL, 1992

CLERK: The Maintenance (Amendment) Bill, 1992.

MADAM SPEAKER: Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I move that a Bill shortly entitled A Bill To Amend the Maintenance Law (Revised), be given a Third Reading and passed.

MADAM SPEAKER: The question is that a Bill entitled The Maintenance (Amendment) Bill be given a Third Reading and passed.

QUESTION PUT: AGREED. **THE MAINTENANCE (AMENDMENT) BILL READ A THIRD TIME AND PASSED.**

THE MAINTENANCE ORDERS (ENFORCEMENT) (AMENDMENT) BILL, 1992

CLERK: The Maintenance Orders (Enforcement) (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I beg to move that a Bill shortly entitled A Bill for a Law to Amend the Maintenance Orders (Enforcement) Law, (Revised) be given a Third Reading and passed.

MADAM SPEAKER: The question is that a Bill entitled the Maintenance Orders (Enforcement) (Amendment) Bill, 1992 be given a Third Reading and passed.

QUESTION PUT: AGREED. **THE MAINTENANCE ORDERS (ENFORCEMENT) (AMENDMENT) BILL, 1992, READ A THIRD TIME AND PASSED.**

THE AFFILIATION (AMENDMENT) BILL, 1992

CLERK: The Affiliation (Amendment) Bill, 1992.

MADAM SPEAKER: Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I beg to move that a Bill for a Law to Amend

the Affiliation Law, 1973 be given a Third Reading and passed.

MADAM SPEAKER: The question is that a Bill entitled The Affiliation (Amendment) Bill, 1992 be given a Third Reading and passed.

QUESTION PUT: AGREED. **THE AFFILIATION (AMENDMENT) BILL, 1992, READ A THIRD TIME AND PASSED.**

THE SUMMARY JURISDICTION (DOMESTIC VIOLENCE) BILL, 1992

CLERK: The Summary Jurisdiction (Domestic Violence) Bill, 1992.

MADAM SPEAKER: Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I beg to move that a Bill shortly entitled A Bill for a Law Relating to Domestic Violence be given a Third Reading and passed.

MADAM SPEAKER: The question is that a Bill entitled The Summary Jurisdiction (Domestic Violence) Bill, 1992, be given a Third Reading and passed.

QUESTION PUT: AGREED. **THE SUMMARY JURISDICTION (DOMESTIC VIOLENCE) BILL, 1992, READ A THIRD TIME AND PASSED.**

THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 1992

CLERK: The Trade and Business Licensing (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable First Official Member.

HON JAMES M RYAN: Madam Speaker, I beg to move that a Bill entitled A Bill for a Law to Amend the Trade and Business Licensing (Amendment) Bill, 1992, be given a Third Reading and passed.

MADAM SPEAKER: The question is that a Bill entitled the Trade and Business Licensing (Amendment) Bill, 1992, be given a Third Reading and passed.

QUESTION PUT: AGREED. **THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 1992, READ A THIRD TIME AND PASSED.**

THE LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 1992

CLERK: The Local Companies (Control) (Amendment) Bill, 1992.

MADAM SPEAKER: The Honourable First Official Member.

HON JAMES M RYAN: Madam Speaker, I beg to move that a Bill entitled A Bill for a Law to Amend the Local Companies (Control) (Amendment) Bill, 1992 be given a Third Reading and passed.

MADAM SPEAKER: The question is that a Bill entitled the Local Companies (Control) (Amendment) Bill, 1992, be given a Third Reading and passed.

QUESTION PUT: AGREED. **THE LOCAL COMPANIES (CONTROL) (AMENDMENT) BILL, 1992, READ A THIRD TIME AND PASSED.**

MADAM SPEAKER: The next item on today's Order Paper, item 5, Other Business. Private Member's Motion No. 13/92, Debate on the Draft Constitution. The First Elected Member for West Bay, continuing.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS:

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

(Continuation of debate thereon)

MR. W. McKEEVA BUSH: Madam Speaker, yesterday, late in the afternoon, I had put my position to this Honourable House on the proposed Constitutional advancement. Suffice it now to say that I do not support the magnitude of changes that have been proposed and supported by three Elected Members of Executive Council, and the Second Elected Member for Cayman Brac, in the Select Committee. Including their support for the political appointments of judges and civil servants, and other matters connected to the Public Service Commission.

We, a minority of us, have submitted a minority report which has been criticised and misrepresented by several Members, especially the Member for Communication and Works, who tried to put across the idea that the Select Committee's Report is the report of the 12 Elected Members. This is not so. A minority report, as the Member should know, gives the views of the minority in that Committee that are opposite to the majority's view. That is what a Minority Report is all about. The Member for Communications and Works should not misrepresent the facts, nor should the Second Elected Member for Cayman Brac and, certainly, Madam Speaker, there are five of us who have not signed the Majority Report because we do not agree with its contents. How in the world can those Members say that it is the report of the 12 Members? They could only say so, or they would only say so, if they wanted to confuse and mislead the people of this country. The report is certainly their report not our report.

We have said we should move cautiously. We could not sign their report, taking into consideration their proposals recommended in the Select Committee. What I am saying there is, I am referring to the three Elected Members of Executive Council now who spoke, and the Second Elected Member for Cayman Brac. We could not be so power hungry to support what was recommended by those Members. It was a suggested by the Member for Health that the Chief Minister replace the Governor in Executive Council as Chairman. We all know that if that should happen, we would be so close to independence that we would not have far to go. That is a reckless and irresponsible move, and in an article you yourself, the Honourable Speaker of this House, set out the steps where we are constitutionally, and where we would be if we take certain steps. In the *Caymanian Compass*, Friday, August 7th of this year, you set out very precisely here what those steps are.

I think I may have given the impression that it was you who wrote the article, but as I understand it, it is an article that was taken from a Government Report which you, the Speaker, had made previously. I did not want to leave the impression that you wrote that particular article in the *Caymanian Compass* that day. It was while you were not the Speaker of this Honorable House. Nevertheless, it gives an accurate account, in my opinion, of what the steps are, and, at this point in time we are somewhere in between four and five where we have an Executive Council where the Governor has reserved powers. Where we are now proposing to go would be six and seven, where we become full Ministers and the Governor appoints a Prime Chief Minister from the Elected Members. The Governor retains certain responsibilities and powers.

Taking their suggestion to put the Chief Minister as Chairman of Executive Council, we are moving to the next step before independence. These are the reasons why we could not sign that minority report.

I know the day the Second Member could not sign the Majority Report, he had been likened to being stupid for doing so. But I believe that we are wise, even if we only wised up in the latter stages of the game. We knew what the plans were and, regardless of anybody's feelings, that is their opinion. Whoever did it, they have that opinion about how this country advances politically. It is our opinion that we should not take those sort of steps. It would be detrimental for this country. We certainly took steps to prevent the review from getting to this stage and also, the Member for Communication an Works misrepresented the facts when he said we agreed to the Select Committee's Report because the Member knows very well that we did not.

At the October special meeting last year, we took steps to try and stop them in their tracks. We tried to have it delayed and the records are here, and the Hansards are here, and the public very well understands. It was carried on the front page of the *Caymanian Compass*, the moves that I took to get, first of all, a Suspension of Standing Orders. The purpose of that suspension was to allow the introduction which asked the House to stop all consideration being given to Constitutional advancement for these Islands, until the issue had been clearly debated in the candidates' manifestos for the forthcoming General Elections, and to postpone the debate of the report until a date in 1992, which would give the public sufficient time to evaluate the recommendations of the report. That motion was seconded by the Third Elected Member from George Town. Well, of course, that failed.

We took further steps in trying to get a resolution at the end of the debate, because the House allowed the introduction of the report at that time. At the end of the debate, which we did not debate - and I want to state here that I felt it appropriate not to debate it, I felt it appropriate to debate the Draft Constitution, that is when I think that Members must give their debate as to what they wish or want. Although, the Second Elected Member from Cayman Brac repeatedly said that what we are doing here in this debate - which is debating the Draft Constitution and the attached Minutes and the Minority and Majority Reports - he contends that all of this is irrelevant, that we do not need it! How else were we to know what the Foreign and Commonwealth Office was going to suggest to us, or put in a draft manifesto? This is the proper time to discuss the ramifications, although the Second Member from Cayman Brac and the Honourable Member of Communications and Works do not believe so.

At the end of that debate, the House will recall that I tried to put forward a motion which was not allowed and ruled that the motion could not go forward. There is no doubt where we have stood in our position on the report. The report cannot be said to be the report of the five Backbench Members. It is the report of the Elected Executive Council and the Second Elected Member from Cayman Brac. We were not successful, we were not able to stop them. Not being able to trust them, we tried to stop them but were unsuccessful. Another area which we considered was not in tune with our way of thinking, was their

suggestion to appoint magistrates. I come back to the report again, the Report of the Select Committee, and I see that the Honourable Member for Communications and Works, the Second Elected Member for George Town, has now taken great pains in his debate to try to say that he did not support it.

In fact, the *Caymanian Compass* carries a report in today's paper where the Member has said that he does not support the appointment of judges or magistrates. But, had he voted with us against his report - because it was his report! He suggested in the Committee meeting for the appointment of magistrates by the Chief Minister, and he suggested the political interference by way of appointment by the leader of the opposition and the Chief Minister in their Select Committee meetings. He suggested it! Here he is saying that he is taking another line. That is not what he now supports according to this report.

HON. LINFORD A. PIERSON: Madam Speaker, if the Member would give way.

MADAM SPEAKER: The Honourable Member for Communication and Works.

HON. LINFORD A. PIERSON: Madam Speaker, since the Member is so eloquently quoting me, I wonder if he would quote from the Minutes precisely where I made those comments?

MADAM SPEAKER: Please continue. First Elected Member for West Bay.

MR. W. McKEEVA BUSH: The Member tried in his debate to say this report was a report by all of us, the Select Committee's Report. I am saying that it is not the Minority Report, it is the Elected Majority Report. I am saying that that report sets out what the Constitutional Commissioners wanted, and we know the record is clear. The Commissioner's Report states that magistrates would be appointed by the Chief Minister and civil servants. Members of the Public Service Commission would be appointed by the Leader of the Opposition and Chief Minister.

Well, it is on their recommendation that the Governor would appoint. We clearly understand that position. But the Member now cannot say he was not in agreement! I know politically he is trying to make civil servants believe that he was not in agreement. But that Select Committee Report on the Constitution took up the suggestion as put forward by the Constitutional Commissioners. That is their report. He signed it, he was a party to it. Now, if he did not agree, he, the Elected Member for Communications and Works, could have joined us in a Dissenting Report, but he would not. We were fools, they said - we should have listened to the Commissioners. The Second Elected Member for Cayman Brac said...

POINT OF ORDER

HON. LINFORD A. PIERSON: Madam Speaker, on a Point of Order. The Member is imputing against me things that I did not say. I have never referred to that Member or any other member of this House as fools.

MADAM SPEAKER: It is a valid Point of Order. Would you just indicate to whom you are referring when you say that?

MR. W. McKEEVA BUSH: Madam Speaker, I will make it clearer. I went on to say that they were saying that we were fools, I said, ..."said the Second Elected Member from Cayman Brac", that was very plain.

POINT OF ORDER

MR. GILBERT A. McLEAN: Madam Speaker, On a Point of Order. I have never said that any Member of this House was a fool, and if the Member is saying that that is what his opinion is that I said, I would like it to be clear that I did not make such remarks against any Member of this House.

MADAM SPEAKER: First Elected Member from West Bay, would you like to clear that point up?

MR. W. McKEEVA BUSH: Madam Speaker, when I rose to debate this motion, I knew that I would get the interruptions. That is why they maneuvered the other day to try to stop us from debating. The same Member rising on that Point of Order was the one who moved that closing motion to even stop the debate. Nevertheless, Madam Speaker, I would like to point out to that Member what he said, which I contend that he is calling us a fool, and I have the Minutes of the Hansards, Madam Speaker. I am just going to take the time to find it.

"First of all," and I quote Mr. Gilbert McLean, Second Elected Member from Cayman Brac, who spoke on Thursday, 3rd of September, 1992.

> "First of all, the Report is the Report of that Select Committee. On the last day that that committee met, certain Members began to immediately jump up on the band-wagon that they wanted to put in Minority Reports. Some people signed this report. I was one of them because I could never be so stupid as to spend one year and a half in Committee and when the time came for me to sign that, I was a Member of that majority view, not to sign it.".

What is that Member saying?

MADAM SPEAKER: Honourable Member, I think the word that you were using at first was fool, so there is a vast difference there.

MR. W. McKEEVA BUSH: Madam Speaker, I will take your ruling that there is a difference. But a stupid person and a fool, in my view, is the same person.

MADAM SPEAKER: Not really.

MR. W. McKEEVA BUSH: Well, it is a matter of words, semantics.

MADAM SPEAKER: Please continue.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker, but I hope that satisfied the Second Elected Member from Cayman Brac, because I intend, and I ask him to pay attention, because I intend to do some more referring before I am finished.

MADAM SPEAKER: I think, Honourable Member, that you can be assured that you are getting good attention, by all the interruptions.

MR. W. McKEEVA BUSH: Thank you very much. I agree with you, Madam Speaker. Yes, as I said, I can understand the haste with which the Honourable Member for Communication and Works has now shifted his position because he is seeing that he is losing political ground and they are afraid of the Civil Service. That is their position, but they are not going to fool that body. The people in this country clearly understand what they wanted in their Majority Report. The Public Service of this country will not forget their political interference over the last four years and I am going to deal with that in a couple of minutes.

We could not support that idea in the interference of a Chief Minister or a Leader of the Opposition in the Public Service Commission appointments, nor the appointment of magistrates. We could not support that idea because I know that some persons in this country would not hesitate to tell a magistrate how to adjudicate on a case. If, as ordinary members of this country, we cannot face up to due process, why should I trust them to appoint a magistrate who could be pressured into doing whatever the Minister wants? Many a citizen in this country would not be safe. I hold fundamental opinions, in regards to the separation of powers, namely: judicial and legislative powers. Two vast, distinctly different, powers and the two should never, ever be mixed.

The Foreign and Commonwealth Office has not, I say, acceded to their request. That is borne out in the Draft Constitution because the Draft Constitution now says that the Chief Justice, I think, will now appoint magistrates. So, what the country has to bear in mind is that some of them are now saying, and the Member for Communication and Works, the Second Member from George Town is now saying - that now he does not agree with some of this Draft Constitution.

There is nothing from stopping them, if they are returned to power in November of this year, from implementing their desire. There would be nothing to stop them if they won a majority of seats. And you know that they would put forward the changes, that Constitutional advancement. They have said so. There would be nothing stopping them from going to the Foreign and Commonwealth Office and making a case for appointing the magistrates.

POINT OF ORDER

MR. GILBERT A. McLEAN: Madam Speaker, on a Point of Order. The Member is deliberately misleading the House by stating that I, among others, have recommended a report that politicians should appoint judges, and the Member has further said that this was the recommendation of the Commissioners on this.

With your kind permission, I would like to refer to page 18 of the Commissioners' Report, under Judicial and Legal Services Commission. I am to read, because that is the only way that it can be absolutely clear, where it says:

> "**Judicial and Legal Services Commission**
>
> There are relatively so few officers in the Judicial and Legal Departments who would be appointed after consultation with a Judicial and Legal Services Commission (normally, only those whose offices require a legal qualification) that we do not consider the establishment of a separate commission would be justified. If it is considered that some independent advice should be available to the Governor in making certain of the less senior appointments in these two Departments (excluding the posts of Puisne Judge and above and Attorney-General) then they could be brought within the purview of the Public Service Commission (by an amendment of the PSC Regulations, 1985).". (Cayman Islands Report of the Constitutional Commissioners 1991)

I contend that to say that the British Constitutional Commissioners recommended politicians appointed, should appoint any judges at any level is absolutely misleading in this matter.

MADAM SPEAKER: First Elected Member for West Bay, would you continue and clear that one up?

MR. W. McKEEVA BUSH: Madam Speaker, the Member should go on now to read the next part. If he was listening carefully, instead of waiting for a chance to pounce on me, he would have heard me saying magistrates, not judges, because that is what the recommendation is. He should also read the Select Committee's Report because it says that they 'take up the challenge or the recommendation as put forward by the Constitutional Commissioners.'

I cannot be distracted in this. I am very clear, and I am very sure of what I am saying. The records are there and for the saving of my time, I am not going to read every little item, but the records are there. I would read on page 18, where the Second Elected Member would not read, because this says, and I quote from the Cayman Islands Report of the Constitutional Commissioners 1991, by Sir Frederick Smith and Mr. Walter Wallace, and I quote:

> "In the preceding section of our report we make a general recommendation to the effect that in making appointments to the post of Head of Department and above, the Governor should be required to consult the Chief Minister.".

I have not said that the Governor or the Constitutional Commissioners recommend that any Puisne Judge or the Attorney-General be recommended, although they might have said that. I am specifically dealing with the lower court in my presentation, I am dealing with the magistrates.

Their report, their report, I repeat this because they are now denying it because they know the public is not for it, but in the Minutes, it is here very, very clean - the Member for Education is asking me for the page. I wonder why he did not read it?

MADAM SPEAKER: May I ask the Members in the Gallery to remain silent while the debate is going on? This is not for public entertainment.

MR. W. McKEEVA BUSH: Madam Speaker, I guess the Members in the gallery are overtaken by the many interruptions that they see. I am shifting. I apologise on their behalf. On page 3, of the 14th Meeting, Thursday, 18th of July, 1991, Committee's recommendation on Public Service Commission, and I quote:

> "The Committee by a majority agrees with the Commissioners' recommendation that:
>
> (i) in making appointments to the post of Head of Department and above, the Governor should be required to consult with the Chief Minister;
>
> (ii) the Commission should now be established not by law but by the Constitution and recommended that the provisions of section 57 of the Turks and Caicos Islands (T&C) Constitution Order 1988, be used as a model in this regard;
>
> (iii) in particular, an equal number of the Commission should be appointed after consultation with the Chief Minister and the Leader of the Opposition respectively;".

McKeeva Bush is not telling anyone any lies. This is no Aesop fable, these are the facts. But they are trying to get out of it because they do not want the country to know what they are doing, the Committee by majority. We did not agree to it. We put in our recommendations in the Minority Report that we did not agree to it. They know it. Let me further say, briefly, to the Member for Communication and Works, that Constitution, section 87, and sub-section (2), carries their recommendation in regards to the Public Service Commission. So, you cannot get out of that. I know that he is playing footsie with people in his constituency, trying to make them believe one thing, when the other is actually the case in this election year.

POINT OF ORDER

HON. LINFORD A. PIERSON: Madam Speaker, on a Point of Order. The Member, again, is imputing improper motives to me, and I do not know what he means by making "footsies", or whatever he is saying. I wish he could be more specific - perhaps improve his English language.

MADAM SPEAKER: The Member has a valid point, and I think I have asked you to be more specific and to not use language that would give insult to any Member.

MR. W. McKEEVA BUSH: Madam Speaker, I am sorry that I do not come out of the Halls of Academia like some of them. I am sorry that I am only a little backwoods, old bush boy. But I can read and write. I know when I am wrong, and I know when I am right. And I am saying that the Member for Communications has swerved now from his original submission in the Majority Report.

When I refer to "footsies", I mean that he is pandering to his constituents, in particular, the civil servants in the electoral district of George Town, because his report recommended that the Chief Minister would appoint and, therefore, that is in this Constitution and I will read it just in case people are doubting me. Section 87 (2) reads and I quote:

"(2) Of the members of the Public Service Commission, the Chairman shall be appointed by the Governor acting in his discretion and an equal number of the other members shall be appointed by the Governor acting after consultation with the Chief Minister and by the Governor acting after consultation with the Leader of the Opposition.".

It is very clear here what they wanted. In fact, this particular section 87 is their identical recommendation.

I am trying to find what we said in our Minority Report, maybe I can get it from one of the other Members, but it is very important. It is very important that I read this. In our Minority Report dealing with 26 and 27 of the Majority Report, that means the majority of the Select Committee's Report that the Member for Communication and Works signed, and the Second Elected Member from Cayman Brac signed:

"PUBLIC SERVICE COMMISSION JUDICIAL & LEGAL SERVICES COMMISSION.".

That is our quote: "The Chief Minister and Leader of the Opposition should NOT be consulted on appointments to the Public Service Commission.

The INDEPENDENCE OF THE CIVIL SERVICE from political interference is fundamental to a stable Civil Service an stable Cayman Islands.

We feel that there should be no consultation of the Chief Minister in relation to Principal Secretaries or Heads of Department until a much later stage when the new Constitution, if any, is working well and the Cayman Islands have adjusted and stabilised to it.

We feel that the Judicial, Legal and Police Departments should remain fully independent and free from political interference as at present and that the Chief Minister should not be consulted for any appointments to these Departments.".

We are very clear and very specific in what we want. We are not trying to be ambiguous in any shape or form. We do not tell an untruth to our public. We go directly to what we said. They cannot do the same.

I take the time, and I would have finished, but for the interruptions. But we have to be careful, because if these Members get in, the Second Elected Member for Cayman Brac, the Third Elected Member for George Town and the others, if they get in with a majority, in my opinion they are going to seek to put in their recommendations.

MADAM SPEAKER: Would you be prepared to take a 15 minute suspension? The House will be suspended for 15 minutes.

AT 11:38 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 12 NOON

MADAM SPEAKER: Please be seated. Debate continues on Private Member's Motion 13/92. The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I would now like to look at the matter of the Finance Committee, how that is made up and what our recommendations were. I say that the composition of Finance Committee cannot remain the same. According to the Minutes of the 13th meeting, Wednesday, 17th of July, last year, I had this to say, and I quote:

"Mr. McKeeva Bush advocated that Civil Servants, being controllers of public funds, should not therefore vote same. He noted that in this regard precedents have been set in all Constitutions. Mr. Bush recommended that the Finance Committee's provisions be set out in the Constitution and in the Standing Orders for the application of same. Regarding the Chairman of the Committee, Mr. Bush suggested that a bad precedent was set in establishing the Speaker as Chairman. He noted that the Speaker in other territories is not normally the Chairman and is independent of any workings of the House.".

Meaning, Madam Speaker, that in the workings of any Select Committee of the House, the Speaker normally does not share.

"He suggested that the Commissioners have endeavored to provide a Westminster model entwined with local views, which is causing difficulty. Mr. Bush recommended that the Finance Committee's provisions be set out in the Constitution; and that the Committee be comprised of only Elected Members with the Financial Secretary as Chairman having a casting vote.".

I still support that view and I do not think that we should ever

have moved from what was set up in this country from 1959. I believe that rule was made to help get rid of the former Financial Secretary, down-grade him, keep him down as much as possible, and that sort of victimisation has resulted in a destruction of our general reserves and the public finances. Any new government should heed the public's advice and put back the Finance Committee in its original state.

I believe that this is a good place for me to deal with what I considered a misrepresentation of the truth; when the Member for Education said that he had to bring the motion to review the Constitution, because there were attempts to bring about piece-meal changes in the Constitution. That is not so and the Member knows that and he should not have attempted to mislead the public about that fact.

POINT OF ORDER

HON. BENSON O. EBANKS: Madam Speaker, on a Point of Order, Standing Order 35. The Member is imputing that I am deliberately misleading the public.

MADAM SPEAKER: Would you, Honourable Member for Education, further go on and say how he is doing that? Would you give an explanation as to what you actually said, to elucidate it?

HON. BENSON O. EBANKS: Madam Speaker, I am referring to Standing Order 35, (3) and (4).

MADAM SPEAKER: I do understand the Standing Order, but please go on and explain. I want you to explain now how he is doing what you say.

HON. BENSON O. EBANKS: He is saying that I was deliberately misleading the public. For example he said that I had said that I had to bring a motion. I never said that I had to bring a motion. I said that I brought the motion as a result of attempts to amend the Constitution piece-meal. But, be that as it may, what the Member is saying is that I am untruthful and that I am deliberately misleading people.

MADAM SPEAKER: I think, Honourable Member, what I would like to hear from you, when you did say that about piece-meal, please explain what attempts were being made to do piece-meal amendments to the Constitution.

HON. BENSON O. EBANKS: Madam Speaker, I gave that history. I do not have my verbatim report here. I pointed out that in 1985 there was a committee that was suggesting constitutional amendments.

I referred to, I believe it was, two unsuccessful motions, for the Speaker and around the time of this famous Motion 3/90, there were more motions in the House to amend the Constitution to provide for a simple majority instead of a two-thirds majority. There was a motion circulated which I referred to, signed by two Members, circulated among the membership asking for constitutional change. It never reached the House. That is recorded in my deliberations. This is where I talked about piece-meal. I did mention piece-meal amendment. There was one also for a referendum law to be put into the Constitution.

MADAM SPEAKER: Honourable Member, I have gathered the point. It has been made by the Member for Education. Would you please rephrase your last statement?

MR. W. McKEEVA BUSH: Madam Speaker, my statement was that he had to bring the motion he claimed he had, to bring the motion. He says that he never said he had to, but he brought it. I do not know what the difference is between the two.

That Member understands quite well that the motions raised in 1990 were not any attempts at what he called piece-meal change of the Constitution. He just referred to the Speaker's Motion. The Member knows quite well, and the House understands quite well that the Speaker's provision for an appointment of the Speaker was in the present Constitution and embodied no change whatsoever. It did not take any change in the Constitution. We did not have to go to the Foreign and Commonwealth Office. We did not have to bring down Commissioners, as he had to do. What he has done, is to seek constitutional advancement that puts us close to independence. That is not what we did.

POINT OF ORDER

HON. BENSON O. EBANKS: Madam Speaker, on a Point of Order, again. The motion did not ask for constitutional advance. The motion asked for Commissioners to come to study our Constitution, to question and discuss with the people and to evaluate the situation and to report. No change of Constitution was advocated or requested.

MADAM SPEAKER: The Member has a point there, so would you please avoid from saying that constitutional changes were sought by this Member in his motion?

MR. W. McKEEVA BUSH: Madam Speaker, the Member - and I am going to show how devious they were because that is what it was, a devious route to get to the position where we are today - when he called for a review, that is exactly what has happened! A review and a study, as far as I am concerned, are totally different situations. If you study it, you just study it. But if you review it, you review it to change it!

MADAM SPEAKER:

Not necessarily, Honourable Member. That is not necessary.

MR. W. McKEEVA BUSH:

I am no teacher and I am not going to get into the semantics of it, but that is what happened. He can say what he likes. I know he is also trying to backtrack at this time. It looks like you are going to have to order some seat belts because there is really some jumping up and down in here now.

Why does the Member not tell the House that it was their intention to have those constitutional changes that are now proposed? In February of 1990, in the Throne Speech Debate, His Excellency the Governor, had this to say, and I quote from the Speech from the Throne 1990, delivered by His Excellency, The Governor, Mr. A. J. Scott, CVO CBE, at the State Opening of the 1990 Session of the Legislative Assembly, 16th February, 1990 at 10:00.

I am going to quote in full what His Excellency the Governor had to say on the Constitution and I quote:

> "The present Constitution was introduced in 1972 after Lord Oxford and Asquith was invited to visit the Islands, and conducted extensive enquiries. His report was studied by the Assembly, and the 1972 Constitution evolved. It introduced significant changes compared with the 1962 Constitution.
>
> The 1972 Constitution has served the Islands well in their extraordinary progress from an undeveloped country to the present stage of economic and social advancement. It was carefully constructed and appears to have reflected well the desires of the people at that time.
>
> However, time has moved along, and even if these Islands were once fondly referred to as the "Islands that time forgot," they certainly are not in that category now.
>
> All human institutions and organisations need to be examined from time to time, to ensure that they continue to serve the purpose for which they were constructed, and if necessary to consider their adaptation to fit changing times and needs. Such periodic examinations or reviews should not, of course, pre-judge or pre-determine what, if any, changes may be needed.
>
> It may now be worth considering whether the time has come to request the United Kingdom Government to appoint a suitable person to conduct a review of the Constitution of the Cayman Islands, taking wide soundings among the community, and to report on what he finds, for the consideration of the community and of this Assembly, as on the last occasion.
>
> It is emphasised that in raising for consideration the possibility of such a review, I convey no personal view, nor any opinion of the United Kingdom Government, as to any possible need for changes. These remain as matters of the people of these Islands to consider and decide upon.".

We all know, and the country well understands, that a Throne Speech can only be the speech of three factions. Our Throne Speech could only be the United Kingdom Government, it could only be the Governor's opinion, or it could only be the opinion of the Government of the day. Nobody else can have anything to do, or does have anything to do, with the Speech from the Throne.

If His Excellency the Governor says it is not his personal view, nor the opinion of the United Kingdom Government, that we have a review and necessary changes, then that suggestion had to come from the Members of Executive Council themselves, nobody else. That is as clear as the day is long. Yet, the Member for Education constantly rose in this House to put blame on other matters when it had to be them. I categorically state in this House that it was them, because if that was not so then we are not conducting proper government, and the Governor was lying. I do not believe that. I believe that His Excellency the Governor told the truth.

What I contend is that the Member for Education said that he brought the review because of attempts to change piece-meal the Constitution during 1990 when, in fact, this was the policy of the Government, the Throne Speech. This is what they intended to do. Furthermore, any changes that were proposed, and I think in due deference to the Second Elected Member from Cayman Brac, his motions that ask for some changes always stated that we would have gone to the public or that we would have gone through a referenda. We never intended to do anything with the present Constitution without public input or the public saying a direct yes or no.

The other reason was to preserve the finances of this country which we know have since been destroyed. The other mention that he threw into the debate about the Speaker's Motion - the grinning Member I see over there who is constantly talking, I want you to take note because I get a lot of stick for speaking because I speak. I am not a hypocrite and I speak into the microphone. They are out there grumbling away and it is distracting. Nevertheless, he has often tried to say, and he did in his debate on this last motion, that we used the Speaker's Motion to change the Constitution when that is not true! It is a direct misrepresentation, and that is good parliamentary language. I think it was someone else who called it "analogy in exactitude". That is another good way for putting it, but they are not telling the truth when they say that we moved the motion to change the Constitution to get the Speaker.

How unreasonable those Members can be in their attempt to destroy us politically at this late stage of the game. What they need to say in this House is that they did not agree with it. They did not agree with who was appointed until they could get no-one else, because the facts are they tried to get other people but the Backbench was very smart. The Backbench submitted one name and the

Governor at that point in time could not backtrack. He had written us telling us he was going to abide by the majority wish. We know who the majority wish was at that time. That is what they should say instead of getting up here all the time trying to make a clash between McKeeva Bush and the Speaker. They should tell the Speaker that they did not support her; they attempted to get at least two of their known supporters to sit in the Chair. Tell the truth and the country will be free, not only that, your conscience will be clear.

I know one of the reasons why this review was brought. It was brought in the hope that the issue would be so taken up, or would so take up everybody's attention in the campaign, that we would forget all the other serious issues and problems which they have dumped on this country in the last four years. Let no one in this country fool themselves that that was one of the main reasons. Of course to get the political power that would be an extension to it. They wanted something when in their last twilight day they were having so much difficulty they wanted another term and this was a move they made in 1972 when they were nearly defeated.

The same Member for Education won by just something like a few votes. The same unpopular position they are in today. They took that move to get this Constitutional Review hoping that the country would be so taken up with it they would forget all the other issues, but he is sadly mistaken. We are going from one end of this country to the next to make sure that the people of this country understand and are reminded of what this country went through during these past four years and what the Government's intention is and plan for the country constitutionally and otherwise.

The Member for Communication and Works (I am sorry he has had to leave the Chamber), has issued a challenge to debate the Constitution and to have that debate controlled by a moderator. I am not afraid to let my people know what our position is. However, let me say that I also have other matters of great importance to debate; Cayman Airways; the Hospital; his intentions of taxation; social problems, and many other issues that affect the lives of our people, and any day I can debate them with their moderator, or none.

The question whether the Leader of Government, as seen by us will be the same as their Chief Minister, could never be. We have said it would not be the same. The Government Leader, as we see him, would be the recognised head of the country. He will not have the wide-sweeping powers that their Chief Minister would possess. It would be a lot easier to remove our Leader should he attempt to ride rough shod over the people of these Islands or he became corrupt in one form or another. He would not be able to hire and fire the Ministers of Executive Council, nor would he have the political power over the civil servants by interference through the Public Service Commission, as proposed by them. He would be elected as a Head of the country, either by the Executive Council or the entire House who choose to work with the majority group.

Our Leader would be recognised by the Governor as the head of the country and would answer for it, in as much that as for him to be Leader, he would have to have those qualities where he knows how to handle people, deal with his Ministers and work, not by dictatorship rule, but by consensus. This is what I see in our Leader. If he turned out to be a corrupt person, he would not have the power to be able to maneuver around by firing a Minister or hiring a Backbencher or promoting a Parliamentary Secretary, as is the case with their Chief Minister to Executive Council as a Minister.

This is where the problems arise in what they are trying to do. They claim that the Chief Minister would not have the power to remain in, but we know, once we put him in office if we were to institute, say, that we instituted the Member for Education for Chief Minister, what would he have done? He would have maneuvered in a position in 1989, by appointing some Members from here as a Ministers or as a Financial Secretary and you would not have had an election. You would not have had a change in Government because that is more or less what happened when the First Member from Cayman Brac, for whatever his reasons were, supported them. This is the kind of political situation that you would get into. It would be our Minister. It would be easy to handle him. If he is a genuinely honest, capable, good person, then, that is all the country needs, and that is all that we can humanly offer our people under prevailing circumstances.

Their problem is they have kept banging on this thing about they need a Leader. Their problem is that they have been each doing their own thing. That cannot work in a Government whether you have one of this kind or one fully set up with all the bits and pieces of political machinery, and so on. Everybody cannot go separate ways. If one of them wants to do something, and this is their problem, the others simply agree regardless of the consequences to the country, so that they would have no problem with their particular project. That is their problem! Now they say the country needs a Leader to be able to control. Not so!

No Constitution can legislate for hard headedness. No Constitution can legislate for unreasonable and downright nasty people. We could never make a Constitution to control those kinds of people. We cannot legislate for them. If you are a bad person inherently, no system can make you good. Government is a science, an art, and honesty of purpose is the foundation stone of Government. As for the Member for Education being elevated to the Chief Minister's position, I thought that as Member for Education would have had the modesty to say, No, thank-you.

As I look back over the past years, of my association with him, and as we start this procedure of constitutional discussion, his time should have been used in his past 22 years here to educate our people on the need as he saw fit. People do not know what we have in the present Constitution much less to be ushering in a new one with such a magnitude of changes. I am disappointed in him to that extent, because instead of coming at this late stage of his tenure as a Member, he should have used his years to begin the preparatory work that would have eased the transition and to begin his investigatory work so as to be able to at this time have the people know exactly where we are heading and what we are getting into.

However, that has not been the case. During the last 20 years, his only utterance publicly, in meetings and so on about constitutional changes, was that the Constitution that we

have now needs no changes. I can picture him standing on a public platform saying not one iota needed to be changed, he would say after all those years. The only criticism he could find at times, of the late Jim Bodden, was that he wanted to change the Constitution. How do they now expect me or the country, his constituency even, to take them seriously or truthfully that these constitutional changes are good for us? They were so begrudged of someone else attaining that exalted position in these Islands.

The Member for Education made a statement in his debate saying that he would be happy for the day to come when no-one criticised, for example, His Excellency the Governor. We all know that the Governor, well - what the Member for Education said was that persons who get political mileage out of telling off His Excellency the Governor, words to the effect that he is looking forward to the day. That is not possible. His Excellency the Governor is responsible for Police, Immigration and External Affairs. If there is cause to challenge him, or criticise his handling of these services, it must be done. Certainly over the past years, there has been considerable room for criticism in those matters. I, for one, never failed to let my disgust be known to him on how he treated matters and how he battled with us because we challenged the handling of those matters.

Overall, His Excellency the Governor is responsible for peace, order and good government in these Islands. The past four years can be said was not a period of peace, order and good government. We had marches, we have corruption in Government and, generally, Government has been very poor, indeed. The Governor had the power to head off much of the problems we faced but did nothing but add fuel to the discord, distrust and bad management.

We had cause to get into hot water with him, as many citizens did. Remember, it was not even possible for Caymanians to bathe on the beach in satisfaction; first time in our history. We had Governors before who, when tourists went up to them and said, "Is this a restaurant?" said, "Yes, come in," and they proceeded to serve them, as the story goes. That was not the kind of atmosphere obtained in this country. I do not know what the Member for Education was saying. If he is saying that we must not criticise that kind of situation, well, that is his business. I knew a long time ago that he has no spirit of sensible nationalism. But I said the only way we could stop criticising the Governor was if we took away his subjects and that would mean full internal self-government, as the Member for North Side spoke about, like Bermuda or, worse, independence.

If that is what the Member for Education wants, then he should say so. We certainly, on this side of the House, do not subscribe to those positions. We feel that if the Governor as the Head of this country has those subjects, he must be criticised when there is wrong in the Police, Immigration, Internal and External Affairs. The only way that we could not was to handle it ourselves, and we are not ready. I am coming to that soon too. The Second Elected Member for Cayman Brac seemed to agree with the Commissioners that it is not possible to have Ministers and not a Chief Minister. That is not so. That is a blatant misrepresentation of the historical facts of constitutional advancement in the West Indies.

Those Members are saying that what we want we cannot have in our Leader. They say that he is going to be the same as Chief Minister. They said that we were not telling the truth. But I think it is appropriate to read what the Commissioners, themselves, had to say about the kind of system that we foresaw in the appointment of a Leader. I think I should read the whole paragraph. I am reading from the eighth meeting on Tuesday, 29th of January, 1991. Meeting of the Constitutional Commissioners:

> "Sir Smith sought clarification on the Recommendation to see a gradual moving into a Ministerial System.
>
> Sir Smith intimated that a party system presently existed in that candidates run in groups, but that what lacked was that of a formal structure having been laid down. He clarified that the government does not have to have a party system in place to have a Chief Minister because of the fact that candidates are elected by groupings, and that, in every sense of the term,, Executive Councillors are Ministers.".

This is the part that I am concerned with here in my debate, their criticism saying that what we are proposing is the same as a Chief Minister. Sir Smith continued, and I quote:

> "So that, therefore, it was the wish to go further without changing the Constitution. Members could do so by deciding amongst themselves which person they want as a leader (i.e. in the form of a Chief Minister or that of the Leader of Government Business) - that person being so elected would not, however, be higher in status to any other Executive Councillor, but would be the spokesperson for the Government.".

That is all we have contended that we need. So, when they talk about how we must accept the Constitutional Commissioners' position, I pray that they should accept what they told us there in that Minute. Madam Speaker, much has been said in the debate by the Member for North Side about the split in the Backbench and that we would see a further split after nominations. "Wait until the nominations", he said, "to see if all of them can be together.". Yesterday, in dealing with the comments of the Second Elected Member for Cayman Brac, this is what he said, and I quote the *Hansards*: "I am not quite sure why this Member has not been capable of making a speech now for the past several months without getting me into it.".

This is the part that followed. The next part that I am going to read is the part that I am complaining about, plus what the Member for North Side said: "I have seen fit to remove

myself from instances when he summons his ministers council...". (*Hansard 03 September 1992*) I contend that the Elected Member for Cayman Brac referred, or gave rise to our split, highlighted the cause for our split. I did not say that the Member said the word split, I said highlighted the rise. I think that I should tear up what fully took place with that Member and I think I am at liberty to do so keeping within bounds our Standing Orders.

Although the Second Member had moved 360 degrees from our agreements, when we entered the Select Committee Meetings, we were more than patient with him. So as not to have any division among us, we kept the peace hoping that the whole matter would resolve itself in a cordial and satisfactory manner. This was not to be because that Member took no chances. He was going to be leader whether or not.

Finally, I said, enough is enough, let me discuss the matter with the Third Elected Member for George Town, which I did, and we came to the conclusion that the group could not proceed with that kind of situation and the matter began to be more openly discussed among all of us Backbenchers and in one particular meeting, the Second Elected Member for Cayman Brac walked out.

POINT OF ORDER

MR. GILBERT A. McLEAN: Madam Speaker, on a Point of Order, may I draw the attention of the Chair to the matter of relevance? And while I accept that what has been read indeed comes from the transcripts of what I said, I basically was referring to what the Third Elected Member for George Town was saying, and the fact that I was not a part of his council of ministers. I see no relevance to what the Member for West Bay is saying, which is alleging to be the things which I did and did not do.

MR. TRUMAN M. BODDEN: Madam Speaker, I know this is unusual but..

MADAM SPEAKER: Just a moment Third Elected Member for George Town.

Honourable Member, I have allowed a lot of latitude and I think that the First Elected Member for West Bay has a right to make an explanation on the issue that he is dealing with, and I am just going to ask that he would not drag it out unnecessarily long. Thank you.

MR. W. McKEEVA BUSH: Madam Speaker.

MADAM SPEAKER: There is no debate on my ruling please, there is no debate on any item at all. Third Elected Member for George Town, I do not see any reason for you to be on your feet.

MR. TRUMAN M. BODDEN: Madam Speaker, if you would just give me the opportunity that the Second Elected Member...

MADAM SPEAKER: I am sorry. There is no earthly reason. There is nothing in the Standing Orders that permits me to permit you to speak at this time. If you do so, you are curtailing your winding up of the debate.

Please continue First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I thank you very much and I do not have much longer on this matter. I will be as brief as I can be on such a matter. After he walked out on that meeting, he proceeded to have a meeting in the George Town constituency after he had gone to great lengths to sow discord in that constituency. He said that they intimated that there was a split in the Backbench but that meeting in George Town only served to cause further dissention.

He also had a meeting with one individual in our constituency who had a meeting there, and severely criticised the Third Elected Member and myself by using information wrongly that could only have been given to him by a devious person.

MADAM SPEAKER: First Elected Member for West Bay, you have already stated that previously. Please do not repeat it. It is absolutely unnecessary.

Second Elected Member are you rising on a Point of Order?

MR. GILBERT A. McLEAN: Yes, Madam Speaker.

POINT OF ORDER

MADAM SPEAKER: Please sit First Elected Member for West Bay.

MR. GILBERT A. McLEAN: Madam Speaker, I rose on the fact that the Member speaking is imputing improper motives to me and he is imputing things that I did, which is seriously imputing bad character to myself. I would point out that if these things are so, would he produce the evidence to this House? I am prepared to speak or to deny, or to accept that, but he is rambling into an area of making allegations (where it is very much like him), that this was done and that was done and there were no witnesses to it.

I say again, it is also irrelevant.

MADAM SPEAKER: First Elected Member for West Bay, please get to the point, and

please do not continue with this trend of debate. If there are going to be any other points raised by the Second Elected Member for Cayman Brac, I would draw attention to Standing Order 31, where in due course, with the leave of the Presiding Officer, you can make a personal explanation of all points that may be raised in the future.

MR. GILBERT A. McLEAN: Thank you, Madam Speaker. I would like to reserve the right to do that with your permission, to answer to any points that have arisen where I might feel there is a need to reply. Thank you.

MADAM SPEAKER: First Elected Member for West Bay, would you continue?

MR. W. McKEEVA BUSH: Yes, Madam Speaker. I also have Standing Order 31 and the procedure, as I understand it is this; that with the leave of the Presiding Officer, a Member may make a personal explanation, although there is no question before the House. No controversial matter may be included into the explanation, nor may debate arise thereon.

MADAM SPEAKER: Honourable Member, I am quite capable, I am sure, of interpreting that Standing Order. I do not need it to be drawn to my attention. Would you continue?

MR. W. McKEEVA BUSH: No, Madam Speaker. If I did not think you were capable... well, lets put it this way; I think you are capable. I was pointing it out to the Second Elected Member for Cayman Brac, but these matters have been raised. The split by the North Side Member. He said that there would be more splits among us, so I think I have ample room to say what happened and what took place. That is all I am doing, and I say that the meeting that he had in West Bay, he knew he had the meeting and who he had the meeting with.

MADAM SPEAKER: It is now nearly five to one, ...

MR. W. McKEEVA BUSH: I will be finished in five minutes, Madam Speaker. I mean with this section that is.

MADAM SPEAKER: Fine, thank you.

MR. W. McKEEVA BUSH: That meeting arising out of his meeting in West Bay backfired and bore no fruit. The Member further caused doubts and discord in the Bodden Town District, by telling them half the stories. Also in East End, with us and with the East End Member.

After that, when all that failed by this time...

POINT OF ORDER

MR. GILBERT A. McLEAN: On a Point of Order, Madam Speaker.

There is continuing imputation that I am some sort of person going around this country sowing mischief for every district of this country. I do not know what the Member is speaking about and, unless he can produce evidence to this House and table it, I am asking - because I have no right of reply in instances of this - for him to stop it.

MADAM SPEAKER: Honourable Member, I have really asked you to try to close out the debate on that because you are dragging it out unnecessarily long. Thank you.

MR. W. McKEEVA BUSH: Madam Speaker, I figured it would be called unnecessary because it is the truth, but I will bow to your ruling. That Member has done exactly what he said he is not doing. The country knows it. He was there with Franklin Smith, he has done it with George Ebanks, and has done it with some other candidates, who were supposed to be candidates in West Bay, and God knows who else he has been doing it with.

Now let him get them to write letters, because I suppose that will happen, to justify because that is his only way of proving. He had a meeting with certain individuals in the front of my aunt's residence in West Bay. They called me. My sister went by and saw him there. If he was a man he would tell the truth.

I say that I wish that Member no ill will, I do not hate him ..

MR. GILBERT A. McLEAN: Madam Speaker...

MADAM SPEAKER: Will the two Members please sit down? The House will be suspended until 2:15.

AT 12:55 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:32 P.M.

MADAM SPEAKER: Please be seated. Debate continues on Private Member's Motion on 13/92, the First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker.

There is one last reference on a matter that was raised in the course of debate, that I have to refer to before I move on to another substantial topic. That was the matter raised by the Member for Communications and Works when he said that we were Unity Team Members.

We have been trying to get some unity, that has been a very hard job for a team. I do not see why unity should be such a bad thing for that Member, since he was part of that grouping in their hey-day when they were in office, and he was a member of that ticket known as the "Oreo Ticket" in George Town in 1980, when he ran with the Third Member. Somehow now, it is a bad thing for him. We are trying to get some unity in the country. That is not a bad thing.

I want to move on to deal with the matter of the Public Service Commission. The Draft Constitution proposes that the Governor shall appoint the Chairman of the Public Service Commission and he shall appoint either two or three Members on the advice of the Chief Minister and two or three on the advice of the Leader of the Opposition. I have thought long and hard on this proposal, as I did others contained in the draft. I find that I cannot support that proposition.

Under this recommendation, those venerable words, "civil servants" would pass from our vocabulary and a new terminology would be used - "Politician servants" - for that is exactly what will be the end result of the proposal contained in the Draft Constitution. There are some Members in the Assembly who push this very strongly and we have heard from them that they have experience in the Public Service and in the Public Administration. At this stage count me as dubious. There are too many amateurs playing around in the professional field of Public Administration. I am not prepared to accept amateur preaching as necessary gospel.

In fact, when I consider the many attacks on civil servants; those who have been threatened; those who have been pushed out; those who have been kept down, and all done with the knowledge and assistance of politicians, this Member will not support politicising the Public Service Commission.

The other day in this House, the Member for Health attacked his Head of Department - the Head or the Director of Social Services - after four years of working with her, and on a subject which for four years he denied to us; namely, Social Workers being put in the districts. After four years of denying, and even going on a public platform to say that it was unworkable, he attacked his Head of Department, laying the blame on her, for several reasons. But the main reason was so it could be said in this debate, and to lay a case for politicising the Public Service Commission.

After eight years of having to deal, myself, with the Public Service, I can say, too, that I have been disappointed at times by certain performance. However, there are instances where I know that non-performance has been due to non-initiative by the Elected Member of Executive Council. There were times, especially during the last four years, when I proved that non-performance was due to the political victimisation by the Elected Member of Executive Council. One case in point and, for all it is worth, I will just give this House this one example: For over one year, I had been trying to get a number of street lights in my constituency. I wrote the Member. I telephoned his Portfolio. I dared persons at that Portfolio, I phoned many times to the Portfolio and the Department, and I went to the Portfolio. They assured me that they had sent my request to the Head of Department. I went to the Head of Department several times, who assured me the Department had not received my request.

This went on for over a year, until the last meeting of this Honourable House. I had a chance in front of witnesses to corner the Member for Communication and Works and I said to him, "I am no little boy to be pushed around, are you going to give me the street lights?" and he said, "No." I had to threaten the Member with a personal censure motion against him. He, there and then, not one hour afterwards, took my copy of the letter, personally wrote his agreement on the letter, used the Fax in the Legislative Assembly to send the letter to the Head of Department of Public Works, Mr. Ebanks, and I received the lights in August, 18 months after. Here is the letter, the 24th of February, 1991. I did not receive the street lights until August of this year.

I have taken the time of the House to illustrate that the Elected Members do have the necessary clout, the necessary power already, through their election to Executive Council, to get things done when they want to get things done.

HON. LINFORD A. PIERSON: Madam Speaker, if the Honourable Member would give way.

MADAM SPEAKER: Are you rising on a Point of Order, Honourable Member?

HON. LINFORD A. PIERSON: To elucidate, Madam Speaker.

POINT OF ELUCIDATION

MADAM SPEAKER: Proceed then.

HON. LINFORD A. PIERSON: Madam Speaker, the Honourable Member has given one side, as he usually does, of what occurred. What actually happened was, when I passed a meeting he was having with some of his colleagues, he shouted at me in his usual manner and asked what is happening with his lights, and if I was going to get him the street lights. I said in a joking manner, "No."

When I met with him, I called him into the Committee Room and I got on the phone to the Chief Engineer of Public Works and asked him if he had received a notice from my

Portfolio, because no requests come to me from any Member of this House, or from the public, that is not processed. They go straight to Caribbean Utilities Co. (CUC), if funds are available. So, I took his letter, as he said he was not getting any action on it, I made a personal note in my own handwriting and I faxed it to the Chief Engineer to show him that, even though the matter had not been dealt with through the Portfolio, I was personally taking my time to ensure that it was receiving attention.

He has twisted it around to make it seem as if it was because of pressure that he was bringing a censure motion. I am trembling in my boots!

MADAM SPEAKER:

Honourable Member, I have allowed the Honourable Member for Communication and Works to elucidate the point. He has made his point. Would you continue your debate and would you, at the same time, take note of Standing Order 35 (2) that states that a Member may not revive a debate which has already been passed onto another subject. It is out of order to revive any debate on a matter, or to reconsider any specific question upon which the House has come to conclusion. The matter of Health and Social Services has already been passed. Please avoid commenting on that.

MR. W. McKEEVA BUSH:

Madam Speaker, I do not think that I can say that I debated that issue. I referred to it to show what could happen because they are claiming that they do not have any power to do anything, and they are blaming the civil servants.

MADAM SPEAKER:

I have just said, please do not continue along the lines of the Social Services Department, please.

Continue with your debate, sir.

MR. W. McKEEVA BUSH:

I do not think that any Member can say that I misled the House in any way. I do not know what the purpose was for his interruption. I have this copy of the letter with his personal handwriting on it and it is dated the 24th of February, 1991 and I am going to get a copy to lay on the Table the minute I finish using it.

What I have said is that they gave me the runaround, blaming the Department, and until I pressured him - and it was pressure because I threatened the Member with a personal censure motion against him - he very well, at that time, ran to get it done. For 18 months they had me running around. In fact, they had their political cronies in West Bay saying McKeeva is not doing anything.

This is the purpose. They cannot blame civil servants for that. That is the point that I am making here. I am showing by the mere fact that the Member took this correspondence which is addressed to the Honourable Linford Pierson, J. P. I already gave the sequence of events because my letters that I write to any Portfolio are addressed to the Elected Member. They are responsible, constitutionally, for getting things done. By the mere fact that he could take this correspondence, this letter, and write his personal "OK" on it, after denying me for 18 months, shows that the Elected Members of Executive Council can get action when they want to get it. But, when they want to blame the civil servants, they blame the civil servants.

This letter illustrates then, how the politician uses the civil Servant when he wants to. I have no doubt that there needs to be some warranty changes, but this can be done in the usual accepted way in this country without upsetting and politicising the Public Service Commission. The way the situation works now, that is, the Public Service Commission and Government or Elected Members, it provides for an administrative separation from those who determine policy, that is, the politician and prescribed standards for those who apply services and standards in the day to day administrations of the public business. That is our honest civil servants.

They must be given the opportunity to do the country's business. Whichever Government is in office, the politician's duty is to set the policy and see that it is carried out but not to use a maul, a stick, a threat over the heads of the civil servants and blight the chances for development. I prefer to see less interference by politicians and more opportunity for the service to live and breathe. If we go from one end of this region to the next, and even, indeed, the entire Commonwealth, I say without fear of successful contradiction, that the Cayman Islands has, by far, the best Civil Service, even with its shortcomings. Even with the areas that might need some surgery, this country has much to be thankful for in that the Service has performed, as best as possible, under sometimes frustrating circumstances, in the national interest. The Civil Service must remain independent and the sure foundation of a strong country.

In my eight years in Government, yes, one of the ironic things, it is true, I have found that civil servants are universally against political influence until sometimes personal problems arise and then they resent if an MLA, does not have enough pull to fix the problem. That is part of human nature. Civil Servants vote too. They come out and vote, so they expect representation.

I strongly feel, and I contend that it is the responsibility for the rank and file of the Civil Service themselves to have their own means of redress and that this organisation will be an efficient bargaining agent. I said to them, "do not fall into power hungry or influence seeking cliques". If they succumb to political interference, their career will forever be dependent on politician's likes and dislikes. Their Civil Service tenure will be no 'Valhalla' and they will only have themselves to blame.

When we see civil servants attacked, whether from street level or from the levels of this House, the civil servants need to ask themselves, "Which one of us is next in line for this kind of political treatment? Which one of us is next?" Yes, you cannot go and attack or abuse a director of any department while bypassing your Principal Secretary. One might well say that not all politicians have the dictatorial and obnoxious attitude of some. That may be true. But I ask, is there to be a guardian of political purity in the future?

The Member for Education, from the inception of this constitutional review, proposed and supported the political interference of the Public Service Commission by the political appointments. For many years he has been a part of Executive Council and has never moved in this direction, at least not publicly. But in their quest for power today, to control civil servants, they now see an opportunity today for them to wield more political power and we can only guess who will be appointed to what positions.

I said that I am not going to support the politicisation of the Public Service Commission. It is dangerous to give them more power and the only protection against political patronage is to preserve the Public Service Commission as an independent party. What I will say in closing on this is, what is needed, and the Parliaments in future have no task so basic, in my view, so fundamental, as to ensure that Public Service employment now and in the future shall be an attractive and rewarding career for the very best and ablest Caymanians. If we are to recruit such Caymanians, we must provide rewards which are genuine and real, which also means keeping them financially abreast of the cost of living and similar jobs in the private sector.

I have always believed that service to the country must be considered the highest form of service and those who pursue a Public Service career must be given the confidence that they will not be led down blind alleys, that they will not have their potential growth development and advancement restricted by red tape and patronising politicians. The proposal is supported by Executive Council and their Members on this side, or at least some of them, it will cause a new era in this country. A new era of patronage, partisanship and partiality, so I say no! to those Members who propose that the Public Service Commission must be appointed by the elected Opposition Leader and the elected Chief Minister.

A new government....

POINT OF ORDER

HON. BENSON O. EBANKS: Madam Speaker, on A Point of Order. I wonder if the Member could quote where in any report or any proposed constitution he sees the suggestion that the Membership be appointed by any politician, be he the Chief Minister or anybody else.

MADAM SPEAKER: That is not a Point of Order. If you want to call it Point of Elucidation, if the First Elected Member could point that out.

First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, it says here that of the members of the Public Service Commission in section 87 of the Constitution, sub-section (2):

> "(2) Of the members of the Public Service Commission, the Chairman shall be appointed by the Governor acting in his discretion and an equal number of the other members shall be appointed by the Governor acting after consultation with the Chief Minister and by the Governor acting after consultation with the Leader of the Opposition.".

That is very, very plain that the members will be appointed by the Chief Minister and the Leader of the Opposition. Please, I cannot...

MADAM SPEAKER: Honourable Member for Education, do you have a point?

HON. BENSON O. EBANKS: Madam Speaker, the Member is reading one thing and stating another. The appointment is by His Excellency the Governor. He consults with the Chief Minister and the Leader of the Opposition, but they do not do the appointment.

MR. W. McKEEVA BUSH: Madam Speaker, the man is playing with words. The Member for Education is playing with words. He knows the only reason His Excellency the Governor is going to consult the Chief Minister and the Leader of the Opposition is to do what they want. This is very plain in here. What else are they going to consult?

The Chief Minister, if I should say so myself, will not go to the Public Service Commission and say, "Public Service Commission, please appoint John Jones because he nominated me at the last election." The Leader of the Opposition will not be able to go to the Public Service Commission and say, "Mr. Public Service Commission, please appoint Mr. Jones because he nominated me in the election." No! That is very plainly in the works.

MADAM SPEAKER: Honourable Member, I gather from what I have seen here that the Governor uses his discretion. He is not bound to accept advice of the Chief Minister, as he is not bound to accept advice of the Executive Council, but if you wish to give another interpretation, do that.

MR. W. McKEEVA BUSH: Madam Speaker, can you imagine in a country, what would happen if the Governor does not go along with what the Chief Minister wants? You tell me in what territory they have that same clause or section that is pulled from? It is pulled from Bermuda, it is pulled from the other territories, I believe most of the Dependent Territories have that provision; Montserrat, Virgin Islands, Turks and Caicos Islands. Go to them and ask them who tells the Governor to appoint whom to the Public Service Commission. I know the workings of Government. I know, and I state categorically that that is what will happen.

More than that, hear what the Member for Education on 20th Meeting, Friday, September 6th, 1991 - they were dealing with the Public Service Commission:

> "Honourable Benson O. Ebanks pointed out that the Government does not interfere with the decisions of the Caymanian Protection Board (which is a Government appointed Board).".

Yes, Madam Speaker, but do we not know that the Government appoints them? The Government tells the Governor who to appoint to the Caymanian Protection Board? Do we not know that? How else do those Members get appointed? I know, I have helped to form two Governments now, and I sat there when those Members appointed their friends and family to the Protection Board. That is not the point. He further stated:

> "and therefore failed to see how the PSC would be politicised. He also pointed out that it would be inappropriate for the Governor to appoint members who do not share a similar philosophy of the Government of the day.".

[Interjection by Hon. Member for Education, Environment, Recreation and Culture]

MR. W. McKEEVA BUSH:

Madam Speaker, what is he saying?

Madam Speaker, please, I have had enough interruptions! I cannot take it. If the Member for Education wants to speak, let him speak. He can not deal with me. This is in the Minutes. This is what he said. I quoted for emphasis. It would be inappropriate for the Governor to appoint Members to the Public Service Commission who do not share a similar philosophy of the Government of the day.

Yes, McKeeva Bush is wrong. They always try to make me look like I am wrong. But I know that I studied the political situations in this region and, besides that, the Commonwealth Parliamentary Association has given me good cause to visit several countries and I know what goes on there. I talked to my counterparts in those territories. The proposal, as supported by Executive Council and their cohorts on this side, will cause a new era and I state that new era of patronage, partisanship and partiality. So, I say No to the Member for Education, No! A new Government will recognise civil servants as civil servants, not as political servants, not as slaves or second class citizens, as they are today. A new Government will recognise the public servants in this country as Caymanians who work for all the citizens of these Cayman Islands.

I am sorry that in this debate I have had to refer to charges made by Members, and to refer to debates by Members here, because that was not my intention when I seconded the motion. I expected a debate of a very high standard, but those going before me gave me due cause to reply. We heard the kinds of misrepresentations that have been given in this debate when they would tell us those sort of things; they did not do this, they did not do that, yet the Minutes record that they have done it.

In closing, this country is facing some very serious changes and we are facing it at a time when our people are under great stress and strain. Most times when great stress and problems exist, people are most cautious about their future. One of our problems will be to exercise all the discretion and all the intelligence and all the knowledge to keep the country united at all levels. That is a great job for any leader because of victimisation, economic weaknesses and just pure hurt among our people. There is an eminent amount of intolerance in our people, at least I sense it, and I sense a considerable amount of hostility, as sometimes goes on in this House, which has begun to eat away at our good name.

I have a good deal of concern about moving forward. I have a great deal of concern about the behaviour, not in this House, because, as I said, we understand quite well the cut and thrust of debate (even though some of our people do not); I am not concerned about that. I am concerned about the behavior in this country at large, and I am concerned about the behavior of those who are purporting, and who are touting to take up the matter as leaders of this country.

First of all, if we are to move forward, our people must have confidence in that leader. The country must be in such a way that we can invite respect and confidence from the outside, which we must have if we are to make a success for our people. There is no doubt about it, these are times of much emotion, as is always the case in such high times. There is no short-cut to achieving a strong country. Instead of harping on the changes themselves - trying to make the populous believe that all we need are these changes with the leader of the country and we would have reached Utopia - we need to let our people understand that each and every man and woman, however poor, however uneducated, however small, and however feeble, has a job to do and that it is on the shoulders of all of us, not a Government alone, that the future rests on - whether for good or for ill.

It is a time to call for a national spirit - the spirit that I always like to talk about - the spirit of true sensible nationalism. How proud I am to look back at the many attempts I have made to try and instill that spirit of sensible nationalism. Sensible nationalism is when you want to see such things as an order of national heroes. Sensible nationalism is when you want to see a Caymanian - whether you differ with them at times or not, or whether you get heated like I have been with you at times - sensible nationalism is when we can place a Caymanian in your seat. That is sensible nationalism. That is change for good.

Sensible nationalism is when we want a code of ethics on conduct to be able to guide ourselves with, that we can stand four square before the world and say, "Fellow people, this is what I attest, this is where I stand, this is how I can bear my soul to you". Sensible nationalism is when you ask for such things as the Queen's Badge of Honour, which no-one could ever place behind their name. Sensible nationalism is being able to put that Honour behind your name. Sensible nationalism is when you can ask for a commission and a publication of a full and proper documentation of the history of the Cayman Islands. Sensible

nationalism is when you call for the creation of a special scholarship to be known as the Cayman Scholarship, and for that scholarship to be funded by that Government, taken from your funds, for all distinguished recipients to be known as Cayman Scholars. That is sensible nationalism. Sensible nationalism is when you can call for the creation of national sports awards for our young people, that is sensible nationalism. And I have been in the forefront.

I, who am always pitched on in this House and tried to be made to look as bad as possible, I have done more good with my sensible nationalism than all of my detractors and the political neophytes in this House. I am not concerned about a need for Chief Minister, it is not justified. Madam Speaker, the question must be asked in these very hard times: are we ready for such a leader and the powers given to him? I stand here before my fellow colleagues and the people of this country, and I say: We, the Caymanian people, are not ready to have these sort of changes. We are not ready, No! A hundred times No, we are not ready!

Is this country ready for a change of such great extent as a Chief Minister? Well, some time ago, I said to the House and the country: "Come let us praise famous men and our forefathers who begot us; let us establish an order of national heroes." According to some of them, especially the Member for Education, we had no one to appoint as a national hero. Some of them said the time had not arrived to have a national hero. I said to the Member for Education, "If this country has not produced a national hero after 150-odd years of Parliamentary Government, I do not see how it could be ready for a Chief Minister". They must be free of such petty jealousy so that they think it is hard to have an order of national heroes.

Who can forget the Government's non-acceptance of the Speaker's Motion? I say no! If we cannot have our own Caymanian as a Speaker, as they did not support, we cannot support a Chief Minister.

MADAM SPEAKER: Honourable Member, I think you have mentioned that already. Please do not repeat yourself.

MR. W. McKEEVA BUSH: I am closing now. Just give me another couple of minutes and I will be finished.

MADAM SPEAKER: You have one minute left, sir.

MR. W. McKEEVA BUSH: Yes, I am winding up. Have you taken note of the interruptions?

MADAM SPEAKER: Yes, I have, sir.

MR. W. McKEEVA BUSH: Yes, Madam Speaker. Of what time in this House have you seen anybody rise in standing ovation when Members here rose to the occasion and gave a speech that evoked that sensible nationalistic feeling? None. I say, we are not ready. We are at a crossroads and it is not these kinds of constitutional changes that are needed. We need good people to run the Government - stout-hearted, fair-minded individuals - leaders who care for their people. The Bible says in Jeremiah: "Have you listened to me? Have you put out the fires amongst your people?". The Bible answers itself: "No, you have not done these things, therefore you will suffer.".

Our purpose for bringing the motion was to get debate. To let every man in this House state his point. I have done mine. I am sorry again, that I had to point out or refer to the debate of others because that drew away from the due deference that this motion deserves.

Thank you, Madam Speaker.

MADAM SPEAKER: Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, London ignored the Select Committee's recommendations in preparing the Draft Constitution which has been sent to us. I believe London was right because the Select Committee had no mandate from the people to make recommendations on Constitutional change.

The motion, which brought about the changes we are now debating, was the brainchild, I believe, of the Executive Council. One of their Members presented that motion to this House during the time when they were under the severe stress they had brought upon themselves by the chaotic conditions in this country and which they had created through the monstrosity of Motion 3/90 which has since destroyed the peace, order, good government and good finances of this country. It is quite fortunate that London understood that the request for Constitutional change did not come from the people, did not even come from the majority of the Elected Members.

The motion seeking constitutional change came to this House. It was debated, seven of the 12 Elected Members, including the Second Elected Member for Cayman Brac, spoke against it. The motion certainly would have failed but for what I call pure political treachery. The President of the Assembly found out that the motion to change the Constitution, (they call it a review, I know the meaning of that word). The motion to review and change the Constitution would have failed despite the fact that there were four Elected Members of Exco to vote for it and the dependable First Member for Cayman Brac to vote for it. The Governor forced the three Civil Service Members to vote for that motion and they squeezed it through the House by a majority of eight votes against the seven Elected Members, so that the majority of Elected Members (seven of us), failed to stop the Member for Education in his quest to advance the Constitution.

London understood this because London is well aware that

what is happening in this Chamber - since the Governor failed to call an election after the changing of the structure of Finance Committee - has only been accomplished because one vote has been used like a plastic credit card to spend the publics' money and to do everything else that the four Elected Members of Council decide should be done. This is why my belief is that London could take no account of the recommendations of the Select Committee.

As a result of that, London took no account of the wishes of the Cayman Islands in preparing this Draft Constitution. They did not hide it, they did not seek to hide it. They sent us a letter which came from the Under Secretary of State, Mr. Mark Lennox-Boyd, in which he said that the draft which has been settled here is a draft which was made up from the Commissioners' Report and does not contain the recommendations of the Select Committee.

Is it not a good thing that this House does not have the power to change the Constitution as they change their Standing Orders. If they could I believe we would now have a totalitarian despotic constitution, not giving the people of this country any say in their affairs, not giving the people of this country any chance to do anything at all. So London knows, and London has acted accordingly. I pride myself that I was a part of that seven man delegation that went to London in August after all the fury with Motion 3/90 and the Constitutional Motion because in our discussions we were able to let the Foreign and Commonwealth Office (FCO) understand what was happening in the Cayman Islands.

I believe that, up until that time, they had no idea of how democracy had been eroded in the Cayman Islands under our present Government. And I believe if ever the eyes of the FCO were opened, it was that morning back in 1990 when these Members laid to bear their souls to their officers of the Foreign and Commonwealth Office. You see, we had a Constitutional change in 1971 and one Member, I think it was the Member for Education, has tried ever since to make people believe that this time around, this exercise is the same. This is not the case, because in 1971 the recommendation or the resolution, that was passed in this House and which went to London inviting London to send out Constitutional Commissioners, was signed, had been agreed upon by the majority of the Elected Members, not by the minority of the Elected Members. In fact, I think the motion had been agreed upon by all of the Elected Members. So, the request had come from the people, from the people's representatives. This request came from a Government in trouble, just as Motion 3/90 came from a Government who had lost its support.

That same Member, while trying to make people believe that this was the same, also entertained the hopes that this review would be handled in the same way that he manipulated the 1972 change. Here again, Mark Lennox-Boyd came to our rescue. The way the 1972 Constitution was handled is set out on the front page of the Constitution which shows that the document was passed in London in July of 1972. It came into effect in the Cayman Islands in August of 1972, and the elections were held afterwards in November in 1972.

Everybody knows that, at that General Election in 1972, the same Member had his supporters out in Bodden Town telling people that the late Jim Bodden and I wanted to get into the House to change the Constitution and give people independence, when he knew full well he had already changed it and after the Election the new Government would work on it whether they wanted to or not. His theory or hope of getting this change handled in the same way has fallen to naught and perhaps that is why he has become a "jumping-jack" and he is springing up every time the lid comes off the box when other Members are debating.

The position, as outlined from London with the procedure for this constitutional change, is that they have sent us this document which is before us. This document can be scrutinised by the public; can be read by them, can be examined by them; anybody from the Island can write about it, anybody can give their opinion on it. All of this will happen between now and the 18th of November. On the 18th of November, there will be an Election in which 15 Members will be elected and sometime after that the House will be called together and the Members will be sworn in - fifteen new Members sworn in under the 1972 Constitution. This is made very clear.

What London has said is, once the new Government has been formed. The new Legislative Assembly, which, incidentally, on that day will only have four Elected Members in Executive Council as we have now, will debate this Draft, which is circulating in the Island and they will make recommendations to London. London will take those recommendations, plus what they have heard coming out of the soap boxes, from the Election, and they will make up their minds as to the wishes of the people. Then, and only then, will we get a new Constitution. But this is not the way it was planned. It is my opinion that the present Members of Executive Council had hoped that a new Constitution would have gone into effect and that Mr. Scott would have appointed one of them as a Chief Minister before he left this Island. Thank God that did not occur.

Despite the ravages of Hurricane Andrew, and the barbs of the Members who have spoken, we have much to be thankful for that the people of this Island still have a say. I believe they only have the say because this Legislative Assembly has a very strong Backbench and I am proud to be a part of it.

Every Member of this Legislative Assembly, in the 1988 campaign, campaigned against any constitutional changes. I have here with me, the manifesto of the George Town Members - the Member for Tourism and the Member for Communications and Works. The first item in that says, "We will not make any constitutional changes leading up to independence". That is the first item in it. Let nobody be fooled: Any constitutional advancement takes you one step closer to full internal self-government and finally independence. Regardless of what they try to tell you, it is just like climbing a ladder. Every time you go up one rung, you are getting that much nearer to the top. It may take a long time but that is the direction in which we are headed, because you cannot continue to advance your constitution unless you reach the summit, unless you reach the peak.

We know that Bermuda has had internal self-government for nearly 400 years and they have not gone independent yet. The process can take a long time. It depends on one thing and one thing only, that is, the philosophy of the Members. This is why I am scared. If we get the wrong membership to make the decisions in November 1988, we may shoot right up to the top of full internal self-government because, believe me, what I hear outside is the cry of hungry people - hungry for power! They want the Chief Minister. They want to be first among equals. I hear the drum beats out there.

The position of the Backbench from day one, has been that we want to move cautiously. We are all progressive in outlook. You know with Mr. Truman amongst us, we will be cautious. But we are progressive, safe, sure-footed, moving forward steadily. It was not only the Manifesto of the George Town Members that contained that provision. I understand the mover of this motion, the Member for Education, had a manifesto which declared similar intentions. So, why is it that because they get into a little problem, they start blaming it on the Constitution? You heard about 1986 when they got in trouble, they were blaming it on Mr. Lloyd, and we know when they got it in 1990, they blamed it on Finance Committee. Spoiled children, that is all. Spoiled children changing the rules of the game because they had forgotten how to play it. Because they cannot win in a fair game, they seek to change the rules.

In 1984, this is the Manifesto from some West Bay candidates; "Retain our present Constitution, bearing in mind that our stability and prosperity depend on our remaining a British Crown Colony". I hope they do not start jumping up because I am not saying that any of them will use this opportunity to take us into independence. All I am saying is that every time we make a change we draw that much nearer to it. If you make rapid changes, you will be catapulted into it - catapulted into the road of no return.

The Member for North Side opened his manifesto for this 1988 Election with the same promise, but I would like to say this, mostly to the people of the Cayman Islands. When you see a Manifesto, look at it carefully because the Manifesto that I just referred to, of the Member for Communications and Works, also said in it, that they, those Members, would endeavour to carry out the wishes of the people of the Cayman Islands. Can the Member for Communications and Works tell us that he carried out the wishes of the majority of the people when he voted for Motion 3/90, or when he voted for the hospital? Can he tell us that?

HON. LINFORD A. PIERSON: Madam Speaker, if the Member would give way I would very happy to comment on that statement.

MR. G. HAIG BODDEN: If you direct me to, Madam, I will, but I do not know why...

MADAM SPEAKER: It is left to you Honourable Member, to give way or not to give way.

Honourable Member for Communications and Works.

HON. LINFORD A. PIERSON: Madam Speaker, it is quite true that in the Manifesto for the Honourable Norman Bodden, myself and Mr. Kurt Tibbetts in the 1988 Election, we did in fact say that we would not support any changes in the Constitution that would lead to independence. We still stick to that position.

Madam Speaker, the other point as regards our statement that we will represent the wishes of the people as regards Motion 3/90, and on the Hospital, Madam Speaker, that was precisely what we were doing. All decisions that we have made in the last four years, considering the economic situation world-wide, the way that we have run this country has been in the very best interest of the people of these Islands and it is doubtful that any other Government would have been able to have coped as well, and I would not even say better.

MADAM SPEAKER: Second Elected Member for Bodden Town would you continue your debate?

MR. G. HAIG BODDEN: Madam Speaker...

MADAM SPEAKER: Or would you excuse us, it is time that we have suspension. The House will be suspended for 15 minutes.

AT 3:47 P.M. THE HOUSE SUSPENDED

AT 4:07 P.M. THE HOUSE RESUMED

MADAM SPEAKER: Please be seated. Debate continues on Private Member's Motion 13/92, the Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, the Member for Communication interrupted my speech simply to interject that he believed he had done right in changing the Finance Committee and in supporting the Hospital. I will be dealing with his support of the Hospital when I come to the section with collective responsibility and as to whether the Government did right in changing Motion 3/90. He knows, as an accountant, that the finances of this country have deteriorated since he helped his other Members change the structure of Finance Committee, and that today this country is in terrible shape. But I am not interested in this. This is something he will have to convince his people in George Town, whom he promised he would carry out their wishes. In my opinion he has not, although we know he has a very sweet mouth and if you listen to him you will believe that

he did exactly as he now says he has done. But that is not my concern. I consider his interruption very frivolous, indeed.

Our concern about the changes, and I think we should refer to them as changes, or attempted changes of the Constitution and the Finance Committee, are that not a word has been said to the Members on this side of the House. Not a word has been said to the public. Not a word has been given to the press. When they were about to change the Finance Committee, we found out about it when the Member introduced the motion. I will have a lot more to say on that later. The point I would like to make is that, as the Member for Education says "The people have had their say, but Exco got its way." However, their victory has been very short lived because ever since they have been in trouble, they have been in hot water up to their necks, and it seems to me that the heat is not abating any at all.

I feel that London is concerned about our situation. Why should they not be? This country, up until 1988, had been the pride of the Caribbean, had been one of the best colonies. Now I believe London is concerned, that if the reckless trends continue, that very soon we will be on our knees asking for some form of financial help; asking to be grant aided by the Mother country. London must be concerned with the Cayman Airways disaster, the huge deficit; the victimisation of professionals, such as doctors and other civil servants; the law suits brought against the Government by Mr. Weeks and Guiness Peat against the airline; suits brought by Dr. McIntyre and others; the sacking of the Auditor General; the reckless expenditure; defaulting on our contracts, like the one on the two 737s, and I do not think London wants to be saddled with another Colony that will be seeking financial help because they have problems of their own. In fact, in August of 1990, one of the questions posed to the officials in London was, "Will you help us if these people run up debts that they cannot pay?" The answer was, "No."

If your Government (Elected Members of Executive Council) gets you in trouble, the country will have to pay the debt. We cannot expect any help from London. This is why I believe that we have not seen a quick change in the Constitution, because London is scared of the present Government. Its performance, to say the least, has been disastrous. The results have been disastrous and London, or anybody else with any sense, would now be concerned.

This Constitutional change has not been brought because the Member for Education is concerned for the welfare of this country. He did not say that in his debate on the motion. This has not been brought to help anybody in this country. I believe it was brought simply to make it an issue in this election campaign so that members of the public and candidates would become so absorbed in the technicalities and the legal jargon of the Constitution, that they would forget some of the pains and ills that they have suffered over the past four years.

As a candidate for the next election, I will be going throughout these Islands to tell of the stewardship over the last four years. While an important document, and while changes will be made, I have every confidence in the people of the Cayman Islands that they will elect to the new House people who are capable of not only telling London what they believe is good for the country, but running the country, because what we need today is a new Government, not a new Constitution. Some of the advocates for this new draft want you to believe that Motion 3/90 highlighted the reason why we must have Constitutional advancement and, in fact, I think some of these "interrupters" as I should call them, even convinced the Commissioners that Motion 3/90 had highlighted a reason for advancement of our Constitution. Yet, the Constitution does not deal with Finance Committee. I would like to repeat that, although I am not a man for repeating what I say, the new draft Constitution does not deal with Finance Committee.

They are trying to make us believe that they had to get this new Constitution because they had found out from Motion 3/90, and how the country was being run, that we needed a new Constitution. The new draft leaves the Finance Committee to be dealt with the way it has always been dealt with by the Standing Orders of the Legislative Assembly. Standing Orders which will be made not in London but by the Members of the Legislative Assembly themselves.

I would like to announce that if the Members of the Backbench are elected along with their candidates, it is our intention to change Finance Committee back to its original structure where Finance Committee will be made up exclusively of Elected Members with the Financial Secretary as its Chairman. This is the way it has been ever since we started to enjoy an advanced type of representative Government. The cornerstone of democracy in a representative type of Government is that the Elected Members of Government must control the expenditure. It is that way in every country.

We follow the United Kingdom. We follow other advanced countries. We follow other Colonies, and we even had a seminar here some time ago in which you, Madam Speaker, were one of the lecturers, with Mr. Sinclair-Daniels and other people. If one reads the proceeds of that meeting, one will see that every speaker that spoke on that subject endorsed the idea that Finance Committee should be made up of your Elected Members. Why? Because they come under the direct control of the electorate. If they do not perform, they put them out.

The Draft Constitution fails to include the structure of the Finance Committee in it. I think this is a major defect. The public wanted this. The Commissioners did not recommend it. Yet if we look through the Draft, we will see that the Draft includes the structure of lesser committees. I am not saying that the other committees are not important, but, for example, I can think, off hand, of the Prerogative of Mercy Committee, it is set out in the Constitution. Yet, the one that caused the biggest upset in this country, the one that perhaps brought the Government to their knees and forced them into this cautious and premature motion, has been left out of it.

The Commissioners admit (I think on page 15 of the Report) that the most vexing problem they had to deal with was that of the Finance Committee, and the second paragraph reads:

"Not surprisingly, the problem of the Finance Committee featured in most of the submissions made to us, the majority recommending that the Committee should be enshrined in the Constitution and should comprise the Financial Secretary as Chairman and all elected members. It is true of course that the Financial Secretary had been Chairman of the Committee for the past 18 years but during that period there was no Speaker and it was necessary for the Governor to preside in the Assembly. Now that there is a Speaker, it seems to us right that the Speaker should be Chairman of the Finance Committee as the function of the Committee is merely the part of the ordinary legislative process. This would not only provide an impartial Chairman of an important committee but would we believe strengthen the position of the Financial Secretary (who should remain a member). As to the other members, there is not doubt that the majority opinion is in favour of the Finance Committee being comprised of all the elected members of the Assembly. However, other submissions were made to us to the effect that the other official members should also be members of the Finance Committee. The proponents of these submissions argue that, under the Constitution, the other officials are members of the Executive Council; that they are members of the Assembly: and that in the Executive Council they take part in decisions on all matters connected with revenue and expenditure. They further argue that the other official members have important portfolios and are responsible for the expenditure of revenues relating to the subjects under their portfolios; and are an integral and important part of the Government of the Cayman Islands.".

Of course, one notices that the Commissioners say that the majority recommended only Elected Members and we know who the few people would be that recommended that we should have the Official Members. They would be those who supported Motion 3/90, the minority people. The reasons that the Commissioners give here are flawed in many respects. For example, they do not feel the Financial Secretary should be Chairman. I cannot see why. He has the authority. He must also have some responsibility because any other way it is not properly structured.

It is said that the prerogative of the harlot throughout the ages has been that she has authority without any responsibility. So, I do not believe that we should accept this recommendation and, naturally, if I am a part of the new Government, we will recommend to London that this be put in the Constitution, that this is part of the Manifesto. If they do not put it in the Constitution the new Government, under good leadership will put it in the Standing Orders, and the Finance Committee will revert to where we have Elected Members, and Elected Members only, and see if we can bring some sanity back to our Government's Spending.

MOMENT OF INTERRUPTION - 4:30 P.M.
STANDING ORDER 10(2)

MADAM SPEAKER: It is now 4:30 P.M.

SUSPENSION OF STANDING ORDER 10(2)

HON JAMES M RYAN: Madam Speaker, I believe it is the wish of Honourable Members that we continue until 5 o'clock, and I accordingly move that Standing Order 10(2) be suspended to enable the House to continue beyond 4:30.

QUESTION PUT: AGREED. **STANDING ORDER 10(2) SUSPENDED TO ALLOW PROCEEDINGS TO CONTINUE UNTIL 5:00 P.M.**

MADAM SPEAKER: Please continue, Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, throughout the discussion on Motion 3/90, and the motion for the constitutional change, the Backbench Members endeavoured to get the Government to put these matters to a referendum, that is, simply ask a question of the public, 'no' or 'yes', 'do you want your Finance Committee changed, do you want your Constitution advanced?' This fell on deaf ears and the Government would not do it. The Commissioners were told by many people that they would like to see provision made for referenda in the Constitution and, in fact, the Commissioners said on page 18 of their report, "...we found majority support for a constitutional provision for the holding of referenda on issues of national importance.". But in their report they recommended that it is a matter that could be settled by a law, so it is my desire that the new Government, unlike the present Government, will listen to the wishes of the people and pass a law that will allow the use of a referendum whenever there is a big national issue.

We know that a motion from the Backbench, or it might even have been more than one, failed in this House on that issue. But I trust that the new Government will not be insensitive to this issue. The Backbench recommended that there be an ombudsman. The Commissioners deal with this on page 56 of their draft and, under the Miscellaneous section of the new Draft Constitution, it is recommended that we have a Complaints officer which would, I imagine, carry out similar duties. The duties of the Complaints officer would be simply to receive complaints from people in the Islands and investigate those complaints and perhaps make recommendations to Government as to how the complaints are to be settled. I would not like to go into all that could be put into the law, but in any case this would be an avenue where the public would know that there is somebody, there is a civil servant to whom they can turn when they have a serious, vexing cause.

The Commissioners came here and received, I believe from the Government, a brief to set up a Government that could not fail regardless of how bad the government was. I am now dealing with that under the question of Parliamentary Secretaries. I hope that the First Elected Member for Cayman Brac does not mind this, but in my district I explain to my people that a Parliamentary Secretary would be a Member of the House who behaves in a similar fashion as the First Elected Member for Cayman Brac. That is, he would be a supporter of the Government, he would be attached to a Portfolio, maybe more than one Portfolio, and would help the Minister with some of his duties. And, naturally, would be expected to support in the Legislative Assembly whatever project he was working on because I do not see how he could be carrying out an experiment in tourism and not supporting it. So the Parliamentary Secretary would be just like a Minister of the Government. Of course he would not be bound by collective responsibility, just as the First Elected Member for Cayman Brac is not bound by collective responsibility. But because of the close association with the Minister and his Parliamentary Secretary it would be expected that there would be undying loyalty. There would be unflinching loyalty.

The Parliamentary Secretary would owe his very existence to the Chief Minister, because the recommendation in the Report, and in the Constitution, is that the Parliamentary Secretary would be appointed by the Governor upon the recommendation of the Chief Minister. So the Parliamentary Secretary would owe his job, his title, and probably his little higher salary, to the Government and, being a human being, he would be one of them. The Chief Minister, being a human being, if the Parliamentary Secretary did not give him his unfailing love, would get rid of him and appoint another person as Parliamentary Secretary. When I say appoint, we know he would ask the Governor to appoint another person.

So what would happen is, if they set up as the Draft Constitution recommends, that up to three Parliamentary Secretaries would be added (we know the first act of the new Government would be to add three Parliamentary Secretaries) to strengthen their position. Then you would have an Executive Council made up of five Elected Members - three Government Members, plus three Parliamentary Secretaries, a total of 11 Members out of the 18 in the House.

In his confusion yesterday, the Member for Education talked about the lopsided kind of structure we would have if London goes ahead and holds the election under the old Constitution and we get a House with 15 Elected Members and only four of them are in Executive Council. But I am going to show him now, if he has his paper and pencil ready, what lopsidedness means.

If we have four Executive Council Members, plus three civil servants, leaving 11 Members on the Backbench, we have 38.8 per cent of the whole House as the Government, which is not bad (Bermuda having 40 Members and only 12 Ministers and Parliamentary Secretaries together, has only 30 per cent of the whole House in the Government - not talking about the Upper House, of course, which would even reduce the percentage if we were to add that).

We know that early next year, if this Constitution, or a part of it, is adopted that the fifth Member will be added to Executive Council. When that happens, we will have five Elected Members in Executive Council, plus three civil servants, making 10 out of 18, or 44.4 per cent of the Government in Executive Council. But if we get what the Member for Education is advocating, and his other supporters are advocating, not only here, but on the outside, this is what we will have. We will have five Elected Member in Executive Council, three civil servant Members in Executive Council, and three Parliamentary Secretaries which are supporters of the Government, and de facto the Government, or a total of 61.1 per cent. Eleven out of 18 would be the Government, and that is lopsidedness.

Parliamentary Secretaries are good but they can only be in a Parliament that is large enough, that has enough Members, as in the Bermuda Parliament where you have 40 members and a total of 12 Ministers together with what the Constitution says the number of Ministers plus Parliamentary Secretaries cannot exceed 12. In Jamaica we have the situation where the Ministers and the Parliamentary Secretaries are only a small percentage.

In the British Virgin Islands, for example, which is a small Legislature like ours, I do not think they have Parliamentary Secretaries for the same reason. Because if you put it in you have nearly everybody in the Government and you would be setting up a Government that could never fail. What the Constitutional Commissioners have recommended is that if we go on to the Chief Minister (and maybe tomorrow I will be talking about him), but, if we go on to the Chief Minister, he could only be removed (next week, whenever we get back to it I will be talking about that), when, if we go on to the Chief Ministership, what will happen is, if he turns out to be bad, that to remove him you are going to need two-thirds of the Elected Members to remove him. You will need a two-thirds vote to remove him. How are you going to remove him if you need 10 out of 15 voting against him when you have five plus three for him? If you have the five Elected Members plus the three Parliamentary Secretaries, all that is left of the "untainted" Backbench, if I can use that word, would be seven. So there would only be seven (as I call it) virgin Backbenchers that are not in the Government's camp and, certainly, they could never provide the two-thirds majority necessary to remove a bad Chief Minister.

This is why I say that the Commissioners were given the brief, and I believe they were briefed by the Members of this Executive Council, although I may not be right. I believe they were briefed to set up a strong Government and what they have done in this is to recommend a Government that could not fail no matter how corrupt it is.

Now the Commissioners, in their Report and in their dealings with the public (because I attended some of the meetings), and in the dealing with the Members of this House whenever they wanted to sell something (and believe me they came down with a lot of goodies in their bag), and whenever they wanted to sell something they said they would give us an example of some other Caribbean country that had it. But you know what I never heard in all those salesmanship talks and all those hard sell situations? I never heard them whisper the name of one of those countries that was better off than we are because they have something that they were recommending.

They would tell you they had this in Turks Island, or they had this in this other place, but they could not tell us - and the reason why they could not tell us is for the same reason that these Members are not happy - because it is not the form of government that makes the country work. It is the people, it is the government, it is the leaders. In any business, in any occupation you have to know about it, but when you know all there is to be known, you only have five per cent of what you need. The other 95 per cent is knowledge of people, knowing how to deal with people. Whether you are a lawyer or a doctor or whatever, only five per cent. The problem is you have to know 100 per cent of that five per cent. But when you have it all the other 95 per cent is people, and this is more true in government than in anything else.

I would like to embark next upon the role of the Chief Minister which will probably be the major part of my debate. It is hard for me to start that now with only a few minutes remaining. If you want I will start it, it does not matter to me.

MADAM SPEAKER: We have about seven minutes left, you can proceed.

MR. G. HAIG BODDEN: All right. In that case, I will not treat these Members to that, I will deal with something else.

We had a Governor here, when I first became a Member of this Legislative Assembly, and we had our problems. But I admired him a lot. That was Governor Crook. And he was afraid of political changes. He was afraid of people like our present Executive Council. On the eve of his departure, he appeared to have had an interview with the *Nor'wester* magazine, in August of 1974. Amongst other things this is what the article said: "What had frustrated him the most had been the fact that the Cayman Islands needed everything at once and had not been able to have everything.". Remember, the Member for Education wanted everything then. But he could not get his way then - got his way now, after he got Motion 3/90.

I only have seven minutes left, do not interrupt me.

> "It needed roads, new buildings, a broadcasting station, a better hospital, better schools, a better airline. Name it and the Cayman Islands needed it, and not everything could be produced at once, especially in a small society with comparatively small resources.".

A lesson that the Member for Education has never learned. Speaking about Mr. Crook, the article went on:

> "He thought that the Cayman Islands had tremendous potential, but warned that people could 'muck it up,' and the people who would muck it up were those living there, whether native-born Caymanians or expatriates.".

And he did not say this, but I say it, or Members of the Executive Council.

Shut-up, I only have seven minutes left, Mr. Benson. The article about Mr. Crook went on - I just want to leave this with them to think about over the week-end because what I have for them coming back will have them on their feet all the time:

> "He thought that the Cayman Islands had the best chance of any place he had ever heard of continuing on a stable basis involving the off-shore industry. It would be silly to go overboard and say that it was going to be alright for ever. Nobody knew what was going to happen in ten years' time. It all came back to the same thing, what the financial industry wanted above all else was political stability.".

And he repeats that:

> "Start mucking around with that and the finance industry is dead, the tourist industry is dead and everything else is dead. I do believe, however, that the Cayman Islands have a better chance of staying politically stable, and therefore continuing to serve as a base for the off-shore industry and tourist industry, of any small island I have ever come across.".

The article goes on to say:

> "On the political future of the islands, Mr. Crook pointed out that internal self-government had got to be a stage on the way to independence - he thought everyone knew that -...".

That is exactly how I started my debate.

> "...and there was no feeling in the islands that Caymanians wanted independence. If internal self-government was a stage on the way to independence he did not think Caymanians wanted that either. What they wanted was to take part in the processes of government and that was the situation right now. He did not doubt that changes would come and there would be pressure for greater self-government, and maybe even independence. What he wanted to see was sort of future pattern for the Cayman Islands that suited everybody, Caymanians, British and everybody else.".

How prophetic this man, those words uttered 18 years ago. Those words uttered 18 years ago are as true today as the day they were written. Start mucking around, and I am adding this, start mucking around as the Elected Members of Executive Council have been mucking around since Motion 3/90, and you lose the confidence of the off-shore industry. You lose the confidence, I know you do not like it, you could have gone we do not need you, start mucking around, and you lose the confidence of your off-shore investors. Start mucking around, your tourism dies. It did not happen by accident that our tourist figures are down.

MADAM SPEAKER: It is now 5 o'clock, Honourable Member.

MR. G. HAIG BODDEN: Thank you, Madam Speaker. I was not quite finished but I will stop.

MADAM SPEAKER: May I ask the motion for the adjournment?

ADJOURNMENT

HON JAMES M RYAN: Madam Speaker, before I move the motion for the adjournment, I should just like to remind Honourable Members of the Finance Committee Meeting at 9:30 on Monday morning. Now, Madam Speaker, I beg to move that this Honourable House do now adjourn until 10 o'clock next Wednesday morning, the 16th of September.

MADAM SPEAKER: The question is that the House do now adjourn until Wednesday morning the 16th of September at 10 o'clock.

QUESTION PUT: **AGREED.**

AT 5:00 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., WEDNESDAY, 16TH SEPTEMBER, 1992.

WEDNESDAY
16TH SEPTEMBER, 1992
10:12 A.M.

MADAM SPEAKER: Prayers by the Second Elected Member for Bodden Town.

PRAYERS

MR. G. HAIG 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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly. Item number 2 on Today's Order Paper, Presentation of Papers and Reports. The Audited Accounts of the Cayman Islands Government for the year ended 31st December, 1991. The Honourable the Third Official Member.

PRESENTATION OF PAPERS AND REPORTS

THE AUDITED ACCOUNTS OF THE CAYMAN ISLANDS GOVERNMENT FOR THE YEAR ENDED 31ST DECEMBER, 1991

HON. GEORGE A. McCARTHY, JP: Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Accountant General and the Audited Accounts of the Cayman Islands Government for the year ended 31st December, 1991. Thank you.

MADAM SPEAKER: So ordered.

Report of the Auditor General on the Audited Accounts of the Cayman Islands Government for the year ended 31st December, 1991. The Honourable the Third Official Member.

REPORT OF THE AUDITOR GENERAL ON THE AUDITED ACCOUNTS OF THE CAYMAN ISLANDS GOVERNMENT FOR THE YEAR ENDED 31ST DECEMBER, 1991

HON. GEORGE A. McCARTHY, JP: Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Auditor General on the Accounts of the Cayman Islands Government for the year ended 31st December 1991. Thank you.

MADAM SPEAKER: So ordered.

Report of the Standing Public Accounts Committee on the Report of the Auditor General on the Audited Accounts of the Cayman Islands Government for the year ended 31st December, 1991. The First Elected Member for Bodden Town.

REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE ON THE REPORT OF THE AUDITOR GENERAL ON THE AUDITED ACCOUNTS OF THE CAYMAN ISLANDS GOVERNMENT FOR THE YEAR ENDED 31ST DECEMBER, 1991

MR. ROY BODDEN: Madam Speaker, I beg to lay on the Table of this Honourable

House the Report of the Standing Public Accounts Committee on the Report of the Auditor General on the Financial Statements of the Government of the Cayman Islands for the year ended 31st December, 1991.

MADAM SPEAKER: So Ordered.
The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. Before I commence reading I crave the apologies of the Chair and of the Honourable Members and would refer them to section 10 and inform them that the Committee in its wisdom has decided to strike from the final record section (vi) on page 10.

The Report:

1. REFERENCE

Your Standing Public Accounts Committee is established under the Legislative Assembly Standing Orders (Revised) (1985). Standing Order 74 refers:

"74. (1) There shall be a standing select committee, to be styled the Public Accounts Committee, to consider reports of the Auditor General -

(a) on the accounts of the Government;
(b) on such other accounts required to be laid before the House as the Committee may think fit; and
(c) on any matter incidental to the performance of his duties or the exercise of his powers as the Committee may think fit.

(2) The Public Accounts Committee shall be nominated by the House at the beginning of a new session following a general election and shall consist of five elected Members. The quorum shall be three Members, including the Chairman.

(3) Upon its receipt by the Presiding Officer, a report mentioned in paragraph (1) shall be deemed to have been referred by the House to the Public Accounts Committee for consideration and shall forthwith be distributed on a confidential basis to all Members.

(4) In accordance with Standing Order 70, the Public Accounts Committee may call any public officer or, in the case of a report on the accounts of or relating to a non-Government body or organisation, any member or servant of that body or organisation, to give information or any explanation or to produce any records or documents which the Committee may require in the performance of its duties.

(5) The Public Accounts Committee shall make its Report upon the report of the Auditor General on the accounts of Government before the Auditor General's report is laid on the Table of the House and both the Committee's Report and the Auditor General's report shall be laid at the same time.

(6) Subject to these Standing Orders, the practice and procedure of the Public Accounts Committee shall be determined by the Committee.

(7) The Government Minute shall be laid on the table of the House within three months of the laying of the Report of the Committee and of the report of the Auditor General to which it relates.

(8) The Auditor General, the Deputy Financial Secretary and the Chief Accountant (Accountant General) shall be in attendance when Controlling Officers or other persons are providing information or explanations to the Committee.

(9) Notwithstanding the provisions of Standing Order 72, the Report of the Public Accounts Committee shall be deemed to have been agreed to.".

2. APPOINTMENT OF MEMBERS

At the First Meeting of the Legislature (following the 1988 General Elections) held 23rd November, 1988, the following Elected Members were elected to be the Members of the Committee for the 1988-1992 term of the Legislature:

Mr. John D. Jefferson, Jr, MLA
Mr. W. McKeeva Bush, MLA
Mr. Roy Bodden, MLA
Capt. Mabry S. Kirkconnell, MLA
Mr. Franklin R. Smith, MLA, (superseded by

Mr. Truman M. Bodden, MLA).

3. CHAIRMAN
Following the election of Members to the Committee on 23rd November, 1988, the President declared, in accordance with the provisions of Standing Order 69(2), that the Committee shall elect from among its Members a Chairman.

Mr. Roy Bodden was duly elected to be the Chairman of the Committee.

4. APPOINTMENT OF NEW MEMBER TO THE COMMITTEE (STANDING ORDER 77(3))
On 1st March, 1990, Mr. Franklin R. Smith tendered his resignation as a Member of the Legislature. Accordingly, with the passing of Government Motion No. 5/90 on 20th July, 1990, Mr. Truman Bodden was appointed to fill the vacancy of the Committee.

5. CIRCULATION OF AUDITOR'S REPORT AND FINANCIAL STATEMENTS
In accordance with the provisions section 42(1)(b) of the Public Finance and Audit Law, 1985 and of Standing Order 74(3), the Auditor General on 31st July, 1992, duly forwarded to the Presiding Officer and Clerk of the Legislative Assembly his Report on Government's Accounts for 1991, together with the certified Financial Statements.

The Clerk, on 3rd August, 1992, duly circulated to Members of the Legislature, under confidential cover, a copy of the Auditor General's Report together with the Report and Accounts of the Government.

6. PROGRAMME OF HEARINGS
In exercise of our duties, we, your Committee, in our preparatory work, duly considered the following documents before reaching a constructive programme of hearings:

(1) 1991 PAC Report on the 1990 Accounts;
(2) 1991 Government Minute on the PAC Report;
(3) The Auditor General's Report on the 1991 Accounts; and
(4) The Accountant General's Report and Accounts of Government for the year ended 1991.

Your Committee subsequently arrived at the following programme and plan for its meetings:-

(1) That the Committee would hold its meetings in a public forum;

(2) That the proceedings would be recorded and the Minutes would be produced verbatim;

(3) That the Committee would meet to consider the various aspects of the Auditor General's Reports and, in so doing, would call certain Controlling Officers as witnesses to the meetings. The Controlling Officers called are listed in Item 10 below.

7. MEETINGS OF THE COMMITTEE
Your Committee held two meetings, viz:

(i) Wednesday, 26th August, 1992;
(ii) Thursday, 27th August, 1992.

8. STANDING ORDER 74(8)
In accordance with the provisions of Standing Order 74(8) the following Civil Servants attended all hearings with witnesses:

(1) Mr. Nicholas Treen - Auditor General,
(2) Mr. Woodward Terry - Deputy Financial Secretary
(3) Mr. Roger Bicknell - Accountant General.

In attendance with the Auditor General were:

(4) Mr. Paul Hurlston, Audit Manager;
(5) Miss Gwendolyn McDermott, Senior Auditor.

9. WITNESS HEARINGS

Your Committee heard witnesses on very short notice on the 26th and 27th August, 1992, because some Members of the Committee were away on holiday. Notice in writing to all persons called was sent from the Clerk's Office on 24th August, 1992.

10. LIST OF WITNESSES IN ATTENDANCE

The following persons appeared before your Committee:

(1) Mr. Harding Watler - Principal Secretary, Tourism, Aviation and Trade;
(2) Mr. Donovan Ebanks - Chief Engineer of the Public Works Department;
(3) Mrs. Jenny Manderson, Principal Secretary (Personnel);
(4) Mr. A.C.E. Long, CMG., CBE., Chairman of the Public Service Commission;
(5) Mr. Graham Woods, Deputy Principal Secretary (Personnel);
(6) Miss Betty Ebanks, Assistant Principal Secretary for Health and Social Services;
(7) Dr. Bernard Martin-Smith - Chief Medical Officer;
(8) Mr. Mervyn Connolly, Hospital Administrator;
(9) Mrs. Patricia Estwyck, Hospital Accountant;
(10) Mr. Leonard Dilbert, Principal Secretary for Education, Environment, Recreation and Culture;
(11) Miss Andrea Bryan, Chief Education Officer;
(12) Mr. Woodward Terry - Deputy Financial Secretary;
(13) Mr. Roger Bicknell - Accountant General.

11. EVIDENCE IN WRITING

Because of the limited time available to the Committee, questions prepared by Members of the Committee were forwarded to:-

- Mr. Woodward Terry, Deputy Financial Secretary;
- Hon. Norman W. Bodden, OBE, JP, Executive Council Member responsible for Tourism, Aviation and Trade;
- Mr. Roger Bicknell, Accountant General;
- Miss Betty Ebanks, Asst. Principal Secretary for Health and Social Services; and
- Miss Andrea Bryan, Chief Education Officer.

12. FINDINGS AND RECOMMENDATIONS

(1) Road Maintenance

(i) The Committee is concerned to see that budget provisions for the maintenance of public roads have been inadequate to maintain them at a proper level of serviceability. The standard of our existing roads are deteriorating rapidly due to a deliberate lack of funding. This is not good management or stewardship of public assets. The Committee has seen that the current and past injection of funds for road maintenance is not consistent with rapidly increasing road network mileage for which PWD is directly responsible. The PWD is well aware of the rate in which the roads are deteriorating annually and the reasons for this. The Committee was pleased to learn that they are continuing to identify road maintenance techniques which are more efficient and economic and has seen this as an urgent priority.

(ii) The Committee notes that very large sums, possibly up to an extra $2 million per year will be required over the next 5-10 years if it is to offer a longer term solution to upgrade the present road network to acceptable service standards. The Committee believes that such spending should be in accordance with a well developed maintenance plan for the usage of the present roads and the identification of possible new primary roads. Within this context the PWD will then be in a better position to plan their expenditures on road maintenance so that priorities can be established and the overall maintenance programme executed on a timely and effective basis.

(2) Public Building Maintenance

(i) The Committee is pleased to see that PWD is now operating a computerised system to collate data on the public buildings it maintains. This enables the department to plan and allocate building maintenance resources more efficiently. The Committee commends PWD for the effective building maintenance programme it operates. The PAC notes however that the annual maintenance budget continues to be inadequate. Nevertheless the Committee is pleased to be assured that the majority of public buildings are being maintained to a fairly high standard with no current significant deterioration to the fabric of any building. The Committee is however, of the opinion that if the present low levels of funding for public building maintenance persist, then a

critical stage will be reached, when Government buildings become older. A large injection of funds will be required to bring these buildings back up to fully acceptable standards and the Committee recommends that this situation be closely monitored.

(ii) The Committee notes that it is now the Government's policy to sell property, mainly houses, which it no longer requires. The Committee is alarmed at the current poor state of many of these buildings. Members of the Committee were told that this is a direct result of neglect and improper maintenance. The Committee believes that the loss in value this implies, could well be substantial and the Committee takes this opportunity to register its alarm and displeasure with these findings.

(3) Assets Register

The Committee strongly supports the idea of the Government developing a comprehensive Asset Register to record the details of public assets and lands. Such a register will assist the Government to estimate more accurately what funds are required to maintain public buildings adequately. It will also help to coordinate the management of Government buildings and land assets and we strongly support the idea that this should be done through a Coordinating Committee.

(4) Group Employees

(i) The Committee notes that Group Employees are an important and significant element of the Government resources and account for 21% of the total work force. The Committee was surprised to learn that the Personnel Department and the Public Service Commission (PSC) have no effective control over the number or quality of officers employed in this category. The Committee is of the opinion that, even though individual departments which use group employees need to have flexibility in the use of this type of employment, it is equally important that there be effective central monitoring and control of group employees. The PAC urges that both the Public Service Commission and the Personnel Department review their procedures and practices regarding their role (or lack of it) in the recruitment and control of Group Employees.

(ii) The Committee recommends that the terms and conditions should be reviewed for those group employees who have remained in a specific post for a number of years. It is also recommended that some form of annual staff performance evaluation procedures be extended to Group Employees.

(iii) The Committee was alarmed to see that, in more than one instance, Heads of Department have taken the liberty to fill established posts with group type employees, seemingly in contravention to existing rules. The Committee considers that this is not a good practice and urges the Personnel Department to look carefully at this procedure.

(iv) The Committee is pleased to see that as a part of the overall Government job evaluation exercise, the conditions and terms of employment for Group Employees will also be looked into. The Committee would hope that full details of the role, function and duties of the employee, along with any conditions and benefits of service, would be eventually kept on file with the Personnel Department. The Committee believes the whole area of Group Employees would benefit greatly from a thorough review by the Management Services Unit.

(5) Education Costs

(i) Without a doubt one of the largest and most important areas of Government expenditure is Education. The Auditor General reported that expenditure on Education has been in the region of 12 to 14 per cent of Government's total recurrent expenditure and in 1991 amounted to $12.9 million plus related capital expenditures. The Government currently plans to spend some $3 million a year extra of recurrent expenditures and some $4 to 7 million a year extra of capital expenditures over the next five year period. Total Government investment in education will therefore be over $20 million a year during this period. It is therefore vital that we obtain value for money from these expenditures and we achieve the very highest of educational standards and performance.

(ii) The Committee is pleased to note that a system of school inspectors has been proposed in the 5 Year Development Plan. The Committee would like to encourage the establishment of such a system and will be interested in reviewing the system once it has been properly established and is functioning properly. The Committee expects this

to make a significant contribution toward achieving higher standards and performance in schools.

(iii) The Committee is concerned with the apparent large increases in costs of the central Administration Section of the Education Department. The Committee notes that these costs include personnel such as School Advisors and Psychologists who are not involved in the purely administrative aspect of the Department. However, these are overhead costs which should be closely watched and minimised. The Committee is pleased to learn that the budget and accounting system is being computerised and decentralized and as such will more accurately be able to reflect and calculate the costs of each account and school centre. This will help provide the data to carry out much better performance and cost analysis. The Committee encourages this and recommends that school performance targets and indicators should be set for each school.

(iv) The Committee recommends that, once the computerised accounting and budget system is properly functional, the Department gather more statistics on a regular basis for comparison with non-government schools and regional schools. These statistics and ratios can be a very good source of performance measurement and is very important if the Education Department is to continue to provide a good system of Education.

(v) The Committee sees some scope for greater delegation of responsibility for financial, administration, and clerical tasks to school Principals. The Committee believes that this would entail less administration overall and will tend to be less costly than direct control and centralized function. We do not see that this sensible delegation of authority will require any further administrative or management staff at the school level.

(vi) The Committee notes that there is a large difference between the student fees charged in the private schools ($1,025 to $2,905) and the average recurrent expenditure costs per student in the Government schools ($3,058 in 1991). The Committee fails to understand this large difference. Government's costs exclude any capital costs on overhead charges from other Departments. The Committee would like to see a full analysis of costs at Government Schools compared to the private schools to establish just where these costs differences arise and whether we are getting value for money.

(vii) The Committee also notes that fees for non-Caymanians attending Government schools have not been recently reviewed and neither do they recover a significant element of the costs involved.

(6) Cayman Airways

(i) The Committee fully appreciates the strategic importance of Cayman Airways Limited (CAL) to the Cayman Islands, but is extremely concerned with the large amount of Government subsidies, grants, loan guarantees and Directors' indemnities issued and undertaken by Government for past acts over recent years. The Auditor General in his report notes that Cayman Airways is technically insolvent and is wholly dependent upon the Government's financial support to enable it to continue as a commercial going concern. This is a shocking state of affairs and indicates the negligence and mismanagement that has occurred at this large and important enterprise. Our latest available figures show CAL to have an accumulated deficit of some $35.3 million. This is nearly one-third of all of Government's annual recurrent revenues. This is a catastrophe of major dimensions and seriousness. The Committee recommends that Government urgently implement strong and effective control over CAL's expenditures and performance. The Committee's conclusion is that the Government, the CAL management, has been grossly negligent in the running of this public asset and has endangered the country's prosperity and many jobs held by Caymanians. Our study's conclusion is that CAL is a business that has been run and operated very poorly with a lack of prudence and care for the public's money. Everything possible must be done to reduce CAL as a liability to Government and make it profitable.

(ii) The Committee is pleased to note that the recommendations made by the consultants, which the PAC first urged the Government to employ back in 1988, are slowly being implemented by Cayman Airways. It is hoped that there has been no resistance to change by CAL management as the Committee feels that it is important that Government properly monitors the process and recommends that the Government continue to require regular reports to be submitted directly to the Portfolio on the progress of the consultants. These reports should be carefully examined and the remaining recommendations implemented without further delay.

(iii) It is the PAC's view that it is important that all Government expenditure is properly authorized and accounted for as required by the Public Finance and Audit Law. The PAC shares the Auditor General's concern that the $10,000 expenditure to form the company, Air Cayman, was outside the ambit of the vote from which it was paid. The Committee recommends that in the future approval of the Legislative Assembly or Finance Committee be sought for all special or unusual expenditures which fall outside the existing ambit of a particular vote. If this is not done the expenditure may be ultra vires and parliamentary budgetary control and authorisation is improperly avoided.

(iv) The Committee was troubled to learn that the Cayman Airways Board had not participated fully and properly in authorising certain decisions of the Airline. This is a breach of the proper running of a company. While this may not breach any law it certainly goes against the principles of sound control of private company business. The Public Accounts Committee would like Government to fully investigate this for any infringement of propriety or any irregularity. The Committee notes however that the CAL Consultants have proposed recommendations to rectify this significant weakness in the management and control of CAL and this is to be welcomed. It is hoped that these measures to strengthen CAL's Board will be fully implemented as soon as possible.

(v) The Committee was shocked to hear the full details of the circumstances of the claim settled with Guiness Peat Aviation (GPA). This arrangement with GPA was a very poor business deal and is an enormous drain on the resources of the Airline and the Country. The Committee is amazed that there was no break-clause in the original lease agreement and concludes that your legal advisors have been very naive. The PAC hopes that CAL does not have to pay any further monies to GPA.

(7) Civil Aviation Authority

The Committee is pleased to learn that the outstanding debt, some $2 million, owed to the Civil Aviation Authority (CAA) by Cayman Airways (CAL) will be settled from the $16.8 million loan Government is currently attempting to borrow for Cayman Airways. The Committee hopes that the CAA will be paid promptly from this money so that its financial health and stability is not damaged. It is also recommended that the Government thoroughly examine the relationship between Cayman Airways and the Civil Aviation Authority to establish proper guidelines and procedures for the prompt settlement of debts so as to avoid, in future, secret subsidies and assistance to CAL via the CAA. The PAC has been assured that the current position does not infringe international law but this should be kept under review.

(8) Overseas Medical

(i) The Committee noted the increase in expenditures on overseas medical care in 1991 and again recommends that the Government account for existing and future overseas medical expenses directly through the budget as interest-free loans, or write-off. The present system of using an advance account, for lengthy periods, to record these expenditures should be discontinued. A budget for these expenditures should be established each year and advance accounts cleared regularly against this provision.

(ii) In 1991 the Government's Internal Audit review of overseas medical expenses revealed that a significant number of weaknesses existed in the accounting system and we, the PAC Members, are particularly concerned with the Internal Audit unit's findings that there have been insufficient and ineffective attempts to collect these debts by the Portfolio in question. The Committee encourages the Portfolio to take positive steps to collect these debts.

(iii) The PAC recommends that a Review Committee be set up by the Government which will immediately undertake a comprehensive review of all overseas medical accounts; recommending write-offs or conversion of advances to loans as appropriate. Subsequent to the initial review, quarterly reviews by the committee would ensure that an acute position, as has now been reached, will not be repeated and that these expenditures will not only be properly accounted for, but also that they will be recouped on a more timely basis.

(9) Customs Special Attendance Advance Accounting

The Committee noted the unacceptable accounting treatment of overtime payments to Custom offices by the Government, through the use of an advance accounts. It is noted that these overtime costs are, for the most part, recharged to the airlines

concerned. The Committee recommends that Government includes these expenditures and receipts separately in its annual budget and where payments are set-off by receipts, or the reverse, the gross sums should be brought to account immediately and carried to separate receipts and payment subheads. The Committee was surprised to see the large overtime payments owing by Cayman Airways to the Government and would remind the Government that this non-payment may be seen as a hidden subsidy for the Airline. The Committee recommends that steps are taken immediately to recover these monies.

(10) Localization of the Civil Service

(i) The Chairman of the Public Service Commission has assured us that every effort is continuing to be made to localise the Civil Service without sacrificing efficiency. This is commendable and the Committee offers its support and encouragement. The PAC hopes the Government will also now see it fit to keep its promise to actually prepare a detailed plan of action to achieve, as far as practically possible, this localisation objective with a timetable attached for the specific accomplishment of set goals and targets. The Government is also encouraged to continue its efforts to provide training for Caymanians in all levels of the Civil Service.

(ii) The Chairman of the PSC also mentioned that there is an absence of progress of localisation in the fields of teaching and medicine.

(iii) These are important areas in the Public Service sector and the Committee urges the Government to devote keen attention to attracting and training suitably qualified Caymanians in these professions.

(iv) It is worthwhile to note here that the suggestion was made that the incentive of higher salaries, for example, may be employed.

(v) The Committee will be keen to learn of the Government's proposal to remedy this situation, given its commitment to the Caymanisation of the Public Service.

(11) Growth of the Number of Civil Servants

The Committee noted with some concern that the Civil Service continued to grow in size, by about some 77 persons or a net 4 per cent in 1992. The Committee was however pleased to learn of the efforts here of the Management Services Unit in ensuring that any request for new posts have to be fully justified and, in some instances, such requests have been turned down. The PAC again urges the Government to continue to restrain the growth in the number of civil servants to only those posts that are absolutely essential to carry out the Government's approved policies and programmes. Posts which become vacant, for whatever reason, need to be reviewed to ascertain whether the post continues to be a necessary requirement.

(11) Written Evidence from the Health Services Authority

(i) The Committee requested certain information from the Chief Executive of the Health Services Authority which concerned the financial health and stability of this large, new and very important Statutory Authority. This information has unfortunately and regrettably not been provided to the Committee at the time of writing this Report. The information requested was not complicated, as may be seen from our letter to the Health Services Authority which is attached to this Report. The Committee cannot understand the delay in giving us this information and sincerely hopes this is not deliberate as this would be a breach of the privileges of this Committee.

(ii) The financial well-being of the Health Services Authority is very important. The Committee had hoped to see early evidence that the new Authority was, as promised, going to be a going concern and to be financially viable. The Committee will be disappointment to hear that the Government needed to provide extra subsidy to the Health Services Authority this year but will take a keen interest in the operation and finances of the Health Services Authority. The PAC wishes the Authority and its devoted staff all the very best in its future endeavors.

(12) Removal from Office of the Auditor General

(i) The failure by Government to continue his statutorily held Office of our Auditor General, Mr. Nicholas Treen, by the Governor has deeply shocked the Committee. Earlier this year the Governor, apparently without consulting any other authority, determined that

Mr. Treen should no longer serve as Auditor General. Whilst the Governor has indicated that Mr. Treen's performance "... has been very good" and that he was satisfied with his technical competence and integrity he has surprisingly not explained publicly or privately to him why he has taken this unusual and prejudicial course of action.

(ii) The Public Finance and Audit Law was drafted to provide the Auditor General with security of tenure in order to enable him to exercise freely and independently the difficult duties and wide investigatory powers of his Office. The safeguard of security of tenure is extremely important for the Auditor General and the general independence and impartiality of the public accountability system as a whole. Few governments, however democratic, totally welcome the full range of their activities being subject to critical, independent analysis and evaluation by a professionally competent and well organised person. Every government, however efficient, is from time to time vulnerable on the propriety and regularity of its expenditures, on the economy and efficiency of its use of public resources, or on the effectiveness of its programmes and projects.

(iii) Public and often very critical Reports from the results of the Auditor General's investigations are seldom therefore relished. In such circumstances there is, almost inevitably, a degree of tension between the Auditor General and the Executive and there is therefore a temptation for the government of the day to try and interfere with the Auditor General's (and by inference Public Accounts Committee's) work, either by attempts generally to restrict or curtail his powers and independence, by frustrating his investigations, or ultimately by removing him from Office without just cause. This needs to be jealously and firmly guarded against so as to ensure that the vital public and parliamentary accountability processes continue to work well. It is imperative therefore that the Auditor General is protected by appropriate and proper statutory and constitutional references.

(iv) International public sector external auditing standards clearly state that the Auditor General and the national audit institution must be independent. Whatever the form of government, the need for independence and objectivity is vital. The independence from both the legislative and the executive branch of government is essential to the conduct of any external audit and the credibility of its results. International standards further record that the conditions of tenure for the head of the national audit institution can contribute to the required independence from the executive, for instance, through appointments for a lengthy fixed term or until a specified retirement age. Conversely, tenure conditions which put an auditor under pressure to please the executive would have an erosive influence on independence. For this reason, it is in principle very desirable that provisions relating to the termination of appointment or removal from office should be exercisable only by a special process akin to that relating to the holders of judicial or like office. Not, as we have seen, surreptitiously and without just cause or reason.

(v) The Committee is deeply concerned and dismayed by the Governor's action in not continuing with the present Auditor General in Office without just or reasonable cause. There has been no complaint that the Auditor General has failed to provide the "good behaviour" required by the Public Finance and Audit Law. Quite the opposite, our Auditor General has fearlessly and impartially reported the facts on many issues of substance and importance. This action by the Governor may generously be viewed as "political". Less generously it may be viewed as a deliberate attempt to restrict the effectiveness of the Auditor General, the Cayman Islands Audit Office and the public accountability system. One may view this action with the utmost suspicion and trepidation. This has severely damaged the credibility of the Government's commitment to provide good public accountability. Further, we are genuinely puzzled that the Government would wish to attempt to weaken this independent institution which is dedicated to improving the value for money the Government provides to their tax, fee and charge payers, the public at large.

(vi) On behalf of the Committee, I, as Chairman of the PAC, have already written to the United Kingdom Secretary of State complaining of the Governor's actions and asking why they have so far not acted in this affair. The Committee will be looking forward to a reply soon.

(13) New Constitution

(i) A strong, effective and independent Auditor General and Audit Office is an essential requirement of good public accountability and stable and democratic government. The forming of a new Constitution for our Islands provides a welcome and needed

opportunity to enhance and properly embed our accountability and audit procedures into our systems of governance and the fabric of our society. The Public Accounts Committee has considered the needs of the Auditor General for Constitutional References and propose that a separate section is needed in the new Constitution which will be concerned with the audit of our public sector. A full draft of our proposals is attached to this Report as Appendix A and it is hoped that this will stimulate public appreciation and debate on this subject.

(ii) At the Committee's request the Auditor General has also provided for our information a brief note on the UK's arrangement for their Auditor General so that it may be seen what is current best international practice. A copy of this note is attached as Appendix B.

The Committee firmly believes that any movement by the nation towards a more democratically based parliamentary system should also mean and be balanced by a move towards a strengthened and fully independent Auditor General. It is in everybody's best interest to see that mechanisms are established to demonstrate independently and impartially that Government is performing well and achieves good value for money from its stewardship and management of public assets and resources.

13. FOLLOW UP ON MATTERS IN THE 1990 PAC REPORT AND THE 1990 GOVERNMENT MINUTE

(1) General

In general, the Committee was again disappointed in the paucity of detailed explanation and helpfulness of the replies to our written questions in this area. We see little point in making witnesses' preparation of information for this Committee easier by providing written questions (with no opportunity for follow up) if the Government's replies continue to be so unrevealing. In future, to avoid this, the Committee requests that the Government provide complete details of the progress in implementing all their promises for action contained in the Government Minute. This should cover all promises for action contained in the most recent Government Minute and also information updating the situation on all other promises not yet fulfilled or just fulfilled. This will need to be provided to the Committee for consideration and follow up questioning at the first PAC meeting of each new year. This will improve the Committee's performance in effectively following up on the Government's promises for action, and greatly improve the Government's accountability for implementing promises made to the Legislative Assembly.

(2) General Reserve

The Government appear to us to have been dilatory in not speedily addressing the issue of establishing a policy for the size of the General Reserve. This was first discussed nearly a year ago. The Committee hopes that the Government will "bite the bullet" and come to some decision on this soon instead of being so apparently indecisive on such a fundamentally important matter. The PAC suggests a speedy consideration of this matter whilst we still have a General Reserve.

(3) Payment of Expenses

We are very pleased to see that following the requested repayment of certain expenses claims improperly and incorrectly claimed by the Member (H & SS) that the Government is in the process of issuing the Guidance Note promised in the last Government Minute. Progress here has been slow but the Committee welcomes assurances that this guidance will soon come so that any further embarrassment of Government Members is avoided.

(4) Customs Duty

It is very encouraging to see the Government's very prompt response to the Committee's suggestions in this area. The Committee notes that Government Departments will all pay customs duty from the 1 January 1993 and hopes that all Statutory Authorities will also now be required to pay duty. This should greatly improve the Customs Department's control in this area and improve the general effectiveness of collections.

(5) Government Stores

The Committee interprets the Government's information provided to this Committee on this subject to be a positive confirmation that corrective action in all areas of Government Stores will be made. However, the Committee would like to see more detailed information on all

aspects of Government Stores, not just information relating to PWD and continues to hope that the Internal Audit will make this a priority area for review.

(6) Government Pension Fund

The establishment of a separate and independent Government Pension Fund is one of the most sound and judicious decisions from Government in recent years. The PAC hopes that the Government will continue to properly fund current and past pension liabilities and we repeat our suggestion that a further actuarial review take place sooner than the Government envisions - say before the end of 1994 (5 years since the first and only establishment of the Government's pension liabilities). This is a very important area and the Committee will continue to watch carefully the organisation and management of the Fund.

(7) Immigration Department

The Committee is pleased to note that at long last progress is being made in implementing proper and effective accounting and financial systems at the Immigration Department and hopes to hear of the satisfactory resolution of this Department's long-standing problems at the next PAC meeting.

(8) Tendering and Contracting

The PAC is shocked and concerned that a contract the size and importance of the New Hospital's did not go to the Central Tenders Committee (CTC). This appears to be a sly and underhanded evasion of properly agreed procedures and promises given to this Committee and the Legislative Assembly. The Committee is very displeased that the Government has avoided the Committee's specific question of why these contracts did not go to the CTC. The Committee can only repeat, that if sound, sensible and recommended procurement procedures are not followed, or if they are deliberately avoided through technicalities then allegations of impropriety or worse may well continue to be expected and not easily disproved.

The Committee hopes that in future no sizeable public sector procurement contract will avoid the proper scrutiny of the Central Tenders Committee and that the sensible procedures and practices provided by the Financial and Stores Regulations will be strictly followed. The Committee wishes to see the very highest of ethical and professional standards applied to public procurement so that fraud and corruption are avoided and the very best value for money is obtained.

(10) Public Sector Investment Committee (PSIC)

The Public Accounts Committee recognises that the PSIC procedure is an essential and important part of our planning and project management processes. The Committee places great stress on all areas of Government complying with the PSIC procedure so that we do our best to only invest in projects which are a top priority and bring value for money. Public resources are scarce and apparently getting scarcer. The country cannot afford to invest its limited revenues in extravagant "white elephants" or "pork barrel" ventures.

The Government has refused to inform the Legislative Assembly and this Committee of the results of PSIC's appraisal of the new hospital projects. The Committee considers this a shameful breach of the privileges and rights of this parliament and a blatant attempt by the Government to avoid proper accountability and scrutiny of its actions. The Committee presumes the worst therefore and assume that the Government is hiding the fact that PSIC's review of the new hospital projects was critical and negative. The Committee recommends that the Speaker of the Legislative Assembly investigate the seeming refusal to provide the Committee with useful information on this subject as a matter of some urgency. The last 3 years have seen the arrival of government tactics which are designed to frustrate and cover up legitimate scrutiny of their various activities and this cannot be allowed to continue.

(11) Publicly owned Commercial Companies

The Government has again delayed consideration and implementation of the Committee's accepted suggestion in this area and the Committee would wish to see the Government quickly conclude arrangements for the Auditor General to assume responsibility for the external audit of Cayman Airways and the Turtle Farm. This should be dealt with now and not left to the new Auditor General as has been cynically suggested by the Government.

(12) Medium Term Financial Plan

Whilst progress appears to have been slow in this most important of areas we are pleased to note that a Medium Term Financial Plan for 1993, 1994 and 1995 will be prepared. The Committee expects that this will be a public document and will be issued and circulated soon. The Committee is very pleased to see that the Government has accepted that the Statutory Authorities will become part of this vital forecasting activity.

14. CONCLUSION

The Public Accounts Committee has been unanimous in its reportings. The unanimity comes from conscientious and hard working Committee Members who, when in the Public Accounts Committee, have discarded their political loyalties and differences of opinion in order to defend the tax payer and the general public.

In so doing, the Committee has brought some innovations to the functioning and work of the PAC. These innovations are the open meetings, the verbatim recording of minutes and greater use of written questions.

These achievements could only have been realised through the cooperation of Committee Members, the Committee Clerk, the Audit Office and the witnesses themselves. The work of the Committee, while being of an austere and serious nature, has allowed each person to develop respect and appreciation for the other person's position.

Regrettably, it has to be recorded that the only upsetting incident is the departure of Mr. Nicholas Treen as the Auditor General. During this Committee's tenure, our relationship with his office was excellent and on behalf of the Committee, I wish for 'Nick' and his family God's richest blessings always.

This Public Accounts Committee has done its proper duty and the Committee hopes that whatever the outcome of the elections, the succeeding PAC and its Chairman will continue to work without fear or favour.

15. ACKNOWLEDGMENTS

Your Committee offers its sincere gratitude and appreciation of the cooperative spirit exhibited by most officers appearing before it. As usual, the Committee is especially appreciative of the support, assistance and constructive advice given throughout by the Administrative Officers, the support advice and information provided by the Deputy Financial Secretary and the Accountant General during deliberations.

The Committee wishes to record its gratitude for the assistance provided by the Auditor General and his devoted staff. The Committee regards this assistance as invaluable to the effective working of the Committee and look forward to a continued productive relationship.

16. REPORT OF COMMITTEE TO THE HOUSE

Your Committee agrees that this Report be the Report of the Standing Public Accounts Committee on the Report of the Auditor General on the financial Statements of the Government of the Cayman Islands for the year ended 31st December, 1991 to the Legislative Assembly.

MADAM SPEAKER: Thank you, Honourable Member.
Just for the record, I note that next you are dealing with medical questions for which the replies were not attached to this report. Would you ensure that they are attached to all the other reports?

MR. ROY BODDEN: Madam Speaker, it is probably an oversight for which I have to apologise. I know that I have the communication and I will liaise with the Clerk and we will have it rectified as early as time allows.

MADAM SPEAKER: Thank you very much.

SUSPENSION OF STANDING ORDER 72(5)

MADAM SPEAKER: Suspension of Standing Order 72(5) the Honourable the Third Official Member.

HON. GEORGE A. McCARTHY: Madam Speaker, to enable the Report of the Standing Finance Committee, which met on the 15th an 16th of July to be laid on the Table of this Honourable House, I beg to move that Standing Order 72(5) be waived to allow for the Report to be so laid. I further propose that the Report has to

be laid without the Minutes and I therefore propose that as soon as the Minutes be made available that they will be circulated.

MADAM SPEAKER: The question first of all is that Standing Order 72(5) should be suspended in order that the Honourable the Third Official Member can lay the report of the Standing Finance Committee in respect of its sittings for the 15th and 16th of July on the table without the Minutes of proceedings.

I shall put the question.

QUESTION PUT: AGREED.

STANDING ORDER 72(5) SUSPENDED TO ENABLE THE REPORT OF THE STANDING FINANCE COMMITTEE, IN RESPECT OF ITS SITTINGS HELD 15TH AND 16TH JULY, 1992, TO BE LAID ON THE TABLE WITHOUT THE MINUTES OF PROCEEDINGS.

MADAM SPEAKER: The Report by the Honourable the Third Official Member.

REPORT OF THE STANDING FINANCE COMMITTEE

HON. GEORGE A. McCARTHY: Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee of sittings held on Wednesday and Thursday the 15th and 16th of July, respectively 1992.

MADAM SPEAKER: So ordered. Honourable Third Official Member.

HON. GEORGE A. McCARTHY: Madam Speaker, in order to avoid repeating all the details of amounts approved by sub-heads of the estimates, a summary of the amounts approved by departments or heads of estimates will be provided instead. This approach is being adopted in order to avoid the repectiveness of the information that has been publicly aired. Accordingly, a summary of the amounts approved by heads covering various sub-heads were under:

Head	1.	His Excellency the Governor	32,130.00
	2.	Finance and Development	394,783.00
	4.	Customs	454,890.00
	8.	Legislative	14,850.00
	13.	Judicial	2,736.00
	17.	Immigration Department	485,491.00
	19.	Prisons	63,000.00
	20.	Personnel	43,660.00
	23.	Fire Department	321,238.00
	27.	Education Department	643,318.00
	28.	Health and Social Services Department	626,657.00
	30.	Social Services Department	243,913.00
	31.	Communications Works and Agriculture	183,763.00
	32.	Agriculture Department	4,600.00
	33.	Mosquito Research and Control	20,000.00
	34.	Lands and Survey Department	133,440.00
	35.	Planning	3,500.00
	37.	Public Works Department	896,585.00
		Total	$ 4,568,554.00

Other matters considered were reporting of virements under the requirements of the Financial Stores Regulations a sum of $52,704.00. Variation of funds within the same classification under Capital Expenditure. Total variation of funds approved $71,888.00. Capital expenditure virements between different classifications total virements approved, $178,335.00.

Request for authorisation to wave Stamp Duty on the transfer of property from the Government to the Water Authority. Finance Committee gave its approval for the Commissioner to authorise the Registrar of Lands to waive the accrued interest of the Stamp Duty of $380,000.00 on the transfer of block 20B, Parcel 340 and Block 13C, Parcel 2 REM 1 from the Government of the Cayman Islands to the Cayman Islands Water Authority.

Request for authorisation to review the existing Government guarantee on Cayman Airways Limited operating account held at the Royal Bank of Canada. Finance Committee approved that the guarantee and postponement of Claim Form 812 to the sum of $2 million be renewed by the Government of the Cayman Islands with the Royal Bank of Canada for the benefit of Cayman Airways.

Another item was the request for authorisation to issue a Government indemnity for directors and officers of Cayman Airways Limited. By a majority vote of eight to seven, Committee agreed that a Government indemnity for the directors and officers of Cayman Airways Limited be issued.

Request for authorisation to issue a Government guarantee on a

commercial bank loan to the Water Authority to front Phase 2 of the Spotts, Pease Bay water supply project. Finance Committee approved a loan guarantee in the amount of $2.356 million for Phase 2 of the Spotts Pease Bay Water Authority Project.

Request for authorisation to renew the $4.5 million overdraft on the Government operating account at Barclays Bank PLC. Finance Committee approved the renewal of the overdraft limit of $4.5 million on Government operating account with Barclays Bank PLC for the year 1992.

Request for authorisation to transfer $3.5 million from the General Reserve Fund to the General Revenue. The Finance Committee accordingly approved the transfer of $3.5 million from the General Reserve fund to the General Revenue.

Thank you, Madam Speaker. This covers all of the points that were raised during the course of the meeting.

MADAM SPEAKER: Thank you. As we have now passed 11 o'clock and we have one question which is deferred question remaining, may I ask for the Suspension of Standing Orders, that this may be dealt with at this time?

SUSPENSION OF STANDING ORDER 23(7) AND (8)
11:00 a.m.

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that Standing Orders 23(7) and (8) b suspended to enable the deferred question to be answered orally today.

MADAM SPEAKER: The question is that the House approve the suspension of Standing Order 23 (7) and (8) in order to deal with the deferred question.

QUESTION PUT: AGREED.

STANDING ORDER 23(7) AND (8) SUSPENDED IN ORDER TO DEAL WITH DEFERRED QUESTION NO. 187 ON THE ORDER PAPER.

MADAM SPEAKER: Deferred Question No. 187. The First Elected Member for Bodden Town.

QUESTION TO HONOURABLE MEMBER

DEFERRED QUESTION NO. 187

THE FIRST ELECTED MEMBER FOR BODDEN TOWN TO ASK THE HONOURABLE ELECTED MEMBER RESPONSIBLE FOR HEALTH AND SOCIAL SERVICES

NO. 187: Would the Honourable Member say: (a) how many juveniles are currently incarcerated in the Cayman Islands; and (b) what provisions are being made for the rehabilitation of these youngsters?

ANSWER: (a) Currently two juveniles are incarcerated in the Cayman Islands.

(b) These juveniles are currently placed on approved school orders as specified in section 9(1)(g) of the Juveniles Law 1990. In accordance with that Law procedures have been drawn up for their placement in one of four schools in the United States of America approved by His Excellency the Governor under section 50 of the Juveniles Law. Necessary procedures have to be complied with, notably the provision of a visa by the United States' Government allowing these juveniles to remain in the United States for the period of their order. On their release the facilities and officers of the Department of Social Services will be at the disposal of these juveniles according to their needs to assist with rehabilitation.

SUPPLEMENTARIES:

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member would tell the House where these juveniles are currently incarcerated and for how long they have been at this institution?

HON. D. EZZARD MILLER: Madam Speaker, the information I have indicates that one of these juveniles has been released on bail, pending an appeal to the Grand Court and the other juvenile is at the West Bay Police Station. It seems he has been there now for a total of nine months.

MADAM SPEAKER: Supplementary. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable

Member could say when was this juvenile released, and also if any arrangements have been made for the juvenile who is currently in detention to receive any form of counselling while he has been held and if arrangements have been made, what date was that arrangement made?

HON. D. EZZARD MILLER: Madam Speaker, I would not have that information as to what date or what specific arrangements are made but part of the Court Order would entail that the Social Services Department be responsible for monitoring and rehabilitation while the person is incarcerated locally.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I wonder if the Honourable Member is in a position to say if that indeed was a Court Order and if the Court Order was being followed by the Social Services Department.

HON. D. EZZARD MILLER: Madam Speaker, I have no access to the Court Orders that they are closed in the Juvenile Court. I can only assume that the Social Services were doing what they were supposed to.

MADAM SPEAKER: First Elected Member for Bodden Town.

MR. ROY BODDEN: Madam Speaker, I wonder if the Member would give this Honorable House an undertaking that he will investigate into this as it is an urgent and important matter to see whether this juvenile has been visited by officers from the Social Services Department and whether this juvenile has indeed been receiving regular counselling by these officers.

MADAM SPEAKER: Would the Honorable Member be setting a time limit when this information should be supplied bearing in mind that the House will shortly be dissolved?

MR. ROY BODDEN: Thank you, and precisely so, Ma'am. I would hope that we could get the information before the dissolution of the House on Friday morning.

MADAM SPEAKER: Thank you.

HON. D. EZZARD MILLER: Madam Speaker, I will endeavor to get the information before Friday morning.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I wonder if the Member could tell us, during the period the juveniles are incarcerated, do they have any contact with hardened criminals and if he could further state how often during that period are they visited by social workers?

HON. D. EZZARD MILLER: Madam Speaker, I think part of the purpose of using the West Bay lock up to incarcerate these juvenile is to keep them away from the hardened criminals in Northward and I do not have here the frequency of visits of the Social Services Department but I will include that in the information I will ask for the Honourable House.

MADAM SPEAKER: Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. To the Honourable Member would he say why this juvenile was not sent to an approved school and how much longer of this basically prison sentence that is left to be served, and whether consideration has been given to transferring him to an approved school?

HON. D. EZZARD MILLER: Madam Speaker, part of the original answer indicated that he is one of those who is considered to be transferred. He is 16 years old. How long the sentence is, I have no access to that information as the Honourable Member is aware of. I am not allowed into Juvenile Court, period, not even as a visitor, much less to have access to what goes on in there.

MADAM SPEAKER: Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR.: Thank you, Madam Speaker. I wonder if the Honourable Member could confirm whether or not the juvenile who is being held in West Bay, is held in one of the regular cells that they have there and I would also like to add as to whether or not the Member has visited this particular location to determine whether or not it is is appropriate for this purpose?

HON. D. EZZARD MILLER: Madam Speaker, yes, I have visited the location. I have previously determined that it was not appropriate for that purpose and that was the whole purpose of sending a team to the United States to identify schools after we stopped using the approved schools. I can not specifically state what part of the West Bay lock-up this particular individual is at the present time.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker.
I wonder if the Member could tell us if he has received any reports of abuse of the juveniles in this lock-up with regard to not receiving items which parents have left there for them and other such dealings with?

HON. D. EZZARD MILLER: No, Madam Speaker, my Portfolio has not received any such complaints.

MADAM SPEAKER: If there are no further supplementaries, that will conclude question time for this morning. The next item is Personal Explanation.

PERSONAL EXPLANATION

MR. GILBERT A. McLEAN: Madam Speaker, I ask that this item be deferred on the Order Paper as the statement is not yet completed nor received the necessary approval of the Chair. I had hoped that it will be completed in time that it could be placed on tomorrow's Order Paper.

MADAM SPEAKER: The Member has asked that a Personal Explanation be deferred until tomorrow. I shall put the question.

QUESTION PUT: AGREED. **STATEMENT DEFERRED UNTIL THURSDAY, 17TH SEPTEMBER, 1992.**

GOVERNMENT BUSINESS

BILLS:

SUSPENSION OF STANDING ORDER 46(1)

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that Standing Order 46(1) be suspended to enable Government Business to proceed.

MADAM SPEAKER: The question is that Standing Order 46(1) be suspended in order that Government Business be proceeded with. I shall put the question.
Mr. Truman Bodden wants to make a contribution. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I will be very short. This is the second time in the debate on the Constitution that the Government has stopped to go on with what I regard as less important matters. Indeed the Member for Communications and Works specifically stated and I quote him: "I feel that this Constitutional debate is the most important debate that has come to this House in many years." If Government feels that, I know that all but one Government Member has spoken, but the political move here is to shorten the time or probably end up spending time on this bill and leaving no time for what the Government has said and we have said is the most important debate this country has seen.
I think that once again it is a political move and it is a bad one.

MADAM SPEAKER: The Honourable First Official Member.

HON. J. LEMUEL HURLSTON: Madam Speaker, could I just clarify for the benefit of the Third Elected Member for George Town that the Suspension of Standing Order 46(1) is not in any way to deal with the preference of the Government. It is to deal with the Suspension of the Standing Order which requires 14 days advance notice prior to the taking of the First Reading of the Bill.
The Bill was circulated on the 1st of September, the 2nd Bill was circulated on the 3rd of September, the 14 days notice not having duly yet been given require the Suspension of Standing Order 46(1). It has nothing to do with Governments preference. The order in which the business appears on the Order Paper is the correct order.

MADAM SPEAKER: Before the Honourable Third Elected Member for George Town rises, I will draw attention to Standing Order 14(2) which says that on all days other than Thursdays, Government Business shall have precedent over Private Members Business.
The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Can I thank the Honourable Member for pointing this out? As I understood it, his predecessor the First Official Member suspended section 14 so that the debate on the Constitution could go on, notwithstanding that there was Government Business. As I understood it, that continues on and this motion that is being put forward now seem contrary to that.

MADAM SPEAKER: The Honourable Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I think it is important to remind the Third Elected Member for George Town that while on the first day of business of the House that motion was passed, that motion was since rescinded last week Thursday to allow the Government Business to take precedent in according with the order set down by Standing Orders over the Constitutional debate, so the decision he is referring to has since been overturned by a more recent decision of the House.

MADAM SPEAKER: Honourable Member for Education and after this speech, I will put in the question.

Thank you.

HON. BENSON O. EBANKS: Madam Speaker, I do not know whether after this announcement I really need to say anything, but I was about to point out that as regards the Bill to reconstitute the Cayman National Cultural Foundation the objection being given to that being given a First Reading....

MADAM SPEAKER: Honourable Member we are dealing with a Suspension of Standing Order 46(1) not the Cayman National Cultural Foundation, please. That is not the question before the House. We are dealing with the Standing Order 46(1) to allow Bills to come forward, we have not reached that point yet and I really must ...

HON. BENSON O. EBANKS: I really do not have a problem.

MADAM SPEAKER: I really do not have a problem either except that this is the way it goes. I will now put the question, on the Suspension of Standing Order 46(1).

QUESTION PUT: AGREED. **STANDING ORDER 46(1) SUSPENDED TO ENABLE THE BILLS ON THE ORDER TO BE TAKEN WITHOUT DUE 14 DAYS NOTICE.**

FIRST READINGS

THE CAYMAN NATIONAL CULTURAL FOUNDATION BILL, 1992

CLERK: The Cayman National Cultural Foundation Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a first time and set down for Second Reading.

Honourable Member for Education.

HON. BENSON O. EBANKS: Madam Speaker, I wonder if I could move that the Second Reading for this Bill be...

MADAM SPEAKER: Honourable Member we are dealing with the First Reading. We have not reached the stage of Second Reading, please.

Madam Clerk, would you continue?

THE SUPPLEMENTARY APPROPRIATION (1991) BILL, 1992

CLERK: The Supplementary Appropriation (1991) Bill, 1992.

MADAM SPEAKER: The Bill is deemed to have been read a first time and set down for Second Reading.

SECOND READINGS

THE CAYMAN NATIONAL CULTURAL FOUNDATION BILL, 1992

CLERK: The Cayman National Cultural Foundation Bill, 1992.

MADAM SPEAKER: The Honourable Member for Education.

HON. BENSON O. EBANKS: Yes, Madam Speaker, I was going to ask that the Second Reading be deferred until tomorrow.

MADAM SPEAKER: Well, this is the time that you can do it. The question is, as put by The Honourable Member that the Second Reading be deferred. Honourable Member would you please give a reason?

DEFERRAL OF SECOND READING

HON. BENSON O. EBANKS: Madam Speaker, Members are probably aware, this Bill is designed to reconstitute the foundation and as such calls for certain agreement and a third party and I need some extra time to in fact, settle finally one or two clauses in the Bill.

MADAM SPEAKER: The question is that the Second Reading Debate on the Cayman National Cultural Foundation Bill be deferred until tomorrow.

The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Madam Speaker, I am in agreement with the Bill. I have had the White Copy for several days and I note that the Member, just a while ago was I believe taking legal advice on the Bill. You know, I am really tired as a Member of the Business Committee for the past eight years, to see the horse-playing going around in this House with the business of this House. We just now suspended Standing Orders to allow the Member to proceed, and now come to find out that we are not ready, we have to go back to it tomorrow. It is time that we stop playing Kangaroo Government.

MADAM SPEAKER: I shall put the question that the Second Reading of The Cayman National Cultural Foundation Bill be deferred until tomorrow, Thursday.

QUESTION PUT: AGREED. **BY MAJORITY THAT THE SECOND READING BE DEFERRED UNTIL THURSDAY, 17TH SEPTEMBER, 1992.**

THE SUPPLEMENTARY APPROPRIATION (1991) BILL, 1992

CLERK: The Supplementary Appropriation (1991) Bill, 1992.

MADAM SPEAKER: The Honourable Third Official Member.

HON. GEORGE A. McCARTHY: Madam Speaker, I move the Second Reading of a Bill entitled The Supplementary Appropriation (1991) Bill which seeks to allow and confirm certain supplementary expenditure during the financial year, 1991.

Section 9 of the Public Finance and Audit Law 1985, provides that:

> "If at the close of the accounts for any financial year it is found that expenditure carried to any head is in excess of the sum appropriated for that head by an appropriation law, the excess shall be included in a Supplementary Appropriation Bill which shall be introduced into the Legislative Assembly as soon as practicable after the close of the financial year to which the excess expenditure relates.".

Madam Speaker, it is in accordance with this provision that this bill is being introduced to confirm excess expenditure against various heads, amounting to $9,026,267.00 for the year ended December 31st, 1991.

In accordance with Standing Order 68, excess expenditure, have been approved at various Finance Committee meetings during the course of the year under Standing Order 67(2). This however, excludes the sum of $2,031,046.00 broken down as follows.

Banking	$33,165.00
Airport Development	$1,631,034.00
Community College	$366,347.00

Both of these are being shown in the Schedule of the Bill as a total of $1,997,381.00.

The explanation covering the over-expenditure in respect of the banking department resulted from an extension of the then inspector of banks contract for a period of six months and the appointment of a deputy inspector a of banks in the course of the year. This exhausted the provisions under the personal emoluments.

The explanation provided in respect of the over-expenditure in respect of the covering the capital items are found on page 17 of the Accountant General's Report.

I will commence with the $1.6 million in Airport development.

> "Expenditure of $1,631,034.00 was incurred during 1991 on resurfacing of the runway at Owen Roberts International Airport. This expenditure was financed by a loan from the European Development Fund. The Scheme was not included in the budget for 1991, as capital expenditure financed by loan is not charged to the accounts until loan moneys are received, which in this instance was not until December 1991, which was too late to obtain the necessary Finance Committee approval to a supplementary estimate."

The second item dealing with the Community College. The explanation is as follows:

"The original budget included a provision of $360,402.00 to cover expenditure during 1990 on this project, which had been held in a suspense account pending receipt of loan funds. Total expenditure of $726,749.00 was in fact charged in the year, giving an overspending of $366,347.00. This scheme is financed by a loan from the European Development Fund and charges are made to expenditure as funds are drawn-down. In this instance, loan funds were received earlier than had been anticipated."

The over-expenditure on the capital items is just a matter of cosmetic in terms of allowing for these transactions to flow through the accounts of Government and did not result in expenditure charges having to be met from local revenue.

The detail covering all of the items are set out in the schedule to the Bill itself. At this time I commend this Bill to this Honourable House and I thank you.

MADAM SPEAKER: The question is that the Supplementary Appropriation Bill be given a Second Reading. The motion is open for debate. (Pause) If there is no debate, I shall put the question that the Bill be given a Second Reading.

QUESTION PUT: AGREED.

THE SUPPLEMENTARY APPROPRIATION (1991) BILL, 1992, GIVEN A SECOND READING

AT 11:50 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 12:18 P.M.

MADAM SPEAKER: Please be seated. Proceedings are now resumed. The House will now go into Committee to consider a Bill entitled The Supplementary Appropriation (1991) Bill.

COMMITTEE ON BILL

THE SUPPLEMENTARY APPROPRIATION (1991) BILL, 1992

MADAM CHAIRMAN: Please be seated. The House is in Committee. As usual if there are any typographical or other minor amendments, the House will authorise the Second Official Member to do these. The Clerk will now read the clauses of the Bill.

CLERK: Clause 1 Short Title.
Clause 2 Expenditure Confirmed.

MADAM CHAIRMAN: The question is that Clauses one and two do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED.

CLAUSES 1 AND 2 PASSED.

CLERK: A Bill for a Law to Allow and Confirm Certain Expenditure During the 1991 Financial Year.

MADAM CHAIRMAN: The question is that the title do stand part of the Bill. I shall put the question.

QUESTION PUT: AGREED.

THE TITLE PASSED.

MADAM CHAIRMAN: That concludes proceedings in Committee for a Bill entitled the Supplementary Appropriation (1991) Bill, 1992. The House will resume.

HOUSE RESUMED AT 12:20 P.M.

MADAM SPEAKER: Please be seated. The House is resumed. Reports.

REPORT ON BILL

THE SUPPLEMENTARY APPROPRIATION (1991) BILL, 1992

MADAM SPEAKER: Honourable Third Official Member.

HON. GEORGE A. McCARTHY: I beg to report that a Bill for a Law entitled, The Supplementary Appropriation (1991) Bill, 1992, was considered by a Committee of the whole House and passed without amendment.

MADAM SPEAKER: We will now proceed to Other Business, Private Member's

Motion No. 13/92. The Second Elected Member for Bodden Town continuing the debate.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS:

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

(Continuation of debate thereon)

MR. G. HAIG BODDEN: Madam Speaker, last week during my introduction on the Constitutional Motion, I touched lightly on the subject of Parliamentary Secretaries. However, I did not state my own position and my position is that I am totally against the appointment of Parliamentary Secretaries in or small Legislature as it would result in the entrenchment of the Government and would deny the only democratic sanction which is available. That is the removal of a bad Government by a vote of no confidence.

Together with some of my Backbench colleagues, I signed a Minority Report or a Dissenting Statement which went to London along with the Select Committee's Report. That Dissenting Statement set out the reasons for my objections. That Dissenting Statement is Appendix II of the Select Committee's Report. During this debate there has been quite a lot of discussion on Appendix I, which was the other more complete Dissenting Report put in by Members of the Backbench. There has been hardly any debate at all on this most important Dissenting Report. It appears to me that the Government is ashamed of its stand on Parliamentary Secretaries which looked to me like an attempt to rig the Constitution with up to three Parliamentary Secretaries just the same as the Finance Committee has been rigged with three Civil Service Members in such a way that the Government of the day can be very strong and put forward all its policies without fear of any defeat. As this Dissenting Statement is so important and as it is so short, only two tiny paragraphs, I would like to quote from the Select Committee's Report the two short paragraphs dealing with it and I quote:

> "We disagree with the Select Committee and the Constitutional Commissioners in relation to Parliamentary Secretaries. We are not against Parliamentary Secretaries per se. However, we believe that they are created by and owe their existence to the Chief Minister and as stated by the Constitutional commissioners in their Report, upon a vote of no confidence they fall with the Government.
>
> All Governments are structured so that the Cabinet is smaller than the Backbench and the addition of Parliamentary Secretaries in our small Legislature would alter this."

I will leave this subject by reiterating that if Parliamentary Secretaries are added to the elected membership of the new council, we would have eight Members forming the Government as against seven members on the Backbench and in the Legislature we would have eight members plus the three Civil Service members. Eleven Government Members as against seven. A very strong Government, indeed.

Also, last week, in my introduction I mentioned very briefly that the Members of Council had shown by their debates, not only on this particular motion but at other times, that it was their understanding that the New Constitution would have come into force and the public would elect the Members in November to run the Government on the New Constitution.

I found a paid political advertisement that had been put out by the four elected Members of Council which bears out my argument. This advertisement was published in the Compass on the 21st of August 1990 and it was one of a series called "Our Point of View," by the elected Members of the Executive Council and it was put out during that period when the Members were under fire over Motion 3/90 and they were doing their utmost to defend their reconstruction of Finance Committee and their precocious attempt to have a Constitutional review.

The very title of this advertisement is significant because it is called "Constitutional Revue Will Be Proper." A title they took from one of Aunt Sooky's skits that talks about a "proper good revue." In the advertisement it is a full half page and deals with other matters and I would recommend that people read it. It closes at the bottom with this footnote. "These announcements by the four Elected Members of the Cayman Islands Government are presented for the purpose of informing the public about our views and policies.". In the advertisement they criticise the citizens of this country who had spoken out against their actions and referring to them they say and I quote from the third paragraph: "This articulate but unelected group who seem to have an obsession with discontent should be told that the Constitutional Revue that we in Government envisage is certainly a proper one and has been properly requested.".

I outlined last week without the benefit of their advertisement that this was no proper request, because they did not go about it, to use their own terminology, in the proper fashion. That is the Governor who was the presiding officer helped them get it through the Legislative Assembly by using the three Civil Servants vote. It would have failed without that. One of the arguments against these changes had been that the Government had no electoral mandate to do what they were doing and this is what they say in reply in this advertisement and I quote:

> "The citizens also attempt to persuade gullible listeners or readers that there is something different and presumably dubious because the request for a Constitutional review does not in their words have an electoral mandate, but nor did the last one which was made in 1970 after an extended period of what the Commissioner Lord Oxford and Asquith descriptively termed some groping for Constitutional change but that is not a true statement because that request was signed by a majority of elected Members while this request was signed by a minority of the elected Members.

The advertisement goes on;

> "We also reject as furious the citizens assertion that the will of the electorate might be flouted by the introduction of constitutional changes in advance of the 1992 general election.".

They go on to explain that that is not the case because it is going to be handled the same as they did in 1972. They go on to outline how it was done by saying:

> "Perhaps they had not read an earlier part of their three page announcement which made clear that the proposals resulting from Lord Oxfords review were published in 1971 and after consultation between Cayman and London, the new Constitution came into operation in 1972, three months before a general election.".

In other words their hope was that this 1992 Constitution would have come into effect before the general election. Now, this is a very telling paragraph.

> "Obviously, the general election would give the electorate the opportunity to render a judgment on the candidates support or opposition to the new constitution, but the idea that an election can be used as an instrument for thrashing out details of desirable constitutional changes is on the naive level of much of the citizens thinking.".

Can you imagine that? They are saying here that the general election would give the public a chance to judge the candidates and to judge the candidates support for the constitution, but the general election should not be used to say what the public wanted in the constitution. Did they believe that they could get away with that no matter how much they tried to brainwash the public with half page advertisements in the paper? There is no way they could get away with that.

They go on in there relentless fashion. We have great confidence that whoever is sent out as Constitutional Commissioner will do a complete job of eliciting public opinion and shaping it into proposals which reflect the public will. Thereafter, there will be the opportunity as there was last time for the legislators to give their final input before the new Constitution was approved in London.

We cannot see that such a process regularly followed in such matters can justify the criticism of any reasonable mind. In other words they are saying that if we do as we did last time, but last time we had our Constitution in place in August. Three months before the election. They are not finished yet. They go on: "It also seems to us pointless to argue for setting up a Select Committee as a preliminary to requesting a constitutional revue.". Members will recall that when they brought this motion, I think it was the Second Member from Cayman Brac, wanted to set up a Select Committee at the same time and the majority of the House would not allow it.

It was not until the next meeting of the House that we were able to get the motion through for a Select Committee. Why? Because the Government thought that it would be pointless as they said in their advertisement to argue to setting up a Select Committee as a preliminary to requesting a constitutional revue. I am not saying this, I am just reading their paid political brain-washing advertisement.

> "All that a Select Committee would achieve as we see it would be time wasted on a prolonged discussion of possibilities without the invaluable help of advice from an expert on constitutional reform. As for the point that there was a unanimous vote in 1970 to request the constitutional revue, perhaps the answer is that twenty years ago, the Legislature had a larger proportion of Members with the foresight to see the countries need and the courage to vote for it.".

This is what they put forward because they took what I call unilateral action helped, as I said earlier, by other people who should have had nothing to do with the will of the electorate.

The final point I will make on this is the question, 'What for instance would be the purpose of asking him, [that is the Commissioner], to review the office of Speaker when no use has yet been made of the perfectly adequate provision in the 1972 Constitution providing for the appointment of a Speaker if the Legislators request it?' Anyone who would call the provisions in the 1972 Constitution for the appointment as adequate, has to be out of his mind because all that Constitution is is that the Governor shall appoint a Speaker if a majority resolution is passed. There is nothing at all in it to say for how long the Speaker would be appointed, as to the qualifications of the Speaker, what the terms of reference of the Speaker would be, and so on. So the provisions in the 1972 Constitution, while they do make it possible to appoint a Speaker, were far from being adequate. Yet, our leaders put out a paid political advertisement trying to convince the public that the

provisions for the appointment of Speaker in the 1972 Constitution were adequate.

They also dealt with the matter of the simple majority but I do not want to spend any more time on the advertisement and will move off this after I mention a comment from one of the Members which took place in the 21st meeting the Select Committee held. It is on page two of those minutes. It is a comment by the Honourable Ezzard Miller. I believe that this was a meeting that we had with Mr. Gordon Baker from the FCO.

> "Mr. Ezzard Miller was of the view that following the next General Election the new House would automatically be constituted under the revised Constitution. If the people did not accept the review of the Constitution, this would have been reflected in the Committee's Report and it was the peoples wishes that would have determined the contents of the revised Constitution.".

The first sentence makes it very clear that it was clear in their mind that the next general election, that is in November 18 general election would follow the Constitution and the House would be constituted under the revised Constitution immediately following the next general election. In other words you would have your Constitution in place and new Government would work on it whether they liked it or not, a Constitution prepared by this House. As I mentioned last week, London came to our rescue and I do not need to argue that anymore.

I have come to the same point in my debate that I was at last week. I am about to embark on the subject of the Chief Minister which will take at least an hour and I notice we are at the lunch adjournment time. I do not know if you would prefer to take that, or you would prefer me to skip this and go on to something else.

MADAM SPEAKER: I am sure Members would like to take the luncheon suspension now. The House will be suspended until 2:15.

AT 12:46 P.M. THE HOUSE WAS SUSPENDED

AT 2:15 P.M. THE HOUSE RESUMED

MADAM SPEAKER: Please be seated. Debate continues on Private Member's Motion No. 13/92. The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, much has been said on the subject of the Chief Minister. As it is a subject which is truly inexhaustible, I believe that the speakers who follow me will also be making comments on it.

The search for a Chief Minister reminds me of the parable of the Bramble King as told in Judges chapter nine, where the trees of the forest wanted to select a King. They went first to the Olive tree who said; "Why should I forsake my fatness and be King?" Then they went to the Fig tree. The Fig tree said; "Why should I leave my sweetness to be King?" Next they went to the vine and the vine said; "Why should I leave my wine which cheereth man and be king?" Finally, they went to the Bramble and said, "Come thou and reign over us." Right away the Bramble accepted the challenge and became King. This parable is important because it was told by Jotham to Abimelech as a rebuke for his treachery in making himself into a ruler. You know, Abimelech became King by slaying his 70 brothers and the words that he used to the people of Shechem were almost the same identical words used by the Constitutional Commissioners in the report on page 12.

What Abimelech said was: "Whether is better for you, either that all the sons of Jerubbaal which are threescore and ten persons reign over you, or that one reign over you? Remember also that I am your bone and your flesh." The Members will recall that the Commissioners in their report pointed out that as a seafaring country, we would not want to set to sea with four chief mates and no one master. Setting up the Chief Minister in the fashion recommended in the Constitutional Report would require having a lot of faith in the person you were putting there. Here again, this story says that Abimelech said to them: "If in truth ye anoint me King over you then come and put your trust in my shadow."

This is the situation that we are faced with here today. That is a long story and I will not go into any more of it, but would certainly recommend that all Members and all people in the public discussing this matter of the appointment of the Chief Minister, read Judges chapter nine, and in fact they will also have to read the last four or five verses of chapter eight to get the full story. It is not only the Backbench that is concerned about the appointment of the Chief Minister. In fact, one of the most august bodies in these islands, made their concerns known to the Select Committee. I am speaking about the Caymanian Bar Association.

Members will recall that its president, Mr. Steve McField with other members of the association appeared before the Committee. In a document which was sent to the Select Committee on August 1st, 1991, the Caymanian Bar Association had this to say about the creation of the post of Chief Minister.

I am reading from page two of that document.

> "We agree with the Commissioners that this has been a 'controversial' issue. The doubts and fears that still linger around the creation of a Chief Minister are based largely on the fact that (with the addition of up to three commitment bound, if not collective-bound, Parliamentary Secretaries, and a two-thirds vote of no confidence) he would be virtually irremovable. Thus, potentially positive

aspects of having a clearly identified political 'leader' could be negated by the serious risks of corruption and the potential for virtually unchecked abuse of power.".

This was a statement by Mr. Steve McField and the other Caymanian lawyers - the best legal brains in this country. They are afraid that if the Chief Minister is appointed the way that the Government has said it wants it done - because three of the elected Members of Council have made it clear that they accept the Constitutional Commissioners' Report and that they accept the Draft Constitution.

Hear this legal body voicing its doubts about the corruption that would flow in this country if a Chief Minister is appointed. They go on to say, "As suggested under Finance Committee and Vote of No Confidence, we see solutions for such lingering doubts and fears in having an Elected-Member-only Finance Committee and a simple majority vote of no confidence. These would add in the necessary 'checks and balances' which are missing from what the Commissioners are recommending here."

The Caymanian Bar Association more or less says what some of the Backbench Members say, that if we are ever going to have a Chief Minister we need the checks and balances to control him. The Members of Government who spoke have not said that they are willing to have elected Members in Finance Committee the way it was before they made the change in 3/90. None of them have said that. None of them have said that they will revert. The Backbench Members have said that if they have their way, we will put Finance Committee back the way it was.

Also, the present Elected Members of Council have supported the position of the Commissioners that there should be a two-thirds majority to remove the Chief Minister while the Bar Association is saying here if we had a simple majority to remove him, at least that would be one of the checks and balances. Further down the page under the section headed the "Appointment of Chief Minister. We find the Cayman Bar Association of which our own Mr. Steve McField is the President saying:

"However, we find the Commissioners' recommendation (a) i.e., leaving the appointment of the Chief Minister to the Governor's discretion to be totally unacceptable. We have also re-evaluated the idea of a secret ballot vote of all the Elected Members for selection of the Chief Minister.
We now wish to suggest that it should instead be by an open vote so as to allow a clear identification of who votes to support the Chief Minister and who is in the Opposition. This approach is set forth in the proviso to Section 31(1).".

The Bar Association is saying that they find the Commissioners' recommendation that the appointment of the Chief Minister be left solely to the discretion of the Governor as totally unacceptable. I agree wholeheartedly with that view.

You know what makes it even worse, is that the provision which appears in the Draft Constitution seems to be even a worse case than that recommended by the Commissioners in their report. If we look at the section dealing with the appointment of the Chief Minister, which is Section 29 of the Draft Constitution:

"The Governor, acting in his discretion- (a) shall, unless he causes a ballot to be held in accordance with paragraph (b) of this subsection, appoint as Chief Minister the Elected Member of the Legislative Assembly who appears to him best able to command the support of a majority of Elected Members:".

In other words, in the first place, the Constitution is saying that the Governor shall appoint as Chief Minister whichever member he feels can command the support of the majority. The part about taking a ballot is secondary to that because that part is written with a may instead of a shall. It says the Governor:

"(b) may cause a secret ballot to be held among the elected members of the Legislative Assembly to determine which elected member commands the support of the majority of such members; and, where such a ballot is held, the Governor shall appoint as Chief Minister the elected member who obtains a majority of the votes of the elected members.".

Taken of the ballot to find out which person would be best qualified, that is would have the most support, is only a secondary matter in the Draft Constitution. Something that the Governor may do or may not choose to do. In the first place, the Governor has the first choice to appoint whoever he wants and he feels can obtain that support.

This goes much further as I said earlier than the recommendations that the Commissioners put in their report. If you look at the report on page 13 you will see the subtle difference between it, because at the top of the page it says:

"Thus the constitutional provisions which we recommend for the appointment of a Chief Minister are as follows:

(a) The Governor, acting in his discretion, shall appoint as Chief Minister the elected member of the Legislative Assembly who appears to him best able to command the confidence of a majority of the elected members.

(b) If no such person is appointed, the Governor shall appoint as Chief Minister the Elected Member of the Assembly who in a Secret Ballot, obtains a majority of votes of Elected Members of the Assembly."

You will notice that the Constitution does not say if no such person is appointed, teh Governor shall appoint. That section says, 'the Governor may take the ballot if he wants to.' So my condemnation of the Commissioners' Report is that the Commissioners erred, they made a mistake in recommending the appointment of a Chief Minister without having put in place the machinery to discipline and remove the Chief Minister if the Chief Minister went wrong.

We know from recent experience that there has been no stronger leader in this century than Margaret Thatcher. No more able and competent leader. As Prime Minister, of England, she ranked among the world's best until she imposed a poll tax. A tax that the people of England did not agree with and because the Head of party system, the people, the Members of the party her own party, got together and removed her as their leader and put in Mr. John Major as the new leader. The subsequent result of this was that Her Majesty the Queen by convention had to accept the resignation of Mrs. Thatcher and appoint a new Prime Minister. If we had a party system that was functioning and in place, the same thing would happen.

If we had a Chief Minister, and a Chief Minister failed to carry out the wishes of the people, the Governor would not have to do anything, the Members of the Legislative Assembly would not have to do anything, the people, the electorate would remove the Chief Minister as leader of their party and it would follow that the Governor would then remove that person as Chief Minister and then appoint a new Chief Minister who would be the leader that the people now want. In order that I may make this clear, I would like to use an example, and I do not mean any offence to any Member of the Assembly but let us take the situation of Motion 3/90.

We know that one Member of the Assembly was petitioned by many of his constituents and asked not to vote for 3/90. Suppose that Member had been the Chief Minister. The people could have disciplined him by removing him as leader of their party, because he would have been the leader in order to have been the Chief Minister and a new person would have been put in to lead the party to represent the will of the people. I said that the Commissioners did an injustice in this exercise to even suggest that we have a Chief Minister without the mechanism to remove him.

The Caymanian Bar Association had a lot more to say about the appointment of the Chief Minister, but I will only quote one more paragraph from page five under the heading of Conclusions and I quote:

> "Commissioners have stated that (under the 1972 Constitution) 'nothing less than an economic miracle took place' and that the Cayman Islands have been 'prosperous beyond [our] wildest dreams.' Therefore, no one of good will toward these beloved Islands of ours would now wish to see such prosperity eroded or destroyed by a corrupt or ruthless (and virtually irremovable) Chief Minister with very wide and unchecked powers. Accordingly, the Caymanian Bar Association sees simple majority no confidence vote and a Constitutional provisions for an all-Elected-Member Finance Committee as being essential safeguards against such horrors from actually happening.".

These are prophetic words. These are words that the people of this country must consider as they seek to return to this House in November. The Members who will be the makers of the new Constitution to make certain that the horrors of this country being destroyed by a corrupt, ruthless and virtually irremovable Chief Minister will never happen.

Sometimes, in my better moments, when I read that Constitutional Commissioners' Report, I burst out laughing. They complain in it that very little evidence was offered to them on how the Chief Minister would be identified. What a strange statement coming from them when nobody in this country, as far as I know, called them in here to set up a Chief 'Ministership'. They came down with a hard sell programme, and with every opportunity, whether it was a meeting with Members of the Legislative Assembly or a meeting in the town hall in West Bay, or in a telephone conversation or on the radio, they preached one story and they sang one song: "You need a Chief Minister because other countries in the Caribbean have it." They have been enjoying it for twenty years but never once did the Commissioners tell anybody of any country in the Caribbean which enjoys a Chief 'Ministership' that has more economic prosperity than this country or had as long as it had a democratic Government. As long as it had a Government where the majority was controlling the spending, what could we say today? With every decision to spend our money being made by the minority of elected Members we find our economic prosperity slipping away. Our days of prosperity seem to be over and our days of adversity seem to have begun. It is my opinion that the Commissioners were totally confused on the subject of whether a party system is a prerequisite to the appointment of a Chief Minister. That confusion is brought out by looking at pages 13 and 17 of the Constitutional Report.

On page 13, the Commissioners believe that although we did not have a party system, we had such strong groupings that that was good enough to take the place of a party system and we could identify a Chief Minister, and I guess work with it. That is dealt with on the bottom of page 12, Appointment of Chief Minister and I quote:

> "Very little evidence was offered to us on how a Chief Minister would best be identified, save that there were those who believed that an established party system was an essential prerequisite to having a Chief Minister. We are unable to accept this. Groupings of Members of the Legislative Assembly, such as exist at present, would have to identify a leader and even in an Assembly where there was no obvious group in the majority, e.g. if independents were to hold the balance, then the Assembly could elect a Chief Minister."

What the Commissioners are saying here is that despite the fact

that you do not have a party system, we believe that your groupings are so strong and so effective that you can go ahead and appoint a Chief Minister.

Four pages later on page 17, they thought the reverse. They thought that we had no party system and what we had was no good. I will read page 17. This is dealing with the matter of whether we would have a two-thirds majority or a simple majority to remove the Chief Minister and what the Commissioners said in essence was, you should have the two-thirds majority now. Ten out of 15 for your new Constitution because you do not have a party system. I will read what they said on it.

> "We received some representations that a vote of no confidence should only require a simple majority, although others considered that the two-thirds provision be retained. We agree with the latter view. In the absence of established political parties we consider a two-thirds majority essential to ensure, in so far as is reasonable, the stability of the Government of the day. The Government ought not to be at the mercy of shifting alliances which could well be based on personalities rather than policies. If and when established political parties emerge-and experience has been gained of their functioning over a period of years-consideration could be given to amending the Constitution to provide for a simple majority instead of a majority of two-thirds. That time however has not yet come."

In a lesser matter, like whether you have two-thirds majority or simple majority. They are saying that this system can not function without a party system, yet on page 13 they said with the appointment of a Chief Minister you can appoint him without a party system. What a confusion caused by the briefings which I believe that they received from certain individuals.

I hope that the people of the Cayman Islands will not be confused and will be able to think clearly and understand that if they accept the Commissioners' recommendation they may be saddled as the Caymanian Bar Association says, "a corrupt Chief Minister that they are unable to remove." You see, ever since the new Government took over, they have continued to blame the ills of this country on everyone except themselves. They blame it on the Gulf War, they blame it on the United States recession, they blame it on the Backbenchers, they blame it because they have no leader among their group and I think that is even written into the Constitutional Commissioners' Report that there is no leader in the Government. But, how are you going to get a leader out of that group? Tell me and I will sit down.

These Members of Exco are in the drivers' seats. They have been put there elected by the majority of this House and the Members are elected by the majority of the people. They must drive, that is their function. Not to give excuses and change Finance Committee because they cannot function and change Constitution because they cannot function. I remember the early days of television, watching the Ed Sullivan Show when they brought on the juggler and he juggled these plates for one minute. It looks very simple but the juggler practices, I am told, eight hours a day just to do that two minutes on television. The moral is that when they get on television, they juggle. They do not sing, they do not dance, they do not pray, they juggle!

These people are in the driver's seat, they must run the country. They must not find excuses. They must guide the Islands rather than being misguided themselves. The Commissioners complain in their report and give as a reason for the Chief Minister that there is no political head. Well, we knew that. We knew the tail was wagging the dog for a long time. It is interesting to look at page 6 of the Commissioners' Report, and I quote from it:

> "One of the defects which we have observed is the failure of the 1972 Constitution to identify a political head of Government. As a result, the duty of answering for the Government has frequently fallen on the Governor and thus drawn him into the political arena, the position being made worse by the fact that, at least until very recently, he also had to preside over sittings of the Assembly.".

This did not happen recently, I have been in this chamber a long time and I never heard the Governor answering political matters.

When I came here, there was a Chief Secretary by the name of Mr. Desmond Watler, who was quite capable. Then he was replaced by Mr. Dennis Foster as Chief Secretary, and when Mr. Foster retired everybody knows that Mr. Tom Jefferson should have been promoted to the post of Chief Secretary but the Government of the day did away with the post of Chief Secretary, simply to prevent Tom Jefferson from getting the job. They say, "Oh, what a tangled web we weave, when we practice to deceive." They got caught in the way which they created because the post of Chief Secretary should not have been abolished, it should have been strengthened. However, as soon as Tom Jefferson was out of the way, the Governor took it upon himself to put back the post of Chief Secretary, and I can only say that I have a lot of respect for the holder of that post, but I only want to show that with that post, footsie has been played. The fact that they had no political head of Government was a situation that did not call for a Constitutional change, but a situation which they had brought about upon themselves.

On page seven the Commissioners seem to defend the Government for seeking this Constitutional change and have this to say in the third paragraph:

> "While the problem of the Finance Committee may have been the catalyst, we believe that for some years there had been an undercurrent of feeling in the Islands that constitutional development had lagged far behind the economic miracle. The 1972 Constitution is now nearly 20 years old; it had undoubtedly served the Islands well but to work effectively it had depended to a great extent on consensus in the Assembly. Possibly due to the emergence in recent years of a younger generation

of politicians, that consensus had increasingly been eroded in the months prior to our review to a point where stable government-and consequently economic prosperity-was under threat. In our opinion, the time had indeed come to take stock of constitutional arrangements.".

One can easily see who these people talked to before they wrote that paragraph. They are claiming that our constitutional development lagged behind our economic miracle. There is no proof of that. I think our economic miracle happened despite the constitutional developments. If I had time, which I do not have, I would trace the development over the last 150 years. There is no truth in the statement that our constitution is lagging behind. All that happens is that we are not working what we have. 1972 to 1976 the Constitution worked. That was the first four years when you had all the hiccups. When you had to try this and you had to try that. 1976 to 1980 it worked. 1980 to 1984 it worked. 1984 to 1988 it worked. The only time it has not worked is 1988 to the present time - and it is quite obvious that since there has been no fundamental change in the Constitution - the game of cricket is the same. It is the players why they loose the match. Change the players and we will see a change in the working of Government.

What the 1972 Constitution did is to put the majority of the elected Members in Council which means that every local matter in this Island which under the constitution can be referred to elected Members is controlled by elected Members. That is the Constitution.

There are one or two areas that are reserved to the Governor but if you are going to build roads or whatever you are going to do, put on taxes or whatever it is, elected members are in control of the policy of the Government. The Constitution is so structured that it requires that those four members should stick together because the day they have a falling out, and one of them goes over to the Government bench then the majority will be the Civil Service members plus their new found friend on Exco.

The matter with the Chief Minister and whether we have one or not is a very important one because if that post is created, you are going to find a very large burden on the purse. The Chief Minister would have to get a house with servants, a car, a chauffeur and two outriders, and staff for his office at higher pay and under this system his Parliamentary Secretaries to guarantee his entrenchment. That is just one aspect of it. There are other more serious aspects where the Chief Minister will have the authority to appoint or invite the Governor to appoint Parliamentary Secretaries and having the power to have them appointed it follows that they will have to tow the line although they are not bound by collective responsibility they have to be loyal to the Member they serve.

The Chief Minister is given other wide powers which I will deal with when I am dealing with other sections of this draft. What is important about this appointment is that if he is appointed under the system recommended, once appointed, he will be out of the hands of the electorate until the next election. This could never be good for the country. The majority of the Backbench members have more or less the same opinions about the Draft that we are discussing and there are some areas where there are small differences and I can only say that a difference of opinion alienates only little minds. In other words, if I differ with Mr. Truman on any particular issue, it does not make a bit of difference with or friendship or with our togetherness. The difference of opinion is not going to change our position as a group. By and large, the recommendations, if people have followed it closely, the recommendations which have been made by one member of or group have also been made by most of us.

The Government having nothing constructive to add to this debate, tried to make much of the fact that those who signed the Minority Report only disagreed with what was in the Minority Report and accepted totally the rest of the Draft. That is not correct and shows their total lack of understanding of parliamentary matters because if they had studied *Erskine May*, they would have found in a section dealing with Select Committees the report which comes to the House is the report of the Select Committee and an individual, a member of that Committee may disagree and may give the reasons for his disagreement on any particular point if he feels strongly about it.

You see, the House is only concerned with receiving the opinion of the Select Committee. The House is not concerned with individual opinions. The Member back in August, when he put out that advertisement tried to confuse the public into believing that if a Select Committee was put up, you could never get a decision. That is not so. From a Select Committee, you always get a decision and that decision always goes to the House even if sometimes that decision has been qualified as this one has been by two dissenting reports. The Members of Government who spoke on this motion also seemed flabbergasted by the motion and I would like to point out that this debate, if they examine the motion closely, is not to accept or reject any part of the Draft Constitution, but to discuss it in such a manner that our feelings on it can become known to the public. We believe that the radio broadcast of this debate, like all the other broadcasts from the Legislative Assembly reach a very large proportion of the residents in these Islands. No other vehicle open to the Backbench whereby the Backbench can reach a greater proportion of the public. Perhaps if we had like the Government, the resources that Government has behind us and full department on information supporting us , we could get our point of view across by having interviews on CITV, with the newspaper if we had the staff to write the letters for us, we could get all of this out. Lacking those resources, we have to resort to the power of the spoken word and we know that although we may hold a public meeting, or although we may discuss with a few people in an office or on the street corner, we do not reach a large cross-section of the community as we do by these debates.

The Members of the Government seem to have worried considerably about the Minority Report which was put in by certain members of the Backbench. In fact their attitude was we wish you had not put it in. That report gave to members who felt very strongly on particular points, the opportunity to set out in clear and concise form their feelings on a particular matter. I will not spend too much time on this report as most of the Members who debated spoke on it. However, one of their beliefs should be noted and that is found in the third paragraph.

> "We believe that the provisions for a Chief Minister could be put in a new constitution but only brought into effect upon a resolution of the Legislative Assembly after a General Election in which the new Constitution is an issue and when there are established political parties.".

I believe this shows the public that these members of the Assembly are very progressive members, open to change and open to improvement but they want these changes in a sensible fashion.

I believe that this is what 90 per cent of the public is saying. We want to move cautiously. We want to move slowly. The Members signing this dissenting report were also certain to make it clear that they understood what the United Kingdom said from the beginning and what the Governor had said and what the public wanted. That is with regard to the coming into effect of any revised Constitution. That is on page 24, where they say,

> "We believe that any major constitutional change should only be brought about after it has been made an issue in and decided upon in a general election by the people of the Cayman Islands and the Legislative Assembly has passed the resolution bringing in the new constitution into effect. Finally, we believe that changes to the Constitution should be gradual and cautious.".

Ever since this debate started, especially from the time the Third Member from George Town, so lucidly outlined the case for us, I have had many calls and have been approached by many people who not only say that they now understand the situation, but they are very relieved to learn that changes that we do not want will not be forced upon us. At election time, members can get up and say we want Chief Minister, we want Parliamentary Secretaries, we want to have this, we want to have that and the public will have to decide. Forgetting about what Exco said in August that you cannot do this in an election, London has said that it can be done and it will be done and the new Government will decide what will go into it.

One sore point. . . and if time permits I will be dealing with that when I get to the Public Service Commission but I need to mention it in passing now in case I do not reach that far before my time runs out. Most in the Civil Service are concerned and I think this concern in recent times has been increased by what has been happening in the Health Services because this is the first time that we have seen doctors going to court seeking a court injunction because they believe that their rights have been trampled upon. This is a serious situation and I think the Civil Service will want to know that the Civil Service does not become the political football, where cantankerous Members and irremovable Chief Ministers can take out their frustrations on them and remove them. I, for one, am on the side of the Civil Service in seeing that the rights which they enjoyed will continue and be improved and that they will not be kicked around because of any political stalwart that may reign for only four years.

One of the Government members who spoke talked about the Bill of Rights as being an advancement in our Constitution. The Bill of Rights is a good thing to have in the Constitution but it is not political advancement. Political advancement of a Constitution has to do with the method of Government. Political advancement has to do with the transfer from the Civil Service to the elected membership because all the colonies started out with pure Civil Servants running the Government with no input from elected representatives and all the stages of Constitutional development and Constitutional advancement, no matter how people may try to cloud the issue are very simple. It is giving to the people of the country more say in running the affairs of the country.

I support the Bill of Rights. Last week when I mentioned that the Member for Communications had not kept his promise with carrying out the wishes of the people with regards to Motion 3/90, he rose to give his view of it. Also when I spoke about the changes to the Constitution, he also gave his opinion. I am not concerned about that. I have to mention that in the matter of basic human rights, which he promised in his manifesto, here again I feel that he did not keep this promise because the First Member from Bodden Town brought in a motion on two separate occasions to have the Constitution amended to include human rights. It is my understanding that the Government including the Member for Communication and the Member for Education gave him no support. I fancy I heard some weak support last week, but I know election is only a couple of months away and I guess that anything that is brought now, like Human Rights, will be supported.

I support the Part I of the Constitution dealing with fundamental rights and freedoms of the individual. That section has not been a controversial one and will probably receive unanimous support.

I notice that the Caymanian Bar Association in the document they sent to us said that they were concerned because the presumption of innocence has been eroded to the point where an accused must prove his innocence. I believe that they were talking about some of the laws that we have on our books which now are framed in such a way that the innocent person does not have to be proven guilty but rather has to prove that he is not guilty.

It is good to have a section dealing with rights which we believe we should have but which we could well find may not be there because of some quirk which we did not understand. While I support the Bill of Rights, I maintain it is a good thing to have, but it is not political advancement of the Constitution so it cannot be used to sell the transfer of power from the Civil Service to the elected members.

In his debate on this motion, the Member for Education tried to convince us that the Member receiving the most votes is normally used as the channel for communication. I do not know how that can be because I remember an election not too many years ago where for the election of members of the Executive Council, only four members were nominated and then the nominations were closed and there were no elections so that all four members received the same amount of votes. He used this in his attempt to show that

a leader of Government Business would evolve simply from this process or that a Chief Minister would probably evolve from a nucleus as ancient and embryonic as the election to the Executive Council.

I can understand the concern of the elected members of Executive Council because this debate has brought out clearly that what is happening to the Constitution is not what they anticipated when they moved the original motion and the timing of the new revised Constitution will be sometime in the middle of next year and not before the 1992 elections. That same member for Education spoke disparagingly about the dissenting reports and in fact his whole debate, as usual, was to try to kick up a little mud on the Third Member for George Town, but you know, that Third Member is like stainless steel, it just falls off his back and does not stick to him.

The Member for Education talked about these reports brought at the eleventh (and once he even said the twelfth) hour. I would like to ask him when the main Report was brought? Was that report not brought at the eleventh hour? Are not all the reports of the Select Committee done at the end of the deliberations? It does not matter whether the Committee meets for on week or one year, the Committee reports are usually finalised and approved in the very last meeting of the Select Committee, so do not try to add mileage out of the fact that the noble Backbenchers have put in their reports at the eleventh hour. They have put in their reports at the correct time. This is what has upset him.

The Backbench endeavoured to have a Select Committee set up in the very early stages and last week I dealt with the events that prevented this from happening. Had this been done, I believe the whole review would have taken a better course. The fact is that critical months were lost. When the Committee was finally set up, it met for the first time on the 19th of December 1990. Can you imagine meeting five days before Christmas eve to discuss a monumental task like an advancement in the Constitution? This all points to lack of coordination on the part of the Government, lack of planning, shows their insensitivity to the needs and the wishes of the public.

Much has been made of an article you wrote, Madam Speaker, sometime ago (I believe before you were Speaker of the House). An article which you could write at any time because it said, although I have not seen it, no-one has shown it to me, but from the debate, it is set out: "The clear logical steps from Crown Colony status to independence.". The Member for Communication pounced upon that article and dealt with step seven, I believe, or one of the steps, and showed that we are at a stage where we could have a Chief Minister. He is almost correct. Almost. If he had studied the book from which I think you extracted that information or from any of the texts that I have seen, he would have added that step seven is practical and workable only when political parties are well enough developed to enable either a one party or a firm coalition Government to be formed.

MADAM SPEAKER: Will you take a suspension at this time Honourable Member?

AT 3:49 THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 4:12 P.M.

MADAM SPEAKER: Please be seated. Proceedings are resumed. The Second Elected Member for Bodden Town continuing.

MR. G. HAIG BODDEN: Madam Speaker, I had dealt with the stage that we have reached in our development and it is clear to me that if we are to move forward we can move from the Membership system that we have into a ministerial system and the difference is that the ministers are given administrative responsibility with the departments, something that did not exist under the old Constitution. This step can be taken with or without the appointment of a Chief Minister and in fact, as I mentioned before we took the adjournment, the authorities on it recommend that we do not put in a Chief Minister until a party system is not only in place, but also functioning.

The Draft which we are discussing makes provision in part two for the Governor. This section as far as the appointment of the Governor is concerned, is almost identical to the existing Constitution. The powers of the Governor are also about the same and none of his reserve powers have been removed. I would like to say at this time, that on behalf of the Backbench, we welcome the arrival of the new Governor and we will make every effort to work with him for the good of the country and that we feel that the change and leadership at the top is a good sign and we hope other changes will be made along the line so that we can once again enjoy these Islands.

Under the new Draft the Governor will assign responsibilities to members of the Executive Council but will have to do so on the advise of the Chief Minister. As I mentioned earlier, one difference with the assignment of responsibility is that the Member or Minister as he will be called, will have responsibility for administration of that department. Also in section 33, the Members charged with responsibility, will also be charged with collective responsibility. That is, they will be expected to support, in the Legislative Assembly and on the outside all of the decisions of the Government.

Quite recently, a lot was made of the fact as to whether a certain member could or could not breach his responsibility under collective responsibility. In the old Constitution under which we are still working, there are no sanctions set out against a member who did not comply with collective responsibility. As I see it, all that would happen if a member did not want to support a Government project like the hospital, the Member could apply to the Governor to be released from supporting that project. If the Governor did not give his support, the Member could withhold his vote. There is nothing in the Constitution to say that the Governor could do anything about it.

The Governor had given the Member his portfolio and I would assume that since he had given him the portfolio, if he is not carrying out his responsibilities, he could take away the portfolio, but the Member would still remain a member of the Executive Council and would then become a member without portfolio. As far as I can see, he would still be able to sit in Council, still be able to vote on all matters on Council but would not have any work to do. So, any member that did not want to comply with collective responsibility and felt strong enough about any particular issue, had an avenue open and cannot hide behind collective responsibility by saying that forced him to do what he did not want.

I believe under the Draft Constitution, if we accept this, there will be a big difference because the Chief Minister will select the Members of Council and naturally, if the Chief Minister is not happy with the performance of a member, he could seek to have the Governor remove him, whether he would succeed or not is another matter. Under section 47 of the new Draft, the Governor also appoints the leader of the opposition and there seems to be a strange provision for the appointment because it says under 47-(2)(a)

> "The Governor shall appoint as the Leader of the Opposition- the elected member of the Legislative Assembly who, in the opinion of the Governor, is the leader in the Assembly of any opposition party whose numerical strength in the Assembly is greater than that of any other opposition party;".

If we are going to put in a Chief Minister without a party system, and there is no party, where are we going to find a leader for Chief Minister? How are we going to find the leader of the Opposition coming from a party whose numerical strength is greater than any other party system? I believe that the Commissioners were just as confused with their recommendations with the appointment of the leader of Opposition as I showed this morning they had been with the appointment of the Chief Minister.

The area of greatest concern in this new Draft, and the area which will affect most people other than the appointment of the Chief Minister, is probably the area dealing with the Public Service and we heard here this week that the Civil Service has grown to where there are nearly two thousand workers. Of course they have families which would be affected by anything that would happen to them. So, any matter regarding the appointment of these Civil Servants, or the hiring or the firing, is bound to catch their attention.

Section 84 of the Draft deals with the appointments to public offices, the discipline and removal of Public Servants. Section 84 gives the Governor in his discretion the power to deal with this but in part 2, it goes on to say that before exercising any of the powers as referred to in sub-section 1, in respect of the offices of Chief Secretary, Financial Secretary, and any office which in accordance with regulations regarding the public service is the office of a Head of Department or any office senior to Head of Department, the Governor shall consult the Chief Minister. What happens in this section is that all of the top Civil Servants will be appointed, will be disciplined or will be removed by the Governor in his discretion after consultation with the Chief Minister.

Under Section 85 there is a specific provision that the Governor before appointing the Attorney General shall consult the Chief Minister. In other words, all of these top Civil Servants are being brought under political control because in the organisation that they are setting up, I do not believe you are going to see the Governor going against the wishes of the Chief Minister and although it says the Governor in his discretion, it says, 'shall consult' are put there for a purpose. If we stretch our imaginations, could go on to say shall consult and shall carry out the wishes of the Chief Minister. Remember, we are moving into an area where the wishes of the elected members are becoming more pronounced. Even allowing the Attorney General to remain as a worker after the age of 55, the Governor again has to consult with the Chief Minister and 85 (7).

> "If the Governor, acting in his discretion, considers that the question of removing the Attorney-General from office for inability as aforesaid or for misbehavior ought to be investigated, or the Chief Justice after consultation with the Chief Minister represents to the Governor that that question ought to be investigated. . .".

It brings the focus on the Chief Minister who we know is a political animal, the Governor is bound to consult with him. Why? To find out how the elected representatives feel with regards to this person. He is not consulting the Chief Minister to find out if the Attorney General has the law degrees that he needs. He is not consulting with him to find out if they are paying him to much money, he is consulting with him in order to carry out the political wishes of the political directory of the country.

MADAM SPEAKER: It is now 4:30.

SUSPENSION OF STANDING ORDER 10(2)

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that Standing Order 10(2) be suspended to enable to allow the House to sit until 5:00 p.m. today.

MADAM SPEAKER: The question is that Standing Order 10(2) be suspended so that proceedings may continue until 5:00p.m. If there is no debate, I shall put the question.

QUESTION PUT. AGREED. **STANDING ORDER 10(2) SUSPENDED TO ENABLE PROCEEDINGS TO CONTINUE UNTIL 5:00 P.M.**

MADAM SPEAKER: Please continue Honourable Member.

MR. G. HAIG BODDEN: Madam Speaker, there is also consultation with the Chief Minister regarding the Auditor General. We heard from the report this morning that an Auditor General has not had his contract renewed which is strange indeed and I do not think I need to express an opinion on it. The post of Auditor General is one that should be an independent post although it is presently covered under the Audit Law, the new draft must establish the independence of the Auditor General and I do not believe that the Auditor General should come under the political influence of the Chief Minister. 86 sub-section (2) says:

> Provided that the Governor, acting after consultation with the Chief Minister, may permit an Auditor General who attains the age of 55 years to continue in office [for up to another 10 years]."

In other words, the Auditor General knows that he needs the good favor of the Chief Minister to keep his job beyond the age of 55. It brings me back to the early argument that you are going to have a Chief Minister with powers second only to God that he himself cannot be removed making announcements on everybody else. This has to be wrong at this stage of our development and this is why I caution that we move slowly and that we adopt only a part of stage 7 of the constitutional advancement which gives us the ministerial system without the Chief Minister.

Apart from the appointment of a Chief Minister, the most alarming section of the new Draft is section 87 which sets up the Public Service Commission. We only have to look at what Executive Council did with the setting up of the Health Authority. How they took their own favorite member of Executive Council and put him in as the Chairman of the Health Authority and we note the discontent and devastation that followed in the service as soon as that appointment was made.

Here we have the Public Service Commission being established by the Constitution with the same political overtones because the Governor will be able to appoint the chairman and the chairman alone. The other members which are not less than four and more than six will be appointed by the Governor and an equal number half of them will be appointed by the Governor after consultation with the Chief Minister and the other half after consultation with the leader of the Opposition. The entire two thousand Civil Servants will be under political control because the Public Service Commission will be made up of members that have been appointed by the two main political leaders in the country.

In a case a few years ago, Chief Justice pointed out to the Executive Council of this Island that if they had a Board that did not carry out their wishes, they should change the Membership. We can see what will happen here that if the Members of the Public Service Commission do not carry out the wishes of the Chief Minister, and the wishes of the leader of the Opposition, those members would be changed forthwith. I hope no Civil Servant believes the nonsense spewed out by the elected members of Council who have spoken that they will not be coming under political control because the Public Service Commission in itself is entirely made up of political appointees.

The Draft Constitution mentions fleetingly, I should say, the pensions of Civil Servants but I would like the section to say more specifically that the pension earned by a Civil Servant after 10 years of service is his pension as of right. If he has worked 10 years and earned a pension, even if later he does something that breeches some other regulations and it is necessary to get rid of him, I still feel he should be entitled by law to the pension which he has earned. Remember, the system we have in place now is that the Civil Servants are making contributions to the pension plans. In the way that it was started, the first payments took into consideration the amount of the raise in pay that they were given so that there is in effect a contribution helping to provide the pension which the person receives.

As it stands now under the Pensions Law, the Governor can say," We do not like you, we are not giving you any pension." This is not right for a person who has worked a long time in the service to be told this. My contention is that if the person is no good, you should get rid of the person. Do not let him get to pensionable age, but once he reaches pensionable age, by all means, give him the pension he has earned, give him the pension that he has helped to buy. The Backbench, on more than one occasion made every effort and in fact used every device known to them to get certain matters referred to a referendum. Unfortunately, provision for the referendum is not compulsory under this Draft. It does say that a law made here could provide for a Complaints Commissioner, but what happens if the law is not made. Section 93 reads:

> "Subject to the provisions of this Constitution, a law made under this Constitution may make provision for the office, functions and jurisdiction of a Complaints Commissioner."

In other words, the Constitution makes provision for a law to be made to hold a referendum or to hold referenda. If the Government in power does not want to have such a law, they would not have to do it. We can understand why a Government would not want a referendum because a referendum is usually held when there is a vexing matter in which the Government is bent on doing something that is unpopular like the change of the Finance Committee.

The Complaints Commissioner would, in my opinion, not be able to carry out the functions of a referendum but would simply be able to hear complaints and maybe make recommendations. I support both the referendum, the provision for the referendum and the provision for the Complaints Commissioner. Many times the representatives are called upon to help people who have been ignored when they have tried to get certain action, like from a board or to get replies and of course, the representatives, unless they are good buddies of the Members of Executive Council, are unable to help their constituents but a Complaints Officer would remedy this.

On the question of whether something was popular or not, the Government itself would be well suited if there was a provision for a referendum. I have run these two things together but I fully understand the difference with them and am doing so simply in the interest of time. At least one speaker referred to an article that appeared in May 1992 of this year when our Ex-financial Secretary announced that he would run for a seat in West Bay. The reason why I touch on this, is that this, his interview with the magazine at that time, highlights some of the problems that exist within the present Government and shows clearly that the reasons given by the Commissioners are not the reasons why it is necessary to change the Constitution. For example, quoting from page 18 of the May issue of the *Newstar*, the paper says:

> "While not revealing the Executive Council tension in ally detail, Jefferson said the problems began in early 1990 following a development in Finance Committee when a vote on a new hospital was tied 6-6. As Chairman and following parliamentary procedure, I cast my vote with those opposed so as to retain the status-quo. All that meant was that the project could come back another day in a different shape. It did not mean that it was dead forever but my vote for the status-quo, although in line with Mays parliamentary procedure, was the start of the enmity because it was not too many months after that that the motion 3/90 came.".

This is very revealing because we are finding out now that Motion 3/90 which led to this Constitutional review, eventually had more than a desire to spend Governments money. It seems it had a desire to get rid of one of the offices of the Government. I think the country had reached a very low state and we are told in this same article from the Ex-financial Secretary that:

> "I was compelled to support constitutional changes I was personally opposed to but my personal difficulty was that I felt that we were moving too fast ahead and I think we have seen in recent times the result of that."

Then in the article, the person also goes on to mention that:

> "The straw that broke the camel's back was when the attempt was made to put in the Constitution the changes which would make the Financial Secretary almost a useless member of Finance Committee.".

We are here this evening discussing more than a need for an amendment to the Constitution. I think we need to be looking at other changes which are needed. In the Thursday issue of the *Caymanian Compass*, the first article on the front page quotes Mr. John Jefferson, a member who spoke on the debate as saying: "I feel at this time we should not be dealing with the Constitution when there are other more pressing issues." This is the feeling expressed by this member and he goes on to list some of those issues such as the recession, the high unemployment, unprecedented Government public debt now amounting to approximately $134 million. Unaddressed social needs, constant increase in crime, overcrowding at Northward prison where the majority of our inmates are young people, unbridled immigration problems and an escalation in juvenile delinquency just to name a few.

What the Member is saying is that while this is important, this country has far greater problems than the need for a new Constitution. That is my view and I would like to close with that myself. The need for the review has not been shown by the Government who forced the motion for the review. The more they try to show a need, the more they show up their own inadequacies and I believe the public will be the final judges and I am grateful to the Member and the mover of this motion for giving opportunity to the public to hear the debate on this motion.

MADAM SPEAKER: I will now ask for a motion for the adjournment. Honourable First Official Member.

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that this Honourable House do now adjourn until 10:00 A.M. tomorrow.

MADAM SPEAKER: The question is that the House should now adjourn until 10:00 tomorrow morning. I shall put the question.

QUESTION PUT: AGREED.

AT 5:00 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., THURSDAY, 17TH SEPTEMBER, 1992.

THURSDAY
17TH SEPTEMBER, 1992
10:07 A.M.

MADAM SPEAKER: Prayers by the Honourable Elected Member for Communications, Works and Agriculture.

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 II, the Queen Mother, Philip Duke of Edinburgh, Charles Prince of Wales, and all the Royal family. Give grace to all who exercise authority in our Commonwealth that peace and happiness, truth and justice, religion and piety may be established among us. Especially we pray for the Governor of our Islands, the Speaker of the Legislative Assembly, Official Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

All this we ask for Thy Great Name's sake.

Let us say the Lord's prayer together: Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

MADAM SPEAKER: Please be seated. Proceedings are resumed. Presentation of Papers and Reports. Cayman Airways Limited's Financial Statements as at 31st December, 1991. The Honourable Member for Tourism, Aviation and Trade.

PRESENTATION OF PAPERS AND REPORTS

CAYMAN AIRWAYS LIMITED'S FINANCIAL STATEMENTS AS AT 31ST DECEMBER, 1991

HON. W. NORMAN BODDEN: Thank you, Madam Speaker. I beg to lay upon the Table of this Honourable House The Financial Statements of Cayman Airways Limited for the period of July 1, 1991 to 31st December, 1991.

MADAM SPEAKER: So ordered. Please continue, Honourable Member.

HON. W. NORMAN BODDEN: Madam Speaker, at the second Meeting of the Legislative Assembly this year I tabled the Financial Statements of Cayman Airways for the fiscal year ending June 30, 1991. The tabling today of these accounts is due to the fact that the shareholders, on recommendation from the Board of Directors, took the decision earlier this year to change the financial year of the company to a calendar year. These statements, therefore, only cover the last six months of 1991, and the next accounts to be provided would be for the full year of 1992, that is, January through December 1992.

As will be noted, the Airline received an additional subsidy of $2 million from the Cayman Islands Government in the latter half of 1991, however still showed an operating loss of US$ 2.9 million for the period July thorough December 1991. The incident involving the Boeing 737-300 in October last year cost the Company an extra $1.3 million for aircraft lease charges while the aircraft involved in the incident was out of service, plus the lease cost of a replacement aircraft during that time.

There was also an amount of US$523,465 shown as an 'Unusual item' which covered additional cost due to the GPA Aircraft Lease. This brings the net loss for the six months to US$4.8 million which, when added to the previous accumulated deficit, brings the total deficit to

US$32.7 million up until 31st December, 1992. That covers the total years operation of Cayman Airways. The Airline's performance so far this year has shown substantial improvements. Barring any unforeseen developments, and with the gradual strengthening of the travel market, Cayman Airways for 1992 will be able to reduce its loss over 1991 by more that 50%, in other words, from a loss of some $9 million to less than $4 million for 1992.

It is my view that once the Recapitalisation Programme has been put in place, plus the strengthening of management and the ongoing programme of implementing the recommendations made by the consultants which were accepted by the Portfolio; plus the Airline's own effort to assist and streamline its operation, there is good reason to believe that the Airline will become more stabilised and at least reach a near break-even position within two years so that the level of financial support required from Government will be at a reasonable and sustainable level. This is the Airline's goal, and I believe that it can be achieved once the market returns to the normal level that it has been, and those measures are implemented.

MADAM SPEAKER: Thank you.

A Ten Year Tourism Development Plan (1992-2002), the Honourable Elected Member responsible for Tourism, Aviation and Trade.

A TEN YEAR TOURISM DEVELOPMENT PLAN (1992 - 2002)

HON. W. NORMAN BODDEN: Thank you, Madam Speaker. I beg to lay upon the Table of this Honourable House A Ten Year Tourism Development Plan (1992-2002) which was commissioned by the Cayman Islands Government and produced by the Coopers & Lybrand Consulting Group.

MADAM SPEAKER: So ordered.

HON. W. NORMAN BODDEN: This Tourism Development Plan has the same in principle approval from Executive Council, and I have decided to table the plan at this Meeting so that it becomes a public document. It is Government's view that the Tourism industry over the past 20 years has grown considerably in importance and increased value to the economy, to the standard of living and quality of life for all who live in these islands; and that the industry has now reached a stage of maturity and requires a fresh analysis and planning exercise to take it into the 21st Century. This can only be accomplished through a shared vision and cost in a partnership between Government and the private sector.

The objectives and terms of reference which were established therefore represent Government's response to the tourism challenge for the next ten years. This requires a Tourism Development Plan to enable appropriate decisions and actions to be taken, so that the benefits from tourism can be maximised and negative impacts minimised. Briefly put, the overall purpose of the Tourism Development Plan is "To provide a clear set of policies, strategies and implementation guidelines, for the development of tourism in the Cayman Islands which will continue to stimulate the economy for the benefit of the Caymanian people while preserving the heritage, culture and environment of the islands."

I believe that in this Plan the terms of reference have been fully met. However, it must be recognised that the preparation of the Tourism Development Plan is but the first step in managing tourism development, and that acceptance and implementation are the keys to the success of this, or any other Plan. The Central Tenders Committee received some 80 responses to their calls for expression of interest in this project. Once the qualification screeners were mailed out, only 29 of the original 80 responded. Of this number, six firms were selected. Five of the six made formal presentations and finally Coopers & Lybrand Consulting Group of Edmonton, Canada was selected as the successful tenderer in December 1991. The project commenced in January and was completed in September. It is expected that this will be completed as budgeted for in the Estimates of 1991.

The process followed in the production of this Plan was specifically designed to involve as wide a cross-section as possible of our entire community. This was accomplished through the establishment of a Steering Committee comprised of the Member for Tourism, Aviation and Trade, the Principal Secretary of the Portfolio, the Director of Tourism and the Project Manager. Secondly, the appointment of an Advisory Committee comprised of a wide cross-section of the business community. Here I would like to publicly express thanks to all in our business community who gave of their time and efforts in contributing to the development of this Plan.

Additionally, workshops were held both in Grand Cayman and Cayman Brac. The consultant held many interviews with hoteliers, retailers, bankers, taxi drivers, airlines, cruise lines, lawyers, accountants, legislators, civil servants, and others. Therefore, this Plan is not a 'Coopers & Lybrand Plan', but, rather, a plan of the Caymanian people put together by Coopers & Lybrand.

This Plan frankly and fairly identifies the strengths, weaknesses, opportunities and threats to Cayman's tourism industry. We may not like some of the commentary con-

tained in the Report; but when we pay professionals to do a job for us—experts who can examine the local tourism situation objectively—while we may not necessarily agree with every single recommendation made, we cannot afford to ignore, or underestimate the strong and serious advice provided in that report without paying a penalty.

I realise that under the Standing Orders of the House this is a bit long. I just have a few minutes left, if the Chair will allow me to continue.

MADAM SPEAKER: Please continue.

HON. W. NORMAN BODDEN: Although time will not allow me to deal with all of the recommendations made in the report, perhaps I can call attention to three significant recommendations which I believe must be seriously considered. Two of them are found on page 24 as recommendations 6 and 7, which read: "6. To extend the Seven Mile Beach moratorium indefinitely until the infrastructure in the region is improved to allow more development. The moratorium is to include *all* tourism accommodation developments." "7. To develop a policy that limits cruise ship passengers to 4,500—5,000 berths/ day in total. To target premium to luxury ships only."

The other is set out in Appendix II, headed `Suggested Organization Design', Exhibit 3, page 3, dealing with the establishment of a National Tourism Committee. In this section it states: "The National Tourism Committee is envisaged as elevating and creating a prime focus for the tourism industry. It is composed of the Members from the four Portfolios thought to be most important to tourism development. By having the four Members of these Portfolios 'linked' to a common goal (i.e., tourism development), it is felt that the needed profile for the industry is created." Those four Portfolios were identified as Tourism, Aviation and Trade; Finance and Development; Recreation Environment and Culture; and Communications and Works.

I should also mention that the Report is presented in ten sections. The first section is the introduction, the second deals with `Existing Reality of the Cayman Islands Tourism Today'; section 3 is `Tourism Management Strategy for the [three] Cayman Islands'; section 4 addresses issues relating to the environment, and Outlines an environmental strategy. Section 5 contains recommendations for a product development strategy. Section 6 covers recommendation for a marketing strategy to address the goals of Development Plan. Section 7 proposes an eight point strategy to deal with human resource issues. Section 8 addresses the socio-culture issues. Section 9 includes `recommendations for the introduction of a tourism economic impact model for the Cayman Islands. Section 10 presents an implementation plan for the recommendations put forward.

Implementation will not come cheap, but I believe that whatever the cost it will be a wise investment in the future of tourism for these islands. This Report paints a picture of a country at the cross-roads in its tourism development; a country that will have to make difficult choices if it is to continue to survive and succeed in this highly competitive business of tourism—difficult choices that we have not really had to make before. I mentioned earlier that implementation will be the key to success of this plan. I can only trust that the new Member for Tourism, Aviation and Trade (or whoever may be directly responsible for Tourism) will seek the funds and have the will to put in place the machinery to take this report forward. This country and our people can only benefit if this action is taken.

MADAM SPEAKER: Thank you. The next item is Personal Statements. The Second Elected Member for Cayman Brac and Little Cayman.

PERSONAL EXPLANATION (Deferred)

MR. GILBERT McLEAN: Madam Speaker, I beg to defer this matter of personal explanation, as it is not yet completed. There have been some problems with the computer and it is being repaired. I ask that this be deferred until tomorrow's business.

MADAM SPEAKER: The question is as presented by the Member, that his personal explanation be deferred until tomorrow.

QUESTION PUT: AGREED. PERSONAL EXPLANATION DEFERRED UNTIL FRIDAY, 18TH SEPTEMBER, 1992.

MADAM SPEAKER: Item 4, Other Business. Private Member's Motion No. 13/92, Debate on the Draft Constitution continuing. The Member for East End.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

(Continuation of debate thereon)

MR. JOHN B. McLEAN: Thank you, Madam Speaker. I am happy to offer my contribution to this Motion brought by the Third Elected Member for George Town and seconded by the First Elected Member for West Bay. I would like to say that it is my opinion that it was quite timely and quite ably put. Although he took much ridicule for this, it is my opinion that the Third Elected Member for George Town has stood up for his country in a proper way, a way in which we as a Backbench can be proud. Once again we were seen to be correct, even in the eyes of the United Kingdom Government.

For once I am happy to say that I support the United Kingdom Government's decision in regard to our Constitutional review. I am most happy to have been a party to the two Dissenting Statements, which in one case I think four of us signed, and the other was signed by five Members of the Backbench. It is not my intention to go through this Constitution item by item, but I am pleased to say the mere fact that I have signed my hand to the two Dissenting Statements makes it abundantly clear where I stand with regard to this review. Let me say, as the longest serving Member in this Legislative Assembly with unbroken service having had an opportunity to operate under the old Constitution of 1972—not only as a Member of this Legislature, but for four years as a Member of Executive Council—that the problems I have heard of and seen with the present Government cannot be blamed on the Constitution. They cannot blame their problems on the Civil Service. What they need to blame is the fact that they have allowed themselves not to be united within Executive Council. Therefore, the problems came. Let me say that the Government of which I was a part of in Executive Council could have faced the same problems as this Government because under the guidance of a past Governor (none other than Mr. Lloyd who took the same attitude as the last Governor, Mr. Scott). . . I recall that three weeks after Mr. Lloyd took over office I was the First Elected Member of Executive Council. Therefore, he saw fit to direct through my office to the other Elected Members a very nasty letter which I have copies of up until today. If the four Elected Members of the day had bent to his whims and fancies we would have found ourselves in the same dilemma as the present Executive Council. What did we do? We stuck together as a united body and showed the Governor where the majority was in Executive Council. That was the key to operating the way it should be. The present Government cannot blame anybody but themselves.

A change in a constitution will not make matters better, because a constitution is only as good as those who are in place to operate it. Let me say that many countries in our region have fallen into the trap of constitutional advancement. Can we honestly look around us and say that this has really helped their situation? Has it really helped their independence in the world today? No, Madam Speaker. If anything, it is the opposite. They can only brag of having an advanced constitution. But in each case they are worse off then these beautiful islands which we all love—the Cayman Islands.

I honestly do not think we can forevermore operate under the present constitution. I have enough sense to know that. Whatever we do, it must be done cautiously. It must be done gradually. We must always keep in mind, whatever we do, that what we do it is in the interest of these islands and not for a chosen few. The day we are seen to rock this little boat, we will be much worse off than other Caribbean islands.

Today when one speaks to somebody on the street one is not really concerned over advancement in a constitution, rather one is very much concerned over the many other pressing issues facing this country—matters which have been created by our present Executive Council. When I speak to people on the street, I am always questioned as to what is happening with Cayman Airways' financial position? What is happening with the expensive hospital, which we understand is being built in the swamp? What is happening to the sudden change in our educational scheme which is costing this country funds it cannot afford? What is our Government doing with the slump in the economy? Believe it or not, the people have never stopped talking about the high taxes the present Government placed on them since being in office. These are the issues we are confronted with by people from all walks of life, so we need not talk about the 'little man' with this, because the top, the middle and the bottom are concerned over these matters I have spoken about.

It seems to me that the time which the Government has spent in trying to justify their actions in regard to this constitution would have been much better spent on the matters I have just spoken of. Lest I be misunderstood let me make it abundantly clear that I am not advocating we should

not discuss this matter now that it has been made an issue. What I am saying is that the present Government should have first tried to heal the wounds they created, rather than on the eve of their departure from Government causing another serious one to open.

I further believe that the United Kingdom Government has already ignored the wishes submitted to them. I believe that they will also ignore this lengthy debate here in this Legislative Assembly (and rightly so!), and will give this country a constitution to be governed by after the people of this country have had proper input and the matter is an issue in the upcoming election.

Regardless of what is said against the Third Elected Member for George Town, or the Member who seconded this Motion, I consider it a waste of time. When the final roll is called, all of that will be scratched from the register. The people of this country realise by now that the Honourable Truman Bodden is not in this Legislature for power or money. He has shown the people of this country over the years that he has been in here and means them well. Ridicule will never keep a good man down.

MR. W. McKEEVA BUSH: Hear, hear!

MR. JOHN B. McLEAN: Much has been said of our suggestion. When I say 'our suggestion', again I am referring to the two Dissenting Statements, especially where we said that the post of Chief Minister could be placed in the constitution and brought in at a later date. I agree with this. Why should we rush into this? Because a few from within this Chamber want it?

The 1972 Constitution made provisions for a Speaker of this House for many years. But it was not until the time was right that you, Madam Speaker, were appointed. I support that 100%. I am happy to know that we have you, a Caymanian, there. But we all know that we are now speaking about a horse of a different colour. When we refer to a Chief Minister. . . I know that much has been made of the fact that some of us think putting in a Caymanian is a retrograde step. How stupid! I am happy to say that you sitting in that Chair as Speaker, makes me proud. I could not say that when the Governor was there, because I was not. I still feel that you have an interest in this country, you are a part of this country; but we can see where he is today—he has brushed his coat and departed our shores. This is my point: I am proud to have you, as a Caymanian, there.

At this time, with the political history of these islands, I would be doing the people of this country an injustice to say that I would be happy to have a Chief Minister in place. It must be gradual, timely and done cautiously. The struggle for power must be put aside and we must think of what is best for the people of this country. We must think of what is best for the continued success of these islands which our people have enjoyed for so many years. As long as I am a Member of this Legislative Assembly, and with God's help and the vote of the majority of my people in East End, I hope to spend many, many more years here. I give the undertaking to this country that I will never sit by and endorse for a few anything that will be damaging to this country. I am in here for the betterment of this country.

I challenge any Member of Executive Council, or any Member on this side of the House to show me which one of our neighbouring island countries have benefited from advanced constitutions. I have been on many CPA trips, and have been in many arguments from representatives from other islands. What can they say? We are all advanced then you are constitutionally? There is not one that can say to me that they are able to balance their budget with no problem. There is not one that can say to me that they do not have unrest in their country because of those advancements. So, ladies and gentlemen, let us move cautiously. Let us move timely and whatever we do, let us not be thinking about power for ourselves, but about what is best for your children, my children and our country and our people.

This country is independent in so many ways. We do not need a constitution that reads that way to us. We are independent in so many ways. We do not have to knock on the door of the United Kingdom Government when it comes time to balancing our budget. We do not have to look for handouts. We have been under the same Constitution, which at this time a handful of people have decided is no good. But under that same document we have seen these islands progress. We have seen our economy boom. Unfortunately, I cannot say that is true at this present time, and I do not have to go back into that because we know that most of the problems with our economy today are due to leadership in Government. We also hope to correct this come November.

I sometimes wonder if within our society we have those who find it hard to cope with prosperity. It seems as if for all that we have prospered we have those 'Doubting Thomas's' amongst us, who, for the mere sake of power, are prepared to sacrifice what we have enjoyed in these beautiful islands.

Madam Speaker, I have made my case clear. I thank God for the second time I have taken the right road. We were ridiculed when we signed a Dissenting Statement on Cayman Airways Limited. But, thank God, everything that was put in that statement has come true. Again, some of us

who signed that statement had the foresight to sign the statement on the Constitution. Thank God, thus far we have been correct.

My case is presented quite clearly. I will support a cautious, gradual move that will be for the benefit of this country and its people. I repeat: As long as I am a Member of this Legislative Assembly whatever is done with our Constitution, I assure the people of this country that I will only consent to it if it is done cautiously and gradually with the input of the majority of the people of this country.

MADAM SPEAKER: The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL: I rise to make my contribution to the debate on Private Member's Motion No. 13/92, entitled, Debate on the Draft Constitution. This Motion was moved by the Third Elected Member for George Town on 2nd September, and seconded by the First Elected Member for West Bay. I have listened to the Mover take several hours to put forward his side of this debate. I agreed with some, and some I did not. I took substantial criticism on some and will deal with that later on in my debate.

Today we are dealing with a most important issue—the review of the Constitution. A constitution is a basic law of a politically organised nation, country or body. By following the guidance of that we will preserve our parliamentary democracy. The history of the Cayman Islands dates back quite a considerable time. As we look into history, we see that we became a British possession by the Treaty of Madrid in 1670. The first written constitution for the Cayman Islands came into effect in July 1959. As we stand here today, I think we should be most grateful to those who preceded us in office as they preserved parliamentary democracy and this country has risen to the political and economical heights it has.

The history of our constitutional development after the July 1959 constitution continued with the Cayman Islands Constitution Order of 1965. This was amended by an amendment order in 1967. A further amendment order entitled, Legislative (Extension of Duration) Order in 1971 and the Cayman Islands (Constitution) (Amendment) Order 1972 which brought about the constitution we now live under.

I would like to make my position here very clear. I think that this has been a good document. History records the success of this country, meaning that this has been a good constitution. Each and every one of us has seen that constitution require amendment. It was in 1984 that it required an amendment order, and again in 1987, with the last being the Constitutional Amendment Order of 1992 authorising the increase of this Honourable House from 12 Elected Members to 15 and changed the quorum of this Honourable House from seven to eight.

We now have received from the Secretary of State in the United Kingdom a draft Constitution for the Cayman Islands. This was received in this territory in July this year. I say again that we should all stand with our heads held high when we think of what this country has accomplished and it has all been because of our belief in God and the ambition and determination of our forefathers.

The present day Cayman Islands is the envy of most other Caribbean Islands. We have had very little social unrest in our territories, poverty is almost non-existent when equated with poverty as it is known in other developing territories—Africa, South America and Haiti—where we see the poverty which the lack of proper governance can do. We must appreciate what has taken place here in the Cayman Islands. We must all agree that regardless of our political leanings, the Government of the day, and previous Governments, have all contributed to this success. We must all be proud (and I am sure we are) to be Caymanians—British Dependant Territory Citizens with connections to the Cayman Islands.

As I said, a constitution is a most important document and a long process has been developed as we have reviewed this constitution (which I will deal with later). I am somewhat concerned as to why we have really taken so much time during this, the final Meeting of the 1988-1992 Session of the Cayman Islands Legislature, to speak on this constitution. I contend that it has been more of an opportunity to further our campaigns.

The Secretary of State from the Foreign and Commonwealth Office made very clear the position that we, the 12 sitting Elected Members of this Honourable House, will have in the further review of the Draft Constitution. I would like to just quote a paragraph from their letter. It is addressed to His Excellency the Governor, 22nd July, 1992, from the Commonwealth Office and signed by Mark Lennox-Boyd, and reads in part: "I enclose a parliamentary draft of a possible new constitution which would form a basis for discussion in the run-up to the Elections in mid-November. When the Elections are over and the new Government has been formed, there will no doubt need to be a debate on the new Constitution in the Legislative Assembly. I would like to have the recommendations of the new Assembly before coming to any final decision. This draft is therefore a discussion draft document which will need to be revised in due course."

That was further clarified by a press release issued by Government Information Service. Again, with your permission, I would like to quote two paragraphs from that. It says:

"The Secretary of State has asked that it be emphasised that apart from some minor non-controversial points the draft constitution which has been forwarded to the Cayman Islands is based only upon the report of the Constitutional Commissioners. The recommendations of the Select Committee of the Legislature, although duly noted by the Ministers, has not been included. The reason for this is to allow the new legislature to resubmit the previous recommendations to add to them or to modify them as it may desire; and to forward its views to the Secretary of State following the November Election. The Secretary of State believes that this approach will provide the opportunity for measured and deliberate consideration of any possible changes which he believes to be the wish of the community and in the best interest of the community."

We, as Elected Members, sat in this House in Select Committee for a long period of time (I shall deal with that later). Nevertheless, I welcome the opportunity to stand in this House and clarify a few points. I think it is a responsibility of all candidates in the 1992 General Election to state their position very clearly to the people, in particular all registered voters in the district they seek to be elected in. Our responsibility is a great one. Our aspirations are to a high office that has a great responsibility.

This brings me to a point where I would like to clarify that during this Select Committee I asked that Honourable Members attempt to keep the review of our constitution above politics. I do not consider this as something that is a political issue. I think it is important that the voters know the position of the candidates, but I do not think it should be a political issue where one person is degraded for another person's advantage. I think it is important to make our position extremely clear. During that time it was also agreed that we, that is, the Second Elected Member for Cayman Brac and Little Cayman and I (as soon as the Draft Constitution was returned to this territory and in our possession) would arrange non-political meetings in the district of Cayman Brac. Although Cayman Brac is very small, we have that subdivided into districts as well. Normally, for public meetings and things of that nature, we consider using a division of three—West End, Creek, Spott Bay or Watering Place in Spott Bay.

Fulfilling our responsibility to our people, we arranged with the Education Department for the use of the Primary Schools and arranged meetings at West End Primary, Creek Primary, and Spott Bay Primary. At these meetings we distributed copies of the Draft Constitution which we had solicited from the Government Information Services here in Grand Cayman to anyone in attendance who had not availed themselves of the opportunity to secure one from District Administration. We endeavoured at that time to simply explain the Constitution in accordance with the changes being made in the 1972 Constitution Order and Draft 1992 Constitution.

These meetings were not as well attended as we would have liked, but the experience in Cayman Brac has been that we do not get very large crowds unless there is a very controversial issue. Nevertheless, we were very appreciative of those who did attend. The meetings were very cordial and it was a very informal session. Each person joined in the discussion and I think it was very beneficial to those in attendance. It was not a political meeting. I want to emphasise that again. I would like to further say that all Members of this Honourable Legislative Assembly and the listening public are fully aware that during the past four years I have come under a lot of criticism in this Chamber, in my district and throughout the Cayman Islands. I stand here today with no regrets. I did what I have always felt is right. I have not been under any pressure. No group, no matter how strong can pressure me. I must do what is right in the eyes of God, and what is best for the people of the Cayman Islands.

It has not always been easy. I have seen mass demonstrations come right to the door of this Legislative Assembly. I have had threats on my life. I have had all kinds of things. But I thank God that I did what I felt was right and I stand here today saying that the reason that I did what I did was because every issue that has ever come before this Legislative Assembly during my 12 years that I have had the honour of being a Member I have taken as a serious issue and have studied the issues. Where I lack legal knowledge, I paid for legal advice. I got constitutional lawyers to give me advice. There is a battery of barristers in the United Kingdom who are very able and very well trained in British Parliamentary Law. So, I have not stood here ill informed.

I also want to say that the Second Elected Member for Cayman Brac and Little Cayman and I have not very often seen eye-to-eye on major political issues. I appreciate the fact that that is his privilege. I have never stood in this House and criticised him or how he voted. Neither have I tried to criticise other Members of this House because they did not vote the way I did. I felt it was their democratic right and they exercised their intelligence the way it should be done. But, it gives me great concern that when we subscribe to this freedom of speech and all of the emphasis being placed on the Bill of Rights, which we have enjoyed from the time we became a British Possession in 1670, that it apparently does not extend to me. Why should I not have Freedom of Speech, and Freedom of Choice? This gives me great concern. Do we honestly and truthfully subscribe to the rights of individuals, the freedoms that are God-given rights passed on to us by our mother country, the United Kingdom and extended through her membership in the United Nations? They must go to each and every individual and I subscribe that I am part of that.

I would like to go one step further in that I have never tried to associate my friendship and differentiate it from my responsibilities. As a sea captain, I had to often times issue orders which were not popular with my crew. That did not mean that I did not like my crew. The reason I issued the orders was because they were correct and I was very concerned about the safety and welfare of the ship we were on, and the welfare and safety of the life of the crew. That is why the orders were issued. The decisions were made. The same applies to the Second Elected Member for Cayman Brac and Little Cayman and I. . . and I respect his political views, and he has respected mine to a point. But I want to make it abundantly clear that we think as individuals. What I stand for, I stand for; I do not compromise my beliefs. I am not asking him to compromise his. But when it came to a matter that was for the benefit of our constituents, we united because that is what we were elected for—to represent the district of Cayman Brac and Little Cayman. I also want to make it abundantly clear that it is my understanding and belief that when you are elected to this Honourable House, you not only become a representative of the district where the majority of registered voters cast their vote for you, but you become an integral part of the Legislative Assembly of the Cayman Islands and the governing legislative body of this country. Therefore, the decision I have made in the national interest have been made with extreme concern. I admit that many of them have entailed major expenditure. But, ladies and gentlemen, these have been made with due consideration for your welfare.

Are you satisfied with poor educational facilities? Do you not all strive for better for your children than you had for yourself? Every time I have voted, I have been very well informed. I am sorry that your views have not always coincided with mine, but I have done my best to explain to you on a one-to-one basis exactly why I have taken the decision. I am a great subscriber to the Bill of Rights. I say today that all of us need to learn to accept that they are more than words printed on paper. They must live with us every hour of the day; we must believe and live by what we say.

Much has been said about change which has taken place since the lease of the 737 aircraft and the sale of the lease interest in the 727s which led up to Motion 3/90. I would like, since other Members have gone back to the 1950s, to go back into the history of this House, to the election of 1988. All of us will recall that the 1988 election was a hotly contested election. Two teams were running, along with some independents. I, who had served in this House for eight years prior to that, was seeking election for the third time. As a result of the election a group with seven members (I made the eighth) actually controlled the majority and were empowered to form the next Government. After meetings it was decided that I would not be a Member of Executive Council. For me to stand here today and tell you that I was not hurt, would not be truthful. But I believe in parliamentary democracy and that the majority rules, and I accepted it. I contend the problems date back to this period, and that is why I am bringing this historical reference in.

This alliance consisted of (and since I am talking about Members prior to their being sworn in I ask permission to use their names), from West Bay, Mr. Benson Ebanks, Mr. McKeeva Bush; from George Town, Mr. Norman Bodden and Mr. Linford Pierson; from Bodden Town, Mr. Roy Bodden, Mr. Franklin Smith; from North Side, Mr. Ezzard Miller, and, of course, myself. The other group was: from West Bay, Mr. John Jefferson; from George Town, Mr. Truman Bodden; from Cayman Brac and Little Cayman, Mr. Gilbert McLean; and Mr. John McLean from East End. That clearly shows that there was seven to four. Not having been accepted as a part of the group of seven to make eight, I then joined a group of five. The election for Executive Council was held and the results are as it stands today: The Member for Education received 12 votes; the Member for Tourism seven, the Member for Health received seven and the Member for Communications received seven. That constituted our present Executive Council. Much talk continued and a lot of unrest continued to brew. I contend that there was never a real settled period.

Shortly thereafter, it became evident that there was going to be a change in the alignment and it did take place. The First Elected Member for West Bay, the First Elected Member for Bodden Town, and the Second Elected Member for Bodden Town joined the other group of five. Shortly after that, there was a move afoot that that group would seek either an early election or the removal of the present Executive Council. As we are all aware, our constitution clearly says that a majority vote of two-thirds is required. Two-thirds of 12 is eight.

I have said this to come to this important point: Having had several years behind me. As a senior citizen I realised that the stability of this country had been developed over a stable government. I realised that the idea of changing our Government by a vote tantamount to a vote of no confidence would have international repercussions. I did not feel that that was in the best interest of the people of the Cayman Islands. I should have said before that shortly after the election of the Executive Council, I shook hands with the four newly elected Members of Executive Council. I congratulated them and pledged them my support when I felt they were acting in the best interest of this country. Until today, my pledge to them remains.

When this crisis arose I made it clear that I could not support a move that would remove the Government or call for a snap election. Today, not only are we a thriving tourist destination, but we are one of the world's leading international off-shore centres. We all saw what happened in Jamaica a few years ago with little unrest—their tourist industry went to nothing. I fully realise that this was not a

decision being made to fault any governing body, but how the international world would react is what would affect us. Therefore, my decision not to cast my vote which would have made the two-thirds vote against the Government was because I felt it was not the proper thing to do. That is why I have come under so much criticism in this Honourable Chamber over the years since that happened. I love the Cayman Islands. It is my intention to retire here. I did not make a decision that I felt would be damaging to the country, and I will not make a decision now on the Draft Constitution that I feel would be damaging to this country. I shall speak further to that later.

This country has a great future, but the future of this country depends upon the people who lead it. After this decision we had the infamous Motion 3/90. That Motion was a crisis situation within this country. When this was first brought to my attention, I immediately contacted a constitutional barrister in the United Kingdom and got a constitutional opinion as to the legality and functioning, and what damage it would do to the country, if any. I did not make a decision simply because the Government wanted control of Finance Committee. But as I stand here today and hear so much importance being placed on the majority—that the Government must have a majority and the majority must rule—is it not important that the Government of the day (regardless of who that Government is) has the authority to spend the money? If, in your family, you had the right to make plans, and everything else but spend, how would you plan your affairs? Without the ability to spend money you cannot function.

The Finance Committee, I contend, is a Select Committee of this Honourable Legislative Assembly. In recent times the most criticism for large expenditures have come to this Honourable House in the form of Loan Bills. You have heard nothing about the Finance Committee. There is nothing in our Standing Orders which says that it must be referred to Finance Committee. They are dealt with in this Honourable Chamber, of which the Honourable Official Members are full Members. The supplemental expenditures, the Appropriation Bills, are referred to Finance Committee. But there are specific Standing Orders which tell us that as Members of the Backbench, we cannot move any Motion in Finance Committee. So regardless of the number we may have, we cannot move it—it has to be moved by a Government Member. Where did they take so much power from Members of this side? I cannot understand.

Other Dependant Territories in the Caribbean have Official Members in their Finance Committee. In the Constitutional Commissioner's Report on the 1972 Constitution, he envisaged that this would be a problem and he clearly placed a majority in the recommended Finance Committee of Elected Members of Executive Council. He ensured that the Government would have a majority which would enable them to spend the funds required for the Government.

MADAM SPEAKER: Would this be a convenient time to take the suspension?

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker.

MADAM SPEAKER: Proceedings are suspended for 15 minutes.

AT 11:32 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 12:00 NOON

MADAM SPEAKER: Please be seated. The First Elected Member for Cayman Brac and Little Cayman continuing.

CAPT. MABRY S. KIRKCONNELL: When we took the break I was talking about the results of Motion 3/90, the change of Finance Committee. I contend that the three Official Members are full Members of this Legislative Assembly. The Constitution clearly states that the legislature shall consist of three Official Members and 12 Elected Members. The Draft Constitution has gone further than that; it has actually named the Official Members by their positions. The only time that Finance Committee is called into play on financial matters is when something is referred to Finance Committee. Loan Bills are not referred to Finance Committee generally, they are dealt with. But even an Appropriation Bill or one that includes a Budget, the first and second readings of that Bill are voted on by all 15 Members of this Honourable House, and is then referred to Finance Committee. It is clearly understood that the report is accepted when returned to this House. Nevertheless, I repeat that Finance Committee is a Select Committee of this House and not vice versa as people were so often made to believe in all of the controversy over Motion 3/90 and Motion 6/90.

It has been said that Official Members should not spend the money. When the Budget is prepared and those Honourable gentlemen in their capacity prepare their estimates, all of them hold very important Portfolios, are very prominent in our Government, and they are very capable in their fields. I see no reason why they should not be allowed to be part of Finance Committee. I do contend that if in the new Constitution there is a change in the makeup of Finance Committee if Government is to have a majority

position it must enshrine in the Constitution that the makeup of Finance Committee is by a majority of the Elected Executive Council. Otherwise, it will not be able to function as a Government. Also, it has been said that the Honourable Speaker of this Legislative Assembly should not be the Chairman of Finance Committee. I think the Finance Committee is honoured to be Chaired by the Speaker. It puts an additional burden on the person holding that office, but certainly it does not in any way limit the ability of the Financial Secretary to explain and put forth his expenditure measures. I support the Chairmanship of Finance Committee by Speaker of this Honourable House.

I contend that it was unfortunate that that Motion was misunderstood by so many people within the Cayman Islands. Misrepresentations were made by many. I know within my district a petition was circulated by people, including aspiring politicians, calling for me to resign. After checking the copy that was given to me, and I have repeatedly asked for the original to have the authenticity of the signatures checked by an expert, that was refused; all I have ever seen is a photo copy. But in checking what I could, many people told me they never signed it. Other people said, 'They told me you were going to make my driver's licence cost $400.' They told me this, and they told me that. Well, we are talking about a Chief Minister today, but the power they told the people of Cayman Brac that I would have far exceeds anything the Constitution would ever give to a Chief Minister. They told them that I was going to have dictatorial power, that I was going to impose taxes, collect fees, and just do it all! Misrepresentation is a dangerous thing. I am not afraid to stand up to the facts, but misrepresentation should not take place.

I think it is important that each one of us respect our fellow Members as individuals. We should not attempt to belittle each other. I consider each and every Member of this Honourable House to be my friend. We differ politically, but that does not mean that they must hate me because I do not agree with them. That is not a good relationship.

We now hear that it is not necessary to amend the present Constitution, that it has worked well. I agree. I am one of the first to admit that it has worked well. But I have been a Member of this Honourable House and seen Motion after Motion for Constitutional amendment—piecemeal amendments. I refer to the Bill of Rights, and I agree with other Members that if the Constitution is going to be amended then the Bill of Rights will play an important part in a new Constitution. I did not feel it necessary since those provisions are extended to us by the United Kingdom that a special amendment to our Constitution needed to be made. Neither did I believe that it was necessary to amend the Constitution to put provisions for a referendum. Neither did I agree that it was proper to amend the Constitution to allow a simple majority to remove the Government. It was after a number of these Motions that it was decided by Government that it was time to review the Constitution. With your permission, I would like to read that Motion. Government Motion No. 9/90 was passed by a majority on 24th July, 1990, and reads:

> "GOVERNMENT MOTION NO. 9/90—REQUEST FOR CONSTITUTIONAL STUDY
>
> WHEREAS the last comprehensive examination of the Constitution of the Cayman Islands was conducted in 1971;
>
> AND WHEREAS since that time the Islands have enjoyed considerable social development and economic growth;
>
> AND WHEREAS there have recently been proposals for piecemeal alterations to the Constitution;
>
> AND WHEREAS the debate in this honourable House upon Government Motion No. 3/90 has focused much attention upon provisions of the Constitution including the role of the Official Members of this Assembly;
>
> BE IT THEREFORE RESOLVED THAT this honourable House request , through His Excellency the Governor, the Secretary of State for Foreign and Commonwealth Affairs to appoint a suitably qualified and experienced person or persons as a Commission to ascertain and evaluate opinion in the Cayman Islands upon possible paths of constitutional evolution, having regard to political developments in the Islands and to the social and economic development of the Islands since the introduction of the present Constitution in 1972; in conducting this assignment to consult with the Governor, the Members of Executive Council and of the Legislative Assembly, interested organisations and members of the public; and to report."

As I said, this Motion was debated in this House and passed by a majority. Subsequent to that, Motion No. 25/90 was moved by the Second Elected Member for Cayman Brac and Little Cayman and was passed by unanimous vote on 15 November, 1990. That was referred to a Select Committee of all Members of this House, with the Honourable Member responsible for Tourism, Aviation and Trade as Chairman. I will deal with that Select Committee in more detail later on.

The Mover of this Motion took much time to explain his side of the story and in some instances made references to me which I would like to clarify. At times it almost sounded as if he were trying to exploit the Minutes of the Select Committee, to make use of the Minutes for his political purposes. He said my vote, and the four Elected Members of Executive Council with the Second Elected Member for Cayman Brac and Little Cayman had passed the majority consensus on many things in the Select Committee Report. Well, all Members know (and the listening public as well) that the Elected Executive Council consists of four, the two Members for Cayman Brac and Little Cayman makes six and a majority consensus requires seven. Therefore, if my addition is correct, six cannot be a majority, I call to his attention that there had to be more. I challenge him to show me where in the Minutes the many things he attributed to me are.

Talking about a majority consensus, it has always been my understanding that when a Committee of this Honourable House is formed of all the Elected Members (and up until now there have been 12), we all automatically become Members of that Committee. I was under the impression that as we sit in that Committee we must naturally adhere to parliamentary majority. If it be the case that every time one disagrees with a vote he is going to put a dissenting statement, or minority or majority report, then every Select Committee will have more volumes of paper as dissenting reports or minority reports than the content of the main report. I have not sat in any Select Committee where I have agreed with everything that has been said. But once the Clerk records that it is a majority consensus, I accept the fact that the Committee has approved that particular item. But I think that Members on those Committees in the future will be using that dissenting report often.

During the 12 years that I have been in this Honourable Legislative Assembly, I have witnessed much economic growth in this country. The necessity for the Civil Service to increase is plain for all to see. Everyone contends that we should try to control it, but on the other hand, we want to see young Caymanians employed and see our country grow. It is only natural that as the Civil Service increases and departmental loads increase and other departments of Government are formed, that we must review our Constitution and strengthen the political arm of our Government as well. I recall very vividly that in 1985 we met in the Committee Room of this Legislative Assembly and discussed the need for expanding the Elected Executive Council by one or possibly two additional Members in order to reduce the Portfolio responsibility of each Member so that they could better handle their responsibilities. I think that one only has to look at the list of subjects assigned to each individual Member to realise how much of a workload each Member of Executive Council, both Official and Elected, carries. In speaking with former Members of Executive Council and the present sitting Members, they all concur that it is becoming a burden.

It bears out that this review that was called for is timely, the results of what it will be, I think the Secretary of State has used wisdom in deferring a decision on the Constitution awaiting the results of this General Election before a new Draft Constitution is proposed. Therefore, many items will have to be looked after because, as I said before, items that were not looked after in a general review of the Constitution certainly did not justify piecemeal amendments.

Another item the Mover of this Motion gave was the impression to the listening public that I did not understand that revenue placed in a pension fund could not be used by the Government. I do not appreciate this. I would like to make it very clear to the Honourable Member that I am not one who subscribes to the theory that he has a monopoly on intelligence. I well know the difference between reserves and the pension fund. I was simply trying to make a point that it was a proper move by this Government to establish a pension fund. Had this pension fund not been established, the sum of money in the pension fund would have been in reserves, therefore the total in reserves would have been a larger sum. I further wish to state that had a proper pension fund been established in 1978—and I understand a consultant made a report on that—the contingent liability which the present Government now has to assume would be substantially less if funds had been contributed since 1978. I call to the attention of the listening public that the Honourable Mover of this Motion was the Member of Executive Council during this period of time. I understand that this contingent liability is over $30 million.

MADAM SPEAKER: Excuse me, Honourable Member. May I draw to the Honourable Member's attention that your debate is being addressed to the Members of this House and not to the listening public? They are listening, of course, but no mention should be made of them in your presentation. Thank you.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker. I bow to your ruling. I would now like to turn to the referendum. I see where a Referendum Law for a specific need would be beneficial to this country, but my contention is that before a Referendum Law can be successful, we would first have to have an up-to-date Voters' Registration system in place. We would have to have a Supervisor of Elections Office established and voter registration on a continuous basis. For instance, prior to this voters' registration list being published, had a referenda been necessary, it would have meant that persons who were enfranchised to vote after February 1988 would not have been registered voters. So, for this to reflect and give the people the benefit they have as being

eligible to vote, it will require that a Voters' Registration be kept up to date. That is something that I would certainly subscribe to.

Moving to another concern I have, reading in the press release issued by Government Information Service, immediately after the General Election when the House is recalled into session and the Honourable Official and Elected Members are sworn in, the 15 Members, we will then form the Government under the Constitution Order of 1972. This will have an Executive Council of four Elected Members and Three Official as it is today. The quorum has been increased from seven to eight. It is my contention that an action which this Honourable Legislative Assembly should seek to make is a Motion to request the Secretary of State to amend the Constitution Order of 1972 to allow five Members to be sworn in as Elected Executive Council Members the forming the new Government after the General Election. This would enable the Government to still be able to have a quorum. They now have a quorum when it is seven. When the quorum goes to eight they will not have a quorum. Certainly, the increasing of the Elected Members was one item during this Select Committee where I did not hear anyone make any substantial objection, because they realised the added work load. I feel that this would be in the best interest of good Government. With a Backbench of ten, the two-thirds majority would be preserved with five in the Executive Council that would be necessary in the Constitution of 1972 and in the proposed new Draft Constitution of 1992 it could be preserved. I feel that this is something that the sitting Members of this House should look at seriously.

Further to what I was saying on the need for a fifth Member of Executive Council, I would like to remind Members that this Motion No. 9/90 was passed on the 24th July, 1990, and a long process was carried out. Motion No. 25/90 which set up the Select Committee to review the Constitution was passed on 15th November, 1990. The Select Committee had 11 meetings. The first was on 19 December, 1990 and the last was 16 October, 1991. It was referred to the Secretary of State shortly after that. No. I beg your pardon. The Constitutional Commissioners arrived here on 6th January and remained here until 6 February, 1991. The Draft Constitution 1992 was returned to this territory on 28 July, 1992. This timetable shows that a considerable period of time is going to be necessary for the new Legislative Assembly to consider the new Constitution.

I do not subscribe to a decision being made after a short debate. I believe that it will probably have to be referred to a Select Committee, which, again, will be time consuming and mean that we could go on for months (if not years!) functioning with a four-Member Elected Executive with three Official and 11 on the other side of the House. I do feel that with the five Elected we would be fulfilling the wishes of the people. I think the public fully understands it and do not think we would need further input from the public on that.

I now go on to the Draft Constitution. There are many parts in this with which I agree; others give me concern. I already stated that I support the Bill of Rights, and in the interest of time I will not go into further detail. I feel that it is appropriate that we avail ourselves of the opportunity to make this amendment to our Constitution. I support Part II of the Draft Constitution `The Powers of the Governor', as they remain almost without amendment to the present draft. The Executive (Part III) clearly says, "28 (1) The executive authority of the Cayman Islands is vested in Her Majesty." "29 (1). . . and it shall consist of (a) the Governor;" If this Draft were to be implemented it would be a Chief Minister, four other Ministers, Chief Secretary, Finance Committee and Attorney General.

The Chief Minister and the move to Ministerial Government has been a subject discussed in the Cayman Islands for many years. Prior to the 1972 Constitution it was also talked about. During the time we had the opportunity to meet and discuss Constitutional matters with the two learned Constitutional Commissioners, Sir Frederick Smith and Mr. Walter Wallace, we questioned them in Select Committee (and also in private meetings I had with them) concerning the possibility of a gradual move into the Ministerial form of Government. This has always given me concern. I am concerned that we make no move that will in any way be damaging to the future of our country. It was very clearly indicated by Mr. Walter Wallace that there was no step between our present form of Government and full Ministerial system. This was also endorsed by Sir Frederick Smith.

Other legal opinions have stated that it can be gradual. I understand it is a possibility that if five are elected to Executive Council that those five, who would be elected by other Members of the House on this side on the day of swearing in, could then decide who would be their leader of Government. There is nothing wrong in changing the title to `Minister' instead of `Member'. I asked, and was told, that this step is possible, that we can do that now. There is nothing wrong with doing that now. It is not an advancement. But if we want to go to a full Ministerial form of Government we must have a Chief Minister.

The Constitutional Commissioners came to this island and made their recommendations. But we still have an opportunity to fully investigate this matter. I call Members' attention to the Minutes of the third Meeting of the Select Committee on Thursday 3rd January, 1991: "Capt. Mabry S. Kirkconnell felt that there should be a gradual move into a Ministerial form of Government. He was not sure what was meant by a semi-Ministerial form of Government and would wish to be guided on this. Like Mr. Truman Bodden, he would wish to see an advancement into a Ministerial form of Government after a General Election at

which time such advancement is made an issue." I had a concern then, I have a concern now. But it was made very clear by the Constitutional Commissioners that the next move from where we are now (a quasi Ministerial form of Government) will be to a full Ministerial form of Government. This is a serious question and it must be fully defined.

I do not think any Member of this House would want to do anything that would be detrimental to this country, neither do we want to retard our progress. We have to look carefully and cautiously at every move we make. We must realise that the Cayman Islands, having had the success it has (and we want to continue). . . you do not miss something if you never had it. If you have something and lose it, you are worse off than not having it before. Therefore, it is our duty to properly investigate every aspect. But I say again that we must move cautiously, but properly. Every move made in this new Constitution must be in the best interest of all the people all of the time.

There are many other points in this that I thought about speaking on. But in the interest of time I will deal with the most important—the Public Service Commission. Much debate has ensued in this House. There is a lot of mistrust over what would happen if we had a Chief Minister. I think we must have confidence in our fellow Caymanian. We must have confidence in the legal structure of our country, and confidence in our Constitution. We must move cautiously so that our Constitution is what is best for our country.

It has been proposed that if a post of Chief Minister is created that he would be consulted by the Public Service Commission on any appointment. This will have to be looked at very carefully. Many people in the private sector are concerned about it. I am saying that I do not see where it will make that much difference whether the Governor in his discretion makes the appointment. . . it would certainly be non-political if that is what the public is afraid of. Input from the Chief Minister would not make that much difference. I think that will be an area where a compromise can be reached.

The Complaints Commissioner will be an asset, I think, to our legal framework. It will enable us to have provision in the Constitution to appoint an Ombudsman who can investigate where necessary. I think that is important. I also support that the pension, if the pension is a contributory, should be vested in the persons who have contributed. I do not feel that if one is contributing to something it is a gift, or that it is partly his. It should be enshrined in the Constitution that it is his by right.

Before bringing my contribution to an end, I would like to touch on something said by the Second Elected Member for Bodden Town yesterday which I, not having been a Member of Executive Council, only know by what I was told. But it certainly does not coincide with the way I was made to understand. He made the remark that the former Financial Secretary was prevented from becoming Chief Secretary by changing the name of the post of Administrative Secretary. Therefore, he was not given the honour of being Chief Secretary. That was not my understanding at the time. I understood that this post of the First Official Member responsible for Government Business was given to the Financial Secretary as he was the senior serving civil servant at the time, and it was because of his ability as Financial Secretary. He had only been in there a couple of years, and they felt that the continuity of the Financial Secretary was important, and therefore he, being the senior man, was allowed to retain the Financial Secretary's position and be the First Official Member. I never, ever considered that it was in any way keeping him from becoming Chief Secretary. I do not know, if in winding up, the Third Elected Member for George Town can make that any clearer.

I would like to state that in the Constitutional Review I supported the reinstatement of the Chief Secretary's position. It was mooted at one time that the Official Members be reduced to two, but I contend that the Chief Secretary's position should be reinstated and the other two Official Members retained for a total of three. Even if the present holder remained in the Government's employ, he would remain in the capacity as First Official Member until his retirement or he left office. I did not understand the way it was put across, and I think I understood the Member correctly.

MADAM SPEAKER: May we take the luncheon suspension now?

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker.

MADAM SPEAKER: The House will be suspended until 2.15 PM.

AT 12:45 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:23 P.M.

MADAM SPEAKER: Please be seated. Proceedings are resumed. Debate continues on Private Member's Motion No. 13/92. The First Elected Member for Cayman Brac and Little Cayman continuing.

CAPT. MABRY S. KIRKCONNELL: When we took the luncheon break, I was talking about the reinstatement of the Chief Secretary's position. I mentioned that I supported it and I would like to refer to the Minutes of the Select Committee Meeting, 11th July, 1991. It reads as follows: Capt. Mabry S. Kirkconnell noted that when Mr. Dennis Foster, CVO, CBE, JP, was a Chief Secretary and Deputy Governor, it was impossible for both the Governor and himself to leave the island at the same time. The Finance Committee ultimately carried a terrific responsibility of being both the Deputy Governor and Financial Secretary. He advocated that the title 'Administrative Secretary' was not fit and proper for such a high post and recommended that the post of Chief Secretary be reinstated. He recommended three Official Members, the Financial Secretary, Attorney General and Chief Secretary, and five Elected Members."

I also went on to say that in the Select Committee by majority consensus it was recommended the reduction of the Official Members to two. I want to clarify that. In the Minutes it says, "Mr. McKeeva Bush recommended that the Administrative Secretary need no longer be a Member of the Legislative Assembly that the House be increased by one Elected Member and that the seat be assigned to the district of Bodden Town, thereby increasing the elected Membership to 13. Retaining the current composition of the House at 15, I hasten to say that his reason for the reduction of the one Official is to add one Elected and still keep the composition at 15." I just make that as an explanation.

In referring to the Constitutional Commissioners: "The change in Executive Council (a) Official Members: Under the provisions of the present Constitution, there are three Official Members of the Executive Council in the Legislative Assembly. Unusually, the Constitution does not specify who these Members should be— customary however they are (in order of seniority) the Financial Secretary, the Attorney General and the Administrative Secretary, a post created some years ago to replace, at a lower level, that of Chief Secretary. All three have portfolios of Government Departments subjects and virtually full voting rights in the Assembly.

"Early in our review it was suggested to us that perhaps the Administrative Secretary need not be a member of the Executive Council or the Assembly, particularly as it was also proposed to increase, by one, the number of elected Members in Executive Council. This however would be to deprive both bodies of an official with delegated responsibility for the Governor's reserved subjects (which cannot be made the responsibility of an Elected Member) and while alternative arrangements are not unknown in other dependent territories with a ministerial system, it would perhaps be unusual to start off with such an arrangement. Indeed, later in our review it was suggested that there would be advantages in reviving the post of Chief Secretary, the holder of which would then replace the Administrative Secretary as a Member of the Executive Council and the Assembly. He would be the senior official member and, as such, the de facto Head of the Civil Service responsibility for which seems to us to be slightly blurred at present. He would be a key figure in the recognisable hierarchy and would normally act as Governor, the present arrangement whereby the Financial Secretary does so, becoming personal to the present holder of the post. On this clear understanding, we recommend that the post of Chief Secretary be recreated administratively; and that under the present Constitutional arrangements he be appointed a Member of the Executive Council and the Assembly. Under an amendment Constitution the three official members (Chief Secretary, Financial Secretary and Attorney General) should be specified."

I would also like to call Members' attention that during discussions in Committee the following recommendation was made by the Second Elected Member for Cayman Brac and Little Cayman, on which I concurred. It reads: "Mr. Gilbert McLean recommended further that one elected Executive Council seat be designated for an elected representative of Cayman Brac and Little Cayman. He also noted that this matter was raised in London when the Backbenchers visited in November last year and also with the Commissioners at the meeting held today. Capt. Mabry Kirkconnell endorsed the recommendation put forward by Mr. McLean." I would like to further state that this was a recommendation of the Constitutional Commissioners and the review that led to the 1972 Constitution Order and we have understood why it does not seem to be possible today, but it would certainly be beneficial for that district whenever it is possible.

I have come to the end of my debate. But before I take my seat, I want to once again emphasise how important I consider it to be that we make every effort to retain our very close relationship with the United Kingdom Government. I contend that the economic success of this islands has been, in a large part, due to the stable government and our close association with the Mother Country. Our location does not afford us a very safe position and without a Mother of the magnitude of the United Kingdom we would be in a perilous situation. Therefore, I feel that as the new Members of this Honourable House will review further the Draft Constitution for the Cayman Islands for 1992, we must all use caution so that any advancements made fully put first priority on maintaining that close and ever-necessary alignment with the Mother Country.

It is also important that we approach this and give it the importance it deserves. We are about to embark more seriously into this election campaign of 1992 and I do humbly pray that it will be a clean election, where facts will be presented; where there will be a clear choice for the electorate to make; that when it is over the victors will be able to shake hands with those who have not been victors

and we can all work together for the betterment of the Cayman Islands. Let us remember that in size we are very small; in number of population we number around some of the smallest; but united there is much we can accomplish and it is only with that goal in mind that I see future success for the Cayman Islands. I pray for God's richest blessings on the Cayman Islands.

MADAM SPEAKER: The Honourable Member for Tourism, Aviation and Trade.

HON. BENSON O. EBANKS: I had just about decided not to speak to this Motion No. 13/92 presently before the House. I was honoured to have chaired the Select Committee on the Constitutional Review as was pointed out by the Mover of this Motion, the Third Elected Member for George Town, in his presentation. I must say that I have always appreciated the level of support and cooperation I received during my chairmanship of that Committee.

I must also say that the Third Elected Member for George Town, although he got carried away in a couple of places and allowed his professional training as a lawyer to take over, made a fair and reasonable presentation. While he and I have always been on opposite sides politically, I have to say that during electioneering and from the public platform I feel satisfied that he got as good as he sent, and he probably feels the same way. So, I have no hard feelings against the Third Elected Member for George Town. Secondly, as announced earlier this year, I will not be seeking re-election. Therefore, I have no need to campaign, nor use this debate for electioneering. But since I heard related during this debate so many bizarre and far-fetched tales about how the request for this review developed, the reason for it and the blatant and sometimes reckless attempt to mislead the public, many unfounded accusations were put forward and attempts to blame this Government for a project and a process of which all honourable Members of this House (all Elected Members) formed an integral part and certainly took an active part from its inception, that is, the review of the 1971 Constitution which has resulted in the Draft Constitution which has been submitted to this country recently for our consideration and advice.

Having considered these facts, I decided that it would be wrong for me to miss the opportunity to say a few words in an attempt to state the facts as I know them. I have to bear in mind that I am first of all a Caymanian, I live here and the final outcome of this exercise will affect me the same as it will all others who live in these islands. I must confess that I was somewhat disappointed when the Select Committee's report on the Constitutional Review, which I tabled last November in this Honourable House was not debated. But, I understand now why it was not debated then. November 1991 was too far from the election of 1992—one year, in fact. It seems to me that Members decided that they would not gain the political mileage then, that they expect to get now. Since I see this is the case, let me take the opportunity to restate some of the points that I made during my presentation during the Select Committee's Report on the Review of the Cayman Islands Constitution.

First of all, much debate has surrounded the reason why Government in 1990 decided to request that an assessment be made of the situation. I totally reject the claim that it was prompted by Motion No. 3/90. That Motion had to do with the composition of Finance Committee, which we all know is provided for in the Standing Orders of this House and has nothing to do with the Constitution. But I will come to that later on. I might just as well deal with that here.

It is my strong held view that the three Honourable Official Members of this House should be and remain three full Members of our Legislative Assembly for all intents and purposes and for all times—not just for some specific matters in one case and not in others. In my opinion, it was an anomaly which should have been corrected long ago. It is true that the division between the Elected Members which would have brought Government's business to a grinding halt, prompted examination of this matter. I have to say that just the same as some Members see the split between the Elected Members as an opportunity to gain a stronger position, Government saw this as the right time that this situation of excluding the three Official Members from membership in Finance Committee be corrected which was the only area of the process and procedure from which the three Official Members are excluded. After all, these Members are part and parcel of the decisions taken in Executive Council and referred to this Legislative Assembly for action. They have Portfolio responsibility, they have to prepare a budget for their departments the same as Elected Members do, and in my opinion I see no reason why they should not be obliged to defend and explain their budgets in Committee. They participate and vote on first and second reading of the Appropriation Bill and then they disappear from the scene at Committee stage. Any right thinking person from a procedural point of view can see that this is not a usual and regular procedure and that this should have been corrected long ago and along the lines that it was.

Much has been said about this specific action being aimed at the former Financial Secretary on a personality basis. I have to refute this. I believe that it is unfortunate that the former Financial Secretary should have been brought into this debate with attempts to a make him a martyr or the victim of a sinister plot by the Elected Members of Executive Council. I must relate my version of what happened

and why. I can only speak of the motives and reasons as I understand them and relate the approach taken to this as I know it to be.

The Motion intending to correct this anomaly in Finance Committee was drafted by the four Elected Members of Executive Council. To be honest, I cannot distinctly recall whether I took the draft of that Motion to the Acting Governor on the day before or on the same day of Executive Council's meeting, but I definitely took the draft Motion to him before Executive Council convened its meeting on the Tuesday with the request that I be allowed to raise the matter in Executive Council on behalf of Elected Members after Council had completed its regular agenda.

This was not an unusual request. This was customary. The record shows that Council discussed the draft, amended it at the suggestion of the Acting Governor and, as agreed, the formal Council paper was circulated to all Members the following day and it was agreed that as approved in Executive Council the day before, the Government Motion would be taken to this Legislative Assembly at the June 1990 Meeting. There is one further claim which was made by one Opposition Member during his debate which, in my opinion, was the most ridiculous of them all—that the post of Chief Secretary was done away with by this Government so that the former Financial Secretary could not be appointed to it. I am tempted to say that this is a blatant lie, but I do not want you to rule me out of order on the eve of my departure. So, I believe I should say that it was certainly an untruth, even though the fist adjective would describe it better.

The truth of this matter is that the Secretary of State, on advice from the Governor, is the person who authorises the deletion or the reinstatement of the post of Chief Secretary. It is not the Elected Members of Executive Council. To go further, to the best of my knowledge, the decision to delete the post of Chief Secretary at the time and transfer many of the subjects of that post to the Financial Secretary was done specifically to accommodate the wishes of the former Financial Secretary who had a preference to retain his position of Financial Secretary, but with added responsibilities. This is what was done. So, anyone who claims otherwise is intentionally misleading and being mischievous.

Let me return to the report of the Select Committee on the Review of the Cayman Islands Constitution and how this came about. This Committee came into being, not because of Motion No. 3/90, but because of attempts by some Backbenchers to change the Cayman Islands Constitution in an ad hoc fashion to suit a particular set of circumstances, to suit their whims and fancies, to meet the circumstances of the day and without any consultation whatsoever of the public. No consultation of the electorate of this country. I do not know of any consultation that took place with the public at the time. A major change in my opinion was attempted, that is, to change the two-thirds majority needed to remove a duly elected Government from that to a simple majority—in my opinion, the very basis on which the stability of this country rests. It is significant to note that Her Majesty's Government has seen fit to leave this two-thirds majority in the new draft.

Here I have to say thank God for the First Elected Member for Cayman Brac and Little Cayman who stood his ground, even when he stood alone. I hope the people of Cayman Brac and Little Cayman will appreciate and remember this. I am reminded in this instance of the chorus often song in the churches, I hear a lot of scripture being quoted in here, a lot of Bible stories being told, so I should at least be able to say a poem: "Dare to be a Daniel; Dare to stand alone. Dare to have a purpose formed; And dare to make it known." This prevented an upheaval from taking place in this country at the time. Regardless of what criticism he has had from Members of this House or the public, I remain convinced that he put country before self indeed, a stand on something that needs to be done by all representatives of the people.

So, the Government Motion for a Constitutional Review was brought and passed eight to seven. The Governor authorised the three Official Members to vote; because the request for an assessment of the Constitution was considered to be a procedural matter of which the Foreign and Commonwealth Office approved in London, that the three Official Members could vote on this matter because it was procedural. That came up during the debate, and I think that should have been made clear as well. Then, the Motion for this important matter was brought by the Second Elected Member for Cayman Brac and Little Cayman to take this to a Select Committee of the 12 Elected Members. My recollection is that that Motion to take the matter of a Constitutional Review to a Select Committee of the 12 Elected Members was unanimously passed.

In my view, those Members had an opportunity then to vote against the study if they did not consider a review to be necessary. But we all agreed. Furthermore, we agreed at our very first meeting that this matter was far too important to allow politics to influence our deliberations. This is why what I hear during this debate concerns me, as well as all who live in these islands. A prominent lawyer in town summed it all up when he said 'I hear what some of the Opposition Members are saying in the House, but my assessment is that they want change to a Ministerial system but they want the outgoing Government to be blamed for it.' I believe, with the greatest of respect, that he got that right. I also believe that we should all bear in mind the following truism: Public opinion and popularity change. But principle? Never.

As I said earlier, the Committee worked long and hard, and after all that refused to debate the report which I, as Chairman, tabled in November last year. It remains my view that this development greatly influenced the Foreign and Commonwealth Office to rightly conclude that 'These

people do not know what they want, Let us listen to our Constitutional Commissioners who are experienced in this area and who we paid to send to the Cayman Islands to make an assessment.' This is what they did. Although, during the debate the other side attempted to thrust all of the blame on the four Elected Members, it must be noted how politely and diplomatically, in my opinion a fashion that only the British can put, they said "The recommendations of the Select Committee of the Legislative Assembly, although duly noted by Ministers, have not been included." I think they thanked Members for their input. That is diplomacy!

Madam Speaker, with the greatest of respect (and this is a fact), "All of Council Members are not in full agreement, nor are all Members of the Opposition in full agreement; nor are all of the public who took the time to meet with the Select Committee." We all have differing views as to what we want. It is my humble opinion that this will always be the case. So we can only resort to following the most democratic route and put forward what the majority wishes. In my opinion, the United Kingdom will never get a unanimous signal on this.

I would like to turn to my comments during the presentation which I referred to earlier. In presenting the report to this House last year, I first of all pointed out that it was significant to note that of the 42 recommendations made by the Committee for Constitutional change, 15 of those recommendations were arrived at by majority consensus and the other 27 were agreed to by all 12 Members of the Committee. I have to remind this House that the Constitutional Commissioners were invited to ascertain and evaluate opinion the Cayman Islands upon possible paths of constitutional, social and economic development. Their report as it affects our present constitution was examined in great depth and approached with the seriousness that a project of this magnitude deserves. At no time was any area taken lightly or treated inferior.

I can further state here without fear of successful contradiction that the Committee made every effort to invite and receive representation and to hear witnesses. No one was denied access to the Select Committee. No one was prevented from making their concerns and recommendations known to Members. Every possible media means at the Committee's disposal was utilised. Deadlines set were extended. And every written or oral representation was seriously considered. So I strongly object to any claim from anyone that any Member of the public was denied access to that Committee.

I have to wonder when there will be sufficient proof and evidence and information available for a decision to be taken on this matter. It must be accepted that no government, this or any other; no Legislative Assembly, this or any other, will every reach the stage where it will produce a document of this importance that will be acceptable to all who live in the Cayman Islands. It did not happen in 1971, it is not the case today, and I would venture to say that it will not be the case in 2001. This is a fact that must be accepted now, not postponed.

I share the view of many Members that the 1971 Constitution has served us faithfully and well. But there can be little doubt that developments since then now dictate that some change is necessary. Just to support my position on this point, I will borrow one line from the Commissioners' report where they said, and I quote: "We believe however that the passage of time has revealed defects in the present Constitution which should be remedied if stability and prosperity are to be assured." Anyone who believes that these are empty or careless words is just ignoring reality and the needs of a developing country. In my opinion, our present constitution was developed for a time and place when 12 truly independent representatives were elected to our Legislative Assembly, and the procedure followed that the country's affairs in the Legislative Assembly were conducted by consultation and consensus, similar to what remains the case today in Executive Council. But we all know that this is not the situation now, nor has it been since 1976 when closely aligned political groupings or teams emerged and operated in a political party fashion.

The present constitution was not equipped, in my opinion, nor intended or geared to handle this. There can be little doubt that over the years and through our growth and development process, through changing times and conditions, that a certain amount of strain and stress has been brought to bear on the 1971 document and if left unattended could undermine the future well-being of our country. This might be contrary to the views of some, but this is my opinion having worked under the present system for 12 years.

As I said earlier, there will always be differences of opinion and this can be healthy and constructive. But because these exist one should not attempt to postpone or ignore the need to update and streamline the most important document which dictates how its affairs must be handled and then continue to expect that all will continue to be well. In my view, if the Constitutional Commissioners' assessment of the situation here, and in this they have basically said, 'Caymanians, if you want to maintain stability, then we recommend that it is time you update the system by which your country operates.' This cannot be achieved by making piecemeal, ad hoc amendments to fit specific situations that might arise unexpectedly. This can only create chaos and confusion.

In one area the Constitutional Commissioners said (and I certainly wish to endorse it), "If there are any issues on which Caymanians are agreed, they are that existing links with the Crown must be maintained, and that any constitutional change must not only preserve stability, but must

also stop appreciably short of full internal self-government, the penultimate stage before independence. There is no wish whatsoever to alter the present status of the islands as a Dependent Territory on which, it must be said, much of the...prosperity may depend. Conservative and cautious by nature, many Caymanians approach the issue of constitutional change if not with suspicion at least with some degree of apprehension." I say that this is also the summary of our message to the Foreign and Commonwealth Office.

I believe that if we are to achieve and accomplish what is needed at this time, that politics and personalities must be put aside in an effort to provide an improved system designed to serve this country well for the next 25 or even 50 years, and long after those who today fill these seats are gone from the scene. I said then, and I say again, that is not an 'us' and 'them' situation, it is not a situation with Government on one side and the Backbenchers on the other—we are all in this together in my opinion.

Turning to the Draft Constitution. As I said, my understanding is that it is a draft which I am certain will be subject to several amendments. As I also said before, I do not agree with all of them. There are some articles in the Draft Constitution that I do not accept. Of course, my personal view may differ from those expressed by some of my colleagues. But I would like to identify what I consider to be two minor areas and a few others which I consider to be major items of importance. For example, in section 40(1) dealing with the qualifications for elected membership, I believe that the citizenship of any country should be and remain, the main criteria for a person to be eligible to be a Member of this Legislative Assembly. In this section, British Dependent Territory citizenship should be placed first in subsection (a), even if this is a point from a presentation point of view, I think it should be done. Furthermore, I think it should be defined, that is, Caymanian or British Dependent Territory citizenship should be defined just the same as Caymanian status has been defined. I have always understood and believe it to be the case that there is a distinct difference between citizenship and status and this should be made abundantly clear.

The other section is 54(2) dealing with voting. I believe that the Speaker of the House should have the right to exercise a casting vote whether or not the Speaker is an Elected Member. This appears to be a bit unusual to my thinking and should be corrected. Neither do I agree with section 84(1). I do not believe that the Civil Service should be politicised in this fashion, especially in appointments of certain levels, dismissals and disciplinary actions. Mind you, I know from experience that while we have some loyal, hard working, honest civil servants, and I must say here that my record of supporting civil servants since being a Member of this House in 1980 can stand scrutiny. I stood and supported their cause when it was not popular to support civil servants. I also believe that there are some civil servants who play politics too. Some of them act as if they are un-elected members. This is a fact. To my mind the unacceptable part of the system that I have found is that the Elected Members are expected by the people who elected them to get certain projects done, to accomplish certain things. I believe that there are projects and programmes that can become bogged down in red tape, in reports, in committees, in bureaucracy and never completed.

So, I believe that some change is necessary. I also believe that we should be careful how far and fast we proceed. It was said during the debate of the various stages you can reach leading up to independence. . . and I do not honestly believe that any Member of this House supports independence, but, certainly, there are many degrees of change and various steps that can be taken to improve our system before getting anywhere near what could be considered a move towards independence. Much has been said about the appointment of a Chief Minister, the election of other Ministers and the appointment of Parliamentary Secretaries.

Much concern has been expressed about the checks and balances and so on. I am no constitutional expert, I only have limited experience. But I honestly cannot see how you can have a ministerial system without a Chief Minister. Neither do I believe that a formal and fully organised party system is necessary in order for the proposed system to work satisfactorily. Furthermore, neither did the Constitutional Commissioners believe that a party system was necessary to introduce the proposals made in their report. Let me say again that I am leaving the political arena after 12 years. But there are three developments that I will always stand against in this country: The first is serious steps taken to move this country into independence. I have clearly established my position on that. The second is labour unions. I will always stand against the establishment of any labour union in this country. I am also against organised political parties that will only further divide our small country more than the Unity Team and other groups formed in the 1970s. I believed when those groups emerged that it only gave us a small taste of how fully developed party systems can be divisive. The different sides or close alignments still exist to this day and should, for the foreseeable future be all that is necessary in my opinion.

It must be borne in mind that what has kept some prime ministers in power in some Caribbean countries which have been accused of corruption, and with which Cayman has been compared from what has been projected to take place is concerned, is the political party system which we do not need. Furthermore, I believe that the position of Prime Minister and Chief Minister has intentionally been misrepresented by some Members in an attempt to mislead the public. In my opinion, one can only happen in the case

of an independent country with a fully organised party system, that is the Prime Minister, whereas the Chief Minister in our case is possible with Crown Colony status which we must retain.

I would now like to read two sections in the Constitutional Commissioners' Report and some of this has been read already, and taken out of different sections to support their position and argument. But I would like to take the time to read it in its entirety. The report says: "Of all the issues raised during our review, there is none more controversial than that of the proposal to create the post of Chief Minister. It is also a key issue on which many of our other recommendations depend. As a result of the submissions made to us on this issue, we gave it particular consideration and, in arriving at our recommendation, we took into account each and every opinion which was expressed to us, whether by individuals, groups or organisations. We are of course required by our terms of reference not merely to ascertain but also to evaluate opinion. We are in fact in no doubt that firm opinions in favour were generally held by those with long and distinguished public service and thus in the best position to judge, whereas the opposing view was held either by those who believed that there was no need for any change of any sort or by those who for personal or political reasons merely wished to deny to anyone else the opportunity to rise above his equals.

"We ourselves have no doubt whatsoever of the benefits that would accrue from having a Chief Minister. He would be a leader—and how often during our review did we hear the legitimate complaint that the Cayman Islands Government is "leaderless". He could provide political direction to the policies of the Government and instil discipline among his fellow Ministers. No one can do this at present. His position would be recognised internationally; he would be a single voice of authority to whom many could turn. He would not, as some seem to fear, have dictatorial powers; apart from the power to choose—and effectively to dismiss—Ministers and Parliamentary Secretaries, he would have no authority other than that of his personality. He could not arbitrarily act in this or any other matter since to do so would be to risk loss of support and thus bring about his own downfall. Most importantly, he would be a spokesman for the Government and thus avoid the need for the Governor to make pronouncements of a political nature; to do so is not the proper function of Her Majesty's Representative—but at present there is no alternative." Let me pause here for a moment to say that the Governor who just left this country, Mr. Scott, was not the only Governor who came to these shores and be accused of interfering in this country politically.

"We ourselves, not without experience in this matter, can think of no single constitutional change other than the creation of the office of Chief Minister which would bring leadership and discipline to the functioning of the Government. We find it difficult to believe that the Caymans would wish to settle for constitutional arrangements that are less advanced—and we believe, less effective—than those enjoyed by other Caribbean dependent territories for the last 20 or 30 years." Not meaning to bring the Chair into this debate, or to involve the Honourable Speaker in any way, those points were very ably made at the swearing in of the new Governor. "We also find it difficult to believe that Caymanians, with seafaring in their blood, would be prepared to put to sea on a ship with four first mates but without a captain." That is the end of that section.

In my humble opinion, the Constitutional Commissioners have put this very ably. They have made a reasonable, realistic and fair assessment and evaluation in accordance with their terms of reference. The Foreign and Commonwealth Office has obviously accepted their advice in this regard. Any government must obviously have a majority to function. It seems to me that some people have skirted around this. Let me attempt to make this point (which is my own personal opinion) as forcibly as I possibly can.

Any government must have a majority in order to function effectively and efficiently. That can only come through a full party system or through provisions made in the country's constitution. I would rather take the route of Ministers plus Parliamentary Secretaries within a Constitutional framework, than through political party systems which most Caymanians do not accept in any case. It has been my finding and conclusion that the majority of Caymanians I know (and in my opinion is what brought the demise of the established parties in the 1960s) will not forfeit their rights to make their own personal choices for the dictates of any party system. As the Commissioners stated, no government can be left at the mercy of shifting alliances which will only bring governments down regardless of who they are. The unseating of any government breeds instability, in my opinion, in any country but especially in a country of our size and limitations. To quote what the Commissioners said, "The government ought not to be at the mercy of shifting alliances which could well be based on personalities rather than policies."

Some disparaging remarks were made by one Member about the four Elected Members not having the ability to be a leader. I thought that I would ignore this, but I think I should make the point that our system does not now provide for a leader of the Elected Members in that fashion. But I believe that any one of the four of us could sit down and agree for one to be the leader, just as easily as any of those on the other side could come forward at this stage under our present system as leader of the Opposition. This also takes me back to the 1976-1984 period. What did we have then? We had a strong personality who attempted to act, to take on the responsibility, to be the leader of the then government. But the system was not in place. What did we end up with? We ended up with power struggle, confusion, in-fighting, and with the greatest of

respect, that is a prime example that something is needed to regularise the situation. That did not develop since 1984. I am not trying to pinpoint people in a specific time period, but this is a part of our history and a part of our development and it cannot be ignored.

I believe that it is regretful that an 'us' and 'them' situation has developed in this matter and at this stage. No one knows what the outcome will be. But I maintain that the project of a constitutional review was brought about by Government, unanimously agreed by this Government to take it to a Select Committee. In my opinion, that was a genuine and sincere effort to improve the working of Governments. To actually formalise certain procedures which are sent in practice and to avoid the timely removal from office of a duly and democratically elected government.

In conclusion, I maintain that if effective measures are not taken, it will happen in the near future as it happened in 1989. My concern is that we do not know what the elections will produce. But I sincerely say that there are not many Capt. Mabry's around. I mean one of his calibre and quality whose head is not turned by offers of high positions. I trust that for the sake and stability of these islands that this project will be followed through to conclusion, and that upon its completion and acceptance the Cayman Islands will emerge a stronger and more secure country.

MADAM SPEAKER: If no other Member wishes to debate, would the Mover like to exercise his right of reply? The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I realise clearly that it is very important that matters raised in this House be put in their true and proper perspective. I would like to begin by saying that I will be tracing the history, as have other Members, of how this Motion brought this to the House. I will show very clearly that the Motion that was brought to this House relating to Constitutional amendment had entrenched in it clauses that stated it could not come in unless there had been a referendum. There was no attempt to short circuit the public.

I will not read the these Motions, but the ones that have not yet been read in this House, the two referred to after Motion 3/90 have to be read because the public needs to know exactly what our position was. This whole matter was raised first in the Throne Speech back in February 1990. The Governor's position was read out saying that perhaps there had become a time for some kind of a Constitutional Review. The Motion that was passed on the 24th July 1990 which requested the constitutional study. . . without that Motion nothing would ever have been done in relation to constitutional change. If there had not been a request for constitutional review, then the whole process of constitutional change would not have come about. That Motion which was brought as a Government Motion (No. 9/90) on 24th July, 1990 was passed by a majority of eight to seven. Seven Members of the Backbench opposed it and we opposed it on the basis (among other things) that the country was saddled with problems that were urgent and it was wrong at that time to bring up constitutional review rather than trying to deal with the country's problems. That has been resounded by several other Members of the Backbench this time.

But that Motion (passed eight to seven) was what started all of this. If that had never been passed, there would never have been constitutional review started in this country. And we opposed it then. But once the constitutional review got underway, what we (the Backbench) did was make sure that the proper process was followed. This is where it differs because the Motion that the Members of the Government are saying was passed unanimously, for the Select Committee to take representation from the public—they are right on that—but that was then passed to put the proper machinery for the public to be able to give their views. As we all know, if there had never been a request for constitutional review, there could never have been a Select Committee to take representations on it. So let us get it very clear, the Government Members, along with the three Official Members and the First Elected Member for Cayman Brac and Little Cayman (the balance of the seven of us rejected it and voted against it) brought this constitutional review on this country. All we have done since and all the Second Elected Member for Cayman Brac and Little Cayman who moved that Motion on the Select Committee (which we supported) did so only to see that the proper procedure was put in place to deal with something the Government had started, and we felt started wrongly. What is unfortunate is that the conditions in the country have gotten worse as time has gone on. Here we are today in a debate that has to be done now. It cannot be done after the elections because it would have no effect as an issue in the General Elections by which the new Members would be guided as a result of the votes at the time.

There was only one Motion that began all of this. That was the Motion that we objected to back in July 1990. It is very clear that a lot of what has gone on subsequently, including the debate that did ensue (and a debate did ensue on the constitution before this), was the result of attempts to put before the public the position clearly. I want at this stage to deal with clearing one area because several Members have stated that I brought a Motion to this House to change the constitution ad hoc. I have the Motion and I would like to read this because the statement was made that we were going to change the Constitution and had not gone to the public. Let us not kid ourselves. You will see that what this Motion was doing was putting back the Finance

Committee to the position it had existed in for the past 25 or 30 years. It was not changing anything that advanced the Constitution. It was an attempt to preserve Finance Committee as it had been and which I do not believe anybody cannot say are not the overwhelming political views of the majority. The Constitutional Commissioners stated that. They did not recommend it, but they clearly stated that.

The first Motion was 15/90 and it said, "Motion without Notice, Standing Order 24 (9) (viii)" and reads: "WHEREAS Motion 3/90 and 6/90 deal with a very important matter which has been the subject of extensive public debate and it is in the best interests of the Cayman Islands that the electorate's view be sought on it." Let me just state that Motion 3/90 and 6/90 had been going on and that is what changed Finance Committee for a very long time. This issue was clearly debated then. But, I will read on:

"NOW THEREFORE BE IT RESOLVED AS FOLLOWS:-

(1) That His Excellency the Governor be requested not to approve under Section 31(1) of the Cayman Islands (Constitution) Order 1972 the amended Standing Orders amended under Motion 6/90 and to await the outcome of the referendum hereinafter mentioned;

(2) That a short Bill be introduced and fully dealt with during this Legislative Assembly meeting for a referendum on this matter that is, whether the Official Members of this Honourable be made Members of Finance Committee and the President of the Legislature be made Chairman of Finance Committee, using the present voters list and that this Honourable House abide by the outcome and implement the results thereof; and

(3) That all Members of this Honourable House meet informally to settle the provisions of the special Referendum Law at the earliest possible time."

I moved it and it was seconded by Mr. John Jefferson, Jr., the Third Elected Member for West Bay.

Two things are crucial to this because this first Motion had entrenched very clearly that notwithstanding the amount of debate we felt a referendum was necessary to stop the political upheaval that was tearing this country apart. It would have been very simple to go back and ask the question, "Do you wish to have Finance Committee as it was, with the Elected Members?" or "Do you wish to have it with the Elected and Official Members?" Very simple. Yes or no. It was the subject that could have been easily made into a referendum question. That was defeated by the usual situation in here—the Government and its supporters against. On one of these I think there was one Member absent, but the Government voted against this along with sufficient support to pass it. I have only now gotten these Minutes because it has only recently been raised in relation to this.

Following that Motion in the same Legislative Assembly meeting on 26th July, 1990, there was a further Motion which has been referred to. It was Private Member's Motion No. 17/90, "Amendment to the Constitution and Provision for a Referendum." That was the heading of it. There was no attempt to short circuit the public at all. We stated:

"WHEREAS seven Elected Members can vote four Elected Members into Executive Council, but the Constitution requires the vote of eight Elected Members to remove any or all Executive Council Members;

AND WHEREAS, subject to the results of a proposed voter's referendum on this issue, it is considered necessary that the Constitution be amended only in Section 6(2)(f) so that A MAJORITY (that is 7 out of 12) of the Elected Members of this Assembly may, by their vote, effect the removal of any or all of the Elected Members of Executive Council.

BE IT THEREFORE RESOLVED THAT -

(1) through the Governor of the Cayman Islands, the Secretary of State for Foreign and Commonwealth Affairs be advised forthwith that the Legislative Assembly of the Cayman Islands requests that subject to the wishes of the people as expressed in a special referendum, Her Majesty's Privy Council do exercise the powers conferred pursuant to Section 5 of the West Indies Act 1962 by Order in Council to amend only Section 6(2)(f) of the 1972 Constitution by deleting the words "not less than two thirds" and replacing them with the words "a majority"; and

(2) (a) a short bill for a law to make provision for a voters' referendum on the matter of the amendment to the 1972 Constitution proposed herein be introduced during the present meeting of this honourable House, with all Elected Members of this honourable House to meet informally at the earliest possible time to settle the provisions of such referendum law and with the present voters' list being used for determining the voters who are eligible to vote on the referendum question; and

(b) failing the passage of such referendum law during the present Meeting of this Assembly, Her Majesty's Government be advised that the Legislative Assembly of the Cayman Islands requests it, by statutory instrument or otherwise, to make and implement the necessary arrangements for a referendum on this matter as early as possible."

In fact, Madam Speaker, 99% of the Motion deals with a referendum The reason for it was Motion 3/90 because at the time there was a feeling, as the Commissioner's confirmed, that the people of this country did not want the change that came about. This was moved by the Second Elected Member for Cayman Brac and Little Cayman and seconded by the Third Elected Member for West Bay. That Motion states abundantly clear that even on an issue that was aimed at preserving at what we had regarded as a very important fundamental principle, the Finance Committee, it should go back to a special referendum.

Let me ask this question: If the Government and its supporter felt that they were correct in changing Finance Committee, why would they not do a referendum? Country before self? That is country before self—let the country tell you and you follow it. There is nothing that the people of this country would have believed and the Chairman of the Select Committee knows that throughout the whole period of that Select Committee stated that I felt that this Constitution has to go back to the people of this country and it be made an issue, and that the decision be taken by the people. To me it matters not whether the issue goes by referendum or in a General Election. Some are more complex and difficult to do in a referendum, but the Minutes are within four or five pages of the beginning, I made that clear. It ended up with it and is put clearly in the Minority Report. I would never do anything in this country, nor would the Backbench supporters that put Motions like this up without going back to the people of the country for guidance.

I am not afraid to go back on a referendum and get an answer which may be against my views. I know what my position then is. But I can tell you this: Anything major that is to be done in this country in the future, if the Government changes, once, twice, whatever a year, it will go back on a referendum and the people will have their say and whatever they wish will be the views that I personally will support. So, I hope that that aspect is now made clear. There was no attempt to change the Constitution (that little area of it), or no attempt to deal with the Finance Committee without it being the subject of a referendum. We went to extremes to say that if this House would not pass it we requested the United Kingdom to make an Order in Council to do so. I have not had the opportunity of going through the Minutes in relation to this because it recently arose. But if time permits I will do so and perhaps we can look and see where the people who put country before self are not prepared to put a referendum before they take a vote.

One other area that has arisen that I would like to refer to is that the Minutes of the Legislative Assembly show that when the Motion came up in relation to the Select Committee in its debate. . . in fact, the Chairman did not really debate it. He merely presented it. It looks to me like he read it all, and there is only about a page and a half, and no actual debate ensued. It looks to be about five to seven minutes. But I will tell you why it did not go on. In matters such as this it is important, I think, that care is taken before we end up with allegations that sometimes can be easily taken out of context.

When this matter came before the House on 26th October, 1991, where the Honourable Chairman presented the report and read it, there was a move to suspend Standing Order 24 (5). This is how the Motion read: "Under the provision of Standing Order 83 the First Elected Member for West Bay sought to suspend Standing Order 24(5) to allow the introduction of Private Member's Motion No. 18/91 to request this Honourable House to stop all consideration being given to constitutional advancement to these islands until the issue has been clearly debated in the manifestos of candidates in the forthcoming General Elections; and that the debate on the report of the Select Committee to Review the Cayman Islands Constitution Order 1972 be postponed until a date in 1992 to enable members of the public to have sufficient time to evaluate the recommendations of the report." I moved that, Madam Speaker. It was defeated nine to five, with the Government (the Official and the Elected) voting against it and also the two Elected Members for Cayman Brac and Little Cayman.

There is a reference in the Minutes which I will refer to because my recollection was that there was some confusion in the Committee's mind in relation to a letter that had come from the Foreign and Commonwealth Office. There was doubt as to when this debate was to ensue. It is found at page 2 of the 11th October, 1991. There was a letter from the Governor which set out the procedure (Foreign and Commonwealth Office) for this. I am reading from this about midway down: "The Committee noted

that with regard to the procedure set out in (b) it would not be necessary to move a Motion to reject the Committee's recommendations as the report would contain recommendations for Constitutional changes by a majority. The Committee notes that the FCO procedures are still rather vague in regard to the timing of the implementation of the changes."

As I remember, (b) of that letter stated: "The Assembly debates the Select Committee's Report by way of a Motion and decides to accept, reject or modify the recommendations of the Select Committee." It must surely be curious to the public that neither the Government nor the Backbench debated the Motion. The Member opened, and I have read through what he said, and it was merely a short introduction—no debate into the meat of the constitution at all. So whatever went on then I submit was as a result of doubt which the Committee had. Nevertheless, at the time we had made a move to get more time until early 1992 (which would have been around February) so that the Motion in relation to a Select Committee on the Constitution would not have then been brought for debate, but we could have moved it out to the public and clearly stated the debate on the report would be postponed until a date in 1992 which would enable members of the public to have sufficient time to evaluate the recommendations of the report. You must remember, the report coming from the Select Committee had not yet gone to the public. They did not know what was in that report when it came to this House. . . . We had released it three weeks earlier, sorry. But, we felt at the time that the three weeks (or there about) was too short. We must remember that there was practically no time and people had written in for more time. So, the view we took (and I put the Motion) was to adjourn this.

But the Constitution was debated in the February Meeting at the time of the Throne Speech. I debated it in depth. Anyone reading that debate will have no doubt where I stand on the Constitution. And other Members of this House debated it. That was back in February of this year. So, whatever impression the Government and their supporting Members have tried to give in relation to this, the Backbench has always been, first, for going to the public on a referendum on any Constitutional issue and made it an integral part of the Motion. Secondly, we debated it in depth. I think only one Member of the Government debated it briefly. In fact, basically the Member for Health got up and debated it briefly and said he supported what the Second Elected Member for Cayman Brac and Little Cayman said. Presumably, he put the Governments arguments forward in the February 1992 Meeting. Other Members, I think the First Elected Member for Bodden Town and some others on our side debated it.

However, the reason this Motion has become important is because Members in this House were getting read to run for a General Election in which this is an important issue, even though it may not be the most important issue, because the finances of this country and the economy are undoubtedly of very grave importance. They have been sitting back and not stating clearly where they stand on the Constitution. If that position had remained, the elections in November of this year would have been meaningless as far as making a decision on what amendments, if any, to the constitution should be carried out.

MADAM SPEAKER: The House will be suspended for 15 minutes.

AT 4:02 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 4:23 P.M.

MADAM SPEAKER: Please be seated. The Third Elected Member for George Town, continuing.

MR. TRUMAN M. BODDEN: In relation to the area I was dealing with. . . I am hoping to get some further Minutes and if there is anything relevant in those that is new to the argument, I will raise that at a later stage.

I believe we have had a full and complete statement by all Members in regard to where they stand on the Constitution. I had intentionally opened sufficiently wide in that respect to see that this came about because of the importance of having this stated by Members as well as I think it is important that the candidates who are running also state their position. I would like to deal at a later stage with the statements in Manifestos relating to the Constitution, but I think it will be important, and I know that the 12 or so candidates that we will be joining together with will be putting out a Manifesto to state clearly our position on this and other matters.

The issue that has been brought here, while still on the question of what the public is entitled to know, there were some statements made by several of the Members that more public meetings should have been held. Indeed, I believe that we reach many more people throughout his debate in the House than we probably could in a public meeting, mainly because it is possible to really reach the three islands here. But the public meetings are still important. I had a public meeting, and we dealt with it in the joint public meetings we had, and also what I found interesting was that the Member for Communication and Works

issued a statement to the effect that he would like to debate the Constitution with other Members of this House on television. Not only did I have public meetings, but I also went to a public debate that was to be held in the Town Hall that was called by the Chamber of Commerce, and the first time they fixed it I was told that they could not get the Government Elected Members for that time because of some inconvenience. But it was finally arranged, and I went across. Many from the public were there, and the Member for Communication and Works, I can assure you, did not turn up for that debate. I was left with a very large crowd to hold a debate with me alone! So, I would now say that the Member for Communication and Works is probably rethinking his position but I have had my public debate and in fact the Chamber of Commerce actually put one of their vice presidents up there and we debated it over quite a long period and answered questions for about two hours.

I debated it in depth in the debate on the Throne Speech in February this year, but other than the Member for Health, none of the Government Members debated it in depth. I think the Member for Tourism may have debated it then, but I do not believe so. I have those Minutes and I can check them. The point that I find a bit comical about this is that I know that at my public meeting I had a few hundred people. But the public meetings that I understand where held by the Member for Health on this did not have many people. I was told that the recent ones referred to by the First Elected Member for Cayman Brac and Little Cayman had fewer that perhaps ten, outside of the family members when both of the Elected Members for Cayman Brac and Little Cayman held two meetings, I think. The third one, I understand was better attended. So for the stress put on the question of public meetings, I believe that my one meeting was attended by a lot more members of the public than the aggregate amount of most of the other public meetings held by the Members who referred to this.

There were several areas which have been raised and dealt with. It is going to be necessary for me to go into specific areas of what the different Members said in due course. I would like to deal with areas that are less specific which were raised by several of the Members, not just one. Several Members spoke about the form of the Select Committee's Report, that it was comprised of the 12 Elected Members. The thing that has always surprised me, because now we are hearing about how important the right to vote by the three Official Members is, but somehow in these Constitutional matters they were not included. When this arose, and, indeed, if time permits (because I understand that a lot of time is needed tomorrow, and I may be cut short) we will be able to look at the form that the report came down in. What is clear is that in the Select Committee itself, I have always attempted to cooperate with Members. I know that the Chairman can bear me out on this. If issues arose where they needed some technical drafting, and the Honourable Attorney General was not there, even if I did not agree with it, I attempted to assist in getting the form. This is something that I have done throughout. I find that my specialised knowledge as a lawyer can assist. If I agree or not, I have attempted to assist.

I hear quite a bit of rumbling from the Member for Health who is next to me in legal expertise on the Elected side, but out of the actual form of this there can be no doubt that the report that did arise came out as a Majority Report. There was quite an attempt to somehow stop our right as a minority to not sign the report—seven Members signed it, five did not. As I look back, one of the things that has become very clear to me now that was not clear then is the reason behind why this was being pressed so hard. Under Standing Order 72(4)(h) it says: "The report of every select committee dissenting from the report of a majority of that committee may, by its leave, put in a concise written statement of his reasons for such dissent, and such statement shall be appended to the report." It says, "concise written statement of his reasons". It is not where we can, as dissenters can write another report as such. But if we had signed that report, and not put in a dissenting report, I believe at this stage this debate would be totally useless. With all of the Members of this House apparently approving a majority report calling for a Chief Minister, I believe the same procedure which evolved in 1972 at behest of the Member for Education and the Members then in the House would have arisen, and the Constitution would have been put through before the General Elections and actually. . .

[interjection by a Member] He liked that Constitution though.

MR TRUMAN M. BODDEN: Yes, I will say that. The Constitution has worn quite well. That is why I do not understand why the gentleman who masterminded it is now prepared to tear it up.

If we had not put in a dissenting report, the Constitution would have been cut and dried, put through and that would have been the end of it. And believe me, as the three Elected Members said from time to time, all that would have happened is that the Elections would have been to elect the new Members who would operate under it. But God, in His wisdom, sometimes leads us to do things which we subsequently realise the reason for. It was really not until the last days that we decided we should do this rather than just merely not sign the report. The report itself. . .

HON. J. LEMUEL HURLSTON: Madam Speaker, if the Member would give way, could we just get the Standing Orders correct? The House is now sitting beyond the 4.30 Moment of Interruption. I therefor move that Standing Order 10(2) be suspended to enable the House to continue sitting until 6 o'clock this evening.

SUSPENSION OF STANDING ORDER 10(2)

MADAM SPEAKER: The question is that Standing Order 10(2) be suspended to enable the House to continue sitting until 6 o'clock this evening. I shall put the question.

QUESTION PUT: AGREED. STANDING ORDER 10(2) SUSPENDED TO ENABLE PROCEEDINGS TO CONTINUE UNTIL 6:00 P.M.

MADAM SPEAKER: The Ayes have it. Standing Orders are accordingly suspended. Please continue, Honourable Member.

MR. TRUMAN M. BODDEN: Thank you. Tied in with that argument. . . and as we know the Member for Health actually said that we should not have put in a dissenting statement and in fact raised that, and did not get any support for it. . . but the same situation that had arisen earlier. . . and I accept that the Constitution itself is obviously a document that has to be looked at from time to time, but it is one that has to be dealt with very cautiously and it has to go back to the people. My position has always been consistent: Members of this House and the public have been attempting to say all sorts of things as to the reasons why I take my position. But back on the 13th September, 1977, I had just come out of a General Election, I ran with Mr. George Smith who I think contributed a lot and was a capable Member, appeared before the United Nations after there had been the Committee of 24 Mission, or four people, sent here. We got a clear response which we took back there in 1977 and Mr. George Smith had this to say before the United Nations: "There are three main reasons for the strong rejection of any Constitutional change, the first being economic; the second, political; and the third, social." That was a very short section of his statement. Prior to that I had basically said, and I went with a mandate to say this: "First, the Committee advised the General Assembly that in accordance with the inalienable right of Caymanians to self-determination in accordance with the aforesaid resolution, the peoples of the Cayman Islands do not want any change and recommend that they should not be forced to accept any change in their Constitution. Secondly, that the Committee ensure that the right of self-determination is not eroded. Thirdly, that in the future the United Nations and the administering power accept the views of the Caymanian people as expressed through their Elected Members of the Legislative Assembly as to whether or not a visiting mission would be appropriate and acceptable at any particular time." The reasons put forward then why the Constitution should not be further advanced are even more pronounced and important at this time, because the country had a lot less then to lose, but the country stands to lose in my view if it takes the wrong step or if it goes about this matter wrongly.

Members, actually it was the Member for Communications and Works and also the Member for Education, referred to Constitutional change being before this House and the public before. What I found somewhat distressing was that in that attempt on the 27th April, 1988 (I am reading from the *Hansard* that had arisen on this), was that they had a meeting (those three Elected Members of Council, the Member for Education, the Member for Health and the Member for Communications respectively) that was carefully carried out so that if anything leaked there was a procedure. . . I am sorry, this may have been the second meeting or the first meeting. There were two. I would just like to read from these Minutes of the House. This is Mr. James M. Bodden, on page 25: "However, since he has done that, I would like to remind him that I was the one who insisted that this go to the people and that is why we talked about us going to the platforms together. I do not like to digress at this point, but copies of the Minutes were agreed to and it was agreed that they be given to the Chairman of the Committee who would hold them, and if we did not go any further, that they would be destroyed. I do not have a copy and I am surprised to know that the particular Honourable Member [referring to the Honourable Benson O. Ebanks did]." That was another instance where obviously the meeting was carried out and according to this version, if it did not move on there would be a destruction of the Minutes. So, I cannot understand why those three Members are worried about me going out to the public—I have always gone out to the public. But I have never been in a situation where I have had to do something which would put my in a position to have to destroy the evidence of what I was doing.

HON. BENSON O. EBANKS: Madam Speaker, I wonder if the Member would give way for a point of elucidation.

MR. TRUMAN M. BODDEN: No. Madam Speaker, because I believe there is going to be a move to restrict my time and I would like to get in what I can now. Otherwise I would have been happy to give way to the Member. I hope that I am wrong in my views on that.

From there, I would like to move on to another issue. What I find very worrying is where we get Members of the Government who two years ago had views and they come here two years or so later with views that are totally different—all during the period when this is perhaps the most important matter under review. I believe that it would probably shock people if they believed that a Member who said that the Constitution had served well two years ago is before this House saying, "Let us change it to 'Minister'."

[Interjection by a Member]

MR. TRUMAN M. BODDEN: *[Addressing the Honourable Member for Education, Environment, Recreation and Culture]* I will tell you who said it—you said it!

Madam Speaker, I am sorry, the Member for Education made that statement two years ago in this House when before this house was another important issue, the Bill of Rights. It goes to show the extremes to which that Member will go to get his points across. Madam Speaker, I assume that this is not being denied by the Honourable Member.

I would like to read from the Minutes of the House dated September 6, 1989, on page 685 the Honourable Benson O. Ebanks said (and this was when they were opposing the Bill of Rights which I will come to as well because the Member for Communication and Works referred to it at length, all of the Members, in fact have): "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?" Madam Speaker, you have heard about 'U' Turns? This is a complete 'U' Turn! Two years back the Honourable Member for Education was saying that the Constitution was "good", and had "served us well", and more than that he said it had "brought us along the road to prosperity."

HON. BENSON O. EBANKS: Just identify the meeting you are reading from.

MR. TRUMAN M. BODDEN: I just did: It is September, 7th, 1989, the Debate on the Bill of Rights. Three years ago. Does it really matter? If you had no mandate three years ago. . . I am sorry. Can the Honourable Member state how he got the mandate subsequent to that time? I am saying that the change of heart only came about when the Constitutional Commissioner dangled the carrot of the Chief Minister in front of the eyes of those who support it. The Minister of Finance aspect is even more interesting, and I will come to that.

One of the other areas that I would like to touch on relates to a question of where and perhaps when the idea of Constitutional change may have arisen because of the attempt by the Government Members and their supporters to try to show that the Select Committee itself was the motion that was so influential on this. Back on 21st January, 1991, the *Caymanian Compass* carried an article at page 3, "Constitutional Review—MLAs Position". Reading from this: "Mr. Linford Pierson, Second Elected MLA for George Town, ExCo Member [stated], 'I was one of the first who started agitating about the need for Constitutional review.'" It goes on to say, "It is necessary to get more Members to share Executive Council responsibility", and it goes on, "I agree that rights and freedoms be part of the Constitution. . . the country should now evolve to a Ministerial system, whether full or partial." I just want to dwell on that because I am going to come back to that aspect when dealing with the steps of Constitutional change. The Members know the difference between full and partial Ministerial responsibility. The authorities are clear on that.

From there I would like to go on to begin to deal with only one aspect relating to what the Government and its supporters found to be a problem with the Constitution. It is around the question of the secret ballot to appoint the Chief Minister. That was raised by just about everyone who spoke for the Chief Minister in the Ministerial system. What has arisen is the difficulty in being able to work this system without having a party system in place. If we are trying to bring in a system of government by which it is difficult, in fact impossible, to get it to work properly without the necessary checks and balances in place, then this country is going to begin with a system problem. It is difficult enough to get a system of Government to work when everything is in place. The truth of the whole of this as to whether you need to have in place a recognisable party or not has come out clearly here. I submit that it defeats the whole workability of the Constitution and a Chief Minister as has been put forward in the present Draft Constitution. The United Kingdom Government has put in, and I guess the Commissioners recommended, that the vote for the Chief Minister be a secret ballot if the Governor is unable to determine who he should appoint as Chief Minister.

Normally, in the Westminster system, to have the appointment of a Chief Minister, Prime Minister or Premier (they are similar in most respects when it comes to the appointment), you have to know who is voting, or who supported you, otherwise you can never make a Government. This is a serious dilemma. It arose and I pointed this out to them at an early stage. The Minutes show where I pointed this problem with the system out. But it was brushed aside. People took the view that it could work. But I submit that there is no way, whether you have a secret or an open ballot, when you go to appoint a Chief Minister if the necessary checks and balances are not in place, even if you get him appointed, you are not going to get the

system to work. You do not just appoint a leader. Leaders evolve over a period of time; they are people who have leadership abilities, who have the necessary qualities necessary to lead people. Especially in politics, it is one of the most difficult qualities to find in people. So, if you appoint a Chief Minister, firstly, the United Kingdom said secret ballot, they are not going to know who appointed them. We know how it goes in voting. After the elections everyone has voted for you. There is on way to tell whether that is correct or not. Indeed, I think once before in this House we saw that problems can arise in relation to the appointment of committees and that sort of thing. So the one basic ingredient is needed to work this system is to find out who has the majority. I submit that the difficulty with drafting this Constitution has been (and this was done in the United Kingdom, so I am not referring to anyone here) to try to come up with something that was drafted to replace an established system. If there are hidden problems trying to draft it, can you imagine what will happen when they try to work it?

We find that with one of the few areas, other than areas which are really not advancements of the Constitution, such as, a referendum or a Bill of Rights, and one that is an integral part of the Chief Ministerial system, there are already problems with it. Even if there is an open vote, there are going to be people in this House who may vote a certain way, because it is being done openly, whether or not it is their conscience. That is why the United Kingdom has said to do a secret ballot, the same as we are voted in here by secret ballot by members of the community. They have suggested a secret ballot for the voting for Chief Minister. The voting for Members of Executive Council is by secret ballot, but we know that works because it has worked for 20 or 30 years under the two Constitutions we have had.

The areas where examples were given in relation to a Chief Minster and similarities to him (and here I am referring to what the Second Elected Member for Cayman Brac and Little Cayman mentioned when he gave examples of a teacher among others), were examples of directors and a chairman and a similar important aspect of all of these different areas is that normally the chairman or head teacher, or the captain or whoever, is not somebody who is appointed and the Education Department gives the authority to hire or fire teaches as they like, that is the fist difference—the Chief Minister has that power. The Chairman of a Board, cannot hire and fire his directors. They are put in there by the shareholders the same as we are put in here by the people. About 2,000 years ago, a Greek by the name of Socrates said, "No man undertakes a trade that he does not understand, even the lowest of trades; but everyone considers himself competent for the most difficult of all trades—that of Government." That is something that still holds true because whoever has that amount of power had better understand he has the most difficult of all jobs in this country.

I would now like to deal with some aspects of what the Second Elected Member for Cayman Brac and Little Cayman dealt with. One of the areas that was mentioned was that in relation to some aspects of the Constitution, or perhaps most of those where it is controversial, that the first report was before the Members of the Committee had the benefit of the expertise of the Constitutional Commissioners. Several people mentioned this. A lot has been put on what the Constitutional Commissioners said and told them. We have to remember that when the first report came out, it did not recommend a Chief Minister. The report recommended a gradual moving into a Ministerial system of Government. The report also recommended in paragraph 38 a Leader of Government. So the Members by a very vast majority, if not unanimously, on most of these recommendations had made submissions to the Constitutional Commissioners and after they came and after there was debate, there was changing of views which, I will submit as far as Constitutional advancement goes, coincide with the present Constitution. Indeed, different Members at different times have said substantially that—there were differences in each of them referred to this, like the referendum and matters such as that that the Commissioners did not put in.

The scenario raised by several Members of how this new Constitution will be able to come into operation after the elections is one that only applies to the fact if there is a Chief Minister involved. It is another area that shows once again the problems that are going to arise with the taking of the second step. . .and I would like to deal with that in detail because I believe there has been a bit of confusion there. I know that this specific confusion that we have comes from trying to take the two steps at one time. If the Backbenchers and the candidates who are against a Chief Minister voted in the November Election there would be no Chief Minister and this hurdle or this dilemma would not arise. But there will be an Executive Council in place and no one among all those who are promoting a Chief Minister seems to be able to figure out what to do when the time comes, if they already have an Executive Council in place, and after a couple of months there may be shifting of political adherence and therein lies the problem. The people in Executive Council may not be the people the Chief Minister would want. To be very frank, it presents no problem to what we have put up because if they do see a fifth ExCo Member in place, you vote on one ExCo Member. But the difference is that you have a Government of four or five Elected Members, rather than having a Chief Minister who has power to make a new Government afterwards. This is the reason why the logical approach has to be one step at a time. If it is taken in two steps, the Constitution is simple.

We have had references made to a book, and here I am only dealing with the aspect of the way it was attempted to brush the book aside because it was 30 years old, or some-

thing. When this matter arose, and one of the Members read that, one of the Constitutional Commissioners stated. . .

MADAM SPEAKER: Honourable Member, could we pause for a few minutes, the tape has to be changed.

AT 5:17 P.M. PROCEEDINGS WERE INTERRUPTED TO ENABLE THE TECHNICIAN TO CHANGE THE TAPE.

PROCEEDINGS RESUMED AT 5:22 P.M.

MADAM SPEAKER: Please continue, Honourable Member.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. The next area that I would like to deal with, and I will deal with only one area because Members either dealt in whole or in part with some areas relating to this, will go on to show that the Members of this House had no mandate from the people at all for any Constitutional change. I have shown on what was levelled at me that we were going back on a referendum. But, in the Minutes and the Report of the Select Committee, the Motion which brought about the Select Committee, Motion 25/90, had specifically stated that it was not a campaign issue and it was not publicly debated by any candidate. I submit that this binds Members of this House. There was reference made by the Second Elected Member for Cayman Brac and Little Cayman that I had held up that Motion. In fact different Members took and used in their favour where it referred to the fact that the changes other than the addition of the three seats would not take place without being the subject of a General Election. That is correct, Madam Speaker. I did hold it up. But what I think needs to be known is that out of that holding up we got into this Motion what I had hoped would have been the mandate for going back to the people in a General Election—one of the things that I insisted be inserted in that. I was not prepared to support any type of motion relating to the constitution that was not the subject of a General Election or a referendum. In fact, I wanted that tied a lot tighter because I have the old drafts of this. I had originally wanted it to say in the recitals as well as in the operative part, "WHEREAS it is an established principle that no Constitutional advancement shall take place without the changes being the subject of a campaign and a General Election, and that this Select Committee is not a substitute therefor." I did not get it all in, but it had two very good areas that the hold up was able to bring about and it said that we had no mandate, and secondly it said that the changes should not take place without it going to a General Election.

I submit that for the period it was held up it was worth it to get those two in the Constitution because I believe that that Resolution was one of the turning points along with the Minority Report why the United Kingdom rejected the Commissioners' views. Remember, we are looking at the Foreign and Commonwealth Office rejecting the Constitutional Commissioners" views and the Majority Report when there was an attempt to bring in the Constitution immediately after the next coming General Election.

From there, I would like to move on to deal with one section of the Manifesto of the Member for Education in which he attempted to explain his position. This is headed 'The Constitution and Government: Retaining our present Constitutional status as a Crown Colony, thereby ensuring our continued economic and political stability." He is knowledgeable in legal drafting. When you look at the meaning of this it says, "Retaining our present Constitutional status as a Crown Colony, thereby ensuring our continued economic and political stability." Anybody picking that up, especially the man in the street from whom they were looking for votes from, could say, 'He is going to retain our Constitutional status.' If he meant that he was going to advance the Constitution down to full internal self government, he should have said so. Was he making a very short statement which could be taken by the man on the street to mean something totally different from what he has tried to interpret this as? If the interpretation was to 'retain' it, then why were the word 'present' put in at that time? I submit that the statement made in this, "thereby ensuring our continued economic and political stability", is exactly what they are going against today. The impression given by this Manifesto is that they are going to retain our present Constitution status as a Crown Colony and retain our economic and political stability. The Member is very careful with words. If he intended to advance the Constitution, I doubt that, if that had been put in here that he intended to advance the Constitution, he would be sitting in that chair today.

POINT OF ORDER
(Member misleading House)

HON. BENSON O. EBANKS: On a point of order, Madam Speaker. The Member is misleading the House and the nation on this point.

MADAM SPEAKER: Please sit down Third Elected Member for George Town. Make your point of order, Honourable Member.

HON. BENSON O. EBANKS: At no point in my debate did I say that that indicated no Constitutional change. This is the interpretation the Member is putting to it. What I said was that there was nothing inconsistent in that statement with what is proposed to be done in the recommendation of the Commissioners or the Select Committee.

MADAM SPEAKER: I accept the Point of Order and ask the Member not to continue in that vein any longer.

MR. TRUMAN M. BODDEN: I will not continue on that aspect, but the inconsistency reflects in another way. In the Resolution that the Honourable Member for Education agreed to for the Select Committee, he specifically said that the review was not a campaign issue and it was not debated during the General Election and that it must go back to the public. That, therefore, means as I understand it. . .

POINT OF ORDER
(Member misleading House)

HON. BENSON O. EBANKS: Madam Speaker, on a point of order. Again, there is nothing inconsistent with that and what was done. The Motion requesting the Constitutional Commissioners did not say that there would be Constitutional change—it asked for a review and for them to advise.

MADAM SPEAKER: I have accepted the point of order and I ask the Third Elected Member for George Town to not continue dealing with the inconsistency on "Crown Colony status". That can still be maintained with Constitutional advance. So it does not mean that once we are at a stage that we cannot move forward and not still remain a Crown Colony. That part is quite clear and that point of order is quite correct. So, please do not continue with any inconsistencies. If you want to talk about matters going before the public for a review, that is different altogether.

MR. TRUMAN M. BODDEN: I am going to read, not dealing with inconsistencies, what the Resolution itself stated. Motion 25/90, the last part of it: "BE IT FURTHER RESOLVED THAT this Honourable House recommends that the implementation of any recommendations for Constitutional changes with the exception of paragraph 3 above shall not take place without the changes being the subject of a General Election." I leave it on that point. What I find intriguing is how different Members have tried to deal with their obvious change in relation to the Constitution as time has progressed. One of the Members (and I am moving on to a new area now) dealt with the question of collective responsibility, the Member for Communications and Works.

[Certain words were ordered by the Speaker to be expunged from the record.]

HON. LINFORD A. PIERSON: Madam Speaker, on a point of order.

POINT OF ORDER

MADAM SPEAKER: May I hear the point of order?

HON. LINFORD A. PIERSON: The Member is misquoting me. I did not mention anything to do with the hospital during my debate on the Motion which is now before the House. I am referring to Standing Order 35. There was no mention of the hospital when I was speaking on the question of collective responsibility.

MADAM SPEAKER: Honourable Member, do you have the transcript of the Minutes there? Would you please read the section, dealing with the 'Hospital'?

MR. TRUMAN M. BODDEN: The difficulty is that I do not have it as such. I would have to look for it. But, he mentioned collective responsibility in depth. It is found at page 17. I do not necessarily need to refer to the hospital to deal with this, but we know he had difficulty on it..

MADAM SPEAKER: If that is the case and you cannot point out to me where he mentioned the hospital, then the Honourable Member has a valid point of order. You will have to withdraw your remarks in respect of the 'hospital' if you cannot find the section there in the transcript where he mentioned

'hospital'. We are talking about today's debate, and cannot refer to any other debate on that matter please. If you can find what he said about the hospital I will accept it. If not, the Member has a valid point of order.

MR. TRUMAN M. BODDEN: Madam Speaker, it is not important enough for me to stop because he spoke at length on it. It covers about a page and a half. I thought reference was made to the difficulty. . . But I do not need to talk about the hospital.

MADAM SPEAKER: I ask you to withdraw your remarks.

MR. TRUMAN M. BODDEN: I withdraw my remarks.

MADAM SPEAKER: Thank you. I am asking then that the remarks be expunged from the records.

MR. TRUMAN M. BODDEN: I am going to deal with collective responsibility generally. When a Member is in Executive Council, any Member on the Elected side, and a decision is taken at the time which is agreed to by that Member, and subsequent to that a Member finds himself in difficulty, then he is not permitted to just go out and change his vote in this House. But the system has worked well under all Constitutions that we have had and the way to deal with a problem like that is to take it back to Executive Council where the difficulty arose and find out whether it is possible to have one of two things done: If it is an issue that is immoral, or a Constitutional issue (and there are four categories) then it is up to the Governor in his discretion to decide if he is going to relieve the Member or not. But there are clearly defined areas in which the relief is given. But if the decision is taken and subsequently a Member changes his mind, then the choice that he has is one which, peculiarly, under our Constitution there is not provision for what normally happens under the Westminster system. In fact, there should be no reason why a Member of Executive Council should get himself in that position because the only difficulty one will hit with collective responsibility is if there is an attempt to abuse it.

You have to follow along the lines of the Government's policies and you cannot twist and turn as you feel. We know that in relation to one aspect of the Majority Report that the Minority Report contested in relation to the Public Service Commission and the question of political interference in the Civil Service, that the Member for Communications and Works did come in here and basically say that he felt that what was said in the Majority Report he would not fully support. The example that I am trying to give is that it is not as if it is a rigid system. There are instances when things can happen where a Member can speak against, as well as vote against, issues in this House. But what cannot happen is if there is an abuse (and I am speaking generally) of the process and you have a Member trying to go out of line with what he has decided earlier without going back through the proper process, then that Member can obviously get into difficulty. But it is not a problem with the system, it is a problem with an abuse or moving outside of the accepted ramifications of collective responsibility.

I would now like to go on to deal with references in relation to what has happened around the post of Financial Secretary. At this stage I am going to begin by referring to the Minutes of the Select Committee. This first reference is at page 10 of the Minutes of 5th August, 1991. In this there is a reference, in fact there is a second reference that I would like to use because it refers to the Chief Secretary's position and both seem to have been discussed in those same Minutes. At page 10 it says: "Hon. Linford Pierson supported the view of the Caymanian Bar Association, advocating that the post of Chief Secretary was not necessary. He intimated that he saw the post of Financial Secretary being allotted to an Elected Member at some future time, as same should come under political responsibility."

A further reference to this is at page 2, 14th October, 1991, there was references there to removing from the Minutes the references that the Financial Secretary (and this does not relate to this Member specifically, these are the Minutes), the assignment of responsibilities to him should be deleted. It reads: "The Committee by majority consensus agrees to delete the provision: 'The Financial Secretary should retain responsibility of Finance'." That was promoted and agreed to by the Member for Communications and Works. In fact. . . I objected to this. I am going to come to where the danger lies in this in due course. It does not appear in the report as to what the effect of removing that has.

Prior to this the Constitution did not provide specifically. . .

HON. BENSON O. EBANKS: Madam Speaker, if the Member is seeking some help as to what that meant, maybe he should refer to the section of the Minutes under 'Assignment of Responsibility' on the first page of those Minutes.

MR. TRUMAN M. BODDEN: Madam Speaker, is he taking a point of order, of merely standing up and debating?

HON. BENSON O. EBANKS: I was hoping that it was your intention to tell the truth, the whole truth, and nothing but the truth on this when you said there was no indication in the Minutes as to what this meant and what the significance of it was. I think if you read what I have suggested the significance is there.

MADAM SPEAKER: Please, let us have no further interruptions. Please proceed Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: I, of all people, do not need any legal help on this matter from that Member. Unless the Member does stand and say he has a point of order, I would like to continue standing unless you feel that he does have a point of order, rather than just standing up.

MADAM SPEAKER: Honourable Member, he has to say that he has a point of order. When he says that you have to sit and I have to hear it. That is the procedure on a point of order.

MR. TRUMAN M. BODDEN: Why I referred to that is because I did not hear the Member say it was a point of order. I may be wrong there, but I think he stood up and made a speech, rather than saying that he had a point of order.

MADAM SPEAKER: He did.

MR. TRUMAN M. BODDEN: We find that there was this move to get the statement made and in the Constitutional Commissioners' Report so that the position of Financial Secretary who is responsible for Finance could have the responsibility shifted by the Governor to an Elected Member. Now, this comes to what creates an interesting situation.

POINT OF ORDER

HON. BENSON O. EBANKS: Madam Speaker, on a point of order. The Member is deliberately misleading the House. The section of the report he is dealing with is explicit on that. Under 'Assignment of Responsibility' it reads: "Discussion ensued as to whether or not it is necessary to retain the recommendation that 'The Financial Secretary should retain responsibility of Finance.' The majority of Members considered that the provision was redundant inasmuch as the Financial Secretary is Government's financial advisor and that it would follow that he is the person responsible for finance."

MADAM SPEAKER: Honourable Member, could you clear that up then?

MR. TRUMAN M. BODDEN: You regard this as a point of order? I will take it as that. What I am saying is that once you remove this provision that the Constitutional Commissioners were putting in, or that we were putting in this, then once we delete 'The Financial Secretary should retain responsibility of Finance' as set out in the Minutes, because under the Constitution it is not one of the reserve matters to the Governor. The Governor can give it to an Elected Member. I am going to show you why the United Kingdom it its wisdom put it back in.

A lot was said in here about Montserrat and 30 years of Chief Minister and Ministerial system. Within the past few years we have seen that there were serious problems in relation to the finances which were then run by an Elected Member in that country in relation to the banking industry. The United Kingdom, as I am told, specifically took Finance away from the Elected Member and put it back under the Financial Secretary because of the mess that was made and the subsequent problems that followed in relation to moving that specific area. . .

MADAM SPEAKER: Honourable Member, I am afraid that I do not follow the gist of your argument, because the Draft Constitution here has a Financial Secretary. I assume his responsibility would be Finance. So, I do not get the argument about what happens in the other Caribbean territories, or what relevance that has here today. Nobody has requested that the Financial Secretary should not be assigned that, or that there should be an Elected Member.

I understood very clearly what the Third Elected Member for George Town said when he read what the Honourable Member for Communications and Works said that at some future time an Elected Member would have Finance. Some future time is not now. It is not being contemplated now.

MR. W. McKEEVA BUSH: On a point of order, Madam Speaker. You are addressing the House, and with all due respect, I do not think you can address the House, tell us these things and then not allow us to say something. What the Member for Communications and Works has said is to point to a future time. . .

MADAM SPEAKER: Honourable Member, give me the point of order.

MR. W. McKEEVA BUSH: It is a point of order to me and it is very important and relevant to the Constitution before us.

MADAM SPEAKER: Honourable Member.

Mr. W. McKEEVA BUSH: And he has constantly said it!

MADAM SPEAKER: Honourable Member, I consider 'future time' as just what it says, future time. That is not a point of order. There is no debate on it. Please, Third Elected Member for George Town, continue.

Mr. W. McKEEVA BUSH: After Election, that is what it means.

MR. TRUMAN M. BODDEN: If I cannot give an interpretation to what I understand the provision is and leave the other side of the House to deal with it, then I am in a difficult position. It is difficult dealing with the other side of the House, but I do not want to get into an argument with you. I just make that clear. I know it is difficult because Montserrat was brought into this in relation to the question of Ministerial responsibility and how good it was for Montserrat which it had for 20 years or something. I do not want to go into that speech. But let me just read what is in the Minutes because I regard this point as very important: "The Committee by majority consensus agrees to delete the provision: 'The Financial Secretary should retain responsibility of Finance'." Why delete it if he is going to retain it? That is the only point I am making. If that is what is meant, why delete it?

There have been statements made from time to time on some of these matters. There have been comparisons made between the systems here and in other countries. There are further references that I would like to have time to research because there has been a lot of emphasis put on the Official Members and their having all of the responsibilities of the Elected Members.

MADAM SPEAKER: Honourable Member, we have reached the time of 6:00. Before I ask for the adjournment motion. I have been informed by the Honourable Temporary Second Official Member that he will be off the island tomorrow and will not be in attendance for the last sitting of the House prior to the dissolution. I would like to take this opportunity on behalf of all Members to thank him most sincerely for all of his help and guidance to Members and to me as Speaker during his time here. I am sure Members will agree that the House has been honoured by his presence and his advice and assistance have been very valuable and much appreciated. I wish the Honourable Temporary Second Official Member God's blessings as he continues to serve these islands as Solicitor General when he resumes his substantive post on the arrival of the newly appointed Attorney General. Perhaps the House may again have the pleasure of welcoming him at some time in the future.

May I have the Motion for the adjournment?

ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, I move the adjournment of this Honourable House until 10 o'clock tomorrow morning.

MADAM SPEAKER: The question is that the House do now adjourn until tomorrow morning at 10 o'clock. I shall put the question. Those in favour please say Aye... Those against No.

AYES.

MADAM SPEAKER: The Ayes have it. The House is accordingly adjourned.

AT 6:04 P.M. THE HOUSE STOOD ADJOURNED UNTIL 10:00 A.M., FRIDAY, 18TH SEPTEMBER, 1992.

FRIDAY
18TH SEPTEMBER, 1992
10:22 a.m.

MADAM SPEAKER: Prayers by the First Elected Member for Cayman Brac and Little Cayman.

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 Speaker of the Legislative Assembly, the Members of Executive Council and Members of the Legislative Assembly that we may be enabled faithfully to perform the responsible duties of our high office.

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

Let us say the Lord's prayer together:

Our Father who art in Heaven, Hallowed be Thy Name, Thy Kingdom come, Thy will be done 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 the light of His countenance upon us and give us peace now and always. Amen.

ANNOUNCEMENTS BY SPEAKER

MADAM SPEAKER: Please be seated. Proceedings are resumed in the Legislative Assembly. I welcome, on behalf of Members of this House, the Honourable Clive Borrowman who will be sitting in temporarily at today's last sitting of the House.

ORDER IN THE PUBLIC GALLERY

MADAM SPEAKER: May I ask the gentleman who is standing in the Public Gallery to please be seated? Thank you.

PRESENTATION OF PAPERS AND OF REPORTS

REPORT OF THE STANDING FINANCE COMMITTEE
(Meeting held 14th September, 1992)

MADAM SPEAKER: Item 2 on today's Order Paper, Presentation of Papers and Reports. Report of the Standing Finance Committee. The Honourable the Third Official Member.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Standing Finance Committee meeting held on the 14th of September, 1992.

MADAM SPEAKER: So ordered.

HON. GEORGE A. McCARTHY, JP. Madam Speaker, as the deliberations of the Committee were extensively aired, it is proposed that the details of sums approved be presented by Heads of Estimates or by Department. Amounts approved according to Departments: Audit - $8,000; Finance and Development - $355,053; Customs - $4,500; Insurance - $125,489; Legislative - $3,000; Marine Survey - $3,600; Internal and External Affairs $147,794; Personnel - $135,250; Fire Department - $57,000; Education, Environment Recreation and Culture - $186,760; Education - $337,000; Health and Social Services - $3.1 million; Social Services - $79,884; Communication Works & Agriculture - $73,250; Mosquito Research & Control Unit - $60,000; Postal - $55,000; Public Works - $92,000. The total approved, Madam Speaker, was $4,823,580.

Madam Speaker, Other Matters dealt with: The Standing Finance Committee ratified virements totalling $10,166, as approved by the Financial Secretary during the period July through August, 1992, in accordance with section 2.70 of the Financial and Stores Regulations, 1986.

The Finance Committee also ratified variation of funds totally $39,950, as approved by the Financial Secretary during the period July through August 1992 in accordance with

section 2.70 of the Financial and Stores Regulations. This dealt with variation of funds within the same classification under capital expenditure.

Another item was Capital Expenditure Items Between Different Classifications. The Standing Finance Committee approved virements totally $59,962 which represented the movement of funds between different classifications under capital expenditure which resulted in a change of purpose of the original funds as approved by the Committee.

New posts created through Personnel Administration for the period January through June 1992. Ten new posts created through Personnel Administration for the period as mentioned were presented for the attention of the Committee.

Authorisation to increase the $4.5 million overdraft limit on the Government's operating account at Barclays Bank PLC to $9 million. By a majority vote the Committee gave approval for the Government to approach Barclays Bank PLC to seek an increase of the overdraft limit on the operating account from $4.5 million to $9 million.

Finally, the Standing Finance Committee gave its approval for a sum of $5,447.50 to be granted to the National Council of Voluntary Organisation to be used to pay the stamp duty on the transfer of George Town Central Block 14CF, Parcel 136.

Thank you, Madam Speaker.

1990 REPORT OF THE STANDING PUBLIC ACCOUNTS COMMITTEE ON THE COMPUTER SERVICES OF THE GOVERNMENT OF THE CAYMAN ISLANDS

MADAM SPEAKER: Thank you.

The 1990 Report of the Standing Public Accounts Committee on the Computer Services of the Government of the Cayman Islands. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I beg to lay on the Table of this Honourable House the Report of the Public Accounts Committee on the Computer Services of the Cayman Islands.

MADAM SPEAKER: So ordered.

MR. ROY BODDEN: Madam Speaker, in light of the time, and the volume of business of the House I will not read this Report. I will only say that this Report concludes this and previous Committee's work concerning the value for money received from our Government's investment in computing services. Our conclusions and recommendations are based upon our examinations of the Government witnesses and upon a memorandum to us from the Auditor General on the Government's Computer Services, which is found in Annex I. I might say in closing that it is generally a favorable Report of the Computer Services Department. Thank you.

FIFTH AND FINAL REPORT OF THE SELECT COMMITTEE (OF THE WHOLE HOUSE) ON IMMIGRATION LEGISLATION

MADAM SPEAKER: Thank you. The Fifth and Final Report of the Select Committee (of the whole House) on Immigration Legislation. The Honourable the First Official Member.

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to lay on the Table of this Honourable House the Fifth and Final Report of the Select Committee (of the whole House) on Immigration Legislation.

MADAM SPEAKER: So ordered.

HON. J. LEMUEL HURLSTON: Madam Speaker, this Select Committee was established on the 22nd of February, 1989, upon the passing by the Legislature of Government Motion No. 2/89 as amended. This is the fifth and final report; four Interim Reports having been earlier submitted. In the interest of time, I propose to present just an outline of the various paragraphs as presented in the Report.

Paragraph 2 contains the amended motion. Paragraphs 3 and 4 deal with the Chairmanship and Membership of the Committee. Paragraph 5 deals with changes in Membership of the Committee. Paragraph 6 sets out that 31 meetings were held by the Committee. Paragraph 7 sets out that the Minutes of these meetings, together with the Interim Reports, form part of this Final Report. Paragraph 8 sets out that Interim Reports have been previously presented. Paragraph nine sets out the papers that were considered by the Committee. Paragraph 11 sets out the oral representations received. Paragraph 12 addresses the White Discussion Paper that was published by the Committee. Paragraphs 13, 14 and 15 deal with representations made. The remaining paragraph sets out, in summary, the recommendations to the various amendments that were proposed by the Committee and these have all been presented in the Legislature in the form of Government bills. Paragraphs 17, 18 19 and 20 simply set out acknowledgments and the summaries of the Report.

Thank you.

REPORT OF THE STANDING BUSINESS COMMITTEE

MADAM SPEAKER: Thank you, Honourable Member. Report of the Standing Business Committee. The Honourable the First Official Member.

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to lay on the Table of this Honourable House the Report of the Standing Business Committee.

MADAM SPEAKER: So ordered.

HON. J. LEMUEL HURLSTON: Madam Speaker, this Report refers to meetings of the Standing Business Committee whereat the Order of Business for the Third Meeting of the 1992 Session of the Legislative Assembly, which commenced on the 2nd of September, 1992, was considered. The Committee held two meetings on the 28th and 31st August, 1992. The Minutes of these meetings form a part of this Report and are attached thereto. A total of 10 Business Papers setting out the Business for this Meeting were duly circulated. The Committee agrees that this Report be the Report of the Committee to be laid on the Table of this Honourable House at the current Third Meeting of the 1992 Session of the Legislative Assembly.

MADAM SPEAKER: Thank you.

The next item on today's Order Paper - Statements by Members of the Government. The Honourable the Elected Member for Tourism Aviation and Trade.

STATEMENTS BY MEMBERS OF THE GOVERNMENT

STATEMENT BY THE HONOURABLE ELECTED MEMBER FOR TOURISM AVIATION AND TRADE ON THE REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE AUDITED ACCOUNTS OF THE GOVERNMENT OF THE CAYMAN ISLANDS FOR THE YEAR ENDED 31ST DECEMBER, 1991.

HON. W. NORMAN BODDEN: Thank you, Madam Speaker.

Pursuant to Standing Order 30, I rise to make a statement on a matter of general public concern and for which the Government has general responsibility. The matter, Madam Speaker, relates to the accounts of Government, to wider considerations of Government policy and to the comments upon them which are contained in the Report of the Public Accounts Committee (PAC) laid on the table of this Honourable House on Wednesday, 16th September, 1992, and read by the Chairman, the First Elected Member for Bodden Town. The Government regrets that, notwithstanding the procedure laid down by Standing Order 74 sub-order (7) which provides that the detailed response to the PAC Report would await presentation of the formal Government Minute, the Government once more feels obliged to make an immediate response to statements contained in the Report of the PAC.

Madam Speaker, this is not the first occasion on which an immediate response to the Report of the PAC has been compelled by the nature of the contents of such a Report. A similar response was necessitated in November of 1990. Then, and now, the Government's concern is that the PAC in its report has overstepped the bounds of its parliamentary functions and has deliberately set out to use its Report as a vehicle for the political criticism of Government. In so doing, Madam Speaker, the Report employs inflammatory language, misleading language and therefore unparliamentary language. Government's concern in making this statement goes beyond its concerns about unfair criticism. This improper use of the Committee's Report is an abuse of the parliamentary process.

Furthermore, Madam Speaker, in levelling this sort of criticism the Committee has used its position as a powerful instrument of this Honourable House, to indict and condemn the intentions and efforts of many hapless persons, or groups of persons, who are unable to respond for themselves. The reason for these concerns will be clearly illustrated below when I come to quote extracts from the Committee's Report. Before so doing, Madam Speaker, it is important that this Honourable House be reminded of the purpose of the Public Accounts Committee. That purpose is clearly set out in Standing Order 74 Order (1) as follows:

> "There shall be a Standing Select Committee, to be styled the Public Accounts Committee, to consider reports of the Auditor General -
>
> (a) on the accounts of the Government;
>
> (b) on such other accounts required to be laid before the House as the Committee may think fit; and
>
> (c) on any matter incidental to the performance of his duties or the exercise of his powers as the Committee may think fit.".

That, Madam Speaker, does not authorise the PAC to seek to redefine Government policy or to undertake a free-roaming criticism of policy beyond the areas examined in the Auditor General's Report. Nor, Madam Speaker, does it authorise the PAC to embark upon unfair and destructive criticism of those charged with responsibility of implementing Government policy.

In the statement which the Government was obliged to make in November 1990 in response to the report of the PAC, the following passage from the 21st edition of *Erskine May*, page 661, was read as an accurate description of the function and purpose of a Public Accounts Committee. I read this passage once more to re-emphasise this most important principle: "The [Public Accounts] Committee does not seek to concern itself with policy; its interest is in whether policy is carried out efficiently, effectively and economically.". It is clear from this, Madam Speaker, that the PAC's objective should not be to level general and

unwarranted criticism at Government and, most definitely, not to do so by use of inflammatory and unparliamentary language.

I turn now to specific passages from the report which illustrate Government's concern. At page 6, item 12 (6)(i), **Cayman Airways:**

> "(i) The Auditor General in his Report notes that Cayman Airways is technically insolvent and is wholly dependent upon the Government's financial support to enable it to continue as a commercial going concern. This is a shocking state of affairs and indicates the negligence and mismanagement that has occurred at this large and important enterprise. Our latest available figures show CAL (Cayman Airways Limited) to have an accumulated deficit of some $35.3 million. This is nearly one-third of all of Government's annual recurrent revenues. This is a catastrophe of major dimensions and seriousness. The Committee recommends that Government urgently implement strong and effective control over CAL's expenditures and performance. The Committee's conclusion is that the Government, the CAL management, has been grossly negligent in the running of this public asset and has endangered the country's prosperity and many jobs held by Caymanians.".

At page 7, item 12 (6)(iv) and (v) and item 12 (7):

> "(iv) The Committee was troubled to learn that the Cayman Airways' Board had not participated fully and properly in authorising certain decisions of the Airline. This is a breach of the proper running of a company.....".

It is noted that no factual evidence was presented to substantiate this statement. Quoting from item 12 (6)(v) and item 12 (7):

> "(v) The Committee was shocked to hear the full details of the circumstances of the claim settled with Guiness Peat Aviation (GPA). This arrangement with GPA was a very poor business deal and is an enormous drain on the resources of the Airline and the country. The Committee is amazed that there was no break-clause in the original lease agreement and concludes that your legal advisors have been very naive."
>
> (7) **Civil Aviation Authority**
> It is also recommended that the Government thoroughly examine the relationship between Cayman Airways and the Civil Aviation Authority to establish proper guidelines and procedures for the prompt settlement of debts so as to avoid, in future, secret subsidies and assistance to CAL, via the CAA.".

At page 9, item 12 (12) **Removal from Office of the Auditor General**, sub-paragraph (v):

> "(v) The Committee is deeply concerned and dismayed by the Governor's action in not continuing with the present Auditor General in office without just or reasonable cause. There has been no complaint that the Auditor General has failed to provide the "good behavior" required by the Public Finance and Audit Law. Quite the opposite, our Auditor General has fearlessly and impartially reported the facts on many issues of substance and importance. This action by the Governor may generously be viewed as "political." Less generously it may be viewed as a deliberate attempt to restrict the effectiveness of the Auditor General, the Cayman Islands Audit Office and the public accountability system. One may view this action with the utmost suspicion and trepidation. This has severely damaged the credibility of the Government's commitment to provide good public accountability. Further, we are genuinely puzzled that the Government would wish to attempt to weaken this independent institution which is dedicated to improving the value for money the Government provide to their tax, fee and charge payers, the public at large.".

This is obviously politically motivated and clearly outside the remit of the Committee's Terms of Reference.". At page 11, item 13 (8):

> "(8)**Tendering and Contracting**
> The PAC is shocked and concerned that a contract the size and importance of the new Hospital's did not go to the Central Tenders Committee (CTC). This appears to be a sly and underhanded evasion of properly agreed procedures and promises given to this Committee and the Legislative Assembly. The Committee is very displeased that the Government has avoided the Committee's specific question of why these contracts did not go to the CTC. The Committee can only repeat, that if sound, sensible and recommended procurement procedures are not followed, or if they are deliberately avoided through technicalities, then allegations of impropriety or worse may well continue to be expected and not easily disproved.".

At pages II and 12, item 13 (10):

"(10) **Public Sector Investment Committee (PSIC)**
..... The Committee places great stress on all areas of Government complying with the PSIC procedure so that we do our best to only invest in projects which are a top priority and bring value for money. Public resources are scarce and apparently getting scarcer. The country cannot afford to invest its limited revenues in extravagant "white elephants" or "pork barrel" ventures.

The Government has refused to inform the Legislative Assembly and this Committee of the results of PSIC's appraisal of the new Hospital projects. The Committee considers this a shameful breach of the privileges and rights of this parliament and a blatant attempt by the Government to avoid proper accountability and scrutiny of its actions. ..... The last 3 years have seen the arrival of Government tactics which are designed to frustrate and cover up legitimate scrutiny of their various activities and this cannot be allowed to continue.".

Madam Speaker, the Government is fully convinced that those excerpts illustrate an abuse of the process. They contain language which is unparliamentary. Expressions such as "tactics which are designed to frustrate and cover-up legitimate scrutiny ..." and "sly and underhand evasion of properly agreed procedures" are nothing less than an unfair and unwarranted attempt to level accusations for political opportunity and advantage. The Government takes exception to them and must express its disappointment and concern that the Report of a Committee of this Honourable House should be used for such purposes.

Thank you, Madam Speaker.

MADAM SPEAKER: Item 4 on today's Order ...

MR. W. McKEEVA BUSH: Madam Speaker, before you move to item ...

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, Madam Speaker. I would like to ask the Member a question. Since the Member took the time to read a part of *Erskine May* to support the statement that the PAC cannot comment on policy, why did not the Honourable Member read the balance of the passage which points out very clearly what the duties of the PAC are? He stopped at "economically". The passage goes on to say:

"Its main functions are to see that public moneys are applied for the purposes prescribed by Parliament, that extravagance and waste are minimised and that sound financial practices are encouraged in estimating and contracting, and in administration generally. The committee also has a particular duty to look at excess votes.... The committee also considers memoranda submitted to it by the Comptroller and Auditor General (either on his own initiative or in response to requests made by the committee) and treasury minutes.... The Comptroller and Auditor General is required to take into account any proposals made by the committee in determining his programme of economy, efficiency and effectiveness examinations.".

MADAM SPEAKER: Honourable Member for Tourism Aviation and Trade.

HON. W. NORMAN BODDEN: Madam Speaker, Government's advice was that the quotation used in the Government's statement was sufficient for the purposes of this statement.

MADAM SPEAKER: Thank you. The next item. Item 4, Personal Explanations. The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. A question to the Honourable Member for Tourism. Is it not a fact that many of these statements, that you specifically read, were also the findings of the Auditor General of the Cayman Islands and in his Report where they originated?

MADAM SPEAKER: Honourable Member for Tourism.

HON. W. NORMAN BODDEN: Madam Speaker, I am certain that you are well aware of the Standing Order under which this statement is being made and I know that I do not have to remind you that this is not Question Time. I am prepared to answer questions, under points of clarification, to the statement which I just read. If that is the point that is being made by the Third Elected Member for George Town, my response would be that some of these items, or these items, yes, were raised by the Auditor General in his Report, but certainly not put across in the type of language which the Public Accounts Committee chose to present them in.

MADAM SPEAKER: May I once again ask the gentleman who is standing in the Public Gallery to be seated? Thank you.

We will now proceed to Item 4, Personal Explanations. The Second Elected member for Cayman Brac and Little Cayman.

MR TRUMAN M. BODDEN: Madam Speaker ...

MADAM SPEAKER: I have allowed a question and there will be no further questions. The Member has answered to the best of his ability. We will now proceed with the Order Paper. Personal Explanations. The Second Elected Member for Cayman Brac and Little Cayman.

PERSONAL EXPLANATIONS

By the Second Elected Member for Cayman Brac and Little Cayman

MR. GILBERT A. McLEAN: Madam Speaker, I rise to make a personal explanation in response to comments made by the First Elected Member for West Bay during his debate on Thursday, 10th September and Friday, 11th of September, on Private Member's Motion No. 13/92 entitled "Debate on Draft Constitution 1992". In the Member's comments on Thursday, 10th September, and Friday, 11th September, 1992, allegations were made that I, as a Member of the group commonly referred to as "Backbenchers", acted in a manner which could be interpreted to question my integrity.

I categorically state that I have at all times, to the best of my ability, understanding and belief dealt with all Members of the Legislative Assembly forthrightly and with due respect for the office each Member holds as an elected representative of the people. I was elected as an independent Member of this Legislature in November 1988 and have had associations with other Members who shared similar political views and who were prepared to work with a plan of objectives - avoiding personalities. I need not go into any details of these associations.

Suffice it to say that I was an "opposition" Member, from the beginning, and continue to be, I am not a back-bencher by definition. *"An Encyclopedia of Parliament"* by Norman Wilding and Philip Laundy defines a "BACKBENCHER" as: "...the term applied to the 'private member' who does not hold any ministerial office. He occupies a back bench, the front benches being reserved on the Government side for ministers and parliamentary secretaries, and on the other side for the leading members of the Opposition.". In September 1991 I chose to detach myself from the general affiliation of the group and to take a more neutral political position. This I saw as affording me individual control in personality conflicts, more forbearance and avoidance of purely partisan conflicts on political issues.

Additionally, conditions at the time, and for sometime prior, seemed to be such that my views and beliefs conflicted with those of some Members - both in substance and goal accomplishment. I, however, tried to reach a compromise through meetings and discussion -- and, Madam Speaker, I beg to lay on the table of this Honourable House copies of four letters in evidence of this. As I did not wish to attempt to impose my views or beliefs on Members of the group, nor surrender my views or beliefs to others with whom I could not agree, I considered it honourable to withdraw from the group and to proceed as I saw fit, leaving the group to do the same. I consider that the allegations made against me during the course of debate on the Draft Constitution are clearly against my exercising the right to differ with the minority views of the back bench. At no time will I accept to sacrifice my right to any person or entity to choose whom I will talk to, when or where. I also cherish my right to meet and assemble within the bounds of law.

My views on the Constitutional Review are set out in the minutes of the Select Committee, as are the views of all Members. I have no cause or desire to attempt to recant those views read in context as they factually exist. I have no need, since adopting a more singular political position, to seek guidance from the group on public or political matters and have no difficulty in discernment of what is proper, beneficial or in the best interest of the country and the people who elected me.

I categorically state that I have never, at any time, at any meeting, ever been assured or requested by any majority of Backbenchers to assume any position of leadership among them, Chief Minister or otherwise, and I have never on any occasion undertaken or accepted to do so. The process that the amendment or development of the Constitution will take has been declared by the administering power, the United Kingdom. As I said, I have expressed my views publicly on the whole matter of the Constitution and these are on record. I have no difficulty in placing faith in my fellow Caymanians in understanding the implications of the Draft Constitution or for them to grant to their own such esteem due to hold any office of public trust.

Thank you, Madam Speaker.

MADAM SPEAKER: Personal Explanation, the Honourable Elected Member for Health and Social Services.

PERSONAL EXPLANATIONS

By the Honourable Elected Member for Health and Social Services

HON. D. EZZARD MILLER: Thank you, Madam Speaker, for the opportunity to make a personal explanation on an issue raised in the Report of the Public Accounts Committee (PAC) on the Auditor General's Report on the 1991 Accounts which was tabled in this Honourable House on Wednesday, 16th September, 1992. Unlike other years, the present Government will be unable to table the customary Government Minute in response to this Report because the Legislative Assembly is being dissolved tomorrow.

I would take this opportunity, therefore, to address an issue which relates to me personally and which I believe imputes my integrity. This issue has been going on, Madam Speaker, since 1989. I would like to quote from the Public Account Committee's Report on the Auditor General's 1989 Report, pages 14 and 15, sections 82, 83 and 84, the first time this issue was raised.

"Unauthorised Payment of Expenses
82.Your Committee asked the Auditor General and the Principal Secretary for Health and Social Services (HSS) to confirm information which had previously been provided to the Committee concerning certain claims and payments for expenses made by the Member for HSS.

83.It appears to your Committee that these claims and payments for expenses relating to the entertainment of various consultants (but not including International Healthcare Corporation Ltd (IHC)) may not be properly authorized and not accounted for correctly.

84.We recommend that a full investigation of these possibly irregular payments be made as soon as possible. It is your Committee's expectation that a full report of this investigation will be presented to us at our next session in 1991."

I would now like to read the Government's response, page 39 of the Minute, to paragraphs 82 to 84 of the PAC's Report on the 1989 Accounts. I quote:

"The payments and claims made under the Member's signature, relate to official entertainment expenses incurred with respect to the Hazelden consultants involved with formulating the National Drug Strategy, and the International Directors of the Cleveland Clinic involved in negotiating the tertiary care referral agreement.

While it is conceivable that these expenses might have been incurred under a more appropriate subhead, this is a matter of internal accounting which has now been resolved to the satisfaction of Government."

On 30th October 1990, the Accountant General wrote to the Principal Secretary for Health and Social Services, as follows, and I quote:

"It has been brought to my attention that three items of expenditure were passed by your Portfolio for payment during 1989, which may be irregular.

The payments in question are:

13th March - Le Diplomat	$163.88
28th June - Grand Old House	84.24
6th June - Grand Old House	94.19

These amounts were charged to Fees - Consultancy, whereas it would appear that they were, in fact, official entertainment expenses. As the Controlling Officer under Financial and Stores Regulations, you will be aware of the provision in General Orders (Ch. 6.5.2.) that official entertainment expenditure cannot be properly incurred without the prior approval of the Financial Secretary.

I would be obliged if you would let me have an explanation of these occurrences, bearing in mind that the amount may have to be repaid to Government as provided in Financial and Stores Regulations."

The Principal Secretary had already given a written explanation of these expenses to the PAC, and the Government Minute of 1990 had further explained them. The Accountant General is now asking again for an explanation and intimating that the Principal Secretary might be held personally responsible.

In the circumstances, and considering that I had signed the chit and that the entertainment had been made by my Portfolio on Government's behalf, I replied as follows, and I quote:

"In reply to your memo dated 30 October, 1990 to my Principal Secretary concerning official entertainment by my Portfolio enclosed please find a cheque for two hundred and forty eight dollars and twelve cents (CI$ 248.12) to cover these expenses. I am rather surprised this was not picked up by your Department before it was paid, as I would have been quite happy to pay it at the time."

Madam Speaker, this shows that I took the responsibility for the payment of these bills out of concern for my staff, and not because anything improper was done. On 15th November, I received the Accountant General's reply acknowledging the cheque and enclosing an official receipt. Madam Speaker, the facts of the matter are as follows: (1) the expenditure incurred was legitimate entertainment of Government consultants which had been approved in Executive Council; (2) the bill was settled directly with the restaurant by the Treasury Department - not with me, or any member of my Portfolio; (3) the wrong sub-head was inadvertently debited.

Madam Speaker, at the time that this expenditure took place, the Portfolios of the Elected Members of Executive Council had no access to any funds for entertainment incurred on Government's behalf. Under the General Orders the three Official Members and the District Commissioner all

received an entertainment allowance. Since 1991 budgetary provision of $1,000.00 annually has been placed in the budget of Elected Executive Council Members' Portfolios, under the control of the Principal Secretary, for official entertainment. Now, Madam Speaker, the PAC raised this subject in its Report on the Auditor General's Report on the 1989 Accounts, the 1990 Report, and the 1991 Report. This demonstrates a consistent, deliberate attempt to misrepresent the facts and to discredit me.

Madam Speaker, I am tabling the evidence in this Honourable House which will show unequivocally that (1) I made no claim for official entertainment; and (2) I was never asked by the Accountant General, or anyone else, to repay any claim. Therefore, Madam Speaker, this section of the PAC Report 1991, page 11, section 13(3) is a deliberate misrepresentation of the facts, and should be struck from the record. Madam Speaker, when Government replied to last year's PAC Report it chose not to continue the debate on this $248.12. Instead, the Government Minute said simply "The Honourable Financial Secretary has agreed to issue a circular to all Principal Secretaries and Official and Elected Members of Executive Council reminding them of the policy and the basis upon which claims for entertainment expenses may be made."

Madam Speaker, this charade has gone on long enough. The PAC, the Auditor General, the Accountant General, or any other person or body, did not uncover any wrongdoing by me, or by my Portfolio, although they looked very hard. The one thing they did find was a minor accounting error, which they have flogged to death for the last three years in each successive PAC report. Madam Speaker, my position is that my integrity has been imputed intentionally. I therefore take the opportunity to show unequivocally that no one asked me to repay this money, and that the Treasury Department never stated that these fees were incorrectly claimed. The Accountant General said that the payment of these monies "may be irregular". Madam Speaker, that referred to the process that the bills were paid from one sub-head when they should have been paid from another. Rather than to have a big fuss made of this, and considering that I had signed the chit, I chose to pay the rather than to take it to the Financial Secretary, or to allow my Principal Secretary to be penalised.

Madam Speaker, I hope that the foregoing explanation, and the correspondence tabled with this statement, will put this matter to rest. I could not leave this Honourable House today with this attempt to stain my character, or my integrity, unchallenged. Therefore, I again thank you for the opportunity of making this statement, Madam Speaker, and I repeat that this inaccurate, unjustified, unsupported statement should be struck from the record.

MADAM SPEAKER: Thank you, Honourable Member. The next item on the Order ...

MR. TRUMAN M. BODDEN: Madam Speaker...

MADAM SPEAKER: There is going to be no debate on that statement. The Presiding Officer has that privilege, and I will allow no debate on the matter.

MR. TRUMAN M. BODDEN: No, not a debate, Madam Speaker ...

MADAM SPEAKER: Item 5, Government Business, Bills ...

MR. W. McKEEVA BUSH: On a Point of Order, Madam Speaker. On a Point of Order.

POINT OF ORDER

MADAM SPEAKER: First Elected Member for West Bay.

MR. W. McKEEVA BUSH: Thank you, very much. The Member has requested that statements be struck from the Report of the Public Accounts Committee. Can you tell me what the intention of the House is on this?

MADAM SPEAKER: I have no authority to authorise the expunging of records unless a motion is put forward to that effect and carried. If a motion is put forward and moved to the effect that certain words in any document of the House, which forms part of the *Hansards*, be removed, and if a majority agree, then I will authorise the expunging of those words from any report.

MR. W. McKEEVA BUSH: I challenge the Member to move the motion, Madam Speaker.

MADAM SPEAKER: The next item on today's Order Paper is Government Business - Bills. Third Reading.

GOVERNMENT BUSINESS

BILLS

THIRD READING

THE SUPPLEMENTARY APPROPRIATION (1991) BILL, 1992

CLERK: The Supplementary Appropriation (1991) Bill, 1992.

MADAM SPEAKER: The Honourable Third Official Member.

HON. GEORGE A. McCARTHY, JP: Madam Speaker, I beg to move that a Bill entitled The Supplementary Appropriation (1991) Bill, 1992, be given a Third Reading and passed.

MADAM SPEAKER: The question is that a Bill entitled The Supplementary Appropriation (1991) Bill, 1992, be read a third time and passed.

QUESTION PUT: **AGREED.** **THE SUPPLEMENTARY APPROPRIATION (1991) BILL, 1992, GIVEN A THIRD READING AND PASSED.**

MADAM SPEAKER: Second Reading.

SECOND READING

THE CAYMAN NATIONAL CULTURAL FOUNDATION BILL, 1992

CLERK: The Cayman National Cultural Foundation Bill, 1992.

MADAM SPEAKER: The Honourable Member for Education.

HON. BENSON O. EBANKS: Madam Speaker, I beg to move the Second Reading of a Bill entitled A Bill for a Law to Reconstitute the Cayman National Cultural Foundation.

MADAM SPEAKER: The question is that a Bill entitled the Cayman National Cultural Foundation Bill, 1992, be given a Second Reading. The motion is open for debate. The Honourable Member for Education.

HON. BENSON O. EBANKS: Thank you, Madam Speaker. The purpose of this Bill is to repeal and replace the Cayman National Cultural Foundation Law, 1984. The reason for this action is because in the operation of the 1984 Law certain inadequacies have been identified and this Bill seeks to change or to address those inadequacies.

The effect of the repeal and replacement will be to continue the foundation in existence but with a new constitution. The new constitution will provide that the Foundation is constituted by its members, persons and bodies of persons with an interest in the arts and culture in Cayman and that these persons will elect a council through which the foundation will carry out its functions and duties.

This was one of the main areas of deficiency in the 1984 Law. The law failed to identify a clear difference between the membership of the Foundation and the membership of the management committee and, as I said, this Bill seeks to correct that inadequacy.

Clause 1 of the Bill provides the short title. Clause 2 is the definition clause. Clause 3 continues the Foundation in existence but provides that it is constituted by its members. Clause 4 sets out the usual powers of a body corporate which the foundation will have. Clause 5 sets out the functions of the Foundation, namely to encourage the arts and culture in the Islands. Clause 6 sets out the powers of the Foundation, namely powers necessary or convenient for carrying out its functions. Clause 7 provides that the foundation will act through its council. Clause 8 sets out the constitution of the council, namely 12 elected members, Mrs. Helen Harquail or her representative and up to three appointed by the Governor-in-Council. Clause 9 contains provisions in respect of the members of the council. Clause 10 indemnifies members of the council against personal liability for acts of the council. Clause 11 provides that members of the council do not get paid a remuneration but may be paid their expenses. Clause 12 provides for the appointment of a Chairman and Deputy Chairman of the council. Clause 13 allows the council to appoint other officers to carry out specific powers and duties of the council. Clause 14 provides for the procedure of meetings of the council. Clause 15 provides for the council to keep a register of members of the council and to make certain documents available to members. Clause 16 gives the council power to delegate certain of its powers and duties. Clause 17 requires the foundation to keep accounts and to have them audited. Clause 18 requires the council to prepare an annual report on the activities of the Foundation. Clause 19 requires the Chairman to call annual general meetings of members of the Foundation. Clause 20 provides how members of the Foundation may be nominated for election to the council. Clause 21 allows the Chairman to call extraordinary general meetings of members of the Foundation, and for members to request an extraordinary general meeting to be called to discuss a particular matter. Clause 22 sets out the procedure to be followed at meetings of members of the Foundation. Clause 23 allows a member of the Foundation, which is a group of people, to appoint a representative to represent it. Clause 24 requires the council to submit certain reports to the Member of Executive Council with responsibility for the arts. The Member is required to table the reports in the Legislative Assembly. Clause 25 exempts the Foundation from certain stamp duty and other fees. Clause 26 allows the Governor-in-Council to make regulations for the purposes of the law. Clause 27 contains transitional provisions, mainly providing for the continuation in office of existing members of the foundation. Clause 28, Madam Speaker, repeals the Cayman National Cultural Foundation Law, 1984.

Madam Speaker, I have given and circulated a notice of committee stage amendments. Firstly, to Clause 1 which will basically stipulate that the Law shall come into force on such date as the Governor may by notice in the Gazette appoint.

There is an amendment to Clause 3 substituting "any person or

incorporated body of persons" for "any person or body of persons, whether or not incorporated.".

In Clause 4 there is the addition of another sub-clause which is normal in this type of institution. It ensures the protection of property, in particular, which is held in trust for the country, and that reads:

"(3) Notwithstanding subsection (1), the Foundation has no power -

(a) to acquire, lease or dispose of land; or

(b) to enter into any contract for the purpose of raising loans,

without having first obtained the approval of the Governor to do so.".

The amendment to Clause 23 sub-clause (1), Madam Speaker, is consequential on the second amendment changing the body of persons to an incorporated body of persons, as opposed to saying whether or not they are incorporated.

Madam Speaker, this Bill is quite a straightforward bill. I believe that Members understand the reason for the Bill. As I pointed out the original bill did not specify certain functions and acts which are normally expected to be specified in such a bill. It appears that there was the intention to give the organisation certain authority to make these by-laws, which the legal interpretation never fully supported.

I recommend this Bill to the favourable consideration of the House.

Thank you.

MADAM SPEAKER: The motion is open for debate. The Member for East End.

MR. JOHN B. McLEAN: Thank you, Madam Speaker. Madam Speaker, the six Backbenchers on this side of the House would like to congratulate the Government on this bill. We do feel it is a good one and it has our full support.

MADAM SPEAKER: If there is no further debate, would the Honourable Member wish to exercise his right of reply?

HON. BENSON O. EBANKS: Yes, Madam Speaker. I would like to thank the Members who have indicated their support and to congratulate them on the speed in which the six of them were able to convey that support.

QUESTION PUT: AGREED. THE CAYMAN NATIONAL CULTURAL FOUNDATION BILL, 1992, GIVEN A SECOND READING.

MADAM SPEAKER: The House will now go into Committee to consider a Bill entitled, The Cayman National Cultural Foundation Bill, 1992.

HOUSE IN COMMITTEE AT 11:26 A.M.

COMMITTEE THEREON

THE CAYMAN NATIONAL CULTURAL FOUNDATION BILL, 1992

MADAM CHAIRMAN: Please be seated. The House is in Committee to consider the Bill and, as is customary, I am sure the House will continue with its authorisation to the Second Official Member to make any corrections which are deemed necessary.

The Clerk will now read the clauses of the bill.

CLERK: Clause 1 - Short Title and Commencement.

MADAM SPEAKER: This is a new Clause and, according to Standing Orders, it can only be considered after the Clauses of the Bill have all been dealt with. Please continue.

CLERK: Clause 2 - Interpretation.
Clause 3 - Foundation continued in existence.
Clause 4 - The Foundation.

Amendment to Clause 3

MADAM SPEAKER: There is an amendment to Clause 3. Would the Honourable Member like to put that amendment?

HON. BENSON O. EBANKS: Yes, Madam Speaker, I beg to move the following amendment

to Clause 4 that an additional sub-clause ...

MADAM CHAIRMAN: I think we have an amendment to Clause 3, if I am not mistaken, Honourable Member.

HON. BENSON O. EBANKS: Sorry, Madam Chairman. In sub-clause (3) of Clause 3, I beg to move that the phrase "any person or body of persons, whether or not incorporated" be omitted and that it be substituted by the words "any person or incorporated body of persons".

MADAM CHAIRMAN: The Honourable Member has moved that in Clause 3, sub-clause (3), the words "any person or body of persons, whether or not incorporated" should be omitted and substituted by the words "any person or incorporated body of persons". If there is no debate, I shall put the question that Clause 3 be amended.

QUESTION PUT: **AMENDMENT TO CLAUSE 3 PASSED.**

CLERK: Clause 4 - The Foundation.

Amendment to Clause 4

MADAM CHAIRMAN: Honourable Member.

HON. BENSON O. EBANKS: Madam Speaker, I beg to move the amendment to Clause 4 that an additional sub-clause (3) be added with the following words:

"(3) Notwithstanding sub-section (1), the Foundation has no power -

(a) to acquire, lease or dispose of land; or

(b) to enter into any contract for the purpose of raising loans,

without having first obtained the approval of the Governor to do so.".

MADAM CHAIRMAN: The question is that Clause 4 be amended by an addition of sub-clause (3) as read out by the Honourable Member. Mr. Truman Bodden.

MR. TRUMAN M. BODDEN: Thank you, Madam Chairman. I support this amendment. It was one that was in the original Law. While I know it cannot perhaps be dealt with now, I would have been somewhat happier if we had, along with this, a clause which said that the property of the Foundation would be held in trust for the people of the Cayman Islands for cultural purposes set out by the Foundation, which was in the original law. I did mention this to the Government and they felt not. But, I just thought I should mention it.

MADAM CHAIRMAN: Honourable Member.

HON. BENSON O. EBANKS: My understanding, Madam Chairman, is that the prohibition, that no trading or dealings can take place in the property without the approval of the Governor, is sufficient to ensure that point. Further, there is a specific piece of property in question to which it is my understanding certain conditions are to be applied, and these have been agreed between Government, the Foundation and the donor which will unmistakably take care of this point as well.

MADAM CHAIRMAN: If there is no further debate, I shall put the question that Clause 4 be amended as proposed.

QUESTION PUT: **AMENDMENT TO CLAUSE 4 PASSED.**

CLAUSES 2, AND 3 AND 4 AS AMENDED, PASSED.

CLERK:
Clause 5 - Functions of Foundation.
Clause 6 - Powers of Foundation.
Clause 7 - Foundation to act through Council.
Clause 8 - Constitution of Council.
Clause 9 - Members of Council.
Clause 10 - Indemnity.
Clause 11 - Expenses of Members of Council.
Clause 12 - Chairman and Deputy Chairman of Council.
Clause 13 - Other Officers of Council.
Clause 14 - Meetings of Council.
Clause 15 - Records to be kept and made available.

Clause 16 - Power to delegate.
Clause 17 - Accounts.
Clause 18 - Annual Report.
Clause 19 - Annual General Meetings of Foundation.
Clause 20 - Nominations for Election to the Council.
Clause 21 - Extraordinary General Meetings of the Foundation.
Clause 22 - Meetings of Foundation.
Clause 23 - Group membership.

Amendment to Clause 23

MADAM CHAIRMAN: Honourable Member.

HON. BENSON O. EBANKS: Madam Chairman, I beg to move an amendment to Clause 23(1) omitting "Where a group of people, whether or not incorporated" and substituting therefor "Where an incorporated group of people." The effect of this would be that the Clause would now read: "Where an incorporated group of people is a member of the Foundation that group may give the Council written notice of the name of the person who would be the representative of the group."

MADAM CHAIRMAN: The question is that Clause 23 be amended in sub-clause (1) as read out by the Honourable Member. If there are is no debate I shall put the question.

QUESTION PUT: **AMENDMENT TO CLAUSE 23 PASSED.**

CLAUSES 5 THROUGH 23 AS AMENDED PASSED.

CLERK: Clause 24 - Reports to be given to Member and tabled.
Clause 25 - Exemptions from certain duties, etcetera.
Clause 26 - Regulations.
Clause 27 - Transitional provisions.
Clause 28 - Repeal.

MADAM CHAIRMAN: The question is that Clauses 24 through 28 do stand part of the Bill. If there is no debate, I shall put the question.

QUESTION PUT: **CLAUSES 24 THROUGH 28 PASSED.**

CLAUSES 24 THROUGH 28 PASSED.

New Clause 1 - First Reading

MADAM CHAIRMAN: We now come to Clause 1, which is being substituted. Honourable Member would you take it over now?

HON. BENSON O. EBANKS: Madam Chairman, I beg to move that the original Clause 1 of the Bill be deleted and substituted by marginal note to now read:

"Short title and commencement.	1. This Law may be cited as the Cayman National Cultural Foundation Law, 1992, and shall come into force on such date as the Governor may by notice in the Gazette appoint.".

MADAM CHAIRMAN: The Clause is deemed to have been read a first time and is set down for Second Reading.

New Clause 1 - Second Reading

MADAM CHAIRMAN: Second Reading. The question is that the Clause be read a second time.

QUESTION PUT: **NEW CLAUSE 1 PASSED.**

MADAM CHAIRMAN: Clause 1, as amended, is added to the bill.

CLERK: A Bill for a Law to reconstitute the Cayman National Cultural Foundation.

MADAM CHAIRMAN: The question is that the title do stand part of the bill.

QUESTION PUT: **TITLE PASSED.**

MADAM CHAIRMAN: That concludes proceedings in Committee on a Bill entitled the Cayman National Cultural Foundation Law, 1991. The House will now resume.

HOUSE RESUMED AT 11:36 A.M.

MADAM SPEAKER: Please be seated. Proceedings are resumed. Report on the Bill.

REPORT THEREON

THE CAYMAN NATIONAL CULTURAL FOUNDATION BILL, 1992

CLERK: The Cayman National Cultural Foundation Bill, 1992.

MADAM SPEAKER: The Honourable Member for Education.

HON. BENSON O. EBANKS: Madam Speaker, I have to report that a Bill shortly entitled the Cayman National Cultural Foundation Law, 1992, was considered by a Committee of the whole House and passed with four amendments as more particularly described on the Amended Notice of Committee Stage Amendments.

MADAM SPEAKER: Third Reading.

THIRD READING

THE CAYMAN NATIONAL CULTURAL FOUNDATION BILL, 1992

CLERK: The Cayman National Cultural Foundation Bill, 1992.

HON. BENSON O. EBANKS: Madam Speaker, I beg to move that a Bill shortly entitled The Cayman National Cultural Foundation Law, 1992, as amended, be given a Third Reading and passed.

MADAM SPEAKER: The question is that a Bill entitled The Cayman National Cultural Foundation Law, 1992, be given a Third Reading and passed.

QUESTION PUT: AGREED. **THE CAYMAN NATIONAL CULTURAL FOUNDATION BILL, 1992, GIVEN A THIRD READING AND PASSED.**

MADAM SPEAKER: The Bill has accordingly be read a third time and passed. The House will be suspended for 15 minutes.

AT 11:39 A.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 2:10 P.M.

MADAM SPEAKER: Please be seated. Proceedings are resumed. Item 6, Other Business - Private Member's Motion 13/92, Debate on the Draft Constitution. The Third Elected Member for George Town.

OTHER BUSINESS

PRIVATE MEMBERS' MOTIONS

PRIVATE MEMBER'S MOTION NO. 13/92

DEBATE ON THE DRAFT CONSTITUTION

(Continuation of Debate thereon)

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. When I finished speaking yesterday, I was dealing with the position of the Financial Secretary. I would like to pick that up at a later time rather than continue it now because I would like to go on to some areas where I have references to several documents that I would like to deal with early and get them out of the way. Before I do that, I would like to welcome the Honourable Legislative Draftsman as our Second Official Member and wish him all the best during his time here with us today.

Many Members have stated how important the Bill of Rights and the Fundamental Rights and Freedoms of people are. Indeed, the Member for Communications and Works had this to say about it.

"The fundamental rights and freedoms of our people cannot be underplayed and, if for no other

reason for this revised Constitution (the Draft Constitution, 1992), it is most important that we have enshrined, in the most important document of this land, the most important law of this land, the fundamental rights and freedoms of our people. I would hope that no Member of this House can get up and say that he does not support this.".

Several other Members mentioned this issue. I agree with that statement. It is one of the most important parts of the Constitution. But, Madam Speaker, back when the Bill of Rights was brought as a motion here and debated on 7th September, 1989 (and I will only refer to one time because I do not think going into the second one matters very much), we find that, when this came to the House brought by us Backbenchers, it was voted down on a division which included the Government Members and the First Elected Member for Cayman Brac and Little Cayman. We have today a situation where the same issue is at hand but because there is so much anxiety to get through the Draft Constitution, which as we saw was to be brought into force immediately after the next Election, suddenly people who were totally against this a few years ago have now turned all the way around. As the Member for Communications and Works put it, he would hope that no Member of this House can up and say he does not support this.

I find that rationale, Madam Speaker, difficult to understand because, if one truly believes that the fundamental rights and freedoms of this country are important, how then can anyone within a matter of a few years, three years or there about, do a complete U-turn and suddenly say, "Yes, they are most important. Let us put them in a document.". Speaking generally, I would find it very difficult to take, seriously, statements on such important matters made by anyone in the future. If positions on matters such as this can so radically change in so short a period, it surely is one that has to be looked at seriously.

One other important matter, Madam Speaker. When it comes to the question of whether one is thinking of the people, which the fundamental rights will protect, or oneself, then a vote for this is for the people of the country as a whole. Indeed, in those same minutes at pages 33 and 34, we have the First Elected Member for Cayman Brac and Little Cayman saying he cannot support the Bill of Rights.

A shorter topic - and I am now trying to deal with areas that have arisen by moving through some of these arguments that were put forward. The Member for Health stated that he does not think that it is right that in relation to contracts where a person before had to disclose ..... I had better just read this so that I do not sound as though I am not giving the full sense of it.

"Part IV deals with the Legislature and there is only one minor change that I would like to see made to this and that is to do with section 42 (f). It talks about, under the existing Constitution, if a Member happens to become a party to, in one form or another, of a contract with Government he had to declare to the Governor.".

This is, I guess, prior to an election as well as after an election, and it borders, I guess, on the question of register of interest in that matter. He said:

"What the section is asking in that event is that the Legislative Assembly must vote on it, and I do not think that is right. I think the old system is fine where you must declare to the Governor, and not come down here and ask the Opposition to give you permission, because some company of which you are a minority shareholder, one share, has entered into a contract with Government then they can vote and declare your seat vacant.".

That is what it says. I wonder why any Member would really worry about this matter. In any event, if one has any type of contract, or conflict of interest, then the duties are very clearly set out in relation to disclosure in the House, if it arises on an issue in the House. There, one has to actually face the Legislative Assembly and, with your permission then, perhaps not speak on an issue and abstain from voting, or whatever.

What I do know, however, is that if one has nothing to worry about then one should not feel that one could not make a declaration to the House. I do not personally know why the United Kingdom altered that aspect because I do not believe it was raised in the Commissioners' Report. What I do know is that the Member for Health becomes very touchy whenever we questioned contracts with Government which may have not gone through the Public Tenders Committee, or the proper process; this is setting out a process relating to any interest that one may have. From there, I would like to move on to an area where I think some confusion seems to have risen, and it relates to what the Member for Communications and Works had to say in relation to collective responsibility, and going into the question of administrative responsibility for the Departments.

It is a totally different thing between political interference, which is basically what it was dealing with - into appointments of the Civil Service, and responsibility in relation for the administration of Departments. What was attempted there was to say that these two matters were related to a certain extent, and that one was similar to the other in that respect. What I would like to bring out fairly clearly is that the position, as I see it - and I am gong to deal with Public Service Commission, itself, a bit later in some depth - where you have a Constitution including in it that there must be responsibility of the Member, or the Minister, for the administration of the Department, as I understand it, and as the Commissioners have stated, it is basically what is going on now because if we look at page 12 of the Commissioners' Report, they said this:

"There was also a great deal of support for elected members to be known in future as Ministers. We similarly agree. There is in fact no constitutional distinction between the responsibility of a member

as set out in section 9 of the 1972 Constitution and that of a Minister. It is a change of name only and not of substance.".

What has really happened, I guess, is that there has been a development to a stage where the Members have developed the system to where they are in a quasi ministerial stage, and just about to the stage where they are carrying out the full ministerial responsibilities. And indeed, Madam Speaker, in the Minority Report we recommended that the Members become Ministers, and no more. So we really have a different situation there from having the Chief Minister being responsible for appointments to the Public Service Commission, which I must accept the Member for Communications and Works said he did not support, and also where the Governor has responsibility to consult him for appointments to the Service, which I will go into at a later stage. But they are two different things.

I would like now to turn to the area that has been dealt in depth by some Members of the House and that is to look again at the last steps in relation to 'Crown Colony' because I think it is important from the point of view that certain phrases have been used which relate to what is full ministerial responsibility - I think in one instance - and full internal self-government, and there has been also references by a Member to having the Chief Minister presiding in Executive Council. The first reference I would like to make is in the minutes of the Select Committee on page 2, when we were dealing with the recommendation that was to go to the Commissioners in relation to a gradual moving to ministerial government. It is on page 2, and I will just read it:

"Honourable Ezzard Miller recommended that:

(a) the word "full" be inserted before the word "Ministerial" in the first line of the second paragraph;".

So that was saying that he was suggesting that there be a gradual movement to full ministerial responsibility. As we know there was also talk, and I touched on this a bit earlier, by the Member for Communications and Works where he referred to ministerial system, whether full or partial. That was on the 1st of November, 1989. Now, Madam Speaker, the steps set out by you prior to being Speaker of the House, are steps that I agree with and I think that they are correct. What is very interesting is that despite the fact that we have had a lot of people saying that they do not believe that there is a step before having a Chief Minister, nobody can produce any authority at all that goes toward showing that there must be only one step to go to a ministerial system and to have a Chief Minister. Some attached to the Commissioners' Report and what he said in there.

I think where that may have led to confusion was that he seems to have accepted as I read (the Commissioners) in the Report, I think was at page 12 or 13, that the present Executive Council had advanced to a stage under the quasi-ministerial system that they were just about up to the stage of being Ministers, even though they were called Members. I believe that this is perhaps what their reasoning may have been. Obviously when you are to the stage of a ministerial system then the next stage is the Chief Ministerial system, or a ministerial system with a Chief Minister. I would like to mention that if we are between the fourth and fifth stages, then the sixth is where the quasi ministers become full ministers. The seventh is the Governor appoints a Prime or Chief Minister, and once again I want to deal with this because a lot was made of the difference between a Chief and a Prime Minister but, in reality, there are only minor differences.

The eighth stage, and I would like to read from this: "The Governor and Officials no longer belong to Executive Council. The Prime Minister presides over Executive Council meetings. There is an independent Speaker in the Legislative Assembly.". Now, when you get to that stage you are only one step away, as this has shown, from full internal self-government. And, I would read from this stage 9 - full internal self-government. Now, Madam Speaker, the important thing that one has to look at is where you have the Member for Health recommending that the Chief Minister and not the Governor should be the Presiding Officer of Executive Council. What that means is that he has reached the stage, which is the eighth, which is next to full internal self-government, and we know that the rule these days is that when a country reaches full internal self-government it must name a day for independence. That is an accepted convention in this day and age.

HON. D. EZZARD MILLER: I did not say that.

MR. TRUMAN M. BODDEN: All right, Madam Speaker, the Member for Health has mentioned that he did not say this, but I would refer him to the meeting of the 12th of July, 1991, on page 2 of the minutes which states as follows: "Honourable D. Ezzard Miller recommended further that the Chief Minister, and not the Governor, should be the Presiding Officer of Executive Council.".

HON. D. EZZARD MILLER: But you cannot interpret that to mean self-government.

MR. TRUMAN M. BODDEN: What I am saying is that you have said that, and when it reaches the stage that I have read, when the Governor ceases to preside, you are at stage 8 and there is only one other step which is stage 9.

HON. D. EZZARD MILLER: That is your opinion. You are entitled to that, but tell us what step you are at when the Legislative Assembly appoints the Governor?

MADAM SPEAKER: Please. no interruptions.

MR. TRUMAN M. BODDEN: Madam Speaker, I am reading from the published text. It is good authority, and for his benefit I will read it again. Stage 7, the Governor appoints a Prime or Chief Minister from among the Elected Members. The Governor retains certain responsibilities and powers. That is the stage that the new draft Constitution takes us to. The eighth step is that the Governor and Officials no longer belong to Executive Council. The Prime minister presides over Executive Council meetings. There is an independent Speaker in the Legislative Assembly.

That authority is once again supported at the same level, stage 8, by the book by Morely Ayearst when it said that the Officials, including the Governor, withdraw from the Executive Council which is renamed the Council of Ministers and presided over by the Chief Minister. The Governor is still empowered to summon and preside over emergency meetings of the Council and, the ninth stage is as we know, full internal self-government. I will show that there had been references to that in a few other areas, not too obliquely relevant to this.

In the discussion that we have had on this, we have heard about a meeting, that took place some years ago, in relation to the Constitution and there was set out an agenda by one of the Members. If I could just have a second to pull the minutes with this agenda? This was what the Member for Communications and Works brought out. It was actually the meeting that was held, according to him, on the 25th of August, 1986. I think I referred to it earlier, or someone referred to it. It was a meeting in which if things did not go on, the minutes were to be destroyed.

He said in that meeting that several things were discussed, and there was an agenda. Basically what he said was that it was decided in a meeting that the agenda would briefly touch on areas of the British Virgin Islands' Constitution, or something along those lines, and that certain items were decided from the meeting to be dealt with. The first one was the membership of parliament to increase from 12 to 16. The second was membership to the Cabinet, because it was going to be changed from Executive Council to Cabinet. The use of that word we know is one that normally a Cabinet comes at a very late stage in the evolution of the constitution of a country, and sometimes it is referred to as a Council of Ministers. Normally Cabinets are referred in independent territories such as the United Kingdom.

Also very interesting, because I will come back to this, one of the items was in relation to the Portfolio of Finance. We had also one other main reference from one of the Members and this was a reference that said words to this effect: 'It is time that we move away from a god-like character called the Governor, who has all of the ultimate power, and so on, and invites Members to hold certain responsibility to where Elected Members are charged with that responsibility where they are held accountable for what they do, the running, and that does not hinder the Governor to see to the overall running of this country and to the management of subjects which are reserved to him.'. That was the Second Elected Member for Cayman Brac in his debate on the Throne Speech. "It is time that we move away from a god-like character called the Governor", is what he said.

What I find, moving through a lot of this, is that we are getting Members beginning to suggest that certain of the ingredients that go into the eighth stage, not just the seventh, perhaps, are being thought about. I will not put it any higher than that because we know the eighth stage, as both good authorities specify, is when the Chief Minister presides over the Council. That is where the danger could lie. The rung of the ladder goes to 9, and then the country has to fix a date for independence. The exception has been Bermuda, but the United Kingdom states that once there is full internal self-government then you have to begin to make plans for independence.

The worrying thing, Madam Speaker, is that if we jump now by taking two steps and we get down to step 7 (there has been talk of some of the ingredients of step eight), then quite frankly there is really only one step in between us and full internal self-government. That is why I think we have to move cautiously, because the less rungs that are left on the ladder, the quicker we will achieve what the people of this country do not want. I am always happier making sure there is a buffer in between what no one wants, which is independence, and the present stage.

I would like to mention one other aspect and that is that in life one has to sometimes be satisfied with getting a reason able amount and not taking these steps by being too greedy and taking too many at a time. I would like to touch fairly briefly on one matter. The First Elected Member for Cayman Brac mentioned that he had requested the original of the petition that was signed against him. He did not receive it. This was the one where there was several hundred signatures on it calling for his resignation. As I was told, the First Elected Member was told by the Second Elected Member for Cayman Brac and Mrs. Juliann O'Connor that he could inspect the original but they did not want to release the original to him in the event, naturally, that it may have been lost or for whatever reason. It was not as if there was any attempt to do otherwise than what I think was reasonable. In fact, the petition actually had attached to it affidavits which were properly sworn and subscribed before a Justice of the Peace, which stated on oath that each of the voters had signed and that they were known personally to the person who gave the affidavit and deposed. So that goes as to the accuracy which the First Elected Member for Cayman Brac had questioned. In fact, it is probably one of the few petitions that has been done so legally, and should I say that has had this type of affidavit attached to it. Normally they are just signed.

Another short area. There was question by some members about my position on not having the Administrative Secretary included in the Official Members. One has to go back a little bit to look at what was happening at the time. When the time came for the number of Members in the House to move up from 12, it was my view, and indeed it was the view of several other Backbenchers that I know about, that we should have increased the House by one only. For several reasons, you know, to save the country $80,000 or $90,000 a year, and whatever. If that had of happened then, if that one Member had gone in Executive Council, there would have been eight Members on the Government side of the House and only seven Members on this side

- so it got the balance out. At the time the Financial Secretary had held a substantial part of what the Chief Secretary had held, and that was the basis upon which I, personally, and some of the other Members, said that there should be two. I do not really know what basis the Member for Communications and Works was going to deal with his removal of the Chief Secretary.

I have no objection at all. I mean the House has moved up now to where there are going to be 15 Elected Members and that is the way that the statutory instrument is. So this aspect is no longer relevant to the reason why I, and several of the Members, said that there should not be three Members in there. But, at no stage was there any attempt, whatsoever, to alter any of the responsibilities. Quite a bit of confusion arose in relation to the Constitution coming into operation immediately after the next General Election. I would like to further touch on one area which I did not use in the opening.

There was a political meeting of which the Member for Communications and Works was one of the Members there, and it related to the Constitution. Subsequently, to that on the 13th of August, 1991, two Members including the Member for Communications and Works wrote a letter which had two paragraphs and which I would like to read. It said:

> "However concerned that certain aspects of your report [meaning the report in the *Caymanian Compass*] may have conveyed the wrong impression of what was said at the meeting. For example, in the first paragraph of your report you stated two Members of Executive Council have expressed the view that, with one exception, changes should not be made to the Constitution before the 1992 General Election.
>
> Unfortunately, this may have conveyed the impression to the public that we are advocating that the process of change should not be put into abatement until after the 1992 Election. What we said was that changes, except for the provision for increasing the number of MLAs from 12 to 15, should not become "effective" until after the 1992 election. This is, as you will no doubt agree, a totally different situation necessitated by obvious practical reasons and in order to complete the democratic process.".

So there is no doubt whatsoever that, at least, the Member for Communications and Works, on the basis of this, drew the distinction between something being put in place but becoming effective immediately after the next Election. That, as we know would have deprived the people of this country of the right to vote on it and of the new Legislative Assembly to actually make a decision after they had a mandate from the people.

One other matter in relation to this - and I am not certain whether the Second Elected Member for Bodden Town read this part or read anything at all. It was in the *Compass* of the 31st of July, 1990, and it was headed "Constitutional review must not be rushed", and it was a point of view by the Elected Member of Executive Council. That said:

> "We envisage that the Constitutional Commission will arrive early in 1991 with a report and its recommendations available later that year. This would mean that any proposals arising from the report could be agreed with, in consultation with London, for introduction in 1992 in time for the General Election, thus giving the people the chance to elect a new Legislative Assembly in full knowledge of the terms under which they would serve.".

That to me, Madam Speaker, is one of the clearest statements that the majority Report, which said that the Constitution would come in immediately after the general election, as they put it here, "for introduction in 1992 in time for the general election, thus giving the people the chance to elect a new Legislative Assembly with full knowledge of the terms under which they would serve.". So, they were going to do exactly what had happened in 1972 and that is that the Constitution would have been put in place and brought in, and the new Members would merely have to serve under it. But, the right of the people to vote and have their mandate carried out after the general elections would have been taken away. That is strange when we have them championing the fundamental rights and freedoms of the people because, in my view, the biggest and most fundamental right that the people of any country have is their right to determine their constitution.

It is a sad day when we see a situation arising where on the one hand the three Members of Executive Council, and their two supporters on the back-bench, are blowing hot and cold on such an important issue. Some effort was made to state that there was not a great deal of difference between the Chief Minister and the Leader of Government Business. Well, that is all nonsense because the Leader of Government Business has none of the very large powers that the Chief Minister has. He has, in fact, no powers under the Constitution and all of the Members in Executive Council are then voted into the Executive Council by the Legislative Assembly, and one of them is then appointed the Leader of Government Business. It was set out in a few pages in two of the Members' statements. In fact, the first report to the Constitutional Commissioners recommended that an Elected Member be the Leader of Government Business.

The next area that I would now like to touch on is to move on to deal with some of the things that I took note of when the First Elected Member for Cayman Brac was speaking. I do not have minutes on this. I merely have notes. There was a mention of non-political meetings on the Constitution, and the Constitution in Cayman Brac. What I regard as a political meeting is when political matters are discussed at a public meeting. In those two meetings there was the joining of both of the Members for Cayman Brac on the platform, and they held three meetings together. My personal view is, at least it appeared to me, that there was some obvious connecting, whether only for those meetings, or otherwise, of those two Members whom we know

until now have normally been voting on different sides of this House.

He made mention about the international repercussions in relation to the vote of no-confidence but, Madam Speaker, I believe that the repercussions of a change in the Constitution of this country to a Chief Ministerial system, especially the fright of investors in relation to a single-all-powerful Chief Minister, is far greater than the democratic process of a vote of no-confidence. In any event that vote of no-confidence is clearly entrenched in this Constitution. It is very interesting, I guess, because the old constitution had nothing relating to this in it. It is a new provision that has just gone in now and even if the vote of no-confidence had been passed in this House, the same as where you get a Member breaking collective responsibility, there is nothing in the Constitution that says he must step down or that he must resign.

So there is no remedy as such on what is normally referred to as a vote of no-confidence. It is strictly under the Constitution - you put through a two-thirds removal, or the Members can remain there and the Governor could remove responsibility. That is the position under the old Constitution. Definitely a vote of no-confidence would have to be an integral part of a system with a Chief Minister because normally he is removed by his party, and we do not have a party system. In my view this is where the Constitution that is presented, which has eight Official Members with three Parliamentary Secretaries, makes it totally impractical to remove a government because the vote of the three Parliamentary Secretaries on a vote of no-confidence is a vote against themselves - they fall with the Government.

It is on this basis that I stated, and I think I am correct in stating, that if you are going to have a Chief Minister you cannot have a two-thirds majority vote in the House because there will be five Elected Members in Government and 10 Members on the back-bench, three of whom may be Parliamentary Secretaries appointed by the Chief Minister, and they are going to fall with the Government. So, there is no way that you can therefore have a two-thirds majority vote. In practice it cannot happen.

This was referred to by several Members. And we know that there have to be the checks and balances in a constitution by which a government, which is bad, can be effectively removed. The removal does not take them out of the House, as we know, but it takes them out of Executive Council. The vote of no-confidence is a two-thirds, and that is the reason why I said that if ever there was a worry on a constitution it should be on this one because, in practice, the Governor - notwithstanding what the Second Elected Member read in relation to Australia and Tasmania from the book - where our constitution is explicit, you cannot bring in conventions which are contrary to it. So, whatever powers may have existed in the Governor General, and they were actually independent at that stage I believe, cannot exist here. So, we do have in the Constitution the third dilemma why it cannot work. Firstly, they cannot figure out which members voted in the Chief Minister under the secret ballot, and we have the problem surrounding a built-in majority.

The First Elected Member for Cayman Brac also made mention of dissenting statements. Dissenting statements are a right, the same as any other fundamental right in this House. He was quite right when he said we all have a right to freedom of speech, and I believe that should be uninhibited except as set out in exceptions to it. He mentioned, I think I am right in this, that the Foreign and Commonwealth Office, in its wisdom, deferred the decision of the Constitution until after the General Election. I agree with that statement but I think it should be clearly pointed out that that Member did not make that recommendation in the majority Report.

If we had followed what he, in his wisdom, had of put in there would have been no need to debate this Constitution in the upcoming Elections because it would have been cut and dried. I would like now to go on to an area in which I have personally been attacked and allegations made. They are clearly set out at page 11 of the minutes of the Second Elected Member for Cayman Brac. In fact, it is probably the first time that I have stood in this House and have had so many personal allegations attempted to be made against me. If there is perhaps one thing that I think many Members here can say, it is that this sort of attack, to this extent, is indeed unusual.

It was very clear, in my view, that when the Second Elected Member for Cayman Brac spoke one could hear that he was angry. He first wondered if I attacked the Member for Education on the Board of Directors as I do in the House. The Second Elected Member for Cayman Brac, in my view, seems envious of the success of my business. I have learned, as a lawyer, to fight hard for my people's rights in this Legislative Assembly. When I am on a Board of Directors, or when I sit in the coffee room of this House, why should I carry anger or political differences into those rooms? We pass through but once. I fight for my people's rights in here and out of this House. I am man enough to smile or to speak to people with whom I fight with in here, for the good of my country. If the Second Elected Member for Cayman Brac expects to be a leader and to get any followers, he has to learn to be diplomatic. A person cannot carry hatred from this chamber into people's lives.

Another area of which he made mention is all set out at page 11. The Second Elected Member for Cayman Brac said that at times I take on the Member for Tourism. Yes, politically I have done that at times, when I felt it was in the national interest. I laid off the debate against Cayman Airways Limited's loan. I think I put my case against it fully and to the best of my ability. Nothing at all is going to stop me continuing to do that to any Member here when I feel it is in the interest of the country. I respect the Member for Tourism. I respect other Members in this House. Whether I agree with what they say or not, it does not mean that when I walk through these doors that I have to go out there and take them on as the Second Elected Member for Cayman Brac has said.

The Member for Tourism has grown up in North Church Street, the dixie area, where I have and I respect him. I believe that that respect is mutual. What these two examples clearly show is that I have the intelligence to be able to do my duty to my people and not to take grudges to extremes. If the Second Elected Member for Cayman Brac does not understand that then he needs to just simply get back to dealing with what is before the House.

Of the criticism of me in these two areas; if the qualities I have

mentioned here are not present in the Second Elected Member for Cayman Brac it is probably one of the reasons why he has not been that successful in business; because if you are going to take politics into businesses then businesses are going to suffer seriously.

POINT OF ORDER

MR. GILBERT A. MCLEAN: Madam Speaker, on a Point of Order. I would draw the Chair's attention to page 381 of *Erskine May* in regard to the imputation of false or unavowed motives. I think the Member is accusing me of false and unavowed motives, for I am in no way jealous of his success that he claims and certainly I am carrying no grudges as he avows that I am.

MADAM SPEAKER: Honourable Member, I think the Third Elected Member .... would you just sit a minute please, Third Elected Member? The Third Elected Member is just expressing his view and I cannot see that you have a genuine Point of Order. He is just expressing his view and how he feels. I think that is quite in order.

Please continue, Third Elected Member.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. They are only two of eight, or nine, very serious allegations against me. One of them actually is an attempt to impute criminality. This is the stage that it has gone to. The Member has mentioned that his interest and my interests are very varied. Those are his words.

Madam Speaker, he is quite right. On my interest side, I am a conservative, stable person. I have never tried to act or dress like a revolutionary. I have never held interest in being a revolutionary and, Madam Speaker, revolutionaries such as Che' Guevara and others, I do not follow.

I have over the years ...

MR. GILBERT A. MCLEAN: Madam Speaker, on a Point of Order. I draw the Chair's attention to page 381 of *Erskine May* - the misrepresentation of the language of another and the accusation of misrepresentation. Is the Member saying that I am some revolutionary and adopting or attempting to be some Che Guevara? If so, I think that again there is a Point of Order that I would like to raise.

MADAM SPEAKER: Third Elected Member, I would be very grateful .... would you just sit until I finish speaking, please.

I would be very grateful if you would try to avoid any inferences of what someone else dresses like. That is really not appropriate. I can understand if you are going to reply to some of his words, but if you are complaining about what he said about you, it is just aggravating the situation for you to make references that someone dresses like someone else who may not be of very outstanding character. So would you just be very careful in your choice of words because *Erskine May* also says that good temper and moderation are the characteristics of someone who is debating and the language must be very moderate? So would you try to continue in a more careful vein? Thank you.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. It is only unfortunate that the Second Elected Member for Cayman Brac had not read that passage before he made these extreme and unfounded personal allegations against me. As you can see, throughout this whole debate this afternoon I remained very calm but I do have a right to reply to these because he did make them.

Another interest that is varied is that when I am with a group of Members of the Legislative Assembly I show loyalty. I do not create mistrust or put one against the other for my own selfish purposes. Speaking generally, you cannot have a group of Members of this House, Backbenchers or whoever, with joint efforts when there is one who continually stirs trouble. This is perhaps what I understand democracy is and what majority rule is, and I know that when I am in a minority my interests at that stage have to respect those of the majority. This is perhaps one of the reasons why a lot of these statements here may have been made because a failure to abide by what six, or seven, of us had decided upon in one matter ended up with the Second Elected Member for Cayman Brac leaving us back-bench group.

The Second Elected Member for Cayman Brac in his wild statements actually alleged in here, without proof, without even one iota of credibility - he referred to conflicts of interest and insider trading. That is a serious matter, but he did it even though he knows what *Erskine May* says. I know that the people of this country realise that I am a person who has always strived to stay within the law and, at this age of 47, I believe that my honesty and my integrity in this community is something that a person in the form of the Second Elected Member for Cayman Brac cannot shape or shatter. I have been 16 years in politics. Four years out of this House. Eight years in Government and four years on this back-bench. During that whole period I have never had such wild, unfounded and vicious allegations such as that levelled at me. I am not in this Legislative Assembly for the salary I get. I am not in here for gain that comes to me. The public knows that before I came in here I was a person of independent means. I do not need to do anything, either against the interests of my conscience or my country, while I am in this House. When I leave I go with a free conscience, and I can live on the outside of this House, without my salary, as I have done before.

There are further personal allegations made and, quite frankly, there are so many that have been put in this short period before you stopped him, for which I thank you, that I am going to basically leave this area at this point - except to say that I hope that the Second Elected Member for Cayman Brac memorises the passage he just read in May's, so that if he ever gets up again to make such wild and ludicrous statements he will think before he speaks.

MADAM SPEAKER: Would this be a time where we can take a suspension? The House will be suspended for 15 minutes.

AT 3:29 P.M. THE HOUSE WAS SUSPENDED

HOUSE RESUMED AT 3:54 P.M.

MADAM SPEAKER: Please be seated. The Third Elected Member for George Town continuing the debate.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I would like to briefly go on to touch on an article in today's paper at page 5 of the *Caymanian Compass,* and just to refer to what the Chamber of Commerce poll, on matters relating to the Constitution, showed.

> "Should the Legislators follow the expressed wishes of the public when drafting and voting on legislation? Yes - 87%. No 11.4%. Undecided - 1.6%.
>
> Should Cayman have a law allowing the voting public to call for a referendum? Yes - 83%. No - 14%. Undecided - 2.4%.
>
> Should MLAs follow the expressed wishes of the public on drafting and voting on the new constitution? Yes - 93.5%. No - 4.9%. Undecided - 1.6%.
>
> Do you support a proposal to reverse the decision of Motion 3/90? Yes - 74%. No - 14.6%. Undecided - 11.4%.".
>
> Lastly, at least obliquely relating to this is:
>
> "Should Government reduce expenditures? Yes - 90.2%. No - 4.9%. Undecided - 4.9%.".

This, Madam Speaker, is an up-to-date poll that was carried out by the Chamber of Commerce. There are other areas of this that I did not read because it does not relate to here, but in these respects I believe that they do clearly reflect the views of a majority of people. What I find interesting is that we have followed those quite closely and on some, not all, that I have mentioned here (the Government Members and I think the First Elected Member for Cayman Brac - for example on the question of a referendum) have not been followed by them. It is very interesting and perhaps it is something that we all, and the public all, should look at. It has been a very useful type of survey that they have carried out from time to time.

I will be very brief on this. I had mentioned the satire by Mr. Steve McField, a local attorney, in relation to what he had written. I mentioned the parts of it about corruption - calling one cash and delivery, and this sort of thing. I had referred to it as one of the reasons why perhaps there should not be a Chief Minister. The Second Elected Member for Cayman Brac at page 24 of his debate set out a letter which, at least stated here, was written to us. What was very interesting in it, Madam Speaker, is that no where in it does it refer to a Chief Minister. The nearest thing was the paragraph two, and I am quoting, "a move toward the ministerial form of Government.". For what it is worth, it goes to show that maybe he, too, had some doubts about a Chief Minister.

From here, I would like now to go on to deal with the issue that I left late yesterday afternoon, dealing with an effort to get the further minutes, and that was in relation to the Financial Secretary's position. My submission is that if responsibility for finance is not reserved to the Governor, specifically, and if responsibility for Finance is not specifically put in the Constitution to be for the Financial Secretary, then under the Constitution that responsibility can be given to an Elected Member of Government at the Governor's discretion.

We know, Madam Speaker, that as the Constitution advances you do find, in fact, that normally the Chief Minister has responsibility for Finance in most countries, but normally he takes what he prefers best. Therefore, the United Kingdom has gone about taking a different course from what came out in the report. Firstly, I would like to refer to what the Member for Communications and Works said, in here, when he referred to the secret meeting that was held back in 1986. On that agenda, after the references to membership of the Cabinet, was the item 4 - the Portfolio of Finance and Development to be placed under a Cabinet Member. This was the meeting with him and, as we know, several other of the Members.

The other reference to it was made by the Member for Health when he dealt with a motion that was coming to the House, Motion 3/90, and he mentioned that the then Financial Secretary wanted to change the Member of Government responsible for financial affairs to the Financial Secretary. So, we find that in that motion that would have been coming forward, at least the draft he alleges had it, that they are talking about the Member of Government responsible for financial affairs. Now, that could be the Financial Secretary, but it could also be an Elected Member of Government. If the majority report that the Elected Members and the others signed had of gone through in the form that it was - because they did remove from it reference that the Financial Secretary should have responsibility for finance.

One other reference to that, before I move on to the Constitution, is found in the Cayman Pilot of the 9th of March, 1984. It was a question to Mr. Linford Pierson, as he then was.

'There are two areas not covered in Executive Council portfolios, that is finance which is under the Financial Secretary, and immigration which is under the Chief Secretary. Could you comment on those two areas independently? Finance - do you see the falling under an Elected Member of the executive council portfolio?'.

Mr. Pierson's answer:

"I believe that we have a very capable Financial Secretary, but I think that we have to appreciate that the position is a civil service position and that it is getting somewhat unwieldy. And, I also feel that it is somewhat unfair to a civil servant to have the responsibility of a $60 odd million a year budget to control.".

The area that was removed from the minutes which would have, in my view, permitted an Elected Member to have responsibility for Finance. We found that the new Constitution, not withstanding at section 33 (3) stated:

"33 (1) Responsibility for such matters relating to finance as the governor, acting in his discretion, shall determine shall determine shall be assigned to the financial secretary.".

A very clear indication, and a clear section, which puts finances in the hands of the Financial Secretary. I want to just remind the Members of Government of the minority Report in which, at paragraph (7), our position was this;

"(7) **Composition and Quorum of Executive Council**
We recommend that the Financial Secretary be named as the Official Member of Executive Council and not "the Minister responsible for Finance" and that he be the Chairman of Finance Committee. Our reason for this is that an Official Member as Financial Secretary responsible for the Cayman Islands' finances provides stability, continuity and confidence in the public and the private sector and financial sector of the Cayman Islands and is one of the checks and balances against rampant spending for political reasons which may occur by an Elected Minister.".

That issue was one that may have created, and I pointed out to the Committee, a situation where if, as has happened and as was recommended in the majority Report, the Financial Secretary sits in this House there would have been a discretion on the assignment of Portfolios by the Governor after consultation with the Chief Minister. This is what is very important. The right to assign Portfolios under the new Constitution has to be after consultation with the Chief Minister. It has been usual in other territories, he recommends, he normally has finance himself. It would have been possible if this section stating that the Financial Secretary must have responsibility to have had the dilemma in this house of a Financial Secretary sitting there, yet, an Elected Member responsible for finance.

So, the majority Report, I submit, was not well thought through. It is probably, I would think, one of the reasons why Mr. Thomas Jefferson must really have had to look hard and think hard at what these sections were, and quite rightly in the motion which the Member for Health referred to, which was the Motion 3/90. Why he would have wished to have removed the Member responsible for finance and put in it the Financial Secretary? Indeed, Madam Speaker, that very same problem did arise about five or six years ago in Montserrat (which is an example the Elected Members gave of governments with a Chief Minister) and the United Kingdom Government took and changed their constitution and took finance back from an Elected Member - in fact, I think it was probably held by the Prime Minister at the time due to the problems and the allegations around the disorders on the banking section. They saw the wisdom after that and, indeed, we know of the problems in the Turks and Caicos Islands that I will refer to further ahead.

So, I think that, in my view, the United Kingdom Government was correct in putting it back in the Constitution, and that is what our minority Report says, that finances should remain with the Financial Secretary. When we look at the problems we have now, and really think how much worse they could be if an Elected Member had the right to control those finances, I think we see the wisdom of it. There were different arguments relating to the fact that the Constitution contains the Commissioners' Report and, therefore, is not necessarily the Report of the majority of Elected Members. The Constitution, itself, naturally incorporates a lot of the present Constitution and it adds, mainly, the main provisions on advancement of the Chief Minister. It also adds others that do not really relate to advancement. Many of those Members specifically said, and it is correct, that the draft constitution follows the Report of the Constitutional Commissioners, but that it is also substantially what was in the Report of the majority of the Elected Members. In fact, if you actually flip through the Report, Madam Speaker, most of the headings begin, "it is recommended that in accordance with the Commissioners' Report", and time and again the next one. Number three begins the same way. Number four, is the same thing, "It is recommended that the new Constitution, in accordance with the Commissioners' recommendations," and it just goes on and on.

What had really happened is that, with some exceptions, and they have made those clear - such as opening balloting rather than secretly - things such as Referendum and Finance Committee, which they were against, were set out in the Report and they were set out as a Select Committee Report in the Constitution. So, it is not a good argument to say that the Constitution is not what is substantially the position of the Elected Members of Government who signed it and the two Elected Members from Cayman Brac because they are nearly one and the same except in a few minor areas. I would like now to turn to

deal with another reason why it is important that very clear statements are made in this House on the Constitution.

Manifestos in the past have been very general in relation to the Constitution, including my own, and normally they have been kept precise so that meanings, sometimes as to detail, cannot be gleaned from the document. The Member for Communications and Works, in the first paragraph of his manifesto, which was published in the *Caymanian Compass* on the 7th of September 1988, said this - he and his colleagues said this: "We are against any constitutional changes designed to ultimately lead us into independence.".

Looking at the first three words of that, "we are against any constitutional changes" and you read on "designed to ultimately lead us into independence". My interpretation, Madam Speaker, is that with any constitutional advancement, if you move from step five to step seven, you are ultimately leading on to steps eight and nine. So that any move forward is one which must lead us nearer to independence because we are going up the rungs of the ladder and, if we are taking two steps at a time, we know that between step seven there is only one which is step eight, and then we are into full internal self-government. So to have this in his manifesto, and to then appear to have a mandate from the people to put through a Constitution to come into effect immediately after the next General Election, in my view, was one which would definitely lead us on to independence in due course.

POINT OF ORDER

HON. LINFORD A. PIERSON: Madam Speaker, on a Point of Order. The Member is deliberately misleading this House. My manifesto stated what many manifestos stated that we would not advance the Constitution where it would take us into independence. What the Member is not saying is that he has agreed in one step advancement to the level of a ministerial government. He is not going the second step to a Chief Minister. Any advancement will ultimately one of these days probably take us there. He is trying to give the impression that I am deliberately trying to take the country into that next step, into independence, and that is not correct.

MADAM SPEAKER: Honourable Member, that is not a Point of Order, but I appreciate it could be elucidation of a point. I was going to bring to the Third Elected Member for George Town's attention that I believe we need to get back on to stream of the discussion because the Private Member's Motion does say, "Whereas it is important and democratic that the draft Constitution and the documents in the above recitals be discussed and debated", and the recitals do not include manifestos from other Members. That is a matter which you could more appropriately deal with when you are on your campaign platform, but not in the House. I am going to ask you, please, not to continue in that vein anymore.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. Moving off that subject, the difference between a statement that one makes, and the timing of when the effects of that statement come in, can be very material to a Constitution. The 'coming into operation' section has very clearly been borne out to be that the Constitution would come into operation immediately after the next Election.

The Public Service Commission was talked about by most Members and, indeed, it was so important that one of the Members, the Member for Communications and Works, actually said that he supported the proposition, or part of the proposition, that we put forward. That is, that the Chief Minister and Leader of the Opposition should not be consulted on appointments to the Civil Service. I am very happy he has seen fit to change his position to that stand. I will give him credit for this. It is good when a Member, as he said himself, can find that if he is wrong in an area that he will correct it.

There was some mention relating to the fact that the references, in the Constitutional Commissioners' Report, dealt with Judges while there was no reference in relation to Magistrates. Actually in that section, Madam Speaker, the Commissioners, at page 18, made it abundantly clear, in the last sentence of the paragraph headed Judicial and Legal Services Commission that "this should not apply to the post of Puisne Judge and above, though it should apply to the post of Attorney General.". That interpretation is that anything below the post of Puisne Judge, that is Magistrates, Registrars, Clerk of Courts, would then be subject to the Chief Minister and his right to be consulted on appointments.

What was mentioned in this by many of the Members, other than the Member for Communications and Works, was they saw nothing wrong with the Chief Minister having to be consulted in relation to these posts. In our Minority Report we made it clear that, and I am reading from this:

> "The Chief Minister and Leader of the Opposition should NOT be consulted on appointments to the Public Service Commission.
>
> The INDEPENDENCE OF THE CIVIL SERVICE from political interference is fundamental to a stable Civil Service and stable Cayman Islands.
>
> We feel that there should be no consultation of the Chief Minister in relation to Principal Secretaries or Heads of Department until a much later stage when the new Constitution (if any) is working well and the Cayman Islands have adjusted and stabilised to it.
>
> We feel that the Judicial, Legal and Police Departments should remain fully independent and free from political interference as at present and that the Chief Minister should not be consulted for any appointments to these Departments.".

What we went on to say is that even in Bermuda which has reached a more advanced stage, I think than any of the colonies, they specifically provided that the Chief minister is excluded from consultation on appointments to the offices of "Attorney General, Commissioner of Police, Deputy Commissioner of Police, Auditor, and offices of Magistrate, member of any other civil court subordinate to the Supreme Court and Registrar of the Supreme Court or the Court of Appeal, and of such other officers of civil courts of Bermuda who are required to possess legal qualifications as the Legislature may by law prescribe.". Indeed, the Turks & Caicos also excluded Chief Secretary and Financial Secretary along with most of those that Bermuda excluded.

Really that section in the Constitution takes us beyond what has been normal in the Bermuda Government which has, as I understand, full internal self-government. For the life of me I cannot understand why the recommendation would have been made. However, the United Kingdom, in its wisdom, actually did not follow the Commissioner's Report in that respect, nor did they follow the Report of the majority of the Select Committee because they specifically included, in one of the sections, that consultation in relation to the Registrar and Magistrate, I think was in there, should be to the Chief Justice. So, there must be consultation and I am happy to agree with that.

This debate, I think, has obviously brought clearly to the public's attention details by every Member of this House as to their position on the Constitution. I know that I, or we, will be doing a detailed section in our manifesto for the upcoming general election. I think, indeed, everyone perhaps should do that so that the public is clear of where each Member stands on it.

In the final analysis, when this Election is run in November and the the public has voted for a specific candidate, they must expect that if that candidate stands for a Chief Minister, or any other sections, then after the Elections they will come to this House and they will put through a resolution for the country to request the United Kingdom to give us a Chief Minister, or really to give us the new draft Constitution. Conversely, and the position that we stand in is that we are against the position of the Chief Minister and the Chief Minister's many powers, such as the right to hire and fire his Ministers and Parliamentary Secretaries and against having a Chief Minister advising on which portfolios and responsibility Members should have - even the fact that when Ministers wish to go off the Island, they have to get permission from him. The Chief Minister has powers to dissolve the Legislative Assembly under the various sections 30, 62 and 63. The power of the Chief Minister to summon Executive Council and even his right to appoint, as I have just mentioned, or to advise on the appointment of Members to the Public Service Commission, and to be consulted when senior civil servants have to be appointed.

I believe that areas of the Constitution such as the Bill of Rights, Register of Interests, independence of the Civil Service from political interference and independence of the Judiciary should be entrenched and should go there. I should point out, Madam Speaker, that the myth that you must have a constitution with a Chief Minister in it to put in a Bill of Rights is not correct. That can go in the present Constitution we have without a problem because it does not deal with advancement. Also, I think that matters such as Civil Service pensions should be as of right and not at the Governor's discretion. If there should be any dissolution of the Legislative Assembly, or the calling of it, that definitely should not be on the advice of a Chief Minister.

I am for seeing the entrenching of proper provisions in relation to the Speaker, Deputy Speaker, Attorney General, Auditor General (I think these are good) and the Public Accounts Committee and the entrenchment of the Auditor General's duties in the Constitution, and most importantly because he is the watchdog of the people to ensure that the Government does not spend excessively or overrun its authority or, further, that whatever money is spent is properly authorised.

MOMENT OF INTERRUPTION - 4:30 P.M.

MADAM SPEAKER: Honourable Member it is now 4:30.

SUSPENSION OF STANDING ORDER 10(2)

HON. J. LEMUEL HURLSTON: Madam Speaker, I beg to move that Standing Order 10(2) be suspended in order to enable the House to complete the business on the Order Paper.

MADAM SPEAKER: The question is that Standing Order 10(2) be suspended in order that the House may be able to complete the business as set out in the Order Paper.

QUESTION PUT: AGREED. STANDING ORDER 10(2) SUSPENDED TO ENABLE THE BUSINESS ON THE ORDER PAPER TO BE CONCLUDED.

MADAM SPEAKER: The Standing Order has accordingly been suspended. Please proceed Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I am just about to the end of what I have to say. I genuinely believe that the stability and the continuity of the Cayman Islands and investors' confidence depends very heavily on the Cayman Islands moving slowly and cautiously as we have recommended with constitutional change. I believe, as all of the Members agreed in the recommendation to the Constitutional Commissioners, that there must be a gradual moving into the ministerial system of government.

Indeed, all around the Caribbean, in many of the other countries

that are independent or which have a more advanced constitution, we find that they are in serious political and/or economic problems. I believe that the Constitutional Commissioners stated that there was a great deal of support for Elected Members to be known, in the future, as Ministers and they stated that there was basically no constitutional difference between the Elected Members of Council, now, and Ministers, as they understood it. They basically summed up the position of Members who feel that what should happen next is that the Members should be called Ministers and that all of the other sections relating to matters such as the Legislative Assembly appointing the Executive Council and the Legislative Assembly with a right to remove Members of Executive Council, should remain as they are now - they worked well for 19 or 20 years - and that without any change of Constitution, as such, we should name an Elected Member of Executive Council as the Leader of Government Business.

I think we are very lucky to have found that over the years this country has progressed well. Indeed, up to three years ago, for example, the Member for Education mentioned that the old Constitution had served well and that what conclusions the Commissioners came to, where they dealt with a majority view of the public, are really on all fours with what we had put up here.

If we make a wrong change at this time, Madam Speaker, I honestly believe that this country could well be making a serious mistake that could finally hurt the country financially and otherwise. It is all well and good for other Caribbean Islands to say they have a more advanced constitution but, in the final analysis, do they have a more advanced economy? Do they have people who are fully employed and are they really with a standard of living that we have? If the choice is between political advancement and financial security then I think the choice is very obvious.

In leaving, I believe, having worked under the Constitution for eight years in Government and another nearly four years in this House, that it has worked well for so many different Governments during that 19 years that the problem has to be now with the Members of Executive Council who are working it; and I do not believe that we should change the Constitution because there have been problems during only one period of Government. I think that would be wrong.

The minor things suggested here by us, such as Referendum, Bill of Rights, etcetera, which I mentioned, can easily go into the present type of Constitution without the long sections with a Chief Minister and a Chief Minister's powers.

Lastly, with a matter this serious I would once again pray for God's guidance in seeing that Members of this House and candidates, as well as the electorate, do what is right and are guided in the right path by God in making the decision on this Constitution. Thank you.

MADAM SPEAKER: The question before the House is Private Member's Motion No. 13/92: "BE IT RESOLVED THAT this Honourable House take note of the said draft Constitution and the documents mentioned in the recitals.".

QUESTION PUT: AGREED. PRIVATE MEMBER'S MOTION NO. 13/92 PASSED.

MADAM SPEAKER: Private Member's Motion No. 13/92 has duly been passed.

PRIVATE MEMBER'S MOTION NO. 14/92

TWENTY-FOUR HOUR POLICE PRESENCE IN THE BODDEN TOWN DISTRICT

MADAM SPEAKER: The next item is Private Member's Motion No. 14/92 - Twenty-four Hour Police Presence in the Bodden Town District. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker, I beg to move Private Member's Motion No. 14/92 standing in my name, entitled "Twenty-four Hour Police Presence in the Bodden Town District and which reads:

WHEREAS the most recent census has shown Bodden Town to be the fastest growing district;

AND WHEREAS the residents of Bodden Town have requested twenty-four hour policing from the Bodden Town Police Station;

AND WHEREAS there have been requests for police assistance while the Bodden Town Police Station was closed;

AND WHEREAS it is difficult, problematic and risky to rely on police coverage from the Central Police Station in emergency situations;

AND WHEREAS recently there was a serious motor vehicle accident in close proximity to the Bodden Town Police Station;

AND WHEREAS at the time of this accident no police were available from the Bodden Town Police Station;

AND WHEREAS one hour elapsed before police arrived on the scene, even though some of the victims were trapped under the overturned vehicle;

NOW BE IT THEREFORE RESOLVED THAT the Government give consideration to upgrading the Bodden Town Police Station to one which is staffed round the clock;

AND BE IT FURTHER RESOLVED THAT consideration also be given for the number of police patrols throughout the district to be increased, especially on weekends.

MR. G. HAIG BODDEN: Madam Speaker, I second that Motion.

MADAM SPEAKER: Private Member's Motion No. 14/92 has duly been moved seconded and is open for debate. The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. There is not a great deal to be said by way of introducing this Motion because, as will have been obvious from the introduction, the clauses of the Motion are self-explanatory and sufficiently explicit that there is no need for any elaborate introduction at this point.

In moving this Motion, my colleague and I have complied with long standing and numerous requests from our constituents. Indeed, if my memory serves me correctly I raised the matter, at a Finance Committee meeting, of the necessity to staff this precinct on a twenty-four hour basis.

Madam Speaker, there is at this point nothing more I am prepared to say, save that I hope the Government, in its good grace, can see the wisdom in complying with this request which has been routed through us from our constituents.

MADAM SPEAKER: Honourable First Official Member.

HON. J. LEMUEL HURLSTON: Madam Speaker, I rise to make a contribution to the debate on Private Member's Motion No. 14/92, which contribution shall, in the interest of time, be brief.

The Motion essentially addresses the question of the utilisation and distribution of police resources, and is somewhat similar to a motion that was introduced approximately three years ago, which motion called for consideration to be given to increasing police patrols, wherever possible, in all districts of the Island on a proper twenty-four hour roster basis. That was Private Member's Motion No. 21/89, entitled Police Patrol.

The situation currently remains much the same in substance as it did three years ago. However, increased resources have been allocated for policing the Eastern districts since that time. At that time there were seven officers assigned to Bodden Town, East End and North Side. Three years later there has been an increase by a total of five officers serving this same geographical area.

There is presently one Inspector, one Serjeant and 10 Constables assigned to policing Bodden Town, East End and North Side. These officers presently operate out of the Bodden Town facility and they operate on a shift basis. There is a day-shift that runs from 10:00 o'clock to 6:00 o'clock, and there is an evening shift that runs until 2:00 a.m. The effect of this is that these districts have twenty hours, out of the twenty-four hours, of daily police coverage.

The House is aware that the gap in policing exists during the hours of 2:00 a.m. and 6:00 a.m.; that is the four hour period during which there is no policing by these officers. However, I believe that on the previous occasion I also explained that policing in the Islands has today, like many other services, become a bit more sophisticated operation and there are certain services that are centrally provided throughout the Island. These services are provided to all districts, regardless of the distance from Central Police Station.

For example, when an emergency arises and someone dials the emergency telephone number, which is presently 911, those emergency calls are answered at Central Police Headquarters. It is from this control room that the immediate response is dispatched; be it ambulance, police. Whatever emergency vehicle is required it can be dispatched from this number. Additionally, there is a full traffic crew that serves the Island on a twenty-four hour a day basis, patrolling for traffic purposes. Additionally, there is a Criminal Investigation Department and a Drug Squad Department that have specific tasks assigned to them Island wide; again, on a twenty-four hour a day basis.

It is therefore not fair to say that the Island is without policing during this four hour gap to which I earlier referred. The present arrangement is that the officers being stationed at Bodden Town are assigned to visit these districts on a regular basis throughout each of their shifts. The essence of this, I am told, is that the districts are, in fact, receiving better policing by this method than they have ever received in the past. That is not to say that the system is perfect, Madam Speaker.

The Government, prior to receiving the Private Member's Motion which is now the subject of this debate, had, in fact, requested the Police Department to keep this particular matter under review. The Commissioner has advised, for example, that there are two matters that he considers of higher priority at the moment - higher than simply increasing the compliment of officers in the districts. These two areas are firstly, the establishment of a Juvenile Bureau, and secondly the establishment of a Research and Planning Unit. Both of these have been recommended by the Overseas Police Advisors and require careful consideration.

In order to increase, to twenty-four hours, the amount of coverage at Bodden Town it would require the employment of an additional six officers. The police are presently of the view that the expenditure for these additional officers cannot presently be justified on the basis of proven need, not when compared to other competing priorities. However, the Government is continuing to evaluate its options and will find no reason, therefore, to hesitate in accepting the Motion on the basis that the Motion is inviting the Government to give consideration to the proposal and, without trying to anticipate the outcome of that, I will close

by simply that the Government will give this Motion its every deserving consideration.

Thank you.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I am glad to hear that the Government is about to give this Motion some consideration, but I trust that it will not be the kind of consideration that the Member for Education gave to our motion for improvements at the Civic Centre when he told us, in this House, that he had considered the motion and decided he could do nothing about it, or would do nothing about it.

The Motion does not suggest that the Government hire more manpower. While I cannot tell the Commissioner how to deploy his officers, I can only say that I believe some of the men in the Force could perform a more valuable service to this country if they were used in different ways. For example, two or three times a week they can come to Bodden Town to tape the meetings that the First Member for Bodden Town and I hold. We could send the Commissioner or the Governor, if they want to know what we say, copies of our tapes. As for writing down the names of the people at these meetings and snooping to hear what kinds of remarks they make, we, too, could let them know any feedback we get from the meetings. They have the manpower. My contention is that with the police coming under the previous Governor they have fallen into disarray. I trust we will see some improvement and that the Member answering will really give this some serious consideration. As he pointed out himself, the time when the district is without police coverage is the pre-dawn period, and that is the period, in my estimation, when a criminal would strike if he wanted his crimes to go undetected.

As early as the Throne Speech this year, on page 7 the Government admitted that there was a significant increase in certain categories of crime, in particular burglaries and drug related offences. Without going into the details, if Members would turn to page 18 of the last Crime Report tabled in this House, they would see that crime is on the increase. Bodden Town is now the fastest growing district and in order to cope with it we believe that it is very necessary to have a full twenty-four hour surveillance. We will continue to work at this, and I would like to close with the words from a very old poem:

"A man may kiss a Bonnie lass,
And still be welcomed back again.
A man may drink and not be drunk,
A man may fight and not be slain.".

So, we will be back if no action is taken.

MADAM SPEAKER: If there is no further debate, I would ask the First Elected Member for Bodden Town if he would like to reply?

MR. ROY BODDEN: Thank you, Madam Speaker. I would like to implore the Government in its consideration, to give some weight to the fact that the Bodden Town precinct also covers East End and North Side. According to my knowledge and the knowledge of my constituents who have petitioned for increased protection the arrangement as it stands, is inadequate in the sense that very often the Station has to be left unmanned. Indeed, as recently as last evening when we held the Tourism Awareness Week celebration in the Civic Centre, I drove by the precinct on my way to park, and the lights were on and the doors were locked. I called around and there were no officers to be found and the cars were not there. I am not - and let me make this point explicitly clear - in any way faulting the officers. I believe that they are doing a good job. I am saying that there are not enough of them. I wonder if, in a situation like that, it is called good policing? You know, I have to say that were it any other country except Cayman, things would be different. I would like to see any police officer leaving his precinct unmanned in Guatemala, El Salvador, Nicaragua or Jamaica. When he returned he would find it with different set of police!

There was also a situation some years ago where, in the pre-dawn hours of the morning, there was a prowler whom subsequently was apprehended and found to be, what the sociologists call, a sexual deviant. Between the hours of 2 o'clock and 6 o'clock in the morning, any sensible criminal (and criminals are sensible) is going to commit the act. This Motion was based upon concerns legitimately expressed to my colleague and I by our constituents. I expect that what is going to be done is that the Government, in its usual half-hearted way to get rid of us, is going to say that it accepts the Motion. I am reminded of the motion, that we brought calling for a neighborhood watch. Nothing has been done. We have fulfilled our duties as the representatives of the people in bringing this Motion and I think that my colleague expressed it succinctly when he said that we will be back because Bodden Town representatives, in this parliament, have a history of irrepressible disputatiousness, and we are going to be no less persevering in our responsibilities.

In the interim we have to prepare ourselves for the next Parliament; we will be keeping our eyes on this, Madam Speaker, and I hope that the Government sees fit to realistically address this matter so that our constituents, and the country as a whole, can be the better off.

Thank you.

MADAM SPEAKER: I shall now put the question on Private Member's Motion No. 14/92: "NOW BE IT THEREFORE RESOLVED THAT the Government give consideration to upgrading the Bodden Town Police Station to one which is staffed round the clock; AND BE IT FURTHER RESOLVED THAT consideration also be given for the number of police patrols throughout the district to be increased, especially on weekends.".

QUESTION PUT: **AGREED. PRIVATE MEMBER'S MOTION NO. 14/92 PASSED.**

MADAM SPEAKER: Private Member's Motion No. 14/92 has duly been passed.

ADJOURNMENT

MESSAGE FROM THE SPEAKER

MADAM SPEAKER: That concludes proceedings for the last Meeting of the 1988 to 1992 Legislative Assembly. Before I call for a motion for the adjournment, I would crave the indulgence of Members to make a few comments.

As Members are aware, the Assembly will be dissolved tomorrow Saturday, the 19th of September, 1992, in preparation for the General Elections which will be held on Wednesday, the 18th of November, 1992. History was made during this Assembly when the Members of this House passed a Motion in 1990 that section 32(2) of the Constitution should be brought into force, and the Office of Speaker was instituted. Members are all aware that no provisions were made in the Constitution as to the manner in which this was to take place, but they also are aware of how the appointment was made by the last Governor. I have indeed been honoured by your nomination and my appointment.

The past eighteen and a half months, when I have served in this capacity, have been periods very high on the list of my career. This career spanned, in the first instance, a period of 39 years in the Civil Service and, of course, nearly 19 months as Speaker. I can say that the latter period has certainly been the most exhilarating in my career. I was singularly privileged to have been selected as the First Speaker, a Caymanian and a woman, and on behalf of Caymanians and all women I would like to thank you once again for allowing me to serve in these Islands in yet another capacity. I wish also to thank Members for their courtesy to me during this period.

During the Assembly, 1988 to 1992, I am aware that Members have worked very hard. They have spoken hard and long, and have worked together for the good of these beautiful Islands. Often times the going was rough as each Member, in his own way, endeavoured to bring about proposals for the advancement of their constituents and these Islands. One Honourable Member has indicated that he will not be seeking re-election after 12 years in the political arena. I am sure that other Members would wish me to extend to him all the best for the future and to say that we look forward to continued association through the Cayman Islands Branch of the Commonwealth Parliamentary Association.

During the four years of the present House, it has approved 111 Government Bills; 105 Private Members' Motions have been debated; and Government Motions have been set at 44, which was the same as the period ending 1980 when I was Clerk. But, most importantly, 857 Questions have been asked and answered as compared to 185 ending in 1980. This speaks well for a Legislature of this size and is an indication of the alertness, assiduity and earnestness of all Members.

I must pay tribute to Mrs. Georgette Myrie, Clerk of the Legislative Assembly for the many long hours she has put in in preparing for meetings, whether of the House or Committees, and who has guided Members in their endeavours. Mrs. Wendy Lauer Ebanks, Deputy Clerk, has also been of immense assistance in support of the Clerk, together with Mrs. Sharon Smith and Miss Nana Bothwell. The last three officers have served periods of 19, 11 and 10 years. The other members of staff, particularly the *Hansard* Transcribers, have been kept on their toes with the production of *Hansard* and, of course, I could not forget Mary and Rita who have replenished and sustained us with good cooking and their attention. The Serjeant-at-Arms has always been on the alert and extremely courteous. Lastly, I could not omit the officers of the Special Branch of the Royal Cayman Islands Police Force who were always on duty.

Members will know that when the new House convenes there will be an additional three Members following a change in the Constitution - an additional Member for Bodden Town, one for George Town, and one for West Bay. With 15, there is still a lot of space, because when the plans were drawn up in 1968, when I had the privilege of being a part, provision was made for 24 Members up to the year 2000 and probably a little longer.

As members go to the electorates I am sure that they will bear in mind that the electors have the final word, and that those who will be elected on the 18th of November must begin the task of working together. This they will do with the Official Members of the House, with servants of this House and with all Civil Servants. Civil Servants will be required, as always, to give the same support and loyalty that they have given other Members.

Many challenges lie ahead and, in the campaigning, I would ask that each Member respect the other. I could end with no better quotation than that from Shakespeare which is well known to everyone:

> "To thine own self be true,
> And it must follow, as the night the day,
> Thou canst not then be false to any man.".

I will now ask for a motion for the Adjournment of the House sine die.

MOTION FOR THE ADJOURNMENT

HON. J. LEMUEL HURLSTON: Madam Speaker, it is my pleasure to move that this Honourable House do now adjourn sine die.

MADAM SPEAKER: The question is that this Honourable Legislative Assembly should now adjourn sine die.

TRIBUTES BY HONOURABLE MEMBERS:

MADAM SPEAKER: The Third Elected Member for West Bay.

MR. JOHN D. JEFFERSON, JR: Thank you, Madam Speaker. This is the last opportunity that I will have to say thank you to the people of West Bay for the privilege they afforded me in 1988 of being one of their elected representatives.

I want to say thank you. I want the people of West Bay to know that I have done my best with the assistance of my colleague from West Bay, the First Elected Member, in attempting to accomplish what was needed for the district and what we felt was in the best interests, not only of the district but, of the Islands and the people as a whole. There is much more that I wish to see accomplished for my district of West Bay and the people of this country, and I want to say to my people that, with their support and prayers, I am prepared to continue to represent them for many years to come.

My four years as a Member of the Legislative Assembly has been a real challenge and a worthwhile learning experience. I have learned a great deal about parliamentary democracy and I believe that the experience has made me, not only a better man but, a better representative. I want to wish for my colleagues on the back-bench, and also the colleagues on the outside who will be joining forces with us to contest the general elections, every success at the poles on November the 18th and I look forward to returning to this House, in the company of my colleagues, to put together the next Government that will run this country for the next four years. We will continue to fight for democracy and we will put together our hearts and hands in an effort to put this country back on the right track.

In closing, I would like to also say thank you to yourself, to the Serjeant-at-Arms who is so prompt in his responsibilities and duties, to the Clerk and her staff and also to Miss Mary and Miss Rita for making my job as a representative a very pleasant and rewarding experience.

Thank you, Madam Speaker.

MADAM SPEAKER: The Honourable Member for Tourism, Aviation and Trade.

HON. W. NORMAN BODDEN: Thank you, Madam Speaker. I, too, would like to take this opportunity to thank the people of George Town, my close supporters and friends, for electing me first of all in 1980, on returning me to office in 1984, and again in 1988, as the First Elected Member for George Town - in the last three general elections.

I have to admit that many times there were serious difficulties to overcome but I can truthfully state that I have always found my work to be challenging and inspiring, and I count it a privilege to have had the opportunity to serve my country in this capacity for the past 12 years. That is, the first four years as a Member of the back-bench and the last eight years as the Member responsible for Tourism Aviation and Trade.

I would next like to thank the Honourable Elected Members for casting their vote in my favour, after the 1988 election, which returned me to Executive Council. I would also like to say that it has been a privilege to serve with my colleagues on Council, both Elected and Official Members. I count this, too, as a privilege and an opportunity to have worked with people of such high standards and quality. I look forward to their continuing close support until the completion of my term of office sometime in November, after the general election has taken place.

This would also be an opportune time for me to publicly thank the staff in the Portfolio of Tourism Aviation and Trade - the Principal Secretary, Mr. Harding Watler, Mary-Lou, Tanya and Pat for all their cooperation and support during my term of office; as well as all the other Departments and Statutory Boards and other Boards which fall under the Portfolio of Tourism Aviation and Trade and those, consisting of many public and private sector citizens of this country, who gave up their time, effort and talent in such an unselfish and dedicated fashion.

To you, Madam Speaker - who with your ability, experience and patience have commanded our full respect and, I must say, maintained the dignity and decorum of this Honourable House - I say a sincere thank you. I can only repeat here, again, what I said when you first assumed the position as Honourable Speaker of this House, that this our country, the Cayman Islands, is fortunate to have a Caymanian, a lady of your experience, ability and quality who is willing to take on such a responsibility. I can only hope that it will be possible for you to again be appointed after the November elections so that you can continue to serve this country and the new House for many years to come.

I also thank the Clerk and Deputy Clerk of this house, the Serjeant-at-Arms, Miss Mary and Miss Rita and all the other staff of the Legislative Department who have been supportive and provided valuable service and care during all these years. I also wish publicly acknowledge and record my thanks and appreciation, although this might not be necessary, to my wife and my three children and other family members who have stood by me through difficult times, as well as the good times, and without whose support, love and understanding, I would never have been able to cope with the pressures and problems that public life brings.

Even though I will not be seeking re-election, I will naturally continue to be involved and interested in the affairs of my country and I sincerely believe that there are other areas in which I continue to contribute to our development, other than in the political arena. I wish for the Elected Members in Executive Council, my colleagues, every success at the polls in their respective constituencies and I trust that the electorate, in their wisdom, will see fit to return them to office.

On the eve of my departure from this Chamber, I recall many times during my campaign meetings saying to my people in George Town the following lines: "I have to live with myself and I want to be fit for myself to know. I do not want to stand with the setting sun and blame myself for things I have done. Whatever happens I want to be self-respecting and conscience free." With those words I will leave the political arena as I entered 12 years ago, and I can only say that this has been, and will remain my motto, through life.

Thank you.

MADAM SPEAKER: Before another Member rises, I have had indications that the tape must be changed. So, if you want your words recorded would you just wait for a few minutes, please? Thank you.

AT 5:19 P.M. PROCEEDINGS WERE INTERRUPTED TO CHANGE THE MASTER TAPE

PROCEEDINGS RESUMED AT 5:23 P.M.

MADAM SPEAKER: The First Elected Member for Bodden Town.

MR. ROY BODDEN: Thank you, Madam Speaker. I would like to take this opportunity to thank the people of Bodden Town who have afforded me the privilege and the honour to have represented them for the last four years in this parliament.

It is an opportunity which I have never failed to remind myself to be ever grateful and humble and, in trying to represent the people of Bodden Town to the best of my ability, I have learned several lessons. The one of which I am most proud is that lesson which has allowed me to work closely with my colleague the Second Elected Member for Bodden Town who was, at one time one, of my political opponents. I would hope, and it is my prayer, that the good people of Bodden Town would afford us the opportunity to work together sometime in the future because we make a good team and we have worked well.

Madam Speaker, I consider it a singular privilege to have worked with my colleagues on the back-bench and, again, I have learned many things from them. I wish for them success in their contest of the upcoming elections and hope that God may spare them and keep them well so that, together, we may be reunited with no less sweeping mandates than we came here with in 1988, and that we may achieve our aspirations for the next parliament.

Madam Speaker, to yourself, I can only say that you have lived up to be the model for which I knew you would have been. I learned from your dignified conduct and guidance in this House, and you have been, for me, a source of inspiration. May I wish for you God's continued blessing and may the powers that be, whoever they may be, see fit to return you to the same position in the next parliament, if that be your wish.

We, as Legislators, have worked hard. We have tried our best to represent and to seek the best for our country. I wish for our country, as well as our individual constituents, God's richest blessings and His guidance always.

MADAM SPEAKER: The First Elected Member for Cayman Brac and Little Cayman.

CAPT. MABRY S. KIRKCONNELL: Thank you, Madam Speaker. I welcome this opportunity to once again stand in this Honourable House. This is my third opportunity, on an occasion such as this, to speak to the people of my constituency, Cayman Brac and Little Cayman, and say to them how grateful I am for the opportunity I have had to have represented them in this House since 1980.

I am proud that today the infrastructure of Cayman Brac is much improved. We have achieved employment availability in Cayman Brac that we are now able to see our population, again, begin to climb. For a while we had a decreasing population, and a major concern of mine was that there would not be a turnaround. But, we do see that our economy has improved. Although there is international recession, we are improving in Cayman Brac - Education, Health and many more are improving.

I am proud, Madam Speaker, that I have had an opportunity of helping to provide employment for the majority of the people and I want to thank all Honourable Members of this Legislature who have seen fit to support the funds that were necessary for the Government to provide employment for the people of Cayman Brac. Many times I have said, on the floor of this House, that due to the small private sector the Government is much needed to provide the major employment and, although I repeat myself, I want to again say thanks, from the bottom of my heart, for the support we have had with the funds.

Madam Speaker, it is with great pleasure this evening that I pay tribute to you. I had the opportunity, on your retirement as Clerk of this House, to express to you how grateful I was to you for the great help you were to me as a freshman coming into this Honourable Legislature when you served as Clerk. This evening, again, I want to say that the kind guidance you gave me then will always be appreciated, and you have made me proud that we have a Caymanian, a women, as Speaker of this Legislature. I congratulate you for the way in which you have handled your responsibilities here. I wish a long life and all the very

best for you in the future. I do hope that you will continue as Speaker of this House for a long period of time.

I, too, would like to express my very deepest appreciation to Mrs. Georgette Myrie, the Clerk, Miss Wendy Lauer, the Deputy Clerk, Sharon, Nana and all the others for their many kindnesses and assistance given me during the time that I have been here.

To the Serjeant-at-Arms, I want again to say thank you for your very kind way and very efficient manner in which you handle your job. And, to the persons who provide the refreshments I would like to express my very great appreciation to Miss Mary and Miss Rita for the very efficient way in which they supply our needs. Although they are very high in calories, I thank them very much for their service.

Madam Speaker, this country, within the next 60 days, will face a general election. It is a very serious election. No doubt they will be a very heated time from now to then, but I pray that the people of these Islands will consider the issues very carefully as they go to the polls, and that they will exercise their democratic right and cast their ballots. Some have four votes. Some have three. Some have two and others have only one but, whatever the Constitution has given you, or afforded to you in the Election Law, I recommend that you utilise it to the total quantity.

I wish well to all. I want to thank all the colleagues here in the House, although at many times I have had to stand alone. I thank them for their courtesies and I wish all the very best. May God's richest blessings be upon all the Cayman Islands and, again, I plead for a peaceful election.

Thank you, Madam Speaker.

MADAM SPEAKER: The Second Elected Member for Bodden Town.

MR. G. HAIG BODDEN: Madam Speaker, I have been here a long time, eighteen and a half years - five elections, four Governors and one Speaker but, the last two and a half years have been very rewarding for me. And, believe it or not, it has been a time of learning because during those two and a half years I learned quite a lot about human nature, how it behaves, and how it reacts under strain.

Though I, too, have stood alone in this House, I know what it feels like to be with a group. I have fought many lonely wars. The records will show that on many occasions I was the single dissenting vote on many items. Sometimes I was one of two dissenting votes. On the other hand, many of the issues were carried when my vote was among the majority.

Having spent eight years in Executive Council, and ten and a half years on the back-bench, I am qualified to speak from both sides. As my colleague from Bodden Town mentioned, over the last two and a half years we have had a very good working relationship and we intend to contest the next election. I said earlier this week, in a meeting in Bodden Town, that together we will make a formidable team. I have had no occasion during those two and a half years to doubt the sincerity of my colleague's ability and no reason to doubt his willingness and his desire to give our beloved Bodden Town excellent representation. So, I believe if we are re-elected Bodden Town will be in good hands.

On behalf of Roy and myself, I would like to say thanks to you, Madam Speaker, and to the staff, the Clerk and the other members of the Legislative Department and to the staff of the kitchen; especially to Mr. Cline, the Serjeant, for keeping us on time and perhaps even helping you keep us in order. No doubt there will be at least four new Members in the next House as one Member has said he will not be coming back, and there will be three additional Members under the revised Constitution. And, of course, there is also the possibility that some of the present Members may not be returned. But, those of us who are present today have, I believe, played our part. To the new Members who come in, I would like to say to them what the prophet Jeremiah said when he was rebuilding the walls of Jerusalem, 'let not he that puteth on his armor boast as he that taketh it off'. We have a track record, those of us who have served, and we, I believe, can be proud in our own way of the accomplishments that we have made happen. Though we are often criticised, I am consoled by the fact that people only throw stones at trees that bear fruit. There is no need to pelt a stone at a tree with no fruit.

So, Madam Speaker, as we leave for the last time during this four year period, I would like to say, again, to the Members of the back-bench that I work with, that I am very proud of them and I hope that I will have the opportunity to serve with them again.

MADAM SPEAKER: The Second Elected Member for Cayman Brac and little Cayman.

MR. GILBERT A. MCLEAN: Madam Speaker, at this moment in time, and in reflection, I think oh! to be a Civil servant again - or perhaps better yet one of the three good gentlemen sitting across the floor who, as of tomorrow, will get back to their natural and normal lives of being civil servants and keeping the machinery of Government working. But such is not my lot, as I gave up that part of my life several years ago to enter the field of politics - a field with which I am very much intrigued and find great enjoyment, just for itself. Without envy or jealousy of anyone's success but simply to play in the scientific field of politics, to be weighed in the scales at the election polls by the people of the country with the hope that once again they shall not find me wanting.

It has been an honour for me to be one of the Elected Members for Cayman Brac and Little Cayman, and I pay the highest regard and respect to those persons who elected me in 1988. Since the time I have been in this house, in the four years past, there have been many significant changes. I have had the privilege of seeing, after 20 years, the Governor of the territory leave the Chair as President of the House and I have seen a Caymanian lady take up the Office of Speaker. I am particularly proud that, in both instances, when I had to vote for that change, I did so.

Major legislation has passed in this House, since I have been

here, of a kind not been before. To cite but one, the National Insurance - most significant to every aspect of life and everyone in this country. I have had the honour of debating the question of a new draft Constitution. Altogether it has been a very enlightening experience for me, and it has been a process of learning. Although for a number of years I served as the Administrative Assistant to a Member of Executive Council, I never had any idea of the intricacies of the activities which take place in this Legislative Assembly. Anyone who might aspire to be elected to become a Member and serve in this Legislative Assembly should not, by any stretch of the imagination, believe it is a simple as it might appear from the outside. I have had also a considerable and enlightening experience in inter-personal relationships with Members in this House, and throughout that relationship I have done by best to maintain the position that I first knew myself and tried to know others.

I wish to pay tribute to the staff of this Legislative Assembly, to the Clerk, the Deputy Clerk, and all of the members of staff. From my observation I believe this is one of the most efficiently run Departments in Government. From my observation I think all members of staff are well versed in things which they are required to do. They have all been very helpful to me since I have been here. I could not forget also to mention, specifically, the *Hansard* stenographers whose patience is absolutely incredible, and their performance superb.

After today, Members here, those who will be entering the next election, will take on a new look as it is to start all over again. And, being a practical minded person, as I believe I am, I do not know or see any good reason to believe that there is going to be an easy or clean election if I but reflect what has happened over the past week and right up until today. The best that I hope for is that the Office of the Supervisor of Elections will carry out the duties of that office to the fullest, as has been the case to-date, that the enforcement agency of this country will do all that is required of it to see that the law is carried out in all respects, and I prepare myself for adversarial competition. There is no doubt in my mind that it will be exactly that. I want to say to the people of Cayman Brac and Little Cayman that, again, I intend to stand as a candidate in this election and I trust that what I have done in the past four years will serve to be a good yardstick by which they can judge me to allow me to serve them for another four years.

For any who believe that I shall passively stand by and not react to any adversarial competition, they are wrong, for as has been noted in the past I even dress in revolutionary fashion. I can but hope that I have revolutionised the thought of the public, to some extent, from purely feeling comfortable with laissez-faire, or status quo, in seeing life and politics and advancement as a more dynamic affair.

In this election, which is ahead, I think that the words of Laduva, the famous boxing trainer, are very appropriate for all of us to bear in mind, "It ain't over till it's over.".

Thank you.

MADAM SPEAKER: The Third Elected Member for George Town.

MR. TRUMAN M. BODDEN: Thank you, Madam Speaker. I would first like to thank the George Town people for electing me to serve them for these four years, and the previous eight years that I have served them in Executive Council. I have done my best to represent all of my people fully, to carry out the wishes of the majority of my people and I have accepted my duties with humility. I look forward to my people's continued support in the upcoming election.

To you, Madam Speaker, it has been a pleasure working in this House with you. You have upheld the dignity of this Honourable House and I wish you and your family all the best in the future, and I look forward to working with you. To all 15 of the Members of the Legislative Assembly, both Elected and Official, I have enjoyed working with you in here and I wish you all the best in the future. Notwithstanding the heated debates in this house, I have always tried to go into the Common Room, the coffee room, to talk and to socialise and continue my relationship with you.

Specifically, I wish for the Honourable Norman Bodden all the best in the future as he retires from this House. I wish my colleagues on the back-bench, and our colleague candidates, success in the, upcoming elections. I would like to thank the Clerk, the Deputy Clerk, the Serjeant-at-Arms, the script and text writers, and all the staff, including Miss Mary and Miss Rita, for their efficiency and understanding; the police for the security here, and Radio Cayman for carrying the debates on the air.

Lastly, but importantly, I thank my family, specifically my father, mother, wife, sisters and my two little daughters for their support and understanding during these most trying four years. I pray, for all my people, God's guidance in the future and, specifically, during the upcoming elections.

Thank you.

MADAM SPEAKER: The Member for East End.

MR. JOHN B. MCLEAN: Thank you, Madam Speaker.

The last 16 years of my life have been spent as a representative of the people of East End, and I do consider it a great honour to have been given such an opportunity, at such a young age, to represent my people. I wish, in all sincerity, to thank each and every member of my constituency for bestowing this honour upon me. Indeed, if it is their wish to give me the support in the upcoming general election, I give them the assurance that I will continue, as I have for the past 16 years, to give them honest, clean representation.

Madam Speaker, it is also an honour for me to pay tribute to you in your high office as Speaker of this Legislative Assembly. I always held you in high esteem and I knew that the Office of Speaker would have been handled, and handled properly, once you were in that seat. I would say that you have brought back to this house a great change. Once again, we can all see dignity in this House since you

have occupied that seat. It is my hope that you will, in the future, serve as Speaker of this House.

I also would like to pay tribute to the staff of this Assembly. Many times over my 16 years I have praised each and everyone for their good works. I have always said, especially at budget time when something comes before us for this Assembly, that there should be no question as to whether it will be given or not because this Department is one in this Government that I consider has been run, and is being run, in the best fashion. Everyone here cooperates and tries to get it done and, Madam Speaker, this is what it takes to have a good Department.

I would also like to extend, to my back-bench colleagues, all the best in the upcoming general election. It is my hope that, once the roll is called, all of us will be back here in full strength, with the assistance of other Members who will be running along with us. I know that there will be stormy times ahead of us, but one thing I ask is that in whatever we do let us always remember that, although we are fighting to regain our seats, we always think of the Cayman Islands. Let us try our endeavours to have a peaceful election. As I have said I expect it will be stormy, but let us keep it peaceful.

I pray that the hand of God will no doubt be in this upcoming election and that He will rule for what is best for the people of this country in the trying times which it is faced with.

Thank you.

MADAM SPEAKER: The Honourable Elected Member for Health and Social Services.

HON. D. EZZARD MILLER: Madam Speaker, I wish to thank the people of North Side for what has been one of the greatest opportunities in my life to serve as their representative in this Honourable House for the past eight years. I have worked hard and gained the support of colleagues in this House to provide many amenities which were needed for the district of North Side. I trust that in the upcoming election, though they have a choice, they will look carefully at the names on the ballot and remember that not all that glitters is gold.

I also must take the opportunity to thank my colleagues on Executive Council for their support, especially in the few times of controversy concerning my Portfolio. I have learned much from the Members of Executive Council and, together, much has been achieved for the people of this great country we call the Cayman Islands. To the staff of my Portfolio I must publicly express my sincere gratitude and thanks for their long hours of work to answer and to meet the challenges that I have placed before them. They deserve the accolades for the success of my Portfolio over the last four years.

Madam Speaker, to yourself, as Speaker of this Honourable House, it has truly been a privilege and a pleasure to have you as Speaker and I, too, would hope that, if it is your desire, you may occupy that Chair for almost as long as another lady Member of the Assembly used to talk about, years and years and years. I must also express my sincere gratitude to the Clerk and her staff for their many hours of work and unstinting support during my eight years of tenure in this Honourable House.

As to the elections, I wish for the Member for Communications, the Member for Education and the two Elected members for Cayman Brac all the success. As for the other Members who will be campaigning, no doubt under the title of back-bench, that is the First and Second Elected Members for West Bay, the Third Elected Member for George Town, the two Elected Members for Bodden Town and the Elected Member for East End, I feel about them, and wish for them, what they have collectively wished for me over the last four years and that is, that I was not here. I will be doing my best to keep them out. I pray for God's richest blessings on the people of this country.

Thank you.

MADAM SPEAKER: The Honourable Elected Member for Communications Works and Agriculture.

HON. LINFORD A. PIERSON: Madam Speaker, I, too, wish to thank my George Town constituents, and all my supporters and friends, for affording me to the privilege and opportunity to serve them in this Honourable House for the past eight years - four of which were spent as a Member of Executive Council and which have, perhaps, been the most exciting period of my life.

I also want to say what a pleasure and privilege it has been to work with the Elected and Official Members of Executive Council. I shall be offering myself for re-election in the upcoming general elections on the 18th of November, and I am asking my George Town constituents for their full support in the campaign leading to the election and, Madam Speaker, indeed on election day.

May I take this opportunity of publicly saying that this country will be losing a good man from the political scene, in the person of the Honourable Norman Bodden, as he has stated that he will not be seeking re-election. I trust however that, between now and nomination day, he will change his mind and decide to run. I believe that the political development of these Islands has definitely been enhanced with your appointment as Speaker of this Honourable House. This country is indeed fortunate to have had someone of your calibre as Speaker of this Assembly for the past 19 months and I trust that you will be back here to serve us for many years to come.

May I also join other Members in thanking our hard working Clerk, Mrs. Myrie, and all her other hard working staff for the services they have provided to this Assembly, in particular during this term, the past four years. A special mention to our Serjeant-at-Arms, Mr. Cline, and, of course, Miss Mary and Miss Rita for looking after us so well.

Despite political differences at times with Members of this House, I consider it all in the interest of good representation for our people. I can truly say that I hold no ill-will nor

animosity toward any Member, and I wish them all well. I believe that the upcoming General Elections will be hard fought but I trust that it will be done in the spirit of respect and dignity, and free of mud slinging. In closing, may I wish for my elected colleagues of Executive Council and those colleagues on the outside, and the candidates who will be joining our team, much success in the upcoming elections and that the new Government, which we hope to form, will be given the opportunity to continue to steer the good ship Cayman on the right course.

May I also take this opportunity of publicly thanking my Portfolio staff and all my Heads of Departments for their support in assisting me to accomplish what we have been able to do during the past four years. Finally, may I wish all Members of this Honourable House, God's speed. Thank you.

MADAM SPEAKER: The Honourable Elected Member for Education.

HON. BENSON O. EBANKS: Madam Speaker, I take this opportunity of saying thank you to you, to the Clerk, the Deputy Clerk, Serjeant-at-Arms, and all the staff including Miss Mary and her crew for their concern and for their care over the past four years.

I realise that many times I have tried your patience and the patience of all the staff. Nevertheless, I can say that my every need was attended to. I must comment particularly on the speed with which *Hansard* transcripts of speeches have been produced and made available to Members. This service, in my view, has been nothing short of fantastic. I believe I should also take note of the promptness and exactness of the Serjeant-at-Arms, in marshalling us back into the Chamber, particularly during breaks.

I would be less than frank if I said that I enjoyed my last four years in this assembly. Today completes 23 years of sitting in this Honourable Assembly and, frankly, the past four have been the most trying of times. Never before have I experienced such venom, outright dishonesty of purpose, in my opinion, exhibited by some Members in the name of representation of the people. In particular, the character of Members of Executive Council have been unnecessarily, unfairly and viciously attacked, and I would not wish for any other government to be the recipient of such unbecoming conduct. Facts and figures have been twisted and misrepresented, knowingly, in order to gain favour with some elements of society and the voting public.

The last few years have seen one of the most depressed economies, world-wide, in this century. World-wide, and in our region, economies have floundered and many people have lost their jobs. Joblessness has been at record highs in countries such as the United Kingdom, United States of America and in our region. In the case of these Islands, our economy has seen a downturn as a result of these world-wide conditions. But, in spite of the charges of our detractors, this Government, the Government of the Cayman Islands, since 1988, has done a sterling job and, thanks to the Government and to God, we have not seen any large-scale unemployment or suffering in these islands.

Madam Speaker, I take the opportunity of thanking the Member for Tourism, the Honourable Norman Bodden. Good wishes for his future. I want to thank him for his support, particularly over the last eight years in Executive Council and, in fact, for the 12 years that he has been in this House. I want to thank him, Madam Speaker, also for his contribution to the welfare and development of this country. I want to thank also my other elected colleagues on Executive Council, the Honourable Ezzard Miller and the Honourable Linford Pierson for their support and for what they have done for the welfare of this country. I also want to include, in that thank you, the Official Members of Government.

Let me say that we, as a Government, have nothing to be ashamed of. We may be bloodied, but we are not bowed and, as the Second Member for Cayman Brac has said, "It ain't over til its over.". I want to be quite frank. I will shed no tears if I return to this House, after the 18th of November, to find that not one single one from the six on the other side, who call themselves Backbenchers, are here. If that were to happen, Madam Speaker, I think that the people of this country would, and will, have done themselves a great service. I ask and beseech the electorate not to be fooled by smooth talk and glib phrases. Wolves often come in sheep's clothing.

I could not end this contribution without thanking the people of West Bay for the privilege of serving them in this Assembly for the past 23 years out of the past 27 years, 15 of which have been in the Executive Council of this country. Some Members have been counting numbers. I have seen seven elections, six Governors, all of them. I have worked with the six Governors, and it has been my privilege to serve under you, Madam Speaker, as the first Speaker of this Honourable House. With God's help and the support of the West Bay electorate, I look forward to returning after the 18th of November for a final four years.

During my tenure in this office I have not always been right, but when the history of my time as a Legislator is written, I know it will record that I did my best and that I did so honestly. I have the consolation, Madam Speaker, that my contributions have been many, and I hope to continue to serve. I would hope that the Member for Tourism, the Honourable Norman Bodden, would change his mind before nomination day and agree to join us for one more term at the helm of this country so that we can continue to progress this country in the way we have done over the years.

Thank you, Madam Speaker.

MADAM SPEAKER: The First Elected Member for West Bay.

MR. W. MCKEEVA BUSH: Madam Speaker, when this House is prorogued at 12 o'clock tonight, I would have served my people for eight years in my capacity as an Elected Member. We have seen some good times and, my God, we have seen some real tough times such as what we are experiencing presently. When a person receives a majority of votes, and is therefore called to serve, it is a very satisfying honour. My people gave me such an honour and I am most grateful for this privilege.

My first election in 1980, I lost. In 1984 I was returned as the

Second Elected Member. In 1988 I was returned by an overwhelming majority. I realise that I have not been able to please all of my people but I am satisfied that I have done the best I could under the circumstances, with restrictions and stumbling blocks put in my way. The job of a representative is to serve his people. In my eight years here, no one who came to my door was turned away. No problem that I was called to address was ever left untouched by me - bearing in mind that as representatives we are not afforded the privilege of even a clerk typist to help us in our work, whereas, Executive Council Members are afforded full office. If it was not for the staff of this House, sometimes, our constituents could not be well served.

There were matters that were beyond my power to rectify but no one can ever say honestly that McKeeva Bush did not try. I have always believed that it is the duty of a representative to effect changes that will make a better quality of life by his people. In my time here, one way of trying to make a better quality of life was the moving of Private Members' Motions. I have moved close to 96 motions - I believe the maximum a Member could move. I have also been the seconder of many motions which I felt would do the same job I was committed to do, such as the school leaving age moved by the First Member for Bodden Town, drug patrols moved by the Elected Member for East End, and motions moved by my colleague the Third Elected Member for West Bay.

Madam Speaker, I believe that it is appropriate to call the attention of the House to some of these motions because they have been left untouched by this same Government. In 1988 I moved a motion for the construction of a velodrome. That has not been touched. In 1987, I moved a motion to effect changes in trade and industry and to give incentives. Untouched. In September 1988 I moved the apprenticeship scheme. A lot of promises made. In four years - untouched. In September 1988, I moved a motion to commission and publish a full and proper documentation of the history of the Cayman Islands to provide a more comprehensive syllabus in all schools, and to create a special scholarship to be known as the Cayman Scholarship to be wholly funded by Government and for all distinguished recipients to be known as Cayman Scholars. I do no know of this having being done by the Member for Education.

In 1989 I moved a motion for Government to set up a teacher training facility. Nothing has been done. The Select Committee on code and ethics and conduct for Legislators. Very much needed, Madam Speaker. Nothing has been done. Also in September 1989. I moved a motion for a welfare cost of living increase for less fortunate persons in the Cayman Islands. I do not know of this being done. On my house numbering motion moved in 1987, a report has just been left on the table of this House. I moved a motion for a programme for youth development and other community affairs - something very close and dear to me - which could have provided youth workers in the constituency. Madam Speaker, the Member had power from the House, approval of the House, and nothing has been done about it.

Madam Speaker, the motion on the constitution. Nothing done. A motion in 1986 to set up a proper committee to oversee the disposal of drugs - passed. A reduction of Port Authority fees, because we are experiencing a high cost of living - rejected by Government. The establishment of a National Sports Award - passed. The revision of the Caymanian Protection Law, 1984 - a motion passed by Government in 1988. We saw what happened to that, Madam Speaker.

A motion to amend the Port Authority Regulations to give fishermen the same rights as dive or motor boats coming next to them. A motion in 1989 for the vehicle inspection, licencing and collection of fees - passed, but no action by this all-caring Government. A motion in 1986, by myself, on Draft Regulations to the Partnership Law - a motion for the Government to be able to pay fees under Partnership Law - passed. A motion on the appointment of a Juvenile Judge for the Cayman Islands - something very near and dear to me. The Member for Education said we did not need it. Consultants told the Government that they had better get it.

Madam Speaker, motion to repair the Government wharf in the North Sound - a new jetty was built. A motion for an Order of National Heroes - rejected. A motion to give us a territorial waters' limit - passed and put into effect. A motion for the safety and storage of petroleum products. A motion on the use of the Sand Bar. They were trying to stop us from using it and they tried to corner that. We passed it, Madam Speaker.

When I entered this House, Government could take your property for a road and you had to have something substantial to show to get your money back, I brought a resolution which made it much easier for land owners - poor people who own property - to get money for their property. A motion for a review of Caribbean Utilities Co. Ltd's franchise and rates - rejected by Government, and Government proceeded to agree to extend its franchise. Not only that, but to agree to put on more, and more and more cost on the people of these islands.

A motion on post office box rental fees - we know what happened to that. They passed it but they did not do anything. A motion on the abolition of capital punishment. They ran and they told more stories than Aesop Fables. A motion for the introduction of Police and Criminal Evidence Law with codes of practice, and Bail Law - passed, Madam Speaker. Yet, Madam Speaker, they say I have not done anything. On top of that, they call me fool.

Madam Speaker, who would change that kind of representative to put one in where we have to pound the desk and shake the microphone, and have the Speaker close the House, to get them to wake up? I have been made fun of in this House and it has been said by detractors, and those candidates in my district, that I have done nothing. Who could honestly say that after examining my motions? I have always maintained a good cordial relationship with the staff here. I also want to publicly extend my thanks to the staff in the kitchen, our good friend Miss Mary and Miss Rita, and to those girls in the office who are very hard working. I hope that efforts will be made to see that those girls are well taken care of in terms of salary and upgrading in their jobs. Two ladies in the *Hansard* room have done a sterling job. Our own West Bayer, Mr. Glidden, a man of high principle, has done a fearless job as Serjeant of this Honourable House.

I have seen some changes too. I have seen two Governors come and go. I have seen the arrival of another, and I take this opportunity to offer publicly, on behalf of the people of West Bay and my family, best wishes to him and his family. I have seen two Clerks come here and do a good job. It has been my privilege to travel overseas with both of them and I can tell this house that Mrs. Myrie and Mrs. Gay Jackson are ladies that I could go anywhere with in this world - and also the Deputy Clerk, Mrs. Wendy Ebanks. Madam Speaker, I have tried as best as I could to study Standing Orders and *Erskine May,* and to abide by them as best as possible under the prevailing circumstances and conditions. One problem that I have had is to sit in my chair and see wrong being done and hear wrong being deliberately put forward as gospel. Madam Speaker, that was a problem for me, so I had many attempts to interrupt but never once did I interrupt anyone's speech as I was interrupted - speeches within speeches - 23 times in my debate on the Constitution. I took the wrath of some who chose to make much of my interruptions, but I believe I had a duty to see the Standing Orders abided by those speaking, and a higher duty to hear the truth in this Honourable House. Therefore, Madam Speaker, I have nothing to be ashamed of. I have always maintained that it is not in here where we influence the country, as far as our characters are concerned, but in our business practices, those in Executive Council and in our day-to-day walk among our people. If they see us as honest, then the country will be led in an honest manner. If they see us as being dishonest then, Madam Speaker, we can expect a dishonest country.

Many things have not been touched in my district. I have been very distressed by the inaction by this Government, on all fronts in the district of West Bay. Our roads are dilapidated. On such needed projects as our district health clinic, hopefully, late though it be, I will see this started soon before the election in November. It is needed and I trust that those Honourable gentlemen over there, who say they love the country so much, will start loving us in West Bay. I will be offering myself to the people of my district to serve them for four more years. I believe I have done my best to serve my people. I have accomplished much on my own initiative with the monetary assistance of friends and supporters of the private sector in helping the less fortunate in my district. I have assisted two separate persons, who did not have anywhere to stay, in getting their own houses. I personally received a donation, bought a piece of land and a house for a family who had nothing. I assisted many constituents in getting their houses repaired. People who never had bathrooms, have them today, all without the help of Government which continues to put stumbling block after stumbling block in my path. There was much other needed assistance that I put forward for the poor people in my district. So, Madam Speaker, who will change results for promises? I stand firm for a third term.

Madam Speaker, I cannot but help mention, and I was not surprised at the vitriolic and acrimonious speech of the 23 year old Member of this House, the Member for Education, who spoke of a tax on Members of Executive Council, but he never talked about how many nights he made the wives of Members in this Honourable House cry and children feel bad because of his viciousness and other bad ways. That is what he needs to tell the people of the country. I pray to God that the people of West Bay, as I believe they have, have woken up and are going to put him where he rightly deserves to be - in sack-cloth and ashes. In other words in retirement, now that he has fixed himself a very decent pension. I will shed no tears for them, Madam Speaker. I cannot be a hypocrite - I will shed no tears for them. I have had a good relationship at times with the Member for Tourism and the Honourable Member for Communications and Works, but he also chose to make his bed with a bad set of fellows and, therefore, he had to suffer with them.

This Government came on a wave of good-will from the people of these Islands. When they took over we had, I believe, closes to $30 million in surplus and reserves. And what do we have today? A bankrupt country. An airline - well let us not get into that. But, this is the worst position this country has ever been in and we cannot continue to blame it, as the Member would like to make the House and the public believe, on world conditions. The conditions have been spurred by their hard-heartedness, pigheadedness and pure incompetency. That is what has caused it.

Madam Speaker, this country is at cross-roads and I believe that we should, after the 18th of November, have a retreat of Civil Servants, Heads of Departments, Principal Secretaries, and so on, and see where revenue can be increased and expenditure decreased. The Civil servants can offer us a lot if we listen to them.

The election campaign, Madam Speaker, will begin in earnest shortly, and I hope and pray for a peaceful campaign. My ticket in West Bay have started some meetings and we have been very clean and above board. As we have set a good example, we will continue along this path during the course of the coming campaign. Our national team, commonly known as the Backbenchers, the six of us, will continue to take our case to the people throughout these Islands and put forward our alternative to the mismanagement of the Executive Council.

Madam Speaker, I, too, can offer you my thanks and appreciation for your work here. I cannot be a hypocrite. I voted for you. I brought the motion. Those Honourable gentlemen over there did not. I pray that a good decision will be made as to who will be Speaker. Madam Speaker, if it be you I give you my full support, but that depends on the majority of people. That is all I can say, Madam Speaker.

You, are a very knowledgeable person. You know what you are doing, although you are human too and have made mistakes. And, i have told you about those mistakes and we differed on those mistakes. I even gave you a headache sometime back. Nevertheless, this House is the best - and I continue to say this from public platforms - it is the best in the world because I have not seen anybody pounding their desks with shoes. I have never seen the Sergeant or police come and take anybody out. I have never seen the Speaker have to close the debate because the House was in an uproar. None of that, Madam Speaker. All that has happened here is that we have strong-willed Members who put forward their views as strongly as possible. Some of us are not as polished in our English as others but, nevertheless, it was all meant for the good of the country.

This country has been put on the map and I say to those Honourable gentlemen, do not destroy it. Let us try to make this country a country where all, not just a few favoured friends and companies, but all of our people will prosper. Madam Speaker, fair set the sails of the good ship Cayman Islands, and Almighty God bless us all.

MADAM SPEAKER: It has been one hour and 40 minutes since I proposed the motion for the adjournment, and I now propose to put the question.

QUESTION PUT: AGREED. AT 6:45 P.M. THE HOUSE STOOD ADJOURNED SINE DIE.